



Melbourne Victims' Collective

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12 October 2008

Mr Peter O'Callaghan QC
Commissioner into Sexual Abuse
Owen Dixon Chambers West
18/15, 205 William Street
Melbourne VIC 3000

Dear Mr O'Callaghan,

We write to you further to our letter of 26 August 2008, and apologize for taking longer than we estimated. The Melbourne Victims' Collective has had comprehensive discussion based on your letter of 30 June 2008 to Mr Paul Holdway, Lewis Holdway Lawyers.

Thank you for indicating in this letter your willingness to accommodate constructive criticism and to take appropriate remedial steps if the Collective's concerns summarized in the Charter can be validated. We also note the enquiries, opinions and statements you make in this letter and we assure you that the Collective will make a genuine response to these within a mutually satisfactory process.

Since our last letter to you we have had an initial meeting with Bishop Christopher Prowse and Mr Francis Moore representing the Archbishop of Melbourne, whom we have requested to meet. Following this meeting Bishop Prowse has written to the Collective that the Charter and its suggestions for further action will be fully considered in the context of a broader consultation process, as part of the review of The Melbourne Response. We have also received confirmation from Cardinal George Pell, in a letter to the Collective dated 22 August 2008, that our dialogue with the Melbourne Archdiocese is ongoing.

We are encouraged to date by responses from these and other Church representatives and wish to clarify with you that the stance taken by the Collective in writing *Towards Justice: The Charter* has always been non-adversarial. The Charter was not intended to convey personal attacks or criticisms of any professional or particular part of The Melbourne Response, but rather to refer to it in broad terms and as a whole system of response.

The Melbourne Victims' Collective put forward the Charter as a vehicle for fair comment and opinion based on the entirety of their experiences, which they consider to be of pastoral interest to the Melbourne Catholic Archdiocese. The Charter represents a general call for review and reform of The Melbourne Response by a large support circle of clerical abuse victims and their

practitioners. In accordance with this the Collective aims to establish dialogue with key pastoral and other leaders to further explore forms of justice, healing and reconciliation that affirm Catholic Church values and aid its clerical abuse victims by adopting a restorative justice approach.

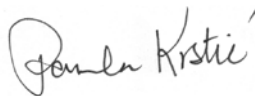
As you have a significant role as the Commissioner into Sexual Abuse and have been consulted by the Melbourne Archdiocese for over twelve years, the Melbourne Victims' Collective wishes to confer with you. We see your experiences as valuable and integral to the Collectives' understanding of The Melbourne Response and again we are committed to addressing the questions you have raised.

We propose that our discussions are based on the principles of restorative justice which would be familiar to you, so that we can achieve a constructive and mutually beneficial process. Our Collective representatives are eager to arrange this conference at a time suitable to you. We look forward to hearing from you at your earliest convenience.

Yours faithfully,



Helen Last
Representative



Pam Krstic
Representative



Michael Bowen
Representative

Learning from the past
Challenging the present
Creating the Future

Submission to the

Protecting Victoria's Vulnerable Children Inquiry

By Pam Krstic, former Catholic teacher and spokesperson of

The Melbourne Victims' Collective

Learning from the past, challenging the present and creating the future

My name is Valerie Gaimon, speaking on behalf of Pam Krstic, who authored this submission based on personal experience as a parent, a former Catholic teacher and parishioner in Healesville, a community that has been seriously affected by two convicted sexual offender Catholic priests. The crimes are not from the distant past. The first priest was jailed eleven years ago for offences six years earlier, and the most recent offences were in 2006 by a priest ordained only four years before then.

I speak also as a leader of the Melbourne Victims' Collective, a solidarity of survivors seeking to achieve structural and systemic change to the Melbourne Church Response to clergy sexual abuse. The Melbourne Victims' Collective is a pro bono project of In Good Faith and Associates, an advocacy service for clergy victims, for which I have worked and volunteered for over three years. As a Collective we support the dignity of victims to be heard, believed, and to collaborate for change following the principles of restorative justice and victim's rights.

I worked for twenty-three years as a teacher in Catholic schools in Victoria. As a teacher I know that examining mistakes is important for learning to avoid mistakes in the future.

We are here because we know that all children are precious and are dependent on us all to keep them safe. I am here to speak on behalf of many children who are abused and never brought to the attention of Human services and go on to have severe difficulties as a result of their experiences; difficulties including a lack of drive to succeed, obsessive compulsive behaviours, anger, depression, risk taking behaviours, eating disorders, substance abuse, homelessness, difficulties establishing and maintaining relationships, difficulties parenting, suicidality and sometimes even becoming perpetrators themselves.

The dismal fact is that we as a community are failing to care for and protect our children, the most fundamental social responsibility.

As a professional teacher in the Catholic school system, I witnessed the first priest's grooming patterns in my classroom and did not know to recognise them as such. I did recognise these patterns in the second priest's behaviours and found it impossible to convince others to respond to my concerns. I was accused of overreacting and sent away on holiday to collect myself. In both cases it wasn't until a victim came forward that anything was officially done. I believe the Church response is shockingly deficient in preventing and minimizing trauma for victims, their families and communities has been lost at great cost to us all.

As a result of my experiences, I have spent a lot of time researching programs for the safeguarding of children from child sexual abuse. I have asked myself what would a safe community look like and sound like? How would it behave and respond? How can it be

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proactive and not reactive? What was it that made our community so vulnerable that two predators were able to have access to our children? What could be done differently and how can changes be implemented to ensure the safety of our children?

Unfortunately efforts to engage with others from the parish and school in order to look at these issues have so far been in vain. I have looked into the wider picture of how schools and parishes operate to see what is preventing collaborative dialogue to work towards safer environments in which we all share in the responsibility of keeping children safe and empower victims to speak up about abuse and receive what they need to minimize their trauma.

Contributing Factors

The Safeguarding Children Program in Australia¹ identifies the following

Barriers to Safeguarding Children

- **Macro environmental factors**
- **Organisational operational factors**
- **Market forces**
- **Societal forces**
- **Lack of knowledge**

I have used this list to comment on the factors I see lead to unsafe environments for children.

Macro environmental factors

- Lack of comprehensive national legislation providing a requirement for all organisations involving contact with children, including Churches and Catholic schools, to have safeguarding procedures and practices with a compulsory risk assessment framework audited for compliance by an ombudsman with the power to investigate complaints about breaches from all stakeholders.

¹ Creating an Organisational Culture of Safeguarding Children and Young People: easey peasey or rocket science? by Katherine Sylvan and Linda Franco of the Australian Council for Children and Youth Organisations Inc ACCYO (now merged with the Australian Childhood Foundation and called the Safeguarding Children Program), available at <http://www.ombo.nsw.gov.au/ChildProtectionSymposium/Presenations/NSW%20Ombudsman%20Slides/For%20Monday%20slides/2D%20-%20Linda%20Franco.pdf>

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- 'Many Churches have managed to avoid liability ...by organizing their affairs in such a way that they are legally incorporated for the sole purpose of owning and disposing of property ... but otherwise argue that there is no legal entity that can be sued.'²
- Lack of willingness by police, professionals such as doctors, or psychologists, government department personnel, welfare agency workers or politicians to engage in any public criticism of the Catholic Church's handling of clergy sexual abuse despite their misgivings
- Lack of auditing, monitoring and detailed knowledge of the Catholic Church's handling of clergy sexual abuse, including in Catholic schools, hospital and other institutions receiving extensive government funding and support.

The above points contribute to the 'Denial' of a huge problem I see at the Church institutional level, and in the parishes, Catholic schools and wider community. I am encouraged by the fact that in many countries including Germany, Holland, Iceland, the UK, Ireland and the USA the government is auditing and requiring the Church to collaborate to ensure the safety of children.

Organisational operational factors

- In my Catholic school and community, the collective voice was a denial that first said:
 - 'It couldn't happen here!'
 - And then 'It couldn't happen here again!'
- In my experience the unique structure of catholic parishes means that
 - the priest is the employer of the principal and teachers
 - he is able to be in total control of the running of the school and the parish if he wishes.
 - The school principal and teachers are reliant on a reference from the parish priest in order to obtain another position within the system.
 - Members of school boards and parish committees are all subject to the priests agreement and he can abolish such structures if he so chooses.

² Upheld by the Court of Appeal of the Supreme Court of NSW, being the Trustees of the Roman Catholic Church v Ellis and Anor (May 2007)[Sdrinis, A. quoted by Vikki Petraitis, Salvation 2009 p 213

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- Many priests are collaborative and leave the running of the school to the principal with the support of Catholic Education Office advisors. However, there is no standardization of procedure with regard to priests' role in schools in their parishes, making procedure entirely dependent on the character and training of the priest.

Market forces, meaning social pressure

- Include the difficult dynamics of 'whistleblowing' concerns about one's employer
- Catholic secrecy in within staff and school community not discussing allegations of abuse
- School staff, school community not consulted or included in decision making
- No adequately trained crisis management personnel available for staff who raise concerns or know about abuse
- An attitude of 'don't alarm the school or parish community'

These factors prevent pressure for change from Catholic teachers, staff and community members. And this results in a situation of complex trauma which includes

Alienation of victims, their families and supporters from

- their Catholic identity
- their school and parish support community
- their faith and spirituality

It is worth noting here that many are aware of these difficulties including...

- psychologists
- general practitioners
- local welfare agencies
- police
- clergy
- the media
- local community leaders
- lawyers

They provide some level of support for the victims and their families but rarely advocate in these matters which further isolates victims and their families.

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Unlike other countries where the legal system allows the Church to be called to account, the lack of ability to sue the Church in Australia means that victims and their families lack this important advocacy avenue for change.

Societal forces

- belief that the Church is a moral institution prioritizing the welfare of children
- power of parish priest and imbalance of power between priest and victim
- expectation that children are safe with a 'man of God' and at a Catholic school
- stranger/danger – the myth that strangers abuse and trusted adults don't
- for Catholic children the modeling they receive from parents and teachers is to trust and defer to a priest
- Church's teaching to young children about sin may encourage them to feel they are guilty when they are abused, adding a further barrier to disclosure
- Concern about privacy rights of offenders outweigh the need for information and outreach to victims and the families of other possible victims.
- child abuse is a taboo subject to discuss

Lack of knowledge about

- Covert nature of child sexual abuse
- Vulnerability of victims and their families
- Importance of believing victims who disclose
- Dynamics of abuse
- Dynamics of abusers
- Dynamics of disclosure
- Dynamics of family responses
- Dynamics of community responses
- Mistaken belief by many adults that they would recognise an offender
- Mistaken belief by many adults that because they have found a person likeable and saw no signs of offending behaviour that the allegations must be false
- Limitations of screening processes
- Limitations of criminal record checks
- Limitations or lack of professional training for teachers and parish workers
- Limitations or lack of parent education re child sexual abuse

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As a former Catholic teacher I see the following are needed to overcome these barriers.

Commitment

It is apparent that no change is possible unless all those with a stake in safeguarding children commit to ensure it is given priority. I believe this will need to start with legislation requiring all organisations, including the Church to be accountable.

The NSW Ombudsman has a legislated child protection role and the Commission for the Protection of Children and Young People provides comprehensive materials to all agencies who work with children. The NSW Interagency Guidelines for Child Protection Intervention designate all Catholic and non government schools as required to notify the commission of any allegations against personnel and they are bound by the Guidelines for Child Protection in the Workplace 2004 – responding to allegations against employees.

As a result of this Catholic schools in NSW have been required to prepare policies, conduct staff training and submit to auditing by the ombudsman in a way that has not happened in Victoria. We do have a Commissioner for Children but his office appears to have little power to do more than provide information to those who ask for it. This is a good resource for organisations that are serious about providing child-safe environments, but there is no mandatory uptake for or auditing of all schools or agencies.

Endorsement at the highest level

There are numerous countries that have required the Catholic Church and other churches to collaborate with them in working towards child safe organisations. In some cases this is in the early stages, in others such as the UK and Ireland, Church and National Guidelines have been developed in collaboration with child protection experts and the government child protection agencies. Many parish websites in Ireland or the UK have links and materials from both the State and Church Guidelines.

Australian children deserve the same sort of collaboration so that all children are covered by the same guidelines for safety.

Availability of Resources

There are good resources for training of professionals, parents and children and programs to support agencies in creating child safe organisations available in Australia

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but they are nowhere near adequately funded and so only available to organisations with a huge moral, social and financial commitment to providing a child safe environment. I have given some examples of good Australian programs in my submission paper.³

Investment & Auditing

Government commitment to subsidising child safe programs is vital to show leadership and increase uptake of available programs by all organisations that work with children, and is important that the government audit and hold accountable organisations it funds such as Catholic schools.

The NSW ombudsman and Commission for the Protection of Children and Young People provide useful materials for policy formation backed up by legislation that includes regular compliance audits, an obligation to report concerns about grooming behaviours and any allegations against staff. The Victorian Child Safety Commissioner provides a brochure of guidelines for creating a child safe organisation but because these guidelines are not mandated, children are not be safe in organisations that do not choose to use them.

There are auditing processes for the Catholic Church in operation around the world. I believe it is important that all agencies who work with children should be compliant in an accountable auditing process.⁴

Accountability process

³ The Childwise 'Choose with Care' program appears to work best when all staff are trained and not just the few who employ staff as it ensures a shared experience, vocabulary and understanding of concepts throughout the agency.

The ACCYO training Safeguarding Children now provided by the Australian Children's Foundation is also a valuable resource that is underfunded and so only available to the already aware and committed.

⁴ In the US, mandatory audits were instituted in exchange for district attorneys agreeing not to prosecute members of the hierarchy for failing to report crimes or for re assigning offenders to different parishes. In Ireland and the UK audits are part of the governments' expectations for all agencies who work with children although there are still some problems with some dioceses compliance with these audits.

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All Victorian teachers are mandated to report child abuse. The interpretation of what constitutes a need for mandatory reporting depends very much on the awareness of the teacher. There are some who will report only if they know an offence has occurred. NSW guidelines are much clearer about reportable behaviours.

Victorian government schools have 2007 guidelines for responding procedures. Documenting concerns and liaison with Victoria Police SOCA units, Department of Education, Department of Human Services and the Child Safety Commissioner are covered. There is a Student Critical Incident Advisory Unit and Conduct and Ethics Branch. I cannot comment on how well these work in operation or how accountable the process is but my experiences of the Catholic systemic response to allegations of abuse seemed to me to be lacking in accountability and I believe this needs to be addressed.

I also believe clergy need to be legislated as mandatory reporters of child abuse.

Strategy for change management

There seemed to be no difference in the systemic response to allegations and convictions between the first priest in 2000 and the second in 2006. It seems to me that it will take intervention from outside the Church for any change to be implemented.

Inclusive consultative and focused

It seems a tragedy to me that in our situation there has been no debriefing, that victims, their parents, staff and community have not been consulted.

Policy requires implementation

Written policies can give a false sense of security. They must be written in collaboration with experts in the field and must include an ongoing accountable review process.

Openness to discussion of child sexual abuse

As a society we must be prepared to face the truth about child sexual abuse; that it is widespread; that secrecy regarding child sexual abuse plays into the hands of offenders by creating an aura of shame that prevents victims from disclosing; that offenders are often personable and close family friends and parish priests.

We need to learn that we can be open in discussing dynamics of offending and disclosure without naming victims or offenders.

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It is nonsense to cite the privacy of victims and the legal rights of alleged offenders as reasons to not address child sexual abuse in our community. With the assistance of well trained professionals, a safe environment for open discussion of child sexual abuse is not only possible but is in fact necessary.

We must learn from the past, challenge the present and create a safe future for our children.

In Conclusion

It takes a village to raise a child and it is the responsibility of all to maintain child safe environments.

The way forward needs to be community based with greater connection between the many organisations that provide services for children and their families in the community.

Children's Hubs, similar to the Multi Agency Resource Services (MARS) or Child Protection Hubs from the UK, which were being built to provide one stop for services for young children in a community should be the venue for coordinated networks to be established. Organisations should be funded for and perhaps required to be part of a network. Networks should include representatives from Police; Child care; the Church; Schools and support staff; Welfare workers; Human services; Health and medical professionals; Parenting groups; Youth clubs; other organisations that work with children.

These networks could undergo shared professional development in creating child safe environments to disseminate to their respective organisations, share resources and cooperate in projects but exist largely to ensure that all children and their families maintain connections or links with many facets of their local community and that the staff of all the organisations make links with others who work with children.

This should establish opportunities to ask advice from those with expertise to better inform staff where and when and how children or families may be referred for assistance if it is required.

I also believe that teachers and clergy, who see more of the most vulnerable children on a daily basis than welfare workers should also be required to be 'supervised' in a similar way to those working in the welfare sector. This should be available outside the usual chain of command so that situations like the one in which I found myself can be circumvented.

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I have learnt from the past - that closed communities, however well intentioned, are not safe communities. At the moment I am challenging the present - my mission is to be part of achieving systemic change for justice and safer environments. It is up to us all to create a safer future, and as a former Catholic teacher I am determined to do so. Thank you.



Melbourne Victims' Collective

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Hon. Robert Clark
Attorney-General for Victoria
robert.clark@parliament.vic.gov.au
Level 26, 121 Exhibition Street, Melbourne VIC 3000

Dear Mr. Clark,

Re: Inquiry into sexual offending by clergy, religious and lay personnel in the Catholic Archdiocese of Melbourne and the State of Victoria

Leaders of the Melbourne Victims' Collective¹ request an urgent meeting with you as the Attorney-General of the Victorian State Parliament to discuss the viewpoints, experiences and research of our members presented in this document. The Collective strongly supports growing calls for a government inquiry into sexual offending by clergy² working within the Catholic Archdiocese of Melbourne and throughout the state of Victoria. In particular the Collective supports the approach to the Attorney General made by Ann Barker MLA, Chrissie and Anthony Foster, Bryan Keon Cohen, QC, Paul Kennedy journalist, and Professor Patrick Parkinson AM. The Melbourne Victims' Collective respectfully adds our materials to these calls for an inquiry encompassing all religious orders and dioceses in Victoria.

Background to Inquiry Request

Founded in 2008, the Melbourne Victims' Collective is a group of more than thirty victims who have experienced primary and secondary³ clergy sexual abuse and have been exposed to a system to address this that has retraumatized them. The Collective's mission⁴ is supported by more than 10 independent expert practitioners with legal, pastoral, psychiatric, psychological, restorative justice, clergy and policing backgrounds. Collective members' primary sexual abuses date back to 1948, across the tenure of five Archbishops, with systemic abuses more observable since the Melbourne Archdiocese began its "Melbourne Response"⁵ in October, 1996. A month later, the Australian Catholic Bishops Conference and Religious Orders Australia announced their principles and procedures entitled "Towards Healing," a process to be followed by all dioceses and religious orders in Australia with the exception of the Archdiocese of Melbourne.⁶

The Archdiocese set up the Melbourne Response to manage the existence and extent of its clerical sexual abuse problem through four "arms:"⁷ the "Independent Commissioner" to

“enquire into sexual and other abuse,” the “Compensation Panel” to provide “ex gratia/compensation”, “Carelink” psychological counselling and support, and a pastoral contact from Catholic Education Office⁸ to speak with schools and parishes on a case by case basis.

Throughout its fifteen years of activity, Collective members and supporters have become increasingly concerned that the Melbourne Response is suppressing reports to police of serious crimes, discouraging victims from reporting to Victorian Police and taking unfair advantage of victims’ vulnerabilities.⁹ Victims, professionals, members of the church and wider community see these dynamics as an obstruction of justice and/or breaches of ethical professional practice that require urgent action. The Collective is ready to submit relevant documented evidence underpinned by transcripts and testimonies to illustrate this.¹⁰

Lack of Child Protection by the Church

The protection of children and vulnerable adults should be the foundation for any system confronting serious sexual offending. Yet the Collective sees that the Melbourne Response demonstrates an inability to fulfill its professional and moral duty to protect the community from sexual offending, bring offenders to justice, and adequately support and care for victims and families.¹¹ There is no communication with government agencies, no exchange of information or reporting to police authorities, no “coordinated and interagency approach”¹² to incorporate child protection, and no forensic capabilities to deal with clergy criminal conduct. Combined with poor responses to victims, families and communities, the Melbourne Response has serious systemic problems. This is also evidenced by a lack of education of clergy, pastoral councils, workers, parishioners and families to prioritise the safeguarding of children and vulnerable adults.¹³ Child and community safety concerns are not mentioned anywhere in Melbourne Response materials.¹⁴

The Melbourne Response and Towards Healing do not give out any information on the management of offenders or assessment, treatment or monitoring of their actions to curb these behaviours.¹⁵ Yet there are known instances where credibly accused clergy remain in contact with communities and families having access to children and vulnerable adults.¹⁶ Offending clergy are allowed to continue in ministry with vulnerable adults and be accommodated in unmonitored environments allowing them further access to vulnerable children and their families.¹⁷ There is also no process to inform or assist victims to lessen feelings of distress or anxiety due to a common belief that they or another will be the targets of further victimization.

In its entirety, the Melbourne Response fails to address systemic weaknesses that support continued offending.¹⁸ Uncovering the causes of these crimes and to prevent their commission in the first instance needs the identification of the systemic supports of offending. These supports include “blockers” and “enablers” who allow offenders to escape detection, accountability or punishment. Victims believe that the Church should recognise and not tolerate criminal complicity, and should be mandated to develop organisational procedures that create accountability. Difficulty in achieving Church accountability to the government is exemplified in the failure of the Church to act on the recommendations of the Forgotten Australians Inquiry and the Forgotten Australians Revisited Report.¹⁹

Prevalence of Clergy Abuse in Victoria

It is unclear how many victims of clergy abuse have come forward to Church and State systems in Victoria. In the Melbourne Archdiocese alone, from 1996 to 2008 the Melbourne Response had accepted 450 complaints of clergy sexual abuse through its Commissioner, and made 280 compensation offers.²⁰ In 2011 the Melbourne Response said it had compensated 300 victims and that more were still coming forward.²¹ Victims testify that many more complainants have been paid large settlements through direct negotiations with Archdiocese agents outside of the Melbourne Response.²² Towards Healing does not provide data on the incidence of victims' complaints of abuse, nor has Victorian Police released data on clergy victims.

In comparison, only a small number of victims abused by Melbourne clergy have pursued their offenders through criminal justice and applied for VOCAT assistance and compensation.²³ Extrapolating from data indicating that only 10% of child sexual abuse victims report their abuse,²⁴ there may be more than 4,500 primary victims of clergy sexual abuse in the Catholic Archdiocese of Melbourne alone.

Serious Sexual Offending Victorian Clergy

Victims say offences perpetrated against them when they were children include rapes and sexual crimes against single children and groups of children, at times by multiple offenders and in primary and secondary schools and institutions of care, often in the most appalling of aggravated circumstances.²⁵ In addition, victims say that offences perpetrated against them as adults include rapes and sexual assaults, some aggravated, and serial offences have been perpetrated by priest appointed to be chaplains by the Archdiocese of Melbourne in public and private Catholic hospitals.²⁶

To illustrate the impact and extent of these abuses, after years of pressure from the government, media and victims' groups, a partial list of offending clergy was released in August 2011 by the Boston Archdiocese that cited 237 religious abusers since 1950, with the Church having documented 789 victims of clergy sexual abuse since 1950.²⁷ Recent information in Victoria such as 26 boys' suicides linked to clergy sexual abuse in Catholic schools in Ballarat²⁸ is compounded by a list the Collective has assembled, included as Attachment 2, of 110 publically known credibly accused offending clergy who have worked within the Melbourne Archdiocese since 1963.²⁹

Victims Dissuaded from Police Reporting

Upon reflection victims find that the Commissioner of the Melbourne Response had failed to advise them on the seriousness of their sexual assaults and therefore the importance of reporting criminal conduct for assessment and investigation to the sexual crimes division of Victorian Police.³⁰ Moreover, he has repeatedly failed to report serious and serial recidivist child and adult sexual assault offenders to police, even though his Terms of Appointment state "there is no substitute for police investigation into sexual and other abuse which may constitute criminal conduct."³¹ Recent police representatives say that the Commissioner has

made no reports to Victorian Police over the past 15 years,³² yet the Archbishop in 2011 said, "Over the years the Independent Commissioner has fully co-operated with and assisted Police investigations."³³

Victims have to repeatedly deal with clerical offenders abusing their influence and position of power over individuals, families, parish communities, schools, hospitals and ministries. The Melbourne Response does not acknowledge this dynamic of intimidation, bullying and aggression, which isolates the victim and their family.³⁴ This has resulted in victims being unable to give or complete police statements about serial sexual offending by clergy, and victims completely withdrawing as crown witnesses, which closes the criminal case.³⁵ Recent news of suicides in Ballarat has highlighted the need to inquire into the particular isolation and pressures facing clergy abuse victims from the Church community.³⁶

Victims are further dissuaded from reporting crimes to police because the Melbourne Response enquiry is stopped if a victim indicates intention to report,³⁷ rendering access to counselling and psychological support uncertain.³⁸ Some victims have found that upon voicing their frustration with the Melbourne Response that the Commissioner has privately investigated them and removed previous findings of abuse, or that their access to the Melbourne Response psychological support service "Carelink" and other assistance has been cut off.³⁹

Towards Healing has a pro forma which complainants are asked to sign if they do not wish to report to police.⁴⁰ For the past ten years, Towards Healing New South Wales have followed a protocol to notify the police of the name of the alleged offender, as told by a victim to the State Director through their procedures.⁴¹ Where there is a current child protection concern, the Director is required to report this to the New South Wales Ombudsman. The Collective is not aware that Towards Healing in other states is submitting such information to the police.

Clergy Offender Impunity

The Melbourne Response's consistent pattern of discouraging victims to participate in criminal pathways against offending priests⁴² allows clergy offenders to experience impunity from criminal law and enables their further offending.⁴³ In 2010 the Archdiocese admitted more than 300 complaints of abuse and had sought only one laicisation from the Vatican to remove an offending priest from pastoral roles in the Church.⁴⁴ In response to public pressure, in May of 2011 the Archdiocese laicised five of the eleven living convicted child sex-offending clergy.⁴⁵ In addition to child safety concerns, it is devastating for victims and their families to have offending clergy retaining titles, privileges, ministries and access to the Church community.

Reappointments of known abusers and generally lax controls by the Melbourne Archdiocese, have allowed some locations and institutions to receive a succession of abusers. A few examples are parishes and schools in Laverton, Doveton, Williamstown and Healesville; orphanages in South Melbourne and Geelong; and a residential care facility, St John of God in Lilydale. Rupertswood Salesian College in Sunbury is only one of a large number of primary and secondary Victorian schools run by religious orders, such as the Christian Brothers, De La Salle Brothers and the Jesuits, who have had credible allegations by a large number of victims

against a succession of offenders. Most of these cases have been settled within the Church processes and are not on the public record.⁴⁶

An internal Church inquiry has been conducted by leading child protection expert, Professor Patrick Parkinson OA, into the Victorian Salesian Order's handling of sexual abuse allegations

This inquiry resulted in a report in 2010 that was intended to be made public but has been suppressed.⁴⁷ The Collective understands that this report acknowledged actions potentially related to conspiring to pervert the course of justice by reassigning offenders overseas out of the reach of Australian police investigations.⁴⁸

Professor Parkinson mentions documents that implicate complicity by the orders' international leaders in Rome.

“What has taken place...has raised further serious concerns in my mind about the commitment of the church to place the protection of children above the protection of itself.”⁵¹

Canon Law as Alternative to Criminal Law

It is of serious consideration that the Catholic Church worldwide operates through its own governing legal system under canon law, which is created and maintained by the Vatican.⁵² The jurisdictions of Canon law and the law of the State have long been the subject of discussions regarding Church and State and the document 'Immortale Dei' spells it out “as the goal of the Church is more sublime, its power is always far superior, and it can therefore not be considered less than the Civil state, as to not be in a state of subordination.”⁵³ The Vatican even wrote in a recent report to the United Nations that it is “governed by an autonomous legal system.”⁵⁴ Under canon law the Church views itself as a “societas perfecta” separate and distinct from civil and criminal law of the state. The Vatican professes that Church and State are “in their own perfect area perfect societies, meaning each has its own legal system and resources and are entitled within their respective jurisdictions to apply their own laws.”⁵⁵

The Commissioner of the Melbourne Response was appointed in 1996 under Canon 1717 as “delegate” of then-Archbishop Pell to “undertake th[e] onerous task” of “investigat[ing] matters pertaining to professional misconduct and sexual abuse alleged on the part of priests, religious and lay workers who at the time of the alleged offence were under the control of the Archbishop of Melbourne.”⁵⁶ Canon 1717 is part of the canon law penal process dealing with a preliminary investigation to inquire into the allegation of a “delict,” or canon law offence.⁵⁷ Thus the Commissioner is appointed to act in the place of the Archbishop as his delegate under canon law to follow “relevant provisions of Canon law” and “the principles of natural justice.”⁵⁸

Because the Vatican considers the Church an entity unto itself beholden to a canon law which is higher than State law, interaction with the state and civil authorities remains clouded. In May 2010 canon law was finally amended to recognise child sexual abuse as a delict.⁵⁹ In May 2011 the Vatican published guidelines suggesting that clergy abuse cases around the world be

sent for canon law adjudication in Rome.⁶⁰ Yet canon law still forces priests to uphold the seal of the confessional even when sexual abuse is confessed to them by victims or offenders, because to knowingly break this seal could result in the clergy's excommunication.⁶¹ The Collective feels that these canon law conditions contravene the safety of victims and other members of the community. This also contributes to a lack of clergy notification to civil or Church authorities, thereby impeding a police investigation of the offender.⁶² Upholding the seal of the confessional means that many clergy knowingly permit sexual abuse to continue.

Information from the Church to the State about offending clergy is also not forthcoming because canon law dictates that all information about canon law investigative processes be kept within the "secret archive of the curia."⁶³ Further, recent news indicates that the Vatican informed bishops in Ireland that they did not need to conform to government child safety frameworks because these frameworks violated canon law.⁶⁴

State Endorses Church, No Accountability

Then-Archbishop Pell who established the Melbourne Response says that the original Terms of Appointment for the Independent Commissioner were endorsed through a Memorandum Of Understanding in 1996 with a top level Victoria Police representative, supported by Premier Jeff Kennett and Governor Sir Richard McGarvie.⁶⁵ The Archbishop's February 2011 press release states that changes to the Commissioner's Terms of Appointment "have followed lengthy discussions over many months between my representatives, the Independent Commissioner and Victoria Police" and that "[a]ll parties support the changes made," yet Victorian Police say that they have not renewed the MOU with the Archdiocese.⁶⁶

In addition to a general duty of care to protect vulnerable children and adults, victims feel that because the government heavily funds Catholic schools and hospitals, the government has a duty to hold private institutions accountable to government standards of care and to require interagency cooperation.⁶⁷ The Collective has previously expressed this view to the Protecting Victoria's Vulnerable Children Inquiry earlier this year.⁶⁸

Melbourne Response: Enquiry, not Investigation

The Melbourne Response "enquiry" consists of recording and transcribing interviews with victims and ascertaining the name and whereabouts of the offending Church Person, notifying the offender of the allegations, and the Commissioner advising the Archbishop of recommended actions to be taken.⁶⁹ It is misleading for this enquiry to be called an "investigation" in public materials, as it deceives victims into believing a thorough investigation to support the establishing of their complaint is being conducted.⁷⁰ An investigation firstly requires assessing the nature of the incoming information for criminality, the identification of other co-offenders, including aiders and abettors or those who may have enabled the offending to take place.⁷¹ In addition there is minimal effort by the Melbourne Response or Towards Healing to secure physical evidence and little attention given to obtaining corroboration from others who may have witnessed events or been disclosed to.⁷²

Further, the Commissioner requires victims to do a recorded interview providing the name and location of their offender before seeking clarification of their interest in pursuing criminal justice; he also makes inaccurate assessments of obvious criminal conduct in relation to

victims' complaints.⁷³ The victims' interview is usually sparse and incomplete with little clarification sought⁷⁴ and offences are minimised through avoiding explicit words like "rape." Victims have found that subsequent police statements have been contaminated by the existence of the Commissioner's interview.⁷⁵ Victims are outraged to find that the Melbourne Response provides interview transcripts and other files to lawyers defending clergy offenders, which are then used to aggressively cross-examine victims in the courts.⁷⁶

Victims Experience Systemic Abuse

Victims say that the Melbourne Response publicly presents itself as acting for the "people who have been abused" by clergy, yet the Commissioner⁷⁷ was appointed as "delegate" under Canon Law Code Sec. 1717 to acting in the place of then Archbishop George Pell⁷⁸ and continuing in place of current Archbishop Denis Hart. Of further confusion to victims, the Commissioner is appointed and "funded by" the Archdiocese and yet purports to "act independently."⁷⁹ These arrangements do not demonstrate "independence" as victim's within the Melbourne Response system experience the Commissioner's obligations to the Church to be in conflict with their rights and needs. The Commissioner's use of "Independent" in his title does not convey that he acts as a delegate of and in the interests of the Archbishop and the Archdiocese of Melbourne.⁸⁰

Following a victim's complaint of clergy abuse, the Commissioner contacts the alleged offender. If the offender denies committing the abuse, the Commissioner has the power to call the alleged offender in front of him to contest his innocence in a hearing. Advocates and support persons for victims are often blocked from attending these hearings, and victims often find themselves alone with their offender and his counsel and the Commissioner and his counsel, arguing about their traumatic experiences of sexual abuse.⁸¹ Victims have experienced the retraumatisation of up to four days⁸² of such hearings. Victims say they have not been vindicated nor given justice through these hearings and feel that the process is a further example of the Church protecting its own interests.

The Archbishop, the Archdiocese and the Melbourne Response say that victims do not need independent legal advice as they have set up the system with such a level of "compassionate expertise" that victims can adequately represent themselves.⁸³ Victims of clergy abuse are rarely able to afford their own legal advisors, and many do not see the necessity of legal counsel even at the stage of signing off on the Church lawyers' deeds of release presented to them for ex gratia/compensation settlement. Some victims requesting that financial assistance be provided for their legal counsel have been refused, while others have received financing. When some wish to explore potential civil litigation against the offending clergy and the Archdiocese they are referred by the Melbourne Response and/or the Church lawyers to the Church's preferred lawyers, creating a clear conflict of interest for the lawyer who is being paid for by the Church.⁸⁴ Victims express confusion and distress upon finding themselves in these situations.

Additionally, lack of any transparent policy or accountability from various representatives of the Melbourne Response with unscheduled ad hoc monetary and other assistances to victims,

contribute to victims' feelings of having to be secretive and inappropriately bound to the Melbourne Response.⁸⁵ This situation also renders victims unable to make any criticism or formal complaint about their inequitable treatment by the Melbourne Response. In 2010 due to increasing requests for welfare and medical assistance victims were advised of a \$300 cap per year per victim, yet adherence to this is not apparent because many victims have cited instances of amounts exceeding this cap. Further, some victims have been provided major advancements well above the ex gratia compensation payment maximum, including accommodation, respite vacations, shopping and taxi vouchers, phone accounts, restaurant meals, personal and other items. Some victims have been denied such help completely and are not told why there are variations, while others have gone outside the Melbourne Response to receive substantive financial assistance from the Cardinal of Australia in regard to their suffering from clergy abuse within the Melbourne Archdiocese.⁸⁶ The Collective sees this situation lacking checks and balances and equity to victims as an element of systemic abuse.⁸⁷

The Melbourne Response claims that it "respects individual's privacy" and confidentiality, yet victims find these to be repeatedly breached by Carelink staff.⁸⁸ Structurally this agency is without managerial accountability or complaints procedures, and neither the Melbourne Response nor Towards Healing has a public framework for the mental and physical health and safety of its victim clients. Victims have had to make formal complaints about their inadequate mental and physical health care, which in Melbourne has resulted in the Church lawyer managing the psychological and medical care files and questioning the ongoing provision of psychiatric and other pharmaceuticals to victims.⁸⁹ These dynamics leave many victims feeling conflicted, isolated and intimidated. This further increases their trauma with further impacts on their health and wellbeing, which has sometimes even resulted in suicidality.⁹⁰

Victims without a Voice

The importance of systemic responses for victims of sexual abuse are highlighted in that "[c]rimes against children derail development, black out all hope. Yet many [responses] serve to minimise the seriousness, disguise the offences, and thus undermine the victim."⁹¹ Since 1996 two reviews improving the national principles and protocols of Towards Healing have been undertaken by nationally recognized independent child protection legal expert Patrick Parkinson, including consultation with key stakeholders, and with changes made public.⁹² In contrast, the Melbourne Response has not conducted any similar review or committed to consultations with stakeholders.

Victims have made significant efforts to engage with the Melbourne Archdiocese to provide constructive feedback, however meaningful dialogues have been repeatedly denied.⁹³ In 2008 having experienced this unwilling attitude of Melbourne Archdiocese, the Collective wrote the Charter: Towards Justice, included as Attachment 1 that highlights the failings of the Melbourne Response through evidence of victims' experiences and suggests a framework for a holistic and restorative response. The Charter was distributed to Church leaders throughout Australia and received a highly positive response. In contrast, the Melbourne Archdiocese responded by letters of a demanding and legalistic tone, and subsequently Archbishop Hart publicly closed off any possibility of review of the system: in a Press Release included as Attachment 5, he stated, "Because of its success, there is no need to review or fundamentally alter the scheme [which] has attracted no significant criticism."⁹⁴ The Collective sees that the

Melbourne Response willfully remains ignorant of the importance of ongoing feedback and review processes promoting transparency and organisational learning.

Victims Denied Pastoral Care

Finally, victims, supported by clergy of integrity, believe that the Church has a sacred and a moral duty to provide professional pastoral welfare and support to victims, families and communities, due to their life sustainability being lessened as a result of the abuse. These clergy meet with victims and their supporters within a restorative justice framework to acknowledge the harm done and work together to support healing.⁹⁵ Clergy of integrity also comment that their calls to the Archbishop be better informed about the Melbourne Response and the need for its assessment go unheeded.⁹⁶

Pastoral care practice appropriate to clergy abuse would include the appointment of advocates to firstly meet with and assess the needs of victims and to support them throughout the whole of a Church response process.⁹⁷ Yet victims' pastoral expectations are also frustrated because while their case is within the Melbourne Response process, the Archbishop will not meet with or apologise to them until they take the ex gratia/compensation payment offered by the Panel and sign a deed releasing the Archbishop, Archdiocese, the Roman Catholic Trust Corporation, and the clergy offender.⁹⁸ Further, victims say that the Melbourne Response does not understand their need to work through the original trauma of their abuse, and that the structure and systems of the Melbourne Response retrigger their symptoms and distress, for which they do not receive acknowledgment or pastoral support.⁹⁹ Victims see, however, that the Church provides substantial support to clergy offenders.¹⁰⁰

High Cost of Clergy Abuse

It is estimated that one in three girls and one in six boys in Australia is sexually abused during their childhood.¹⁰¹ The annual cost of child abuse and neglect that occurred in 2007 was estimated at (Aus)\$4 billion, with the value of the "burden of disease" representing a further (Aus)\$6.7 billion.¹⁰² The actual societal cost is even higher, as one study estimates only 10% of incidents of child sexual abuse are reported to police.¹⁰³ These reports are often delayed by decades until the whole of life impacts of the crimes committed upon sexual abuse victims become too intolerable to bear, and another study found that 53% of male child abuse victims and a 37% of female child abuse victims had never disclosed their abuse at all.¹⁰⁴

Victims also bring to attention that though the Church receives tax deductibility status from the government, the Melbourne Response psychological support service "Carelink" requires victims addressing whole of life impacts of clergy sexual abuse to claim medical expenses and psychiatric consultations from Medicare, and will only pay for government-discounted PBS medication.¹⁰⁵ The Collective sees that this could be double-dipping into government funding, or that victims and the Church could be in breach of their obligations under the Health and Other Services Compensation Act 1995, which requires repayment to the Commonwealth where compensation is received "of expenses relating to the professional services rendered to the person in the course of treatment of, or as a result of, the injury."¹⁰⁶ Victims feel that the Catholic Church as an institution would likely be aware of any obligations under this Act, but does not inform victims of these, nor provide victims with independent legal advice. Instead the Melbourne Response encourages victims to settle their claims on the basis that the Church

pays “gap” payments and Medicare payments are not refunded, though victims report that Towards Healing does including refunding of these payments in their settlements.¹⁰⁷

Victims’ compensation also needs be considered. In 2000 the government of Ireland established a Commission to Inquire into Child Abuse, and by 2001 found it necessary to create a Compensation Board to operate concurrently.¹⁰⁸ Legislation resulted in a five-layered schedule of compensation for physical, emotional, sexual abuse and neglect of children in residential institutions, the majority which were run by Catholic religious orders and funded by the government.¹⁰⁹ The Board has thus far processed nearly 15,000 submissions and paid compensation averaging (Aus)\$87,000 per victim, plus (Aus)\$223 million towards victims’ independent legal costs and court fees, totalling (Aus)\$1.2 trillion.¹¹⁰ Similar settlements of large magnitude are happening around the world, including a \$660 million settlement in the Los Angeles diocese in 2007, and a \$166 million settlement in the Pacific Northwest in America.¹¹¹

The Melbourne Response cap on compensation was recently raised to \$75,000,¹¹² with victims citing ex gratia compensation offers of just \$15,000 for repeated incidents of child sexual molestation, and \$10,000 for repeated adult sexual abuse.¹¹³ Victims sign deeds of release to receive these payments, often without independent legal advice, and payments are so small that Collective members do not believe there is sufficient consideration of the whole of life impacts of clergy abuse, including: interruption of education, loss of vocation, loss of income, development of severe mental and physical health and trauma disorders, resulting health and relationship conflicts, and the necessity of long-term medical, psychological and sexual health treatments.¹¹⁴ Victims find that the Melbourne Response does not recognise health issues confronting victims of post trauma disorder; for example, it will only pay towards psychiatric and not other medically required hospitalisations.¹¹⁵ Further, to avoid being beholden to this Carelink system, many victims are choosing to use the federal mental health plan cost provision and are seeking victims of crime assistance.¹¹⁶

Overseas Findings from Inquiries and Investigations

Since the early 1980’s the Catholic Church around the world has been forced to acknowledge and act on the widespread prevalence of Church persons committing and covering up criminal sexual offences against children and vulnerable adults.¹¹⁷ Victim and public outcry through the media has thus far alerted governments and law enforcement to conduct inquiries and criminal investigations across America, Canada, England, Ireland, Belgium, the Netherlands and Germany.¹¹⁸ The most comprehensive study to date by the John Jay College of Criminal Justice in New York found that more than 95% of Church communities in America are plagued by clergy sexual abuse,¹¹⁹ and studies in America and Ireland have found an estimated 7% of clergy to be sex offenders.¹²⁰ There are no comparable inquiries, investigations or studies into clergy abuse in the Australian Catholic Church to date,¹²¹ as the Church has said that the American studies are sufficient for the Australian situation.¹²²

The first large-scale investigation into clergy abuse found that over 60 years more than 1,000 people were sexually abused by priests and workers in the Boston Archdiocese.¹²³ Reporting on these findings in 2003 the Boston Attorney General said, "The choice was very clear, between protecting children and protecting the church. They made the wrong choice. In effect, they sacrificed children for many, many years."¹²⁴ Similarly, one Australian Bishop

writes that Church communities are at further risk of “sexual abuse of minors by a significant number of priests and religious [because] together with the attempts by many Church authorities to conceal the abuse, [a] number of people, at every level, are attempting to ‘manage’ the problem and make it ‘go away’ rather than truly confront and eradicate it.”¹²⁵

Findings overseas consistently demonstrate the Church’s systematic cover up of sexual abuse, concealing of criminal evidence, dissuading of victims from pursuing criminal justice, lack of adequate support for victims and witnesses, and protection of offenders.¹²⁶ Findings also identify a culture of collusion reinforced by the Church that equates fidelity with keeping silent about clergy sexual abuse.¹²⁷ The Collective sees similar dynamics in the Australian Catholic Church, with a further contributing factor that clergy in Australia are not held accountable as mandated reporters of child abuse, though half the states in America have made clergy mandatory reporters,¹²⁸ and there is currently consideration of enacting similar legislation in Ireland.

Also contributing to systematic silencing of abuse, the Collective finds that clergy in the Melbourne Archdiocese are not directed or trained to follow reporting procedures regarding child protection or criminal justice; confidently provide victims care, support and referral information; or professionally support parishes and schools suffering from the aftermath of a sexual offending parish priest.¹²⁹ In addition, victims face further legal barriers in Australia. Civil litigation is risky and costly because the Australian Catholic Church has structured itself as a series of trusts with no sole head, and priests do not have legal contracts as employees when working in the Church communities or other services of the Church.¹³⁰

Lack of Child Safety Today

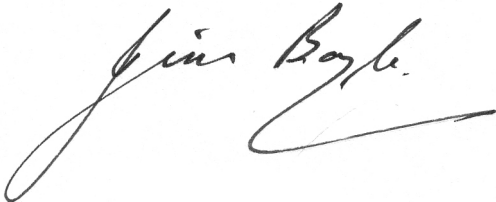
Current experiences of victims, their families and communities illustrate that the safety of children in many Catholic schools and parishes is at risk today. The Victorian Government has a duty of care to protect its children from sexual abuse, and the government’s commitment to this is evidenced by the recent Protecting Victoria’s Vulnerable Children Inquiry.¹³¹ The Collective believes that through this document the government now has awareness of the magnitude of the clergy abuse problem and must act.

Urgent Request to Meet

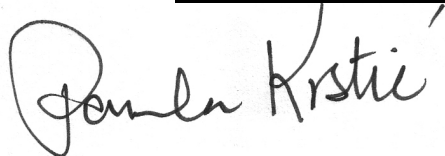
Members and professional supporters of the Melbourne Victims' Collective hereby request an urgent meeting with Attorney General Robert Clark, and through this document indicate our desire to cooperate fully before and during a resulting inquiry.

The Collective implores you to act swiftly to prevent any further suffering, in the interest of protecting victims, vulnerable adults, and children.

Yours sincerely,



Jim Boyle



Pam Krstic



Helen Last PO Box 38, North Melbourne, VIC 3051
Spokespersons for the Melbourne Victim's Collective



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Restorative Justice Consultant for the Melbourne Victim's Collective

CC: Ms. Ann Barker MLA,
Mr. Ken Smith,
Chrissie and Anthony Foster,
Professor Patrick Parkinson AO,
Hon. Philip Cummins,
Mr. Bryan Keon-Cohen QC,
Ms. Angela Sdrinis,
Dr. Vivian Waller,
Mr. Paul Holdway,
Mr. Peter Condliffe,

Attachments

1. 'The Charter: Towards Justice,' The Melbourne Victims' Collective, June 2008
2. Publically Known Sex Offending Clergy in the Melbourne Archdiocese, assembled by the Melbourne Victims' Collective, 2011
3. 'Appointment of Independent Commissioner to Enquire into Sexual and Other Abuse,' Catholic Archdiocese of Melbourne
4. 'Sexual and Other Abuse, The Melbourne Response,' Catholic Archdiocese of Melbourne
5. 'Archbishop affirms importance of the Melbourne Archdiocese Response,' Press Release by Archbishop Hart, August 10, 2009, The Age
6. Overseas Inquiry and Investigation Findings
7. Zwartz, Barney. 'Church acts to defrock all paedophile priests,' May 9, 2011, The Age
8. Merhab, Belinda. 'Vic fails priest sex crimes victims,' Sydney Morning Herald, June 28, 2011
9. Heard, Hamish. 'Priest calls for reform of the Melbourne Response,' Herald Sun, July 24, 2011
10. Costelloe, Timothy. 'Mandatory Reporting and the seal of the confessional,' appearing in the Herald Sun, July 29, 2011
11. McKenzie, Nick and Epstein, Rafael. 'Melbourne priest charged with sexual assault,' The Age, June 4, 2010
12. O'Callaghan, Peter. Letter to the Herald Sun, 'Clearer view,' July 31, 2011
13. 'Changes to the Melbourne Response,' Press Release by Archbishop Hart, February 15, 2011
14. Krstic, Pam. 'Learning from the past, Challenging the present, Creating the Future,' Submission to the Protecting Victoria's Vulnerable Children Inquiry on behalf of The Melbourne Victims' Collective, June 28, 2011, Melbourne Town Hall
15. Canon Law Appointment of Commissioner of Melbourne Archdiocese, October 29, 1996
16. Zwartz, Barney. 'Catholic Order 'suppressed report on child sex,' The Age, August 30, 2011
17. Findings of Child Abuse Inquiries in Australia

TOWARDS JUSTICE

The Charter

of the Melbourne Victims' Collective, Australia



Acting against Abuses

from Clergy, Religious and Lay Personnel
in the Melbourne Catholic Archdiocese



2

INTRODUCTION

Towards Justice: The Charter is an initiative of the Melbourne Victims' Collective, comprising more than 30 people. Members of this Collective have experienced the consequences of primary, secondary, tertiary and/or systemic abuses by clergy, religious and lay personnel within the Melbourne Catholic Archdiocese. These abuses date from approximately 1948 to 2008, across the tenure of five Archbishops. The Collective includes independent practitioners with a combined 60 years of legal, pastoral, psychiatric and psychological expertise in their work with clients abused within religious settings. *Towards Justice: The Charter* expresses the opinion of the Melbourne Victims' Collective and is based on case materials from numerous victims.

Since *Sexual Abuse: The Melbourne Archdiocese Response*¹ was established in 1996 by Archbishop George Pell (later maintained by Archbishop Denis Hart), victims, their families and members of their parishes have repeatedly recounted to the Collective practitioners their experiences of disregard, disservice and disadvantage within the set of arrangements of *The Melbourne Response*. The similarity of independent accounts has led the Collective practitioners to form the view that there has been a disturbing pattern of abuse.

Our aims are to raise Church and public awareness about the mistreatment and ongoing trauma of victims, and to open avenues for dialogue, review and change through processes of restorative justice.²

DEFICIENCIES IN 'THE MELBOURNE RESPONSE'

The Melbourne Response was put into place with legal advice from a major Australian law firm and purports to follow the 15 'Principles for Dealing with Complaints of Abuse' as defined in Part 1 of *Towards Healing*.³ In contrast, many victims have found *The Melbourne Response* inherently deficient. Over 12 years since its inception, it has, in our view, not practised these principles and has reduced its response to a legalistic claims process.

Victims of sexual abuse by clergy, religious and lay personnel⁴ are profoundly disadvantaged and wounded. When they turn to an institution for assistance and receive an inadequate response which does not recognise their needs, victims' wounds are seriously compounded. This is a further layer of abuse, inflicted by the institution ostensibly offering help.

This dynamic is reported by victims in the Collective who turn to *The Melbourne Response*, only to find what in our opinion is an inequitable system that, from a victim's viewpoint, places the public, legal and financial interests of the Melbourne Catholic Archdiocese over those of the victims.

The Archdiocese's maintenance of a set of arrangements, in our opinion, appears to prioritise its livelihood above the needs of victims, and is diametrically opposed to the values and example of Christ. We believe it also contravenes the most recent directives of Pope Benedict XVI on this matter:

... we have to act on three levels, the first is at a political level to ensure justice is done. We will absolutely exclude paedophiles from the sacred ministry, they can never be priests and we will do all we can to help the victims who have been deeply affected by this, these are the two sides of justice. On a pastoral level we must ensure healing and reconciliation, this is a big pastoral engagement...⁵

In our view, the perpetuation of the current priorities of *The Melbourne Response* by its clerical leaders, also directly contradicts the national Code of Conduct for all clergy and religious in Australia, outlined in the booklet, *Integrity in Ministry*. This document holds all clergy accountable for prioritising the 'care and healing of those who have been harmed by ministers of their community' in situations 'when Communion is broken', as

1 See George Pell, *Sexual Abuse: The Melbourne Archdiocese Response* brochure (The Catholic Archdiocese of Melbourne: Melbourne, October 1996). Hereafter referred to as *The Melbourne Response*.

2 See Gerry Johnstone and Daniel W. Van Ness (eds), *Handbook of Restorative Justice* (Willan Publishing: Oregon, 2007) and Michael S. King, *Towards a More Comprehensive Resolution of Conflict: The Role of Restorative Justice* (Melbourne: May 2008).

3 See Australian Catholics Bishops' Conference, *Towards Healing: Principles and Procedures in Responding to Complaints of Abuse against Personnel of the Catholic Church in Australia* (National Committee for Professional Standards: Bondi Junction, 1996), 1, footnote 1.

4 Hereafter referred to as 'clerical sexual abuse' for brevity.

5 Benedict XVI, Press Conference, Alitalia 777 Boeing, 15 April 2008, as reported by Emer McCarthy.

well as 'the parents and family of those harmed and the community where the violation has occurred.'⁶

Primary and secondary victims in our Collective feel betrayed by the lack of clerical leadership within the Melbourne Catholic Archdiocese. They describe feeling powerless within *The Melbourne Response* set of arrangements, which are deficient in values and principles of justice, healing, safety, integrity, empathy and trust-building.

Hearing Victims Speak about *The Melbourne Response*

These deficiencies are heard in victims' descriptions of:

- mismanagement of complaints;
- neglecting to investigate and respond to ongoing risks of clerical abuse with appropriate interventions;
- impersonal, insensitive and untimely responses to victims, their families and wider communities;
- mismanagement of accused priests who continue to harass complainants and parish members after being stood down from parish and/or public ministry, pending investigation;
- the retaining of offenders as ordained priests, even after they have been found guilty in criminal court, and/or the Independent Commissioner for *The Melbourne Response* makes a finding that victims' complaints of sexual abuse by these priests have been established;
- the absence of promised pastoral support, which leaves victims feeling spiritually abandoned by and excluded from their Church community;
- receiving a response from the Archbishop's lawyers when victims question the personnel, practices or processes of *The Melbourne Response*;
- confusion of roles by those who respond to victims on behalf of the Melbourne Catholic Archdiocese;
- a lack of professional advocacy, resourcing and support for professionals working with children exposed to abusive clergy in Catholic schools, and appropriate intervention in situations of abuse; and
- a scarcity of information for family members and parishioners, and lack of recognition of and response to their needs as secondary victims.

Structural Flaws in *The Melbourne Response*

The experiences of the members of the Melbourne Victims' Collective reveal, in our opinion, the following flaws:

- In its Archdiocesan separation from the national set of procedures, it segregates victims, families and communities, and avoids external accountability.
- The lack of policy guiding *The Melbourne Response* leads to inconsistent and arbitrary decision-making from case to case.
- Victims are offered no practical independent support or advocacy to assist them with the processes of *The Melbourne Response*, evidencing a system that does not prioritise the needs of the victims.
- It lacks clearly defined organisational and spiritual leadership.
- The structure and role of Carelink differ markedly from the public announcements.
- There is no Pastoral Response Team 'to provide victims with spiritual support and counselling at a parish level'. This team was eliminated with the implementation of *The Melbourne Response*, not up-graded as promised.⁸
- There are scant services available for secondary victims, despite the promise of provision of a 'forum for pastoral healing... as an essential part of the healing process for the wider Church community.'⁹

6 National Committee for Professional Standards, *Integrity in Ministry: A Document of Principles and Standards for Catholic Clergy and Religious in Australia, June 2004* (National Committee for Professional Standards: Sydney, 2004), p. 19-20.

7 Melbourne Catholic Archdiocese Media Release, 'Catholic Church in Melbourne Apologises to Sexual Abuse Victims and Appoints an Independent Commissioner to Enquire into Allegations' (St Patrick's Cathedral: Melbourne, October 1996), p. 2.

8 *The Melbourne Archdiocese Response* brochure, panel 7.

9 *The Melbourne Archdiocese Response* brochure, panel 7. See also National Committee for Professional Standards, *Integrity in Ministry*, p. 19-20, where the importance of 'justice and the healing of the community of the Church' is

- Although the Independent Commissioner announced that 'it was hoped the commission would complete its work within six months, and hopefully a much shorter time than that'¹⁰, *The Melbourne Response* has filled a permanent role for more than a decade.
- The only public information available is inadequate, outdated and inaccurate.
- There is no transparency of process and outcomes within *The Melbourne Response* in part or whole.
- The rules and processes made by the Compensation Panel are not publicly disclosed, with monetary offers differing greatly between individual cases with reasons not given for variations.
- *The Melbourne Response's* combination of the terms 'ex gratia' and 'compensation' is misleading and unjust. Melbourne's \$55,000 ceiling is the only such limit within the Australian Catholic Church and is incommensurate with the extent of victims' injuries, whilst the 'ex gratia' nature of the offer precludes any further claims for comprehensive compensation against any entity of the Melbourne Catholic Archdiocese.

International Church Responses and *The Melbourne Response*

Victims and practitioners believe that *The Melbourne Response* lacks key components that form the backbone of international Catholic Church responses to clerical abuse,¹¹ including:

- fair, consistent and truly independent procedures in response to victims and perpetrators of abuse;
- an accountability/audit process that includes regular external reviews of the system and structural revision;
- a procedure for victims to appeal processes, decisions and outcomes;
- comprehensive pastoral care to victims, their families and communities;
- clearly defined procedures for managing the accused or convicted clergy;
- educational programs and strategies to protect children, young people and vulnerable adults, and to prevent further abuse; and
- processes for rebuilding pastoral bridges between priests and people in the wake of clerical abuse.

INTRODUCING A PASTORAL FRAMEWORK

In 1996, in *The Melbourne Response* brochure, Archbishop George Pell publicly acknowledged the need to 'apologise sincerely and unreservedly... for [the] betrayal of trust'¹² of victims of clerical abuse. The inadequacy of *The Melbourne Response* in the 12 years since, undermines the credibility of this apology.

Making apologies, disconnected from relevant pastoral practice, is concerning. The misapplication of Catholic theology and misappropriation of sacramental resources – including the acts of confession, contrition, repentance, restitution and forgiveness – have long enabled those in power in the Church to hide and perpetuate clerical abuse.

If the Church were to anchor its pastoral ministry with the victims' viewpoint and draw on spiritual resources such as Catholic Social Teaching¹³, a greater breadth of healing and justice could be realised, including the following dimensions:

- **Confession:** recognition and acceptance of the original clerical abuses and the subsequent systemic abuse;
- **Contrition:** an expression of remorse towards all victims, including families and communities;
- **Repentance:** correcting the structures that have wounded, and acting in a new direction;

noted in situations of abuse by Church ministers.

10 Peter O'Callaghan QC, as quoted in 'Commissioner aims to act fairly', *Kairos*, 17-24 November 1996 (Melbourne Catholic Archdiocese: Melbourne, 1996), p. 7.

11 See e.g. United States Conference of Catholic Bishops, *Charter for the Protection of Children and Young People* (US Conference of Catholic Bishops: Washington DC, 2005), www.nccbuscc.org/ocyp/charter.shtml, and The Cumberlege Commission Report, *Safeguarding with Confidence: Keeping Children and Vulnerable Adults Safe in the Catholic Church* (Incorporated Catholic Truth Society: London, 2007).

12 *The Melbourne Archdiocese Response* brochure, panel 2.

13 See e.g. www.falthatdoingjustice.com.au

- Restitution: improved support for and compensation to victims;
- Forgiveness: the Church asks victims for forgiveness, recognising that this may be a long-term individual and social process for those who experience the effects of abuse.

A CALL TO ACTION

It is crucial that the Church in Australia looks particularly to the Melbourne Catholic Archdiocese's history of responses to clerical abuse, with the following aims:

- Recognition and acknowledgement of systemic abuse encountered within *The Melbourne Response*.
- A process of comprehensive reform towards reconciliation and the shaping of a safe and aware Church.
- Establishing restorative justice, proportionate restitution and tangible healing for all victims, including the families and wider communities of victims of clerical abuse.

Practical Measures

The Melbourne Victims' Collective calls for the immediate and equitable resolution of its individual cases, as well as all other cases currently pending within *The Melbourne Response*, according to the principles espoused within *Towards Justice: The Charter*.

We also recommend immediate reform by replacing *The Melbourne Response* with a five-part response grounded in restorative justice that is non-adversarial and collaborative:

1. The establishment of a public enquiry into *The Melbourne Response*, led by a professional with relevant expertise and public standing. This should be a thorough, painstaking and independent review, similar to the Cumberlege Report in the UK¹⁴ and should draw on research about the nature and scope of clerical abuse, such as the findings by the John Jay College of Criminal Justice in the USA, as commissioned by the United States Conference of Catholic Bishops' National Review Board.¹⁵
2. Offering victims the opportunity to contribute their thoughts, needs and experiences to assist the review process and establish more comprehensive responses, so that the Church does more than pay 'lip service to the principle of the equal dignity of all members of the church.'¹⁶
3. The appointment of a manager for the revised system to take responsibility for the entire system.
4. The appointment of a *Vicar for Clerical Sexual Abuse Victims*, grounded in pastoral theology, with experience in working with victims of clerical sexual abuse, in recognition that spiritual aid is central to the renewal of spiritual life for victims, their families and communities.
5. Commitment of leadership, resources and the support of a continuous process of external review, similar to the US Bishops' Conference National Review Board mentioned above.

Putting these five pillars in place would immediately broaden the Melbourne Catholic Archdiocese's response from its current narrow legalistic stance. With a new system in place, the Melbourne Catholic Archdiocese could begin to address the structural causes and symptoms of clerical sexual abuse, and move towards justice and compassion for victims.

An Expression of Peace

We recognise these changes as a symbolic expression of *shalom*, which is 'more than the cessation of violence and conflict. It is the state in which the world is meant to be. It is the best description of what the reign of God will be like: a place of safety, justice, and truth... an experience of peace after so much suffering.'¹⁷

We believe that if the Melbourne Catholic Archdiocese fails to recognise the need for change and act appropriately, there will be a further loss of faith in the Church when the reality and scope of clerical abuse inevitably becomes publicly recognised, as has occurred in the USA, UK, Ireland and Canada.

14 The Cumberlege Commission Report, *Safeguarding with Confidence – Keeping Children and Vulnerable Adults Safe in the Catholic Church* (Incorporated Catholic Truth Society: London, 2007).

15 See various audit reports by United States Conference of Catholic Bishops National Review Board at www.usccb.org/nrb

16 Henry MacDonald, 'Pope could face protests in Ireland over abuse cases' in *The Guardian UK*, 10 March 2008.

17 Robert J. Schreiter C.P.P.S., *The Ministry of Reconciliation: Spirituality and Strategies* (Orbis Books: New York, 2004), p. 53.

Most importantly, if the Melbourne Catholic Archdiocese continues to respond as it has done to date, we fear that innocent children and vulnerable adults will continue to be assailed within the Archdiocese, both by clerical abusers and, crucially, by the very system put in place to respond to these sinful crimes.

Finney *McCarthy* *Robert* *Jan Southern*

Boyle *Jim* *Boyle* *Plawther*

Robert *Tossle-Tanus* *Meliston* *Jelena Walter*

John D. Brown *for hgr* *John Walker* David

Hlast

Ms Helen Last
Representative

Jim Boyle

Mr Jim Boyle
Representative

Pamela Krstic

Ms Pam Krstic
Representative

The Melbourne Victims' Collective
Melbourne, Australia, June 2008

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MELBOURNE VICTIMS' COLLECTIVE

Jim Boyle | Pam Krstic (Representatives)

E: collective@igfa.com.au

OUR MISSION

'We are called together to be visionary.

*The Life of God can be brought closer to the minds, hearts and bodies
of all those suffering from the ongoing effects of misconduct and abuse
by clergy, religious and lay church members.*

*We appeal to people of good faith, including clerical leaders,
to recognise God's ongoing spiritual and practical work
in our quest for justice.*

*The Charter, our Collective and supporters
seek genuine restoration, reform and reconciliation.'*

*'Towards Justice'
Melbourne Victims' Collective, Australia
June 2008*

Attachment 3: Appointment of Independent Commissioner to Enquire into Sexual and Other Abuse

Available at

http://www.cam.org.au/index.php?option=com_docman&task=doc_download&gid=390



Sexual and Other Abuse The Melbourne Response

CATHOLIC ARCHDIOCESE OF MELBOURNE

APPOINTMENT OF INDEPENDENT COMMISSIONER TO ENQUIRE INTO SEXUAL AND OTHER ABUSE

Background

Archbishop George Pell in 1996 then the Catholic Archbishop of Melbourne being concerned that a number of priests and religious have abused children, adolescents and adults in their pastoral care, in order to facilitate the discovery of such abuse, and the taking of consequential action instructed his solicitors to retain Peter John O'Callaghan Q.C. (the "Commissioner") to act as an Independent Commissioner to enquire into and advise the Archbishop with respect to allegations of sexual misconduct by any priest of the Archdiocese and religious, and lay persons working within the Archdiocese on the following terms and conditions (the terms), and which appointment was renewed and confirmed by Archbishop Hart (the Archbishop) upon him becoming the Catholic Archbishop of Melbourne.

The terms were formulated in consultation with the Victoria Police and it was then acknowledged and agreed, as it is now by the Archbishop and the Commissioner, that there can be no substitute for a Police investigation into complaints of sexual and other abuse, which may constitute criminal conduct. It is also acknowledged that some complainants do not wish to take their complaints to the Police. In that context and in order to continue and to facilitate co-operation and assistance between the Archdiocese, the Commissioner and Victoria Police, the Archbishop has supplemented the Terms and Conditions as set out in Clauses 4 to 6 hereunder.

1. Definitions

"Accused" means the person against whom an allegation of sexual or other abuse is made.

"Carelink" is an agency of the Archdiocese that administers the provision of professional support services namely treatment, counselling and support to victims of sexual and other abuse within the Archdiocese.

"Church person" includes any priest of the Archdiocese and religious, and lay persons, working within the Archdiocese.

"Compensation Panel" is a panel established to provide ex gratia payments to complainants of sexual and other abuse who establish the factual basis of their complaint to the satisfaction of the Independent Commissioner.

"Complainant" means any person making a complaint of sexual or other abuse as aforesaid.

"Complaint" means any complaint made to the Commissioner by a person that he or she has been abused by a Church person or a complaint made to the Commissioner by a person who complains that some other person has been abused by a Church person, and any complaint of abuse by a Church person which is referred to the Commissioner by any other body or person.

"Sexual and/or other abuse" includes:

- a) Any form of criminal sexual assault, sexual harassment or other conduct of a sexual nature that is inconsistent with the public vows, integrity of the ministerial relationship, duties or professional responsibilities of Church personnel; and
- b) Conduct by a person with a pastoral responsibility for a child or young person which causes serious physical pain or mental anguish without any legitimate disciplinary purpose, as judged by the standards of the time when the behaviour occurred.

2. Role of the Independent Commissioner

- i. The Commissioner is appointed to enquire into and advise the Archbishop with respect to complaints of sexual and other abuse by Church persons.
- ii. The Commissioner shall forthwith enquire into any complaint of sexual and other abuse by a Church person made or referred to him.
- iii. The Commissioner immediately upon there being made or referred to him a complaint of sexual or other abuse (which may constitute criminal conduct), shall inform the complainant that he or she has an unfettered and continuing right to make that complaint to the police, and the Commissioner shall appropriately encourage the exercise of that right.
- iv. Subject to sub clause (xi) below, upon becoming aware of sexual or other abuse (which may constitute criminal conduct), the Commissioner may report that conduct to the police.
- v. The Commissioner will not act so as to prevent any police action in respect of allegations of sexual or other abuse by Church personnel.
- vi. Forthwith upon becoming aware that sexual or other abuse has occurred, is occurring, or is likely to occur, the Commissioner shall advise the Archbishop and make such recommendations as to action to be taken by the Archbishop as the Commissioner considers appropriate.
- vii. The Commissioner is empowered by the Archbishop to require any priest, religious, or other person under the jurisdiction of the Archbishop to attend upon the Commissioner at such time and place as is notified, and to produce to the Commissioner such documents as the Commissioner requires, and to answer such questions as the Commissioner considers appropriate to ask. Provided that no priest, religious, or other person, shall be required to produce to the Commissioner a document, or to answer a question, which document or answer the priest, religious or other person objects to answer or produce or give because it may tend to incriminate.
- viii. The Commissioner may inform himself inter alia by hearings at which the complainant and the accused may be present, and also if desired, their respective legal or other representative.
- ix. The Commissioner shall interview a child or conduct a hearing at which a child is present, only with the written authority of the parent or guardian of such child, and whom the Commissioner shall request be present at such interview or hearing.



Sexual and Other Abuse The Melbourne Response

CATHOLIC ARCHDIOCESE OF MELBOURNE

- x. The Commissioner shall treat as confidential and privileged all information acquired by him in the course of his investigation, Provided that (subject to sub-clause 2(xi)) the Commissioner may if he considers it appropriate so to do, provide the whole or part of such information to the police, and with the consent of the complainant, to the Compensation Panel.
 - xi. If a complainant, prior to stating the facts and circumstances constituting his or her complaint informs the Commissioner that he or she is only prepared to divulge those facts and circumstances to the Commissioner upon his assurances that he will not, (unless required by law) disclose those facts and circumstances to any person other than a person nominated by the complainant, the Commissioner (unless required by law so to do) shall not disclose those facts and circumstances to any other person save to members of his staff from whom he shall have procured an undertaking of confidentiality.
 - xii. The Commissioner may decide to discontinue or not conduct an enquiry into a complaint which he considers is trivial, frivolous, vexatious or not made in good faith, Provided that the Commissioner shall notify the complainant in writing of any such decision to discontinue or not conduct an enquiry into complaint.
 - xiii. The Commissioner when enquiring into complaints and reporting to the Archbishop shall observe the rules of natural justice.
 - xiv. The Commissioner shall determine the procedure to be followed in respect of enquiries and hearings and may publish to the Church authorities and other relevant persons details of such procedures.
 - xv. The Commissioner may refer victims of sexual or other abuse to Carelink.
 - xvi. The Commission will consult with and advise the Compensation Panel as required, subject to sub-paragraphs 2 (x) and (xi).
3. i. The retainer of the Commissioner is ongoing for such period as may be mutually agreed upon and, Provided that in the event of the Commissioner, for whatever reason, becoming incapable of duly performing his retainer the Archbishop may instruct his solicitors to terminate the retainer.
 - ii. The Commissioner will formulate procedures for dealing with and recording complaints of sexual and other abuse and other matters.
4. i. The Commissioner will endeavour to meet regularly with the squad manager of the Sexual Crime Squad or their delegate (Liaison Officer) to discuss issues of mutual interest and concern.
 - ii. If a complainant informs the Commissioner that it is desired to refer the complaint to the Police, the Commissioner will refer the complainant to the Liaison Officer, and subject to sub-paragraphs (a) and (b) shall take no further steps in relation to the complaint, until the Police investigation and any resulting proceedings are completed; save that
 - (a) If the complainant so wishes, the Commissioner may refer the complainant to Carelink for the provision of free counselling and psychological support; and
 - (b) The Commissioner may make recommendations to the Archbishop in respect of the alleged offender.
5. Save where
 - i. The alleged offender the subject of a complaint is dead,
 - ii. The complaint has been previously reported to the Police and the Commissioner is satisfied that Police action and any resulting proceedings have been resolved by the conviction or acquittal of the alleged offender or by the Police having notified the complainant that no further action will be taken in relation to the complaint, or
 - iii. The complaint has been referred to the Police and no Police action has been taken in the two years preceding the making of the complaint to the Commissioner

The Commissioner will provide complainants with an information sheet in the form set out below and will seek to obtain the complainant's written acknowledgement on a copy of that document.

1. *The Independent Commissioner has explained to me that he has been appointed by the Catholic Archbishop of Melbourne to investigate allegations of abuse.*
2. *The Commissioner has informed me that because the conduct about which I have complained of may constitute criminal conduct, I have a continuing and unfettered right to report the matter to the police. He has encouraged me to exercise that right. He has informed me that if I did wish to report the matter to the police, he would refer me to an appropriate police officer to deal with the complaint.*
3. *The Commissioner has explained to me that the police have powers which he does not have, including the power to issue search warrants and to arrest offenders, and that it is only through the police that the offender can be brought before a Court and punished for criminal conduct.*
4. *Aware of these matters I do not at this time wish to take my complaint to the police, and:*
 - a) *I request the Commissioner to exercise the powers conferred upon him by the Archbishop to deal with my complaint; and*
 - b) *I require the Commissioner to keep my identity confidential to the best of his ability and save as compelled by law.*
5. *I acknowledge that I can refer the complaint to the police at any time, and if I do so the Commissioner will take no further steps in relation to the complaint until the police investigation and any resulting proceedings have been completed.*

NAME: _____

SIGNED: _____

DATED theday of20.....

6. When an alleged offender the subject of a complaint is advised of the complaint by the Commissioner, the Commissioner will, except where paragraph 5(ii) or (iii) applies, include information in writing in the terms set out below:

"The complainant at least at this stage does not wish to report the complaint to the police, despite being told that there is a continuing and unfettered right to do so, and having been encouraged to exercise that right. If subsequently, I become aware the complaint is referred to the police, I will take no further step in dealing with the complaint. I will not advise you that the complaint has been referred to the police for at least four weeks or if requested by the police such further period as is agreed."

APPROVED ON 15 FEBRUARY 2011

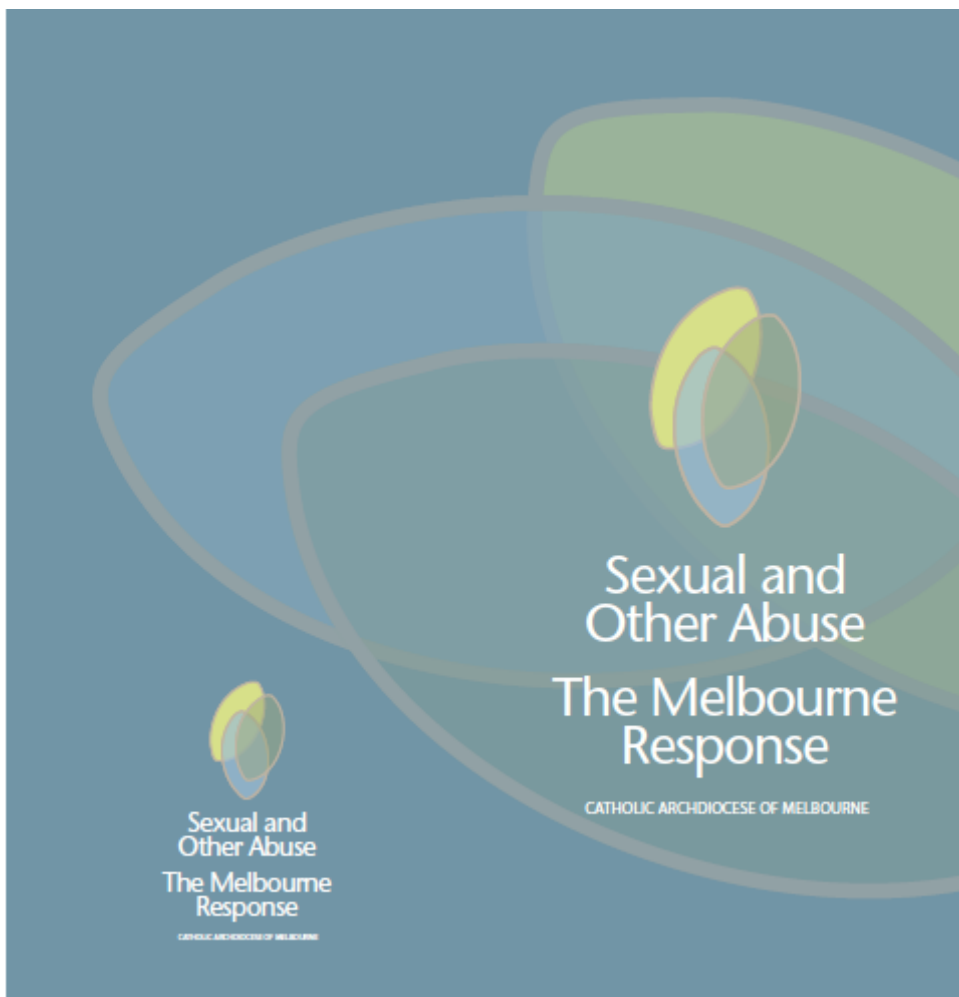
+ 

Archbishop Denis Hart DD
Archbishop of Melbourne



Attachment 4: Sexual and Other Abuse, The Melbourne Response

Catholic Archdiocese of Melbourne, available at http://www.cam.org.au/index.php?option=com_docman&task=doc_download&gid=365



This is a terrible time of suffering and self-examination as the full extent of sexual abuse by Catholic priests, religious and lay workers continues to emerge, not only here in Australia, but throughout the world.

I again, therefore, express my deep sorrow and offer a sincere and unreserved apology to all those who have suffered the pain and humiliation of sexual abuse and to their families.

The scourge of sexual abuse continues to cause great damage and in many cases a crisis of faith amongst Catholics. As Catholic Archbishop of Melbourne, I share this desolation and sense of betrayal. The criminal offences and breaches of vows committed by some priests, religious and lay workers bring shame upon the entire Church.

With great humility, I acknowledge that the crimes of the perpetrators have done great harm. For me, personally, this is one of my saddest times as a Catholic priest.

Sexual abuse in any form, and any attempt to conceal it, is a grave evil and is totally unacceptable. We must face up to the truth and not attempt to disguise, diminish or avoid in any way, the actions of those who have betrayed their sacred trust.

The process for dealing with sexual and other abuse by priests, religious and lay people, who are, or were, under the control of the Archbishop of Melbourne within the Melbourne Archdiocese, was introduced in 1996 and is known as the Melbourne Response.

A short time later the national *Towards Healing* protocol, which is a separate process for dealing with complaints, was also established. The Melbourne Response reflects the principles that are set out in the *Towards Healing and Integrity in Ministry* documents which all of the Bishops and leaders of Religious Institutes of the Catholic Church in Australia have adopted.

The Melbourne Response, with the help of those who have courageously brought their complaints forward, has led to compensation and support being provided to approximately 300 victims of abuse. I acknowledge that not all who have been affected have yet come forward, and I encourage them to do so.

We must continue to work to ensure that we have appropriate procedures in place aimed at preventing any recurrence of abuse and to deal with offending clergy. Since 1996, we have introduced procedures to protect parishioners and children against sexual abuse, and processes have been developed and applied to deal with offending clergy.

In addition, there is rigorous screening of all people who aspire to the priesthood and seminarians are required to undertake study of the *Church's Code of Conduct for Priests and Religious on Integrity in Ministry*.

I again encourage anyone, who has been abused by a person under my control in the Archdiocese of Melbourne, to come forward so we are made aware of it and can respond as quickly as possible.

+ 

Denis Hart, Archbishop of Melbourne



The Help Available

The Melbourne Response assists people who have been abused sexually, physically or emotionally by priests and others under the control of the Catholic Archbishop of Melbourne.

Complaints

Complaints of sexual and other abuse by priests, religious and lay persons under the control of the Archbishop of Melbourne are made to, and investigated by, the Independent Commissioner. Mr Peter O'Callaghan QC is the Independent Commissioner.

Counselling and Support

Free counselling and professional support for those who have been abused is available through Carelink led by the Carelink Coordinator, Ms Susan Sharkey.

Compensation

Ex gratia compensation of up to \$75,000 is currently available through the Compensation Panel chaired by Mr David Curtain QC.

Pastoral Support

Spiritual support and guidance is available to individuals and at a parish level by contacting Ms Marta Kirkwood at the Archdiocese.

Anyone with complaints relating to other parts of the Church should contact *Towards Healing* on 1800 816 030.

Accessing The Melbourne Response

Independent Commissioner

The Office of the Independent Commissioner is the first point of contact for people wishing to make allegations or complaints, or to seek counselling services, or to obtain information about compensation.

The Independent Commissioner receives complaints and enquires into allegations of sexual abuse by priests, lay people and religious who are, or were, under the auspices of the Catholic Archbishop of Melbourne. The Independent Commissioner then makes a determination on the basis of the evidence. When the Commissioner is satisfied that the abuse occurred, the Commissioner notifies the Archbishop about the offender and refers the victim to Carelink.

The Independent Commissioner is there to make an appraisal of all of the circumstances of the situation and help complainants deal with their very personal issues in a compassionate and understanding way.

The Independent Commissioner can refer the complainant to Carelink at any time for the provision of free counselling and psychological support. If the Independent Commissioner finds that a complaint has been established, the Independent Commissioner will refer the complainant to the Compensation Panel.

The Commissioner is funded by but acts independently of the Archdiocese, in accordance with Terms and Conditions of Appointment formulated in consultation with Victoria Police, the principles of natural justice and relevant provisions of Canon Law.

The Independent Commissioner meets with complainants to hear their personal recollections of abuse and to conduct an investigation. The Independent Commissioner recognizes how difficult it might be for them to talk about their own situation but experience has shown that going through this process has brought a sense of closure and relief to many. From the initial contact with the Independent Commissioner, the Melbourne Response respects the individual's privacy.

All complainants have a continuing and unfettered right to go to the police and the Independent Commissioner encourages them to do so if the conduct complained of may constitute criminal conduct. The Independent Commissioner also explains that the police have greater powers of investigation than the Independent Commissioner.

The Independent Commissioner will assist any complainant wishing to go to the police and will take no further steps until

the police investigation and any resulting proceedings are completed. Support from Carelink and the Pastoral Support Office will be available.

The Melbourne Response also recognizes, however, that some complaints will not be dealt with by the police, based on the wishes of the complainant, or because the alleged offender is deceased or the complaint has been previously reported to the police and police action has been finalized.

The Archbishop has given the Independent Commissioner the power to bring priests before him so that he can properly investigate claims. When necessary, the Independent Commissioner conducts confidential hearings at which the relevant parties and their legal representatives can be present.

The Independent Commissioner also makes recommendations to the Archbishop on how to deal with the offender.

The Independent Commissioner's office is located at Owen Dixon Chambers West, Room Level 18, Room 15, 205 William Street, Melbourne.

Telephone: (03) 9225 7979

Carelink

Carelink is a key element of the Melbourne Response and co-ordinates the provision of counselling and other professional support to clients.

Carelink refers clients to psychiatrists, psychologists and other health care providers who have the appropriate background and expertise to address sexual and other abuse and related problems.

Treatment and counselling through Carelink is provided at no cost to Carelink's clients.

Initially, each client is interviewed and assessed by Carelink so that their needs can be identified. The detailed history that Carelink takes from each client helps Carelink understand how the abuse has impacted on various aspects of the client's life.

Carelink asks treating therapists to provide regular progress reports so that a client's treatment can be monitored.

The Carelink Coordinator is a consulting psychologist, Ms Susan Sharkey.

Carelink is located at 25 Lansdowne Street,

East Melbourne, Vic 3002

Telephone: (03) 9663 5744

Compensation Panel

The Compensation Panel arranges for the provision of ex gratia compensation for people who have been found to have been abused by priests, religious and lay people who are, or were, under the control of the Archbishop of Melbourne.

The Panel, like the Independent Commissioner, operates independently from the Archbishop and the Archdiocese.

The Panel provides an alternative to civil legal proceedings. It operates in an informal way and, by design, is not legalistic but provides a forum for the settlement of claims.

In order to apply to the Panel for compensation, an applicant's claim must first be investigated and upheld by the Independent Commissioner who reports his findings to the Panel.

Applicants are also encouraged to provide the Panel with a report from Carelink or from other treatment providers.

Compensation payments, binding on the Archbishop, are recommended at the discretion of the Panel, currently up to a maximum of \$75,000 per person. This maximum is capped at an amount that exceeds the Victorian Government's victims of crimes compensation system.

If the person making a complaint accepts the recommended payment, the amount will be paid in full settlement of all legal claims against the Archbishop and the Archdiocese in relation to the Independent Commissioner's findings. Carelink services will, however, remain available. Whilst the Panel keeps strict confidentiality in relation to the hearings, a claimant is at liberty to disclose to anyone what has transpired at the hearing.

If the recommended payment is not accepted, a person making a complaint is free to use the normal court processes.

The Compensation Panel has four members comprising a psychiatrist, a solicitor and a community representative. The Panel is chaired by Mr David Curtain QC.

Applications for compensation forms are available from the Independent Commissioner.

Parish Pastoral Response

The Archdiocese offers spiritual support and pastoral counselling and provides a forum for pastoral healing.

The parish pastoral response is an essential part of the healing process for the wider Church community.

The contact person for the Parish Pastoral Response is Ms Maria Kirkwood who can be contacted through the offices of the Archdiocese on (03) 9926 5677.

Victoria Police

The Melbourne Response does not restrict the role of the police to investigate and prosecute allegations of criminal conduct. All victims of abuse remain free to, and are encouraged to, report allegations of criminal conduct to Victoria Police.

The police have powers which the Independent Commissioner does not have, including the power to issue search warrants and to make arrests, and it is only through the police that a person can be brought before a court to answer allegations of criminal conduct.

Contact Telephone Numbers

- **Independent Commissioner**
(03) 9225 7979
- **Carelink**
(03) 9663 5744
- **Archdiocese of Melbourne**
(03) 9926 5677
- **Towards Healing**
1800 816 030

Attachment 5: Archbishop affirms importance of the Melbourne Archdiocese Response

Available at <http://www.cam.org.au/2009-media-releases/archbishop-affirms-importance-of-the-melbourne-archdiocese-response.html>

(Emphasis added)

Archbishop Denis Hart Monday 10 August 2009, Press Release appearing in the Age
The Catholic Archbishop of Melbourne today defended the sincerity and integrity of the Church's system of compensating victims of sexual abuse by Catholic clergy in the Archdiocese of Melbourne. Archbishop Denis Hart was commenting on a newspaper report calling for a review of the response system, and questioning the role of its Independent Commissioner, Peter O'Callaghan QC. The Melbourne Archdiocese Response has delivered compassion, counselling and compensation to hundreds of victims of sexual abuse in the Archdiocese in the 14 years it has been in operation. "Because of its success, there is no need to review or fundamentally alter the scheme," said Archbishop Hart. "Since 1996, the scheme has attracted no significant criticism from the vast majority of victims it has compensated. Overall, the system's procedures and outcomes have been highly positive."

The Archbishop said that Peter O'Callaghan was a barrister of outstanding probity and legal distinction, who had been untiring in his efforts to investigate the complaints of all victims independently and fairly, in a sympathetic and compassionate manner, having due regard for the pain and hurt the victims have suffered.

Archbishop Hart points out that the Archdiocese has never attempted to coerce any victim to use the Melbourne Archdiocese Response. Every victim is reminded of their right, and encouraged, to report allegations of criminal conduct to the police. Pursuit of a complaint via the Independent Commissioner is not a substitute for police action. "Nothing can completely set right the wrongs of the past. But the Church believes the Melbourne Archdiocese Response has proven its worth as an effective and meritorious system, providing both ex gratia payments and pastoral counselling for victims of sexual abuse," said Archbishop Hart. "I think the real great tragedy has been that there are any victims at all. The huge suffering of people who have been abused by priests and others whom they should have been able to trust - it just tears at my soul," said Archbishop Hart.

"I find it a tremendous burden, and it's a burden felt by the majority of our priests and our people. And the Church wants to do everything that we can to put things right. *That's why our Melbourne response was designed as an independent system without the need for legal representation of the victim - as the Archdiocese is not involved in the process.* So when victims go to the Independent Commissioner they are able to go and tell their story. When they go to the panel for voluntary compensation, it's the same thing."

We've seen about 450 people, of which 280 have been offered compensation. And only six offers remain to be accepted at this time.

"I think some people are giving victims support, and that is their right, but I wouldn't describe it as an 'industry'." Archbishop Hart then apologised again to victims. "We are speechless at the enormity of the suffering of these victims," he said. The Melbourne Archdiocese Response has never claimed to be perfect, says the Archbishop. But the scheme has always sought to deal with victims of sexual abuse in a caring and appropriate manner. It has always put its trust in truth, humility and healing in its dealings with victims.

"I fully support the Melbourne Archdiocese Response and the work of its Independent Commissioner, Peter O'Callaghan. The Archdiocese will not be making changes when none are needed," said Archbishop Hart.

Attachment 6: Overseas Inquiry and Investigation Findings

1. 2001- United Kingdom

Report on the Independent Review on Child Protection, A Programme for Action

The Rt Hon The Lord Nolan, Chairman

Available at <http://www.cathcom.org/mysharedaccounts/cumberlege/finalnolan1.htm>

Commissioned by the Archbishop of Westminster to review arrangements made for child protection and the prevention of abuse within the Catholic Church in England and Wales, and to make recommendations, recommendations in Chapter 3 include:

- “The top priority is to have preventative policies and practices operating effectively in parishes, dioceses and religious orders that will minimise the opportunity for abuse.”
- “The whole Church in England and Wales and the individual bishops and religious superiors should commit themselves to:
 - a single set of policies, principles and practices based on the Paramountcy Principle, the 13 principles of Safe From Harm, and the revised Working Together guidelines;
 - effective and speedy implementation in parishes, dioceses and religious orders, including a comprehensive programme to raise awareness and train those involved in implementing child protection policies;
 - an organisational structure in the parish, supported by the Child Protection Co-ordinator and his/her Teams at the diocese and in religious orders;
 - a national capability (the National Child Protection Unit) which will advise dioceses and orders, co-ordinate where necessary, and monitor and report on progress; and
 - the provision of adequate resources to support these arrangements.”
- “A lay Parish Child Protection Representative (PCPR) should be appointed in every parish and have these general responsibilities: to ensure that diocesan policies and procedures are known and followed, that awareness is raised, and that principles are worked through into everyday practice.”
- “Seminaries and other institutions where candidates for the priesthood or permanent diaconate are trained should also appoint Child Protection Co-ordinators and implement child protection arrangements as prescribed in this report for dioceses and religious orders.”
- “The Child Protection Co-ordinator and his/her team will
 - (a) ensure that the diocese (or religious order or seminary) has implemented guidelines, based on Safe From Harm and Working Together, to prevent abuse, and regularly reviews its performance;
 - (b) help parishes and others in the diocese (or religious order or seminary) apply the guidelines - by giving advice on how to apply them and how to make the necessary contacts and checks, by facilitating training and awareness events, and so on; and
 - (c) oversee arrangements for responding to allegations and for risk assessment as described in Section 3.3.”
- “The CPC and his/her team should take steps to form and maintain close liaison with the statutory agencies and the statutory Area Child Protection Committees.”

- “Each CPC should make an annual report to the bishop (or religious superior) on actions taken and progress made during the year. Copies of these reports should be sent to the National Child Protection Unit.”
- “A National Child Protection Unit (NCPU) should be set up. It would advise the Conferences of Bishops and Religious on child protection policies and principles, give expert advice and moral support to dioceses and religious orders, collect and disseminate good practice, hold databases of training facilities and other useful information, and maintain the central confidential database of information (see Recommendation 37). The Unit would liaise with the statutory agencies (including the Criminal Records Bureau) at national level, with professional bodies and leading charities in the field and with other churches.”
- “Each diocese should make arrangements either at diocesan or parish level to ensure that there is an independent person for children to talk with. Their contact details, together with contact details for appropriate children's helplines, should be easily available in the parish church and other places where activity with children takes place. Some parishes may wish to appoint their own independent person.”
- “Dioceses and religious orders should themselves maintain records of checks and references on prospective staff and volunteers for the diocese or order, and such records should be consulted by other dioceses and orders as necessary.”
- “When individuals from England and Wales go to serve elsewhere, any relevant concerns should be explicitly made known to the new employer even if they are not requested, and in all cases any relevant information requested by the new employer should be willingly and candidly provided. Where the employer is in fact based in England and Wales (e.g. a religious order), they should follow the same principles as we have recommended for use in this country.”
- “Every diocese and religious order must have a properly composed Child Protection Management Team to deal effectively with any reports or incidents.”
- “The Child Protection Management Team should meet at least quarterly. Its tasks include advising and supporting the CPC, assisting with decision making, hearing what action has been taken in response to disclosures or suspicions, ensuring that the statutory agencies are involved with appropriate speed, receiving information on steps taken to remove paid or lay workers, or a priest, from post while enquiries are made, and satisfying themselves that arrangements are made to safeguard the interests of children.”
- “Anybody who receives a disclosure should advise the maker of it to share it with the statutory agencies and the CPC as soon as possible and should support him or her in doing so, especially if the maker of the disclosure is a child. The person receiving the disclosure should him/herself share it with the statutory agencies and the CPC if he/she believes that it will not otherwise be shared with them.”
- “The NCPU should draw up a policy on whistle blowing in the context of concerns about child abuse.”
- “When there is a disclosure, the statutory authorities should be brought in straight away, without any process of filtering, to take the lead in investigating and assessing the situation.”
- “It is important to treat current allegations about abuse that took place some years ago ('historical allegations') in exactly the same way as allegations of current abuse.”

- “Bishops and religious superiors should ensure that any cases which were known of in the past but not acted on satisfactorily ('historic cases') should be the subject of review as soon as possible, reported to the statutory authorities wherever appropriate, and that there is appropriate follow-up action including possibly regular continuing assessment.”
- “A 'support person' should be available to those who have, or may have, suffered abuse and their families, to assist them in making a complaint, to facilitate them in gaining access to information and other more specialised help, and to represent their concerns on an ongoing basis.”
- “Support may continue to be needed long after the allegation has been dealt with. The Church should do whatever it can to support and foster the development of support services to meet the needs, including the spiritual needs, of survivors and their families. The National Unit should compile and maintain a database of such services.”
- “The bishop should provide appropriate support to help parishes cope where there are allegations against the priest or a parish worker.”
- “A person against whom allegations are made should not be legally represented by the solicitor who is representing the diocese or religious order.”
- “As a general rule, clergy and lay workers who have been cautioned or convicted of an offence against children should not be allowed to hold any position that could possibly put children at risk again. The bishop or religious superior should justify any exceptions to this approach publicly (for example, by means of a letter to be read out in churches at Mass).”
- “Mistakes and lapses should be acknowledged (publicly if necessary), recorded, reported (as appropriate) and rectified wherever possible. If the mistake indicates that systems need to be changed, then that should be done.”

2. 2003 – Boston, USA

The Sexual Abuse of Children in the Roman Catholic Archdiocese of Boston, A Report by the Attorney General

Attorney General Thomas F. Reilly

Available at <http://www.bishop-accountability.org/downloads/archdiocese.pdf>

“It was with the single motivation – to protect children – that in January 2002, the Office of the Attorney General undertook to address the massive and prolonged mistreatment of children by priests assigned to the Roman Catholic Archdiocese of Boston.” Findings include:

- “According to the Archdiocese’s own files, 789 victims have complained of sexual abuse by members of the clergy; the actual number of victims is no doubt higher. (p. 2)
- 250 priests and Church workers stand accused of acts of rape or sexual assault of children. (p. 2)
- “For Decades, Cardinals, Bishops and others in positions of authority within the Archdiocese chose to protect the image and reputation of their institution rather than the safety and well-being of children. They acted with a misguided devotion to secrecy and a mistaken belief that they were accountable only to themselves.” (p. 3)
- “It is essential to create an official public record of what occurred so that this type of widespread abuse of children might never happen again here or elsewhere.” (p. 3)
- “[T]he failure of Archdiocese leadership has been too massive and too prolonged; and the Archdiocese has yet to demonstrate a commitment to reform proportional to the

tragedy it perpetrated. Until the Archdiocese clearly demonstrates an understanding of what occurred and how to provide a safe environment for its children, there must be a period of vigilance by the public and its officials and by members of the Archdiocese.” (p. 3)

- “[T]here must be a continued push for openness by the Archdiocese when it comes to issues related to the protection of children; implementation of rigorous and effective policies and procedures for protecting children; ongoing examination of key indicators that the Archdiocese is doing all it can to keep children safe; compliance and enforcement of the new legal obligations on clergy and other church workers to be mandated reporters of child abuse; and active involvement among the laity in the implementation of all policies and procedures designed to protect children.” (p. 3)
- “Despite evidence that a large number of abusive priests graduated from St. John’s Seminary between 1949 and 1990, there was no evidence that the Archdiocese at any time undertook a comprehensive analysis of possible systemic causes of the abuse and whether there was a casual relationship between the prevalence of abuse, the type of candidates attracted to the priesthood, and the Archdiocese’s policies and practices for recruiting and screening applicants to the seminary.” (p. 13)
- “The abuse of hundreds of children might have been prevented if the Archdiocese had adopted and followed a policy over the years of promptly disclosing allegations of child sexual abuse to public authorities...the mandatory reporting law...did not include clergy and other church workers within the group of mandated reporters until May 2002.” (pp. 22-23)
- “[I]t was evident that Archdiocese personnel, including senior managers within the Chancery, regularly created contemporaneous records documenting allegations by victims of clergy sexual abuse and the response to allegations...The Archdiocese’s files of more than 102 priests alleged to have abused children since 1940...reveal that in the 1980’s, senior Archdiocese managers [were] already aware of multiple allegations of clergy sexual abuse of children.” (p. 26)
- “As Archbishop, and therefore chief executive of the Archdiocese, Cardinal Law bears ultimate responsibility for the tragic treatment of children that occurred during his tenure...He had direct knowledge of the scope, duration and severity of the crisis experienced by children in the Archdiocese; he participated directly in crucial decisions concerning the assignment of abusive priests...With rare exception, none of the Cardinal’s senior managers advised him to take any steps that might have ended the systemic abuse of children. Rather, they generally preserved the key elements of the culture within the Archdiocese that sustained this crisis.” (pp. 31-32)
- “[This] investigation revealed only two instances during Cardinal Law’s administration when the Archdiocese affirmatively reached out to law enforcement.” Reasons given include:
 - Priests not mandated reporters of child abuse;
 - “The Archdiocese felt less compelled to report” historical abuse and believed the criminal statute of limitations for such abuse had passed;
 - “The Archdiocese believed that Canon Law...prohibited it from reporting abuse to civil authorities in most instances”;
 - Concern “about the impact that reporting to civil authorities would have on the alleged abuser’s reputation and well-being”;
 - Reporting was a violation of victims’ rights and would “undermine the relationship between victims and the Archdiocese”;

- “[R]eporting allegations to civil authorities would make other victims more reluctant to come forward”;
- Victims, not the Archdiocese should decide to report to civil authorities;
- “[R]eporting of clergy sexual abuse allegations to civil authorities would cause scandal, and the resulting publicity would harm the reputation of the Church.” (pp. 53-54)
- “[T]he Archdiocese repeatedly failed to thoroughly investigate allegations of clergy sexual abuse of children, including the facts of the alleged abuse and the history of the alleged abuser. This includes:
 - Failure to train staff “inconducting interviews and investigations”;
 - Conducting “only perfunctory interviews of accused priests”;
 - “Little or no effort to determine credibility of the allegation through interviews or other corroborative evidence if the accused priest denied an allegation”;
 - “Made little or no effort to obtain anything more than a minimal level of information from the victim, or corroborate the victim’s allegation”;
 - “Made no effort to determine if there were other victims, even when the initial victim stated that other victims existed”;
 - “[L]ittle or no action to investigate anonymous complaints or complaints from third parties”;
 - “Did not inquire of other priests, Archdiocese workers, or parishioners in the parish where the alleged abuse took place.” (pp. 57-58)
- [T]he Archdiocese’s response to allegations of clergy sexual abuse of children included at times quietly transferring the alleged abuser to a different parish in the Archdiocese, sometimes without disclosing the abuse to the new parish or restricting the abusive priest’s ministry functions...this practice of reassigning abusive priests placed new children at risk and evidenced the Archdiocese’s failure to set the protection of children as a higher priority than the well-being of abusive priests.” (p. 59)
- “Many abusive priests continued to live in parish rectories. While they may not have been permitted to perform ministry functions at the parish, this allowed them access to children attending parish schools, masses and other functions without the public having any meaningful way of distinguishing those priests, and the potential danger they presented...Parish and other church residences were not supervised facilities and the abusive priests were free to come and go as they wished and bring children to their rooms.” (pp. 70-71)
- “The likelihood that ‘restricted’ ministries would protect children from abuse depended greatly on the abusive priest voluntarily refraining from abusive behaviour. With no meaningful degree of supervision, the degree of trust placed in priests with histories of sexually abusing children and the self-policing nature of these assignments failed to recognize [] recidivism rates.” (p. 72)

3. 2004 -USA

The Nature and Scope of the Problem of Sexual Abuse of Minors by Priests and Deacons

Karen Terry, et al, prepared by the John Jay College of Criminal Justice for the U.S. Conference of Catholic Bishops (USCCB)

Available at http://www.bishop-accountability.org/reports/2004_02_27_JohnJay_revised/

“The study of sexual abuse of minors by Catholic priests and deacons resulting in this report was authorized and paid for by the USCCB pursuant to the Charter for the Protection of Children and Young People unanimously adopted by the USCCB at its June 2002 meeting...to commission a descriptive study of the nature and scope of the problem of child sexual abuse in the Catholic Church...The mandate of the study was to:

- Examine the number and nature of allegations of sexual abuse of minors under the age of 18 by Catholic priests between 1950 and 2002.
- Collect information about the alleged abusers, including official status in the church, age, number of victims, responses by the church and legal authorities to the allegations of abuse, and other characteristics of the alleged abusers.
- Collect information about the characteristics of the alleged victims, the nature of their relationship to the alleged abusers, the nature of the abuse, and the time frame within which the allegations are reported.
- Accumulate information about the financial impact of the abuse on the Church.” (pp. 1-5)
- “[I]t is our impression that, despite the complexity of the surveys and the difficulties of identifying relevant church records, these data reflect a conscientious and good-faith effort to provide exhaustive and reliable information regarding allegations of abuse made to church authorities.” (p. 6)
- “[A]llegations of sexual abuse against a total of 4,392 priests that were not withdrawn or known to be false for the period 1950-2002.” (p. 7)
- 7.7% of priests and religious in America estimated to be abusers (p. 7)
- “Less than 13% of allegations were made in the year in which the abuse allegedly began, and more than 25% of the allegations were made more than 30 years after the alleged abuse began.” (p. 7)
- “The amount of money already paid by the Church, as a result of allegations, to victims, for the treatment of priests and for legal expenses reported in our surveys was \$472,000,000. That figure is not the total price paid by the Church to date-14% of dioceses and religious communities did not report dollar figures...If we include the \$85,000,000 reported settlement, the total cost paid by the church exceeds \$500,000,000.” (p. 8)
- “The majority of priests with allegations of abuse were ordained between 1950 and 1979 (68%).” (p. 8)
- “The majority of priests (56%) were alleged to have abused one victim, nearly 27% were alleged to have abused two or three victims, nearly 14% were alleged to have abused four to nine victims and 3.4% were alleged to have more than ten victims. The 149 priests (3.5%) who had more than ten allegations of abuse were allegedly responsible for abusing 2,960 victims, thus accounting for 26% of the allegations.” (p. 8)
- “[S]urveys report that nearly 7% of priests had been physically, sexually and/or emotionally abused as children. The surveys also indicate that nearly 17% had alcohol or substance abuse problems.” (p. 8)
- “The surveys indicate that 32% of priests who were subject to allegations of sexual abuse were also recognized as having other behavioural or psychological problems.” (p. 9)

- “The largest group of alleged victims (50.9%) was between the ages of 11 and 14, 27.3% were 15-17, 16% were 8-10 and nearly 6% were under the age of 7. Overall, 81% of victims were male and 19% female.” (p. 9)
- “Of the total number accused, 37% of priests with allegations of sexual abuse participated in treatment programs.” (p. 9)
- “The most frequent acts allegedly committed were: touching over the victim’s clothing (52.6%), touching under the victim’s clothes (44.9%), cleric performing oral sex (26%), victim disrobed (25.7%), and penile penetration or attempted penile penetration (22.4%).” (p. 9)
- “The abuse is alleged to have occurred in the following locations: in the priest’s home or the parish residence (40.9%), in the church (16.3%), in the victim’s home (12.4%), in a vacation house (10.3%), in school (10.3%), and in a car (9.8%). The most common event or setting in which the abuse occurred was during a social event (20.4%), while visiting or working at the priest’s home (14.7%), and during travel (17.8%).” (p. 9)
- “To date, police have been contacted about 1,021 priests with allegations of abuse, or 24% of our total. Nearly all of these reports have led to investigations, and 384 instances have led to criminal charges...6% of all priests against whom allegations were made were convicted and about 2% received prison sentences to date.” (p. 10)
- “Half of the allegations that were made (49.9%) were reported by the victim.” 20.3% by the victim’s attorney, and 13.6% by the victim’s parent or guardian (p. 10)

From 2.2 Summary Results: Prevalence of Sexual Abuse of Youths under 18 by Catholic Priests and Deacons:

- “The survey responses make it clear that the problem was indeed widespread and affected more than 95% of dioceses and approximately 60% of religious communities. Of the 195 dioceses and eparchies that participated in the study, all but seven have reported that allegations of sexual abuse of youths under the age of 18 have been made against at least one priest serving in ecclesiastical ministry in that diocese or eparchy. Of the 140 religious communities that submitted surveys, all but 30 reported at least one allegation against a religious priest who was a member of that community.” (p. 26)

From 5.3 Response from Dioceses and Religious Communities:

- “When all Cleric Surveys are considered, 27% of all priests subject to an allegation had their ministry restricted by a superior.” (p. 94)

4. 2005 – Ireland

The Ferns Report

Chairman Mr Justice Francis D. Murphy

Available at <http://www.scribd.com/doc/33174948/The-Ferns-Report>

“Non-statutory private inquiry to investigate allegations or complaints of child sexual abuse which were made against clergy operating under the aegis of the Diocese of Ferns.” (p. 1)

- “Individual priests who attended this Inquiry spoke of their lack of any awareness of the problem of sexual abuse of children in society in general or among their numbers. The Inquiry believes that this lack of awareness was, in most cases, genuine, but is concerned that the Church Authorities either in this country or in Rome did not properly alert their priests to the danger of child sexual abuse at a time when they did or should have known of this danger which had been clearly identified by Church authorities elsewhere.” (p. 16)

- “One of the most striking aspects of the profiles of the clerical abusers that emerged from the Ferns Inquiry and from the Expert Group was that, in certain respects, many of these men were successful, spiritual and even caring human beings.” (p. 17)
- “Evidence shown to the Inquiry illustrated how cognitive distortions operated by priests are particularly strong, given the conflict that exists between their abusive behaviour and their spiritual aspirations. Rationalisations used by some of them are particularly extreme, for example, that God, in calling them to the vocation of priesthood, had done so in the knowledge that they suffered from certain human weaknesses. This device served as a pardon for their abusive behaviour. They tended to see the abuse on a scale which when weighed against all the good they did in their ministry, could be excused and forgiven.” (p. 19)
- “Child sexual abuse is, according to studies, linked with depression and post-traumatic stress disorder, emotional and behavioural problems, interpersonal relationship difficulties and suicidal behaviour in both childhood and adult life, which places children at further health and emotional risk. It is recognised that where child sexual abuse is perpetrated by clergyman, its impact on the victim can have additional consequences such as loss of faith and an alienation from religion. Research on clerical sexual abuse carried out in Ireland indicates that when victims reported their abuse and received an inadequate response from church authorities, they experienced retraumatisation. (p. 19)
- “Many members of the diocesan clergy in Ferns have indicated to the Inquiry that they have no appreciation of the impact of child sexual abuse on victims.” (p. 19)
- “The Inquiry was told how, in Ferns, some young boys were seduced with alcohol and pornographic material by priests, which they were then reluctant to report to their parents for fear of getting into trouble. (p. 20)
- “The very powerful position of the priest in the community and the reverence with which families held him militated against the child speaking about what had happened. The dearth of guidelines and awareness programmes left these children without information or knowledge on how to get help.” (p. 20)
- “It is the view of the Inquiry that the maximum confidentiality should be extended to the victim consistent with achieving protection from other children at risk.” (p. 23)
- “The Church has a responsibility to ensure that systems are in place to protect the congregation served by its priests and to ensure accountability of each priest to his bishop.” (p. 29)
- “In practical terms the Inquiry is informed that it is considered necessary to consider the following areas when assessing the suitability of seminarians:
 - Life and family history;
 - Age;
 - Faith history;
 - Capacity for friendship;
 - Academic Suitability;
 - Sexual History;
 - Medical History;
 - Transfer between seminaries.” (pp. 33-34)
- “Priests who are ordained in seminaries outside of Ireland should be subjected to the same level of assessment as [above].” (p. 37)

- “[L]ike all other foreign laws, Canon law is without coercive power because the machinery of coercion is, in this State, kept in the exclusive control of the civil government and parliament for compelling obedience to such laws only as its parliament enacts. No foreign law could exempt a person resident in this State from compliance with an obligation imposed by the Constitution or the laws enacted there under.” (p. 38)
- “The assumption by the Diocese of Ferns of an obligation to inform the Garda Siochana and the Health Board of allegations of child sexual abuse against members of the diocesan clergy was a radical departure from the procedure historically adopted in the Diocese.” (p. 41)
- “[S]ince 1999, the Diocese has had the benefit of an insurance policy which provides limited cover against any legal liability it may have for incidents of child sexual abuse which are proven to have occurred after 1996 and where the perpetrator had not been the subject of knowledge or suspicion prior to 1996. In May 2005, Irish Bishops released information showing that since 1996, the Stewardship Trust contributed to compensation settlements for 143 people in relation to abuse by 36 priests amounting to (Euro)8.77 million.” (p. 48)
- “The Inquiry has identified approximately 100 allegations or complaints of child sexual abuse that were made between 1996 and 2005 against 21 priests operating under the aegis of the Diocese of Ferns.” (p. 70)
- “Of the eleven priests who are alive and against whom allegations have been made, three have been excluded from the priesthood by the direction of the Holy See and seven of the remaining eight have stood aside temporarily from active ministry...An Garda Siochana investigated complaints of child sexual abuse by eight priests of the Diocese and proceedings were instituted by the DPP in three of those cases.” (p. 246)
- “Factors which militated against an adequate or appropriate response by Church authorities to allegations of child sexual abuse included the following:”
 - failure to properly monitor and assess men during seminary admission and training;
 - failure of the management system to “deal expeditiously or decisively once a problem of child sexual abuse was identified” and failure to “acknowledge and address the serious and systematic nature of the problem”;
 - failure of proper record-keeping;
 - reluctance of priests to report inappropriate behaviour;
 - “failure to operate a transparent complaints procedure”;
 - “failure of church authorities in Rome to educate bishops and priests about the growing awareness of child sexual abuse” in the priesthood;
 - Failure of church authorities and their delegates to listen sensitively and sympathetically to allegations of misconduct;
 - “culture of secrecy and a fear of causing scandal,” placing “interests of the Church ahead of the children whose protection and safety should at all times have been a priority.” (pp. 255-256)
- “There were grounds for suspecting that prior to 1990, some members of An Garda Siochana may have been reluctant to pursue investigations involving members of the clergy.” (p. 257)
- “The victims complained, and medical experts confirmed, that the impacts of such abuse can have far-reaching consequences not only for the victim but also for their

relatives and friends and that this damage can continue over a period of many years and into subsequent generations.” (p. 260)

- “[C]riminal offences involved are of the utmost gravity. They attract a maximum penalty under the criminal law of life imprisonment.” (p. 260)
- “The Church Authority must have proper management systems and processes to ensure that their priests are performing effectively and safely and are supported in their development and work within the community.” (p. 260)
- “[S]ome priests appear to have abused their position as Managers of national schools in order to access children. The powerlessness of children in such a situation was particularly acute.” (p. 260)
- “There is some evidence that persons with a propensity to sexually abuse children will be attracted to careers which will give them easy access to children, particularly vulnerable children. Organisations engaged in working with children at any level must be alert to that possibility and have systems in place which will allow them to deal with any problems immediately and decisively once they arise. (pp. 260-261)
- “Every effort should be made to encourage victims of child sexual abuse to come forward and invoke the legal process...It is noteworthy that only two of the cases that have come to the attention of this Inquiry have resulted in a criminal conviction.” (p. 261)
- “[E]very organisation exercising control over persons having unsupervised access to children must educate their priests and members to understand their personal responsibility to ensure the protection of children.” (p. 262)
- “The Department of Health and Children should launch and repeat from time to time a nationwide publicity campaign in relation to child sexual abuse...focussed on the following matters:
 - That children must never regard themselves as responsible for acts of sexual abuse perpetrated on them by adults;
 - That abuse is perpetrated by persons in every walk of life including respected men and women in distinguished professions and vocations;
 - That abuse may cause serious and lasting psychological damage;
 - That child sexual abuse of any kind is a serious criminal offence which should be reported to the Gardai;
 - Children should be informed of and assured of support and care by State authorities when they make a complaint.” (pp. 262-263)
- “Criminal wrongdoing will not cease but the extent of the misery created by unchecked child abuse of children by adults in positions of power or privilege will be greatly reduced by the creation of an open and informed environment that will encourage a willingness to report promptly inappropriate sexual behaviour towards children.” (p. 263)
- “Every person to whom a complaint of child sexual abuse is made should immediately create a written report of the complaint...In the case of a priest of the Diocese he should inform the intended complainant that the Bishop’s delegate is a more appropriate person...but this should not be reason for discouraging the complainant if he prefers to speak directly with the priest.” (p. 264)
- “The Inquiry believes consideration should be given by the Legislature to the introduction of a new criminal offence which would apply to situations where any person ‘wantonly or recklessly engages in conduct that creates a substantial risk of

bodily injury or sexual abuse to a child or wantonly fails to take reasonable steps to alleviate such a risk where there is a duty to act.' [General Law of Massachusetts Part IV Title I Chapter 265]." (p. 266)

- "It is clear that Bishop Walsh and his advisors have interpreted Canon law and the procedures identified in the Framework Document of 1996 as requiring him to place the needs of child protection above the rights of individual priests to the protection of their good name. The Inquiry believes that Bishop Walsh is correct." (p. 266)
- "The Inquiry is of the opinion that a priest who disputes an allegation of child sexual abuse made against him should be entitled to legal aid...Accordingly, the complainant should also have civil legal aid irrespective of his means to establish his claim against the alleged abuser." (p. 266)
- "The Inquiry has identified...the shortcomings in relation to the ability of the Health Services Executive to intervene properly in relation to child sexual abuse perpetrated by a non family member without the connivance of a child's parents." (p. 267)
- "The Inquiry would recommend that all Gardai should notify their superior officers in writing, in relation to a decision taken by them not to investigate or proceed with a referral for prosecution to the Director of Public Prosecutions any offence concerning a complaint or allegation of child sexual abuse." (p. 267)
- "The Inquiry is satisfied that there are adequate procedures in place to enable any citizen to complain where he believes that his or her complaint has not been dealt with in an appropriate and satisfactory manner...[and] would recommend that these procedures be made more widely known." (p. 267)

5. 2007 - United Kingdom

Safeguarding with Confidence, Keeping Children and Vulnerable Adults Safe in the Catholic Church, The Cumberlege Commission Report

Chairman Julia Cumberlege

Available at <http://www.cathcom.org/mysharedaccounts/cumberlege/report/index.asp>

To carry out the review recommended by Lord Nolan's report 'A Programme for Action' published in 2001. "We were invited by the Cardinal to be 'thorough, painstaking and independent and where we found progress to be inadequate to recommend change.'...

Although much progress has been made and the Church is now a safer place we believe there is room for improvement...The 'paramountcy principle' which places child's welfare as the paramount consideration, is well established in family law but is not unequivocally accepted within the Church." (pp. 3-4)

From the Preface:

- "Being loved and being kept safe go to the very core of the Church's ministry to children and vulnerable adults. The Church should also be a community in which abused people know they can find healing and justice and right relationships restored. This is particularly important when the abusive behaviour has come from trusted members of the community who have broken the trust placed in them." (p. 9)

From Chapter 2 An overview of evidence - 'What we found'

- "Since its establishment, COPCA [Catholic Office for the Protection of Children and Vulnerable Adults] has made a huge contribution to strengthening the Church's capacity, as One Church, to keep children safe. As a result the Church has been able to demonstrate a new professionalism and greater transparency and accountability in the

way it deals with child protection issues, now justly recognised by the statutory authorities, and mirrored in the establishment of new child protection structures across the dioceses and religious congregations.” Major achievements include:

- Mostly external Chairs of the COPCA who have child protection expertise;
- Professional COPCA staff;
- “[O]rganisational lines of accountability for child protection”;
- “The creation and dissemination of a set of national policies” available online;
- “COPCA Management Board with independent membership”;
- [S]upervision, monitoring and support” available to all who have roles in the child protection system in the Church and who work with children;
- “All allegations of abuse are required to be reported to the statutory authorities who must decide whether a statutory investigation is required”;
- Risk management of child protection cases and risk management of return to active ministry of accused;
- Monitoring of offenders;
- Support “both to alleged victims and those accused of abuse”;
- Update policies for recruitment and selection of clergy;
- “More than 55,000 CRB disclosures” from 2003-2006;
- “More than 85% of the 2400 parishes have Local Child Protection Representatives in post”;
- “Around 1100 training sessions...within the Church”;
- ‘Safe from Harm’ principles “enshrined in national policy”;
- External cooperation and integration with civil authorities and experts;
- Independent professional expert risk assessments of the accused;
- Support to victims;
- Risk assessing through criminal authorities;
- “Temporary withdrawal from role of those accused of abuse” with risk assessments and written agreement “for accused clergy and religious and also parishioners who may attend Church and pose a risk to children”;
- National meetings of dioceses and religious congregations together. (pp. 16-18)
- “The Church is collegiate, not a homogenous organisation working to a clearly established hierarchy with lines of accountability as generally understood by the secular world.” (pp. 19-20)
- “[I]t is heavily dependent on a volunteer rather than a paid employee workforce...[volunteers] need to be properly supported and trained and their capacity to do all that is asked of them...is necessarily limited.” (p. 20)
- “We were told that in 2004 the cost to the dioceses of delivering the Nolan agenda...was (Pounds)1.1 million in 2005...Comparable budget figures for 2007 suggest local child protection costs amount to between 4.5 and 5.5% of this.” (p. 20)
- “Some have argued that implementation of child protection policies and procedures has been tolerated rather than embraced because they lack any sound theological and spiritual context.” (p. 20)
- [T]he introduction of a transparent and fair process that complied with Canon Law and with natural justice, and which deals with the accused with respect, is a matter of some urgency if priests are not to shun working with children and young people altogether as a way of protecting themselves.” (p. 21)
- “For some victims the life long damage they suffer in the wake of their experience results in such a loss of confidence in the Church that trust has been replaced by

positive distrust of any initiative associated with the Church...[We have received] evidence as to the continuing tensions that victims experience between the perceived requirements of insurers and lawyers to protect the financial interests of the Church and their own need to tell their story and be listened to with compassion and empathy, to receive an apology and be provided with appropriate pastoral care and support.” (pp. 21-22)

- Child safety “depends on the Church at every level taking ownership of the safeguarding agenda. Responsibility for driving that agenda, however, belongs firmly with the Bishops...it is clear to us from the evidence that the will needed...is patchy...We are concerned that five years after Lord Nolan reported Bishops and Congregational Leaders may be minimising the distressing consequences, the harmful impact and the anguish that follows in the wake of child abuse. This, coupled with some resistance to change and a fear and suspicion that the authority of the leadership is being undermined, has impeded the delivery of consistently good – let alone excellent – safeguarding arrangements.” (p. 22)

From Chapter 4 The Welfare of Children and Vulnerable Adults and Investigation and Review of Abuse Cases

- “Where an allegation of abuse or risk of abuse is made we can see no grounds for treating clerics any differently to lay people. The importance of removing risk to the child or vulnerable adult and allowing a proper and just investigation to proceed unhindered are just as great.” (p. 58)
- “The Conference of Bishops and Conference of Religious should reaffirm their commitment to a safeguarding agenda in which the welfare of the child is paramount. Bishops and Congregational Leaders and those acting on their behalf should apply the civil standard of proof in the investigation and determination of any matter relating to the abuse of children and vulnerable adults. The Conference of Bishops and Conference of Religious should give consideration to merging the proposed investigation and review process with their internal disciplinary processes to avoid unnecessary duplication.” (pp. 61-62)
- “It must be accepted that when [disclosures of abuse] is provided – unless it is disclosed under the seal of the confessional – it will be discussed by those charged with safeguarding children and vulnerable adults within the Church, and if necessary, with external safeguarding agencies. To avoid any misunderstandings, those who receive such information should advise the person giving it of the restrictions to confidentiality that are likely to be applied.” (p. 62)
- “Whether the allegation relates to recent events, or events that took place many years ago when the complainant or victim was a child can have no bearing on the decision to remove a priest or religious from active ministry or suspend an employee or volunteer. If the accused is still actively engaged in a parish or religious congregation or in activities in which he or she has access to children, other children may be at risk and may have to be protected pending investigation.” (p. 64)
- “It is our firm view that dioceses and religious congregations should contribute to the legal costs of priests or religious and we encourage the Church to seek clarification of the legality of using charitable funds for this purpose. The Church might also wish to initiate discussions with the Legal Services Commission to explore the possibility of accused priests being eligible for civil legal aid.” (p. 65)

- “The Church is under a clear obligation to accept the consequences of a criminal conviction or a caution and to recognise the implications of the individual concerned having his/her name placed on the Sex Offenders’ Register or any other Register...The Church is not exempt from this new [government] scheme.” (p. 67)
- “Upon receipt of [an allegation] the Child Protection Officer...must, if there is any suspicion that a criminal offence has been committed, bring it to the notice of the statutory agencies for their consideration and investigation.” (p. 67)
- “We have been at pains to emphasise in this chapter the importance of keeping the accused and victim/complainant as fully informed as is possible of the stages of the inquiry and investigation. The parish deserves no less attention being paid to their needs and to be kept informed if parishioners are not to be left feeling adrift and anxious.” (p. 74)

From Chapter 5 Fairness to Victims and Survivors

- “[T]he Church has recognised a duty to give special care to those who suffer discrimination, disadvantage and poverty...Those children and adults who have been abused in any way need to be, and know that they are, a special concern for the Catholic Church. It is the Church that they should be able to turn to for a safe haven. If they cannot...it must be scandal. And that scandal is immeasurably greater if those who abuse children or vulnerable adults are people – lay, clergy, religious or secular – who are acting in the name of the Church.” (p. 77)
- “[I]t is not only the victim who is affected, but the victim’s family who will feel the hurt and pain of their loved one. The abuser will be degraded as a human being and as a moral agent by the behaviour he or she has engaged in. The abuser’s family and friends will feel a sense of hurt and betrayal.” (pp. 77-78)
- “Because of the rules of English civil law, most juridical persons within the Catholic Church in England and Wales hold their properties in charitable trusts. This means that when the question of compensation and support for those who have been abused – and the two are quite distinct – are involved, there will be a need for recourse to insurance companies and lawyers, and to what may seem rather anonymous and impersonal procedures...We have heard from a number of victims and those speaking on their behalf who believe that the involvement of some insurance companies has in the past put impediments in the way of the Church responding to them in ways that are in keeping with the Church’s own spiritual and pastoral ethos and with what is regarded as good welfare practice.” (p. 81)
- “[H]istorical cases represent the majority of disclosures that are being made today. A person making an allegation has the same right to have truth acknowledged and justice done in an historic case as in a current case – whether or not the alleged abuser has since died – and this needs to be clearly stated and acted upon.” (p. 81)
- “It is important for the Church to ensure that anyone making an allegation of abuse against a member of the Church does not inadvertently encounter the alleged perpetrator...Ministry should be routinely informed by any statement the victim has given...the Church must always ensure that such information is given in any references asked for.” (p. 82)
- “When a priest is asked or required to withdraw from active ministry on account of an allegation being made against him, or when a priest is allowed only restricted ministry, it must be made clear in a written agreement what sacramental ministry is permitted

to him, bearing in mind the circumstances and the place where he will be located.” (p. 83)

From Chapter 6 Safeguarding Vulnerable Adults

- The Church “should now adopt comprehensive safeguarding policies and procedures that cover both children and vulnerable adults.” (p. 85)
- Settings in which clergy and lay workers are in contact with vulnerable adults include:
 - Chaplains and visitors to hospitals, residential and nursing homes, prisons and other establishments;
 - Visiting people in their homes to take communion;
 - Volunteers and members of charitable and Church organisations visiting people in their homes and organising events on church premises;
 - “Events including organised trips and pilgrimages”;
 - Church services and events. (p. 86)
- “The skills required for professional staff in safeguarding adults and children are similar.” (p. 87)
- “The current training for priests and religious...and other workers in the church should be expanded to include awareness of abuse of vulnerable adults.” (p. 88)

From Chapter 7 Conclusions and summary of recommendations

- “We were made aware fairly early on in our deliberations of a possibility of conflict between the procedures recommended by Lord Nolan, and those called for by Canon Law...We are therefore recommending that the Conference of Bishops, in consultation with the Conference of Religious, draw up a general decree for England and Wales to be sent to the Holy See for ‘recognitio.’ ...This would enable our recommendations to become part of the particular law of the Church in this country and bring a much needed degree of clarity and certainty to all those affected by the present procedures. It would also give a remedy against Bishops or Congregational Leaders who fail to follow the norms.” (p. 90)

6. 2010 –Ireland

Commission of Investigation Report into the Catholic Diocese of Cloyne

Chairperson Judge Yvonne Murphy

Available at

http://www.justice.ie/en/JELR/Cloyne_Rpt.pdf/Files/Cloyne_Rpt.pdf

“During the Cloyne investigation the Commission examined all complaints, allegations, concerns and suspicions of child sexual abuse by relevant clerics made to the diocesan and other Catholic Church authorities and public and State authorities in the period 1 January 1996 – 1 February 2009.” (p. 1)

- “The context of this report differs significantly from the context of the Commission’s Report into the Catholic Archdiocese of Dublin. It deals with allegations made in the period after 1996, the year in which the Catholic Church in Ireland put in place detailed procedures for dealing with child sexual abuse two years after the State had been convulsed by the Fr Brendan Smyth case. This means that the so-called ‘learning curve’ which is was claimed excused very poor handling of complaints in other dioceses in the past could not have had any basis or relevance in Cloyne.” (pp. 1-2)
- “Of the 163 clerics listed in the Diocese of the *Cloyne Diocesan Directory* for 1996, there have been allegations made or concerns expressed about 12 (7.6%).

- “The Commission is aware of some 40 people who may have been affected by clerical sexual abuse in the Diocese of Cloyne. All but two complaints came from people who were adults at the time the complaint was made; these complaints are usually called ‘historical complaints’.” (p. 2)
- “The Commission’s main task was to consider whether the response of the Church and State authorities to complaints and allegations of clerical child sexual abuse was “adequate or appropriate” and to establish the response to suspicions and concerns about clerical sexual abuse.” (p. 3)
- “Despite Bishop Magee’s stated position on the implementation of the *Framework Document*, the reality is that the guidelines set out in that document were not fully or consistently implemented in the Diocese of Cloyne in the period of 1996 to 2009. The primary responsibility for the failure to implement the agreed procedures lies with Bishop Magee. It is a remarkable fact that Bishop Magee took little or no active interest in the management of clerical child sexual abuse cases until 2008, 12 years after the *Framework Document* was adopted.” (p. 4)
- “The reaction of the Vatican to the Framework Document was entirely unhelpful to any bishop who wanted to implement the agreed procedures....This effectively gave individual Irish bishops the freedom to ignore the procedures which they had agreed and gave comfort and support to those who, like Monsignor O’Callaghan, dissented from the stated official Irish Church policy.” (p. 5)
- “[T]he Cloyne Diocese did not implement the procedures set out in the Church protocols for dealing with allegations of child sexual abuse. The main failures were:
 - (a) The failure to report all complaints to the Gardai;
 - (b) The failure to report any complaints to the health authorities between 1996 and 2008;
 - The failure to appoint support people;
 - The failure to operate an independent advisory panel.” (p. 6)
- “The Diocese of Cloyne did not carry out proper canonical investigations. A canonical investigation under canon 1717 was ordered by Bishop Magee in the cases of five of the 15 diocesan priests against whom allegations were made or concerns expressed. Such investigation should also have been ordered in at least four other cases.” (p. 15)
- “A number of priests against whom allegations were made were ‘retired’. In some cases, their ministry was restricted but this was not known to very many people. Before 2008, such restrictions did not include a requirement to cease wearing clerical dress. The existence of restrictions on ministry was made known to a number of parish priests but was not made known to the laity. In one case, a priest was restricted from ministering to schools but schools were not told this.” (p. 17)

7. 2011 - USA

Report of the Grand Jury in the Court of Common Pleas First Judicial District of Pennsylvania Criminal Trial Division

Supervising Judge Renee Caldwell Hughes

Available at <http://www.phila.gov/districtattorney/PDFs/clergyAbuse2-finalReport.pdf>

Introduction

“In September 2003, a grand jury of local citizens released a report detailing a sad history of sexual abuse by priests of the Archdiocese of Philadelphia. That abuse was

known, tolerated, and hidden by high church officials, up to and including the Cardinal himself. The previous grand jury was frustrated that it could not charge either the abusers or their protectors in the church, because the successful cover-up of the abuse resulted in the expiration of the statute of limitations. Now, measures taken in response to the previous report have led to new information about more recent abuse, which this grand jury was empaneled to investigate. The fact that we received that information, and from the church itself, is some sign of progress; and this time there will be charges. The present grand jury, however, is frustrated to report that much has not changed. The rapist priests we accuse were well known to the Secretary of Clergy, but he cloaked their conduct and put them in place to do it again. The procedures implemented by the Archdiocese to help victims are in fact designed to help the abusers, and the Archdiocese itself. Worst of all, apparent abusers – dozens of them, we believe – remain on duty in the Archdiocese, today, with open access to new young prey.” (p. 1)

- “We are very troubled, however, by what we learned about the church’s procedures...the present process is burdened by misinformation and conflict of interest. The Archdiocese’s “victim assistance coordinators,” for example, mislead victims into believing that their discussions with the coordinators are protected by confidentiality. This is not the case...The church’s victim assistance coordinators...[t]urn the statements over to the Archdiocese’s attorneys, who of course have an ethical obligation to protect their client from potential civil and criminal liability.” (p. 7)
- “In further breach of confidentiality, church employees press victims to sign releases as to records in the possession of third parties, such as outside therapists and the military. Victims are led to believe that these releases will assist the coordinators in helping them. In reality, the records secured through these releases are, once again, turned over to the attorneys...The only rational explanation for such procedures is not to guarantee the victim’s recovery, but to guard the church against what its highest officials repeatedly refer to as ‘scandal.’” (pp. 7-8)
- “One additional practice during the victim assistance process is of particular concern. The manner in which the coordinators pursue statements can have no salutary purpose. The policy is not even to ask the abuser to speak, although he is obviously a crucial witness; the explanation we were given for this policy is that it might ‘put the priest in position of admitting’ his guilt.’ In contact...victims are virtually hounded to give statements...The only possible reason for this tactic would be to use the statements as ammunition to impeach victims, in an effort to make them appear incredible.” (pp. 8-9)
- “We would have assumed, by the year 2011, after all the revelations both here and around the world, that the church would not risk its youth by leaving them in the presence of priests subject to substantial evidence of abuse. This is not the case. In fact, we discovered that there have been at least 37 such priests who have been kept in assignments that expose them to children. Ten of these priests have been in place since before 2005 – over six years ago...we just cannot understand the Archdiocese’s apparent absence of any sense of urgency...in the cases where the Archdiocese’s review board has made a determination, the results have often been even worse than no decision at all.” (p. 9)
- “Obviously, nothing will really change in the church until there is a will to change...experience now demonstrates that programs for aiding victims of clergy sex abuse cannot be operated by the church itself. Victims should be assisted by the

state...or by a completely independent not-profit organization that is not subject to Archdiocesan control. In either case the church must provide the necessary funding. The church, through its lawyers, is of course entitled to defend itself against civil or criminal claims; but it can no longer try to play both sides of the fence with its victims.” (p. 11)

- “[T]he Legislature should pass a ‘civil window’ statute that will allow for lawsuits on otherwise time-barred claims. The only way the public will be able to learn of and protect itself from abusive priests that the church’s review board refuses to reveal.” (p. 11)
- “[T]he Legislature should consider reduced funding to schools, public or private, that fail to create a safe environment for their children.” (p. 12)
- “[W]e urge victims of clergy sexual abuse to come forward to the District Attorney General’s Office...There is no other class of crimes where we expect victims to rely on their assailants for a resolution.” (p. 12)
- “We are not church-haters. Many of us are church-goers. We did not come looking for ‘scandal,’ but we cannot close our eyes to the powerful evidence we heard. We call the church to task, to fix what needs fixing.” (p. 12)
- “Since the prior grand jury’s report was issued in September 2005, the Philadelphia Archdiocese has engaged in a well-publicized effort to improve its victim assistance services and its handling of sexually abusive priests. Unfortunately, while some improvements have been made, the evidence presented before us indicates that the Archdiocese continues to engage in practices that mislead victims, that violate their trust, that hinder prosecution of their abusers, and that leave large numbers of credibly accused priests in ministry.” (p. 75)
- “Often taking direction from its attorneys, Archdiocese officials historically engaged in a deliberate strategy to bully, mislead, and stonewall victims. Sometimes the church hierarchy would send out agents to investigate the victims, looking for harmful information reporting the priests’ crimes to law enforcement was never considered. Worst of all, after victims bravely came forward and told Archdiocese officials their wrenching stories of rape and sodomy, the church hierarchy left their attackers in assignments where they could continue to prey on youngsters. This not only endangered more children; it also left the victims who had reported their abuse feeling that they were not believed. The rejection by the church traumatized fragile survivors yet again.” (p. 75)
- “The earlier grand jury report [in 2005] documented the sexual abuse of hundreds of children by at least 63 priests in the Archdiocese. ‘We have no doubt,’ the jurors said, ‘that there were many more.’ Yet, as terrible as all that criminal depravity was, the grand jurors were just as appalled by the cynical and callous handling of clergy abuse by the Philadelphia Archdiocese hierarchy, up to and including the Cardinal. The 2005 grand jury report described how church officials conducted non-investigations that predictably failed to establish priests’ guilt; how they transferred known abusers to parishes where their reputations were not known; how they successfully avoided involvement by law enforcement; and how they used investigations and intimidation to silence victims and fend off lawsuits.” (p. 111)
- “The report noted that church officials’ strategies for handling child sex-abuse cases had the effect of multiplying the numbers of victims and increasing the harm they

suffered. 'As abuse reports grew,' the jurors observed, 'the Archdiocese chose to call in the lawyers rather than confront the abusers.'" (p. 111)

- "One important way to encourage change is to hold people accountable for their actions...We therefore urge the criminal prosecution of the five individuals most clearly responsible for [the abuse of two boys]." (p. 112)
- "If the Archdiocese wants to change the public's perception and regain the trust of parishioners, it should be more honest and open with the public. We saw situations in which the Archdiocese told the public that it cannot conduct an investigation because it did not know the identity of the victim. Yet we saw in their documents that they did. We believe the Archdiocese should make public its files on sexual abuse allegations, including any 'secret archive files.'" (p. 120)
- "[The Archdiocese should u]se independent treatment facilities to evaluate and treat priests accused of sexually abusing minors." (p. 120)
- "Amend reporting law so that mandated reporters are required to report sexual abuse of a child even though the victim is over 18 at the time of the report." (p. 122)

Attachment 7: Church acts to defrock all paedophile priests

Zwartz, Barney, The Age, May 9, 2011, by Barney Zwartz, available at <http://www.theage.com.au/victoria/church-acts-to-defrock-all-paedophile-priests-20110508-1eebo.html>

(Emphasis added)

THE Catholic archdiocese of Melbourne is defrocking every priest convicted of sexual offences against children. *Fourteen Melbourne priests have been convicted in criminal courts of offences against children.* Three are dead. Of the others, four have already been defrocked and applications against another five are before the Vatican. Two more cases are being prepared for submission later this year. Another priest, not convicted in court, has already been defrocked after being judged guilty of abuse by the church's independent commissioner. *The archdiocese has moved quickly in the past year. In April 2010 a spokesman said that despite the more than 300 allegations of abuse substantiated by the independent commissioner, only one priest had been defrocked.*

The church has been criticised for not acting to remove paedophile priests, but Melbourne's Vicar-General, Bishop Les Tomlinson, said it was only recently that changes to canon law allowed defrocking without their consent and without a trial. He said defrocking might be important in helping victims find closure, but any priest found to have offended against a child already had their faculties to act as priest removed.

Helen Last of advocacy group In Good Faith said the church's actions opened the way for consultation about changes needed to the Melbourne system for dealing with complaints. "There are a lot more priests who should be laicised [returned to lay status] through complaints to the independent commissioner's office as well," she said.

Bishop Tomlinson said the church could not identify the priests concerned, but last month he confirmed that former Healesville priest Paul Pavlou - convicted of an indecent act with a 14-year-old boy and of possessing child pornography - had been defrocked.

Barry Whelan, a serial abuser, but not of children, was also removed this year, but at his own request, reportedly to marry.

The priest removed before 2010 was rapist and serial abuser Michael Glennon, jailed in 1978, 1991 and 2003 for a multitude of offences.

The Broken Rites website identifies several Melbourne priests convicted in criminal courts. They include:

- Wilfred Baker, jailed for four years in 1999 on 16 counts of indecent assault and one of gross indecency against eight boys.
- David Daniel, jailed for six years in 2000 on 16 counts of indecent assault and one count of sexual penetration of a 16-year-old.
- John Haines, jailed for four years and three months in 2008 on six counts of indecent assault and possessing child pornography.
- Terence Merivale, jailed for six months in 2000 for indecently assaulting three young girls.
- Terry Pidoto, jailed for seven years and three months in 2007 for rape and other offences against four boys.
- Victor Rubeo, given a 12-month good behaviour bond in 1996 for indecent assaults against two boys.

Bishop Tomlinson said applications take six months to a year to be completed at the Vatican, and are similar to a prosecution brief in a criminal trial.

Attachment 8: Vic 'fails priest sex crime victims'

Merhab, Belinda, The Sydney Morning Herald, June 28, 2011, available at <http://news.smh.com.au/breaking-news-national/vic-fails-priest-sex-crimes-victims-20110628-1gobp.html>

(Emphasis added)

A former Catholic school teacher who says she saw priests grooming students in her classroom has told an inquiry that Victoria's child protection system is failing victims of clergy sexual assault.

In her statement read to the Protecting Victoria's Vulnerable Children Inquiry on Tuesday, Pam Krstic said she was ignored when she raised her concerns.

While the inquiry is not investigating individual cases, it was told that secrecy within church communities and their "don't talk about it" attitude as well as society's reluctance to talk about sexual abuse, were systemic issues that needed to be addressed.

"We believe the church response (to abuse) is shockingly deficient in preventing and minimising trauma for victims, their families and communities at a great cost to us all," Ms Krstic said.

She said there was reluctance among police, professionals and politicians to engage in any public criticism of the Catholic church's handling of clergy abuse.

Ms Krstic co-founded the Melbourne Victims' Collective for those affected by abuse after two priests in her St Brigid's Parish in Healesville were convicted over child sex abuse within a decade.

She said Catholic schools and the church were not subject to the same legal requirements that applied to others who work with children, and clergy need to be legislated as mandatory reporters of child abuse.

"Teachers and clergy who see more vulnerable children on a daily basis than welfare workers should be required to be supervised the way those working in the welfare sector are," she said.

Victims' Collective director Helen Last said the Catholic church withheld information from police and there was no pressure from government for them to do otherwise.

"An institution like a church is free to do what it wants to do," Ms Last told the inquiry.

"We see that there is a complicity here, a systemic complicity and we are trying to argue that very strongly because when you have that amount of material being held by a private organisation or an institution, that is of great concern to the wider society."

She was critical of the Melbourne Response, a process adopted by the Catholic church by which victims of clergy abuse can seek compensation from the church of up to \$75,000 rather than go to police.

She said it was problematic because victims usually did not seek legal advice before signing legal documents which released the church and the offending priest.

She said the collective had requested the Victorian government evaluate the need for an independent commission of inquiry into the process.

"We don't believe it has protected children, the church has not protected children in the past, it's not protecting them in the current situation, so therefore we can't have hope for the future situation," she said.

The inquiry, launched in January, is investigating systemic problems in the state's child protection system.

The panel, chaired by former Supreme Court judge Philip Cummins, is scheduled to report its recommendations to improve the system to government in November.

The inquiry was ordered by the government following the airing of horrific cases of child abuse in various Ombudsman's reports and critical problems recruiting and retaining child protection workers.

Attachment 9: Priest urges clergy abuse reform

Heard, Hamish. Herald Sun, July 24, 2011, available at

<http://www.cathnews.com/article.aspx?aeid=27357>

(Emphasis added)

Father Kevin Dillon has called for reforms on dealing with clergy sex abuse.

A PRIEST in charge of one of Victoria's biggest parishes has broken ranks with the Catholic hierarchy to demand an overhaul of the way it deals with victims of clergy sex abuse.

Father Kevin Dillon has called for reforms such as scrapping the controversial Melbourne Response process, including its "heartless" \$75,000 cap on compensation.

He said the process set up by former Archbishop George Pell in 1996 to investigate sexual abuse complaints and compensate victims should be replaced with a "transparent and independent" process outside the control of the Melbourne Archdiocese.

The priest at Geelong's St Mary's of the Angels Basilica, Fr Dillon said many of the 300-plus victims processed felt it was geared more towards preserving the church's reputation and finances than providing justice.

"I am in regular contact with 20-plus victims from across the archdiocese and certainly the ones I speak to have many and varied criticisms about the process and its outcomes," he said.

The approach - in which complaints were investigated by church-appointed "independent commissioner" Peter O'Callaghan QC - left many victims feeling "belittled".

"We need to ask (victims processed under the Melbourne Response): have they found it intimidating? Have they found it comforting? Have they found it belittling?" Fr Dillon said.

He said the compensation cap lacked generosity and compassion for those whose lives had been permanently scarred by sex abuse.

The response also disadvantaged victims by putting them into an "adversarial" situation where they were pitted against top-level lawyers without any legal representation of their own.

"From day one, they should be provided with an experienced advocate, who accompanies them compassionately through the system," Fr Dillon said.

His calls have won the support of victims who claim the church's response lacked compassion and failed to recognise lifelong pain inflicted on them.

The Archdiocese did not return the *Sunday Herald Sun's* calls.

Attachment 10: Mandatory reporting and the seal of the confessional

Costelloe, Timothy. Herald Sun, July 29, 2011, available at <http://www.cam.org.au/melbourne-news/mandatory-reporting-and-the-confessional.html>

(Emphasis added)

There has been some discussion in the media in recent days concerning the Catholic Church's prohibition on its priests revealing anything they hear in the Confessional. This is often referred to as the "seal of Confession".

It binds priests under the penalty of excommunication from the Church never to reveal anything they hear in the Confessional unless given explicit permission by the person concerned.

The suggestion has been made that requiring priests to report any admissions of child abuse made in the Confessional to the police will protect children from further abuse.

The desire to do everything possible to protect children from this horrific cruelty is compelling.

Mandatory reporting of child abuse is an important part of this vital task in our society.

Therefore the important question is this: would including priests in such a regime of mandatory reporting, specifically in relation to what is disclosed to them in the Confessional, achieve this outcome? The answer is almost certainly "no" for a very important reason.

In Catholic theology and practice, Confession involves the full admission of serious sin to a priest who, through the sacrament of Confession, becomes a channel of God's forgiveness and healing.

Providing a person is really open to it, divine forgiveness and healing can have a transformative effect in a person's life. It can lead to newfound courage and a determination to confront the reality of sin in the person's life, accept the consequences of his or her action, and do whatever must be done to repair the damage.

Confession in the Catholic understanding therefore involves sincere repentance on the part of the person confessing his or her sins, and a firm determination to turn away from the sinful behavior.

Contrary to the caricature often portrayed by some, confession of sin and absolution from God through the ministry of the priest does not trivialize sin or become a licence to do what ever one likes because one can always rush back to confession to "wipe the slate clean".

Unless there is a full admission of sin, genuine sorrow and a firm determination to change, there is no forgiveness.

That this is a requirement for genuine and effective confession would be made clear to the person by the priest.

The confidentiality of the Confessional, and often the anonymity of the encounter, certainly make it easier (though never easy) for someone conscious of serious sin in his or her life to approach the sacrament seeking God's forgiveness. If this anonymity, and even more this confidentiality, could not be assured, it is most unlikely that anyone would confess to the terrible sin and crime of sexual abuse of children.

An important dimension of Confession is that it gives an offender a chance, perhaps the only chance they are open to, to really confront the terrible nature of their behaviour.

Such a personal confrontation could be the beginning of a radical change in their lives. With the counseling and firm direction of the priest they may reach a point where they voluntarily seek treatment and surrender to the police.

The imposition of mandatory reporting, and the subsequent destruction of the confidentiality of the confessional, remove any hope that this outcome might eventuate. The abuser will simply not take the risk of revealing his or her crimes to another.

In arguing for the sanctity of the Confessional, the Church does not walk away from the obligation of all its members, and most especially its priests, to do everything possible to ensure that this terrible scourge is eliminated from its midst.

Violating the confidentiality of the Confessional is not the answer. Rather the answer lies in an ongoing focus on prevention strategies, encouraging victims and offenders to report crimes to the police and on transparent and independent but less formal processes such as the Melbourne Response led by eminent QC Peter O'Callaghan.

Senator Xenophon, who has called for mandatory reporting of child abuse which comes to light in the Confessional, is right to insist that the protection of children should come before any other consideration. *In this matter children's best interests are served by maintaining the absolute confidentiality of the Confessional, rather than by dismantling it.*

Most Rev. Timothy Costelloe SDB DD is Titular Bishop of Clonard and Auxiliary Bishop of Melbourne.

Attachment 11: Melbourne priest charged with sexual assault

McKenzie, Nick and Epstein, Rafael. *The Age*, June 4, 2010, available at <http://www.theage.com.au/victoria/melbourne-priest-charged-with-sexual-assault-20100603-x6y9.html>

(Emphasis added)

A MELBOURNE priest, the subject of a "mishandled" internal Catholic Church inquiry, has been charged with sexual assault.

Father Victor Farrugia has been charged on summons with eight counts of indecent assault. The police charges come as Melbourne's Archbishop Denis Hart has not yet detailed how the church will change its internal investigation process after systemic flaws were exposed by *The Age* and Victoria Police last year.

In August, Father Farrugia's lawyers were inadvertently tipped off by the church's privately hired investigator, Peter O'Callaghan, QC, that police were investigating the priest for alleged sexual assault. Police believe Mr O'Callaghan "mishandled" communications with the priest's lawyers by providing the inadvertent tip-off.

That left police unable to use several evidence-gathering methods in covert inquiries, including secretly recording the alleged victim phoning the priest. Despite this, officers gathered enough evidence to charge Father Farrugia last week.

Police familiar with the case also believe that Mr O'Callaghan had given the alleged victim incorrect advice about whether the allegations represented sexual assault under criminal law.

Mr O'Callaghan told the victim last year in writing that: "Without seeking to dissuade you from reporting the matter to police if you so desire, I must say that the conduct you described is unlikely to be held by a court as criminal conduct."

However, detectives have assessed the alleged conduct as worthy of criminal charges.

Father Farrugia is parish priest at St Augustine's Church in Bourke Street in the city. The latest edition of the parish newsletter mentions that another priest is acting in Father Farrugia's "absence" and says "we continue to keep Father Victor in our prayers". The parish secretary denied those words were in the newsletter when asked by *The Age* yesterday.

The Melbourne Archdiocese is yet to unveil changes to the "Melbourne Response", its clerical abuse handling process under which Mr O'Callaghan is appointed and paid to investigate clerical abuse allegations and refer victims to a compensation panel. The process has run since 1996 without review.

Changes to the Melbourne Response were requested by police after The Age last year exposed the inadvertent tip-offs to Father Farrugia and another priest, Paul Pavlou.

Mr O'Callaghan told the priests' lawyers that they were under police investigation, without the consent of detectives, and before officers had interviewed the suspects.

Mr O'Callaghan said yesterday he could not comment because charges had been laid. He has previously told *The Age*: "I did not believe or had any apprehension that I would be jeopardising a police investigation."

Last year, the Victoria Police's sexual crime squad chief, Detective Inspector Glenn Davies, told *The Age* it was important that the timing of a suspect being notified they were under investigation be left to police.

"It is advantageous that the suspect is unaware of the investigation until the police are in a position to interview them. This stops collusion between parties involved and ensures critical evidence is not destroyed."

The church yesterday told *The Age* it could not comment because the matter was before the courts.

Attachment 12: Clearer view

O'Callaghan, Peter. Herald Sun, Letters, July 31, 2011, available at <http://www.heraldsun.com.au/ipad/the-kids-must-be-all-right/story-fn6bn88w-1226105038504>

(Emphasis added)

Father Kevin Dillon (*Sunday Herald Sun*, July 24) criticised the Melbourne Response generally and in particular the Independent Commissioner.

I was appointed the Independent Commissioner in 1996, and since then I have found that more than 300 persons have been victims of clergy sexual abuse. Complainants continue to come forward.

Fr Dillon's criticisms have been published without my being given any opportunity to respond. I refute those damaging criticisms.

Fr Dillon claims that 20 plus victims have many and varied criticisms about the process and its outcome.

I asked Fr Dillon to identify these victims and their criticisms, so that I can appropriately respond, but this request has been ignored.

Fr Dillon states: "The approach - in which complaints were investigated by 'church appointed' Independent Commissioner Peter O'Callaghan QC - left many victims feeling belittled".

It seems incredible that many (i.e. the majority) of the 300 plus persons whose complaints of sexual abuse I have accepted (thus entitling them to free counselling and psychological support and to compensation) have felt belittled.

The great majority of the complainants have met with me, detailed their complaints, and a week or so later have been formally advised that I have found they were sexually abused in the manner described by them, and that I will refer them to Carelink and the Compensation Panel.

That being done, my role is complete.

How could anyone, let alone hundreds, feel belittled by my accepting their complaint of deplorable sexual abuse.

I note that only a handful of complaints have not been accepted.

Fr Dillon states: "The Response also disadvantaged victims by putting them into an 'adversarial situation' where they were pitted against top level lawyers without any legal representation of their own".

This is erroneous. No such situations occur.

It is common for complainants to be accompanied by lawyers when I meet them.

If an alleged offender denies the complaint, a hearing is conducted to determine whether the complaint is established.

Senior Counsel appears to assist the Commissioner, and if the complainant is not represented ensures that the complaint is duly presented.

The complainant is often represented by a lawyer, as is the alleged offender.

Complainants are in no way disadvantaged.

Peter O'Callaghan QC, Independent Commissioner

Attachment 13: Changes to the Melbourne Response process

Archbishop Denis Hart, Press Release, February 15, 2011, available at <http://www.cam.org.au/2011-media-releases/changes-to-the-melbourne-response-process.html>

(Emphasis added)

The Catholic Archbishop of Melbourne Denis Hart has announced changes to the Melbourne Response, the Archdiocese's response to victims of sexual abuse.

THE ARCHBISHOP'S STATEMENT FOLLOWS:

1. I am pleased to announce that changes have been made to the Melbourne Response by supplementing the Terms of Appointment of the Independent Commissioner Peter O'Callaghan Q.C.
2. The original Terms of his Appointment in 1996 were formulated in consultation with Victoria Police.
3. *The supplementary changes have followed lengthy discussions over many months between my representatives, the Independent Commissioner and Victoria Police. All parties support the changes made.*
4. *The Archdiocese continues to maintain that there can be no substitute for the Police in the investigation of sexual abuse complaints.* Complainants have always been told by the Archdiocese and the Independent Commissioner of their right to report their complaint to the Police, and have always been encouraged to do so. The changes enhance the way in which the Independent Commissioner informs and encourages complainants to take their complaints to the police.
5. *Over the years, the Independent Commissioner has fully co-operated with and assisted Police investigations.* It has been agreed with the Police that the Independent Commissioner and my representatives will meet regularly with the Head of the Sexual Crime Squad of Victoria Police to discuss matters of mutual interest and concern.
6. It should be recognised that some complainants do not wish to go to the police. They are under no legal obligation to go to the police, and if they decide not to do so, that decision is recognised and respected by the Melbourne Response.
7. *Previously, if a complainant had said they did not wish to go the Police, but then subsequently decided to do so, the Independent Commissioner would immediately inform solicitors for both the complainant and the alleged offender that because the complaint had been referred to the Police, he would be taking no further step, until the Police investigation and any resulting proceedings were completed.*
8. This was because both the Independent Commissioner's current Terms of Reference and Victorian law required the Independent Commissioner to comply with the rules of natural justice, which include acting fairly, without bias, in an even handed way, towards both parties, and keeping both parties informed of what the other has told him, while respecting the presumption of innocence.
9. *The supplementary changes provide that: the Independent Commissioner, when informing an alleged offender of a complaint, will advise that if a complainant changes their mind and refers their complaint to the Police, the Independent Commissioner will take no further steps in his inquiry, and if the Independent Commissioner becomes aware that the complaint has been referred to the Police, he will not inform the alleged offender of this for at least four weeks, or such further period as is agreed with the Police.* Because the alleged offender is so advised at the outset, there is no denial of natural justice.

10. It is important to note that a complainant changing their mind has occurred on only two occasions in the 15 years that the Melbourne Response has functioned.
11. One of these cases generated front-page articles in The Age newspaper, which characterised the Independent Commissioner's actions as a "tip off"- thereby implying misconduct when there was none.
12. The Age also asserted that the actions of the Independent Commissioner resulted in the alleged offender wiping his computer.
13. This was wrong because subsequently, the Independent Commissioner was informed by the prosecuting Police officer that the last occasion on which the computer had been accessed for wiping, was 18 days before the Independent Commissioner advised the solicitors for both parties he would be taking no further steps, because the complaint had been referred to the Police.
14. In the second case, The Age characterised the Independent Commissioner's actions as a tip off, again implying misconduct on his part when there was none.
15. *I have complete confidence in the workings of the Melbourne Response process and the Independent Commissioner, and believe that the Melbourne Response - through the Independent Commissioner, the Compensation Panel and the Carelink service – has treated victims in more than 300 cases of abuse fairly, compassionately and with respect.*
16. I do recognise, however, that in many cases nothing can eradicate the memory of the abuse and its effects, for which I have repeatedly apologised personally, and in public, to victims of sexual abuse.
17. The full text of the changes appear on the Archdiocese's website www.cam.org.au

Attachment 14: Learning from the past. Challenging the present. Creating the Future

Krstic, Pam. Submission to the Protecting Victoria's Vulnerable Children Inquiry on behalf of The Melbourne Victims' Collective, June 28, 2011, Melbourne Town Hall.

My name is Valerie Gaimon, speaking on behalf of Pam Krstic, who authored this submission based on personal experience as a parent, a former Catholic teacher and parishioner in Healesville, a community that has been seriously affected by two convicted sexual offender Catholic priests. The crimes are not from the distant past. The first priest was jailed eleven years ago for offences six years earlier, and the most recent offences were in 2006 by a priest ordained only four years before then.

I speak also as a leader of the Melbourne Victims' Collective, a solidarity of survivors seeking to achieve structural and systemic change to the Melbourne Church Response to clergy sexual abuse. The Melbourne Victims' Collective is a pro bono project of In Good Faith and Associates, an advocacy service for clergy victims, for which I have worked and volunteered for over three years. As a Collective we support the dignity of victims to be heard, believed, and to collaborate for change following the principles of restorative justice and victim's rights.

I worked for twenty-three years as a teacher in Catholic schools in Victoria. As a teacher I know that examining mistakes is important for learning to avoid mistakes in the future.

We are here because we know that all children are precious and are dependent on us all to keep them safe. I am here to speak on behalf of many children who are abused and never brought to the attention of Human services and go on to have severe difficulties as a result of their experiences; difficulties including a lack of drive to succeed, obsessive compulsive behaviours, anger, depression, risk taking behaviours, eating disorders, substance abuse, homelessness, difficulties establishing and maintaining relationships, difficulties parenting, suicidality and sometimes even becoming perpetrators themselves.

The dismal fact is that we as a community are failing to care for and protect our children, the most fundamental social responsibility.

As a professional teacher in the Catholic school system, I witnessed the first priest's grooming patterns in my classroom and did not know to recognise them as such. I did recognise these patterns in the second priest's behaviours and found it impossible to convince others to respond to my concerns. I was accused of overreacting and sent away on holiday to collect myself. In both cases it wasn't until a victim came forward that anything was officially done. I believe the Church response is shockingly deficient in preventing and minimizing trauma for victims, their families and communities has been lost at great cost to us all.

As a result of my experiences, I have spent a lot of time researching programs for the safeguarding of children from child sexual abuse. I have asked myself what would a safe community look like and sound like? How would it behave and respond? How can it be proactive and not reactive? What was it that made our community so vulnerable that two predators were able to have access to our children? What could be done differently and how can changes be implemented to ensure the safety of our children?

Unfortunately efforts to engage with others from the parish and school in order to look at these issues have so far been in vain. I have looked into the wider picture of how schools and parishes operate to see what is preventing collaborative dialogue to work towards safer environments in which we all share in the responsibility of keeping children safe and empower victims to speak up about abuse and receive what they need to minimize their trauma.

Contributing Factors

The Safeguarding Children Program in Australia¹ identifies the following Barriers to Safeguarding Children:

- Macro environmental factors
- Organisational operational factors
- Market forces
- Societal forces
- Lack of knowledge

I have used this list to comment on the factors I see lead to unsafe environments for children.

Macro environmental factors

- Lack of comprehensive national legislation providing a requirement for all organisations involving contact with children, including Churches and Catholic schools, to have safeguarding procedures and practices with a compulsory risk assessment framework audited for compliance by an ombudsman with the power to investigate complaints about breaches from all stakeholders.
- 'Many Churches have managed to avoid liability ...by organizing their affairs in such a way that they are legally incorporated for the sole purpose of owning and disposing of property ... but otherwise argue that there is no legal entity that can be sued.'²
- Lack of willingness by police, professionals such as doctors, or psychologists, government department personnel, welfare agency workers or politicians to engage in any public criticism of the Catholic Church's handling of clergy sexual abuse despite their misgivings.
- Lack of auditing, monitoring and detailed knowledge of the Catholic Church's handling of clergy sexual abuse, including in Catholic schools, hospital and other institutions receiving extensive government funding and support.

The above points contribute to the 'Denial' of a huge problem I see at the Church institutional level, and in the parishes, Catholic schools and wider community. I am encouraged by the fact that in many countries including Germany, Holland, Iceland, the UK, Ireland and the USA the government is auditing and requiring the Church to collaborate to ensure the safety of children.

Organisational operational factors

- In my Catholic school and community, the collective voice was a denial that said:
 - 'It couldn't happen here!'
 - And then 'It couldn't happen here again!'
- In my experience the unique structure of catholic parishes means that:

¹ Creating an Organisational Culture of Safeguarding Children and Young People: easey peasey or rocket science? by Katherine Sylvan and Linda Franco of the Australian Council for Children and Youth Organisations Inc ACCYO (now merged with the Australian Childhood Foundation and called the Safeguarding Children Program), available at

<http://www.ombo.nsw.gov.au/ChildProtectionSymposium/Presenations/NSW%20ombudsman%20Slides/For%20Monday%20slides/2D%20-%20Linda%20Franco.pdf>

² Upheld by the Court of Appeal of the Supreme Court of NSW, being the Trustees of the Roman Catholic Church v Ellis and Anor (May 2007). Sdrinis, A. quoted by Vikki Petraitis, Salvation 2009 p 213

- The priest is the employer of the principal and teachers.
- He is able to be in total control of the running of the school and the parish if he wishes.
- The school principal and teachers are reliant on a reference from the parish priest in order to obtain another position within the system.
- Members of school boards and parish committees are all subject to the priest's agreement and he can abolish such structures if he so chooses.
- Many priests are collaborative and leave the running of the school to the principal with the support of Catholic Education Office advisors. However, there is no standardization of procedure with regard to priests' role in schools in their parishes, making procedure entirely dependent on the character and training of the priest.

Market forces, meaning social pressure

- Include the difficult dynamics of 'whistleblowing' concerns about one's employer
- Catholic secrecy in within staff and school community not discussing allegations of abuse
- School staff, school community not consulted or included in decision making
- No adequately trained crisis management personnel available for staff who raise concerns or know about abuse
- An attitude of 'don't alarm the school or parish community'

These factors prevent pressure for change from Catholic teachers, staff and community members. And this results in a situation of complex trauma which includes:

Alienation of victims, their families and supporters from:

- their Catholic identity
- their school and parish support community
- their faith and spirituality

It is worth noting here that many are aware of these difficulties including:

- psychologists
- general practitioners
- local welfare agencies
- police
- clergy
- the media
- local community leaders
- lawyers

They provide some level of support for the victims and their families but rarely advocate in these matters which further isolates victims and their families.

Unlike other countries where the legal system allows the Church to be called to account, the lack of ability to sue the Church in Australia means that victims and their families lack this important advocacy avenue for change.

Societal forces

- belief that the Church is a moral institution prioritizing the welfare of children
- power of parish priest and imbalance of power between priest and victim
- expectation that children are safe with a 'man of God' and at a Catholic school
- stranger/danger – the myth that strangers abuse and trusted adults don't

- for Catholic children the modelling they receive from parents and teachers is to trust and defer to a priest
- Church's teaching to young children about sin may encourage them to feel they are guilty when they are abused, adding a further barrier to disclosure
- Concern about privacy rights of offenders outweigh the need for information and outreach to victims and the families of other possible victims.
- child abuse is a taboo subject to discuss

Lack of knowledge about

- Covert nature of child sexual abuse
- Vulnerability of victims and their families
- Importance of believing victims who disclose
- Dynamics of abuse
- Dynamics of abusers
- Dynamics of disclosure
- Dynamics of family responses
- Dynamics of community responses
- Mistaken belief by many adults that they would recognise an offender
- Mistaken belief by many adults that because they have found a person likeable and saw no signs of offending behaviour that the allegations must be false
- Limitations of screening processes
- Limitations of criminal record checks
- Limitations or lack of professional training for teachers and parish workers
- Limitations or lack of parent education re child sexual abuse

As a former Catholic teacher I see the following are needed to overcome these barriers:

Commitment

It is apparent that no change is possible unless all those with a stake in safeguarding children commit to ensure it is given priority. I believe this will need to start with legislation requiring all organisations, including the Church to be accountable.

The NSW Ombudsman has a legislated child protection role and the Commission for the Protection of Children and Young People provides comprehensive materials to all agencies who work with children. The NSW Interagency Guidelines for Child Protection Intervention designate all Catholic and non government schools as required to notify the commission of any allegations against personnel and they are bound by the Guidelines for Child Protection in the Workplace 2004 – responding to allegations against employees.

As a result of this Catholic schools in NSW have been required to prepare policies, conduct staff training and submit to auditing by the ombudsman in a way that has not happened in Victoria. We do have a Commissioner for Children but his office appears to have little power to do more than provide information to those who ask for it. This is a good resource for organisations that are serious about providing child-safe environments, but there is no mandatory uptake for or auditing of all schools or agencies.

Endorsement at the highest level

There are numerous countries that have required the Catholic Church and other churches to collaborate with them in working towards child safe organisations. In some cases this is in the early stages, in others such as the UK and Ireland, Church and National Guidelines have been developed in collaboration with child protection experts and the

government child protection agencies. Many parish websites in Ireland or the UK have links and materials from both the State and Church Guidelines.

Australian children deserve the same sort of collaboration so that all children are covered by the same guidelines for safety.

Availability of Resources

There are good resources for training of professionals, parents and children and programs to support agencies in creating child safe organisations available in Australia but they are nowhere near adequately funded and so only available to organisations with a huge moral, social and financial commitment to providing a child safe environment. I have given some examples of good Australian programs in my submission paper.³

Investment & Auditing

Government commitment to subsidising child safe programs is vital to show leadership and increase uptake of available programs by all organisations that work with children, and is important that the government audit and hold accountable organisations it funds such as Catholic schools.

The NSW ombudsman and Commission for the Protection of Children and Young People provide useful materials for policy formation backed up by legislation that includes regular compliance audits, an obligation to report concerns about grooming behaviours and any allegations against staff. The Victorian Child Safety Commissioner provides a brochure of guidelines for creating a child safe organisation but because these guidelines are not mandated, children are not safe in organisations that do not choose to use them.

There are auditing processes for the Catholic Church in operation around the world. I believe it is important that all agencies who work with children should be compliant in an accountable auditing process.⁴

Accountability process

All Victorian teachers are mandated to report child abuse. The interpretation of what constitutes a need for mandatory reporting depends very much on the awareness of the teacher. There are some who will report only if they know an offence has occurred. NSW guidelines are much clearer about reportable behaviours.

Victorian government schools have 2007 guidelines for responding procedures. Documenting concerns and liaison with Victoria Police SOCA units, Department of Education, Department of Human Services and the Child Safety Commissioner are covered. There is a Student Critical Incident Advisory Unit and Conduct and Ethics Branch. I cannot comment on how well these work in operation or how accountable the process is but my experiences of the Catholic systemic response to allegations of abuse seemed to me to be lacking in accountability and I believe this needs to be addressed.

I also believe clergy need to be legislated as mandatory reporters of child abuse.

Strategy for change management

³ The Childwise 'Choose with Care' program appears to work best when all staff are trained and not just the few who employ staff as it ensures a shared experience, vocabulary and understanding of concepts throughout the agency.

The ACCYO training Safeguarding Children now provided by the Australian Children's Foundation is also a valuable resource that is underfunded and so only available to the already aware and committed.

⁴ In the US, mandatory audits were instituted in exchange for district attorneys agreeing not to prosecute members of the hierarchy for failing to report crimes or for re assigning offenders to different parishes. In Ireland and the UK audits are part of the governments' expectations for all agencies who work with children although there are still some problems with some dioceses compliance with these audits.

There seemed to be no difference in the systemic response to allegations and convictions between the first priest in 2000 and the second in 2006. It seems to me that it will take intervention from outside the Church for any change to be implemented.

Inclusive consultative and focused

It seems a tragedy to me that in our situation there has been no debriefing, that victims, their parents, staff and community have not been consulted.

Policy requires implementation

Written policies can give a false sense of security. They must be written in collaboration with experts in the field and must include an ongoing accountable review process.

Openness to discussion of child sexual abuse

As a society we must be prepared to face the truth about child sexual abuse; that it is widespread; that secrecy regarding child sexual abuse plays into the hands of offenders by creating an aura of shame that prevents victims from disclosing; that offenders are often personable and close family friends and parish priests.

We need to learn that we can be open in discussing dynamics of offending and disclosure without naming victims or offenders.

It is nonsense to cite the privacy of victims and the legal rights of alleged offenders as reasons to not address child sexual abuse in our community. With the assistance of well trained professionals, a safe environment for open discussion of child sexual abuse is not only possible but is in fact necessary.

We must learn from the past, challenge the present and create a safe future for our children.

In Conclusion

It takes a village to raise a child and it is the responsibility of all to maintain child safe environments. The way forward needs to be community based with greater connection between the many organisations that provide services for children and their families in the community. Children's Hubs, similar to the Multi Agency Resource Services (MARS) or Child Protection Hubs from the UK, which were being built to provide one stop for services for young children in a community should be the venue for coordinated networks to be established.

Organisations should be funded for and perhaps required to be part of a network. Networks should include representatives from Police; Child care; the Church; Schools and support staff; Welfare workers; Human services; Health and medical professionals; Parenting groups; Youth clubs; other organisations that work with children.

These networks could undergo shared professional development in creating child safe environments to disseminate to their respective organisations, share resources and cooperate in projects but exist largely to ensure that all children and their families maintain connections or links with many facets of their local community and that the staff of all the organisations make links with others who work with children.

This should establish opportunities to ask advice from those with expertise to better inform staff where and when and how children or families may be referred for assistance if it is required.

I also believe that teachers and clergy, who see more of the most vulnerable children on a daily basis than welfare workers should also be required to be 'supervised' in a similar way to those working in the welfare sector. This should be available outside the usual chain of command so that situations like the one in which I found myself can be circumvented.

I have learnt from the past - that closed communities, however well intentioned, are not safe communities. At the moment I am challenging the present - my mission is to be part of achieving systemic change for justice and safer environments. It is up to us all to create a safer future, and as a former Catholic teacher I am determined to do so. Thank you.

Attachment 15: Canon Law Appointment of Commissioner of Melbourne Archdiocese



St. Patrick's Cathedral
Melbourne Vic 3002

29 October 1996

Mr Peter O'Callaghan QC
600 Bourke Street
MELBOURNE VIC 3000

Dear Mr O'Callaghan,

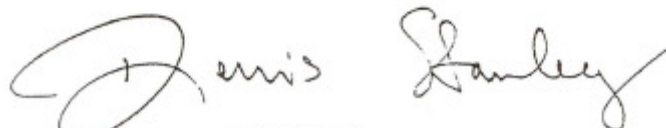
In accordance with Canon 1717 of the Code of Canon Law, by virtue of this letter I appoint you as my delegate to investigate matters pertaining to professional misconduct and sexual abuse alleged on the part of priests, religious and lay workers who at the time of the alleged offence were under the control of the Archbishop of Melbourne.

With many thanks for your readiness to undertake this onerous task, and all good wishes,

Yours sincerely in Christ,

+ George Pell

ARCHBISHOP OF MELBOURNE


NOTARY

Attachment 16: Catholic Order 'suppressed report on child sex'

Zwartz, Barney, *The Age*, August 30, 2011, available at <http://www.theage.com.au/national/catholic-order-suppressed-report-on-child-sex-20110829-1jigg.html>

A LEADING child protection expert has urged the Victorian government to hold a public inquiry into the handling of child-sex cases by a religious order after the Catholic Church suppressed a report it asked him to write.

Sydney University law professor Patrick Parkinson yesterday wrote to Victorian Attorney-General Robert Clark and Police Minister Peter Ryan seeking an inquiry into the behaviour of the Salesians of Don Bosco.

In his letter, Professor Parkinson says the Catholic Church's actions have cast doubt on its commitment to protect children before it protects itself.

Professor Parkinson, who chaired a review of child protection laws in New South Wales and twice helped the church review its system for dealing with abuse complaints, said he wrote the report for the church's professional standards committee on condition it be made public. But more than a year later this had not happened due to strong lobbying to suppress it by the Australian head of the Salesians, Father Frank Moloney. Professor Parkinson said the issue was no longer his report but the protection by the Salesians of three priests - Fathers Frank Klep, Jack Ayers and Julian Fox - which could be resolved only by a public inquiry that could subpoena witnesses. He said documents he had seen cast the order's international leaders in Rome in a dubious light.

The Age earlier reported that the Salesians moved Father Klep to Samoa in 1998 just before he was to face court on five charges of indecent assault, having served nine months (doing community work) in 1994. He returned to Australia in 2004 and was jailed in 2006 for five years and 10 months. The Samoan government expressed outrage in 2004 that the Salesians had lied about Father Klep's conviction when they sent him there.

In 2000, the order made a settlement with a Melbourne man who said Father Fox - a former Australian head of the order - abused him at the Salesian College in Rupertswood, Sunbury, in 1978-79. A later Australian head wanted Father Fox, now in Rome and still a Salesian priest, to return to Australia to face questions at the request of Victoria Police, but he was overruled. The same year, the Salesians paid to settle a complaint from a Melbourne man who said he was abused at Rupertswood in 1967-68. Father Ayers, who has lived in Samoa for many years, is still a Salesian priest.

In his five-page letter to the Victorian government, Professor Parkinson said the cases raised questions about the responsibility of religious orders to co-operate with police and about conspiracy to pervert the course of justice.

The order settled complaints against Father Fox and Father Ayers, but apparently did not restrict their ministry or report Ayers to police, who already were investigating Fox.

"I have tried for more than two years to get the church to deal with these issues itself," Professor Parkinson wrote.

"What has taken place in seeking to suppress this report since August 2010 has raised further serious concerns in my mind about the commitment of the church to place the protection of children above the protection of itself. I make that statement with considerable regret."

He said he approached the Victorian government because the events happened here and the order's headquarters were in Melbourne. A public inquiry could question Salesians, police and others to find out what happened and help ensure that convicted child sex offenders did not have a chance to reoffend. He also wrote that he could make available confidential documents.

Father Moloney, who is in Thailand, did not respond to an email. Neither the professional standards committee chairman, Adelaide Archbishop Philip Wilson, nor the executive officer, Sister Angela Ryan, returned calls.

However, the Australian Catholic Bishops Conference said in a statement that Professor Parkinson was engaged to review its Towards Healing abuse protocol, and inquired into the Salesians cases as part of that on his own initiative.

"The Salesian authorities were extremely critical of Professor Parkinson's report," the statement said. Professor Parkinson and the Salesians tried to reach an agreed understanding ... but "unfortunately Professor Parkinson insisted on maintaining positions which the Salesians claim were incorrect".

Attachment 17: Findings of Child Abuse Inquiries in Australia

1. The Commission of Inquiry into Child Abuse in Queensland Institutions

Chairperson Leneen Forde AC, May 31, 1999

Available at http://www.communityservices.qld.gov.au/community/redress-scheme/documents/forde_comminquiry.pdf

“In August 1998 the Minister for Families, Youth and Community Care established a Commission of Inquiry to examine whether there had been any abuse, mistreatment or neglect of children in Queensland institutions.” (p. i)

- “We have heard repeated reports of physical and sexual abuse in government and non-government institutions over decades, which have resulted in irreparable damage to the lives of many Queenslanders.” (p. i)
- “Children are our most precious resource. They are our future. Their experiences as children will determine what kind of adults they become and what kind of society there will be. One act of abuse or mistreatment towards a child is one act too many. Repeated acts of abuse that have gone unrecognised and unaddressed is inexcusable.” (p. i)
- “The relationships of abuse victims may be dysfunctional. Low self-esteem and self-worth, compounded by a lack of education, can develop into mental health problems that further limit the victim’s capacity to achieve his or her human and economic potential. Witnesses described...an inability to trust others, and relationship problems exacerbated by anger and aggression...there is little doubt that children who have been exposed to severe or prolonged abuse are facing long-term problems that will disrupt or damage the rest of their lives, and affect all those significant others around them.” (p. xi)
- “Child sexual abuse involves a breach of trust or an exploitation of vulnerability, and frequently both. Sexually abused children not only face an assault on their developing sense of sexual identity, but a blow to their construction of the world as a safe environment and their developing sense of others as trustworthy. In those abused by someone with whom they had a close relationship, the impact is likely to be all the more profound.” (xii)
- “Recommendation 37: That the Queensland Government and responsible religious authorities issue a formal statement acknowledging the significant harm done to some children in Queensland institutions...[to] formally apologise for the harm and make a commitment to prevent further abuse.” (p. xix)
- “Recommendation 38: That the Queensland Government and relevant religious authorities organise a reconciliation event for former victims of abuse in orphanages and detention centres after consultation with them.” (p. xix)
- “Recommendation 39: That the Queensland Government and responsible religious authorities establish principles of compensation in dialogue with victims of institutional abuse and strike a balance between individual compensation and provision of services.” (p. xix)
- “Recommendation 40: That the Queensland Government and responsible religious authorities fund an independent ‘one stop shop’ for victims of abuse in institutions that provides a range of services such as:
 - Ongoing counselling for victims and their families;

- Facilitation of educational opportunities including literacy programs;
- Advice regarding access to individual records, documents and archival papers;
- Specialised counselling services for indigenous victims of abuse;
- Assistance to former child migrants for reunification with their families.” (p. xix)
- Informal reconciliation-type processes be available whereby complainants can meet with Church officials to discuss complaints and resolve grievances without recourse to more formal processes, the aim being to promote reconciliation and healing;
 - Where possible, there be independent input into the appointment of key personnel operating the schemes;
 - A full range of support and other services be offered as part of compensation/reparation packages, including monetary compensation;
 - Terms of settlement do not impose confidentiality clauses on complainants;
 - Internal review procedures be improved, including appointment of external appointees independent of the respective Church or agency to conduct reviews; and
 - Information on complaints procedures is widely disseminated, including Church websites.” (p. xxi)

2. Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children

Chairpersons Jan McLucas and Steve Hutchins, August 30, 2004

Available at

http://www.apf.gov.au/senate/committee/clac_ctte/recs_lost_innocents_forgotten_aust_rpts/report/b01.htm

- “Recommendation 3: The Committee recommends that the Prime Minister write to relevant churches and religious agencies requesting that they provide formal statements concerning the need for such bodies to make reparation to children who suffered abuse and neglect in their care in the last century, and addressing in particular the issues of apology, redress and provision of services to care leavers, and the implementation of the recommendations of the Forgotten Australians report; the Committee further recommends that the Prime Minister cause the statements provided by churches and religious agencies to be collated and tabled in parliament.”
- “Recommendation 6: The Committee recommends that churches take steps to ensure that processes for handling abuse allegations are consistent across all jurisdictions; and that such processes conform to recommendation 7 of the Forgotten Australians report.”
- “Recommendation 15: The Committee recommends that the Ministerial Council for Police and Emergency Management (Police) develop and implement a national policy on the prosecution of, and data collection and sharing about, historical crimes of sexual and physical abuse of children in care; and that the establishment or further development of specialist State police units be considered as part of this policy development process.”

3. Lost Innocents and Forgotten Australians Revisited

Chairpersons Rachel Siewert and Claire Moore, June 25, 2009

Available at

http://www.aph.gov.au/senate/committee/clac_ctte/recs_lost_innocents_forgotten_aust_rpts/report/b01.htm

- Recommendation 8: That the Commonwealth establish an external complaints review mechanism, such as a national commissioner for children and young people who would have power to:
 - Investigate and mediate complaints received by complainants dissatisfied with Church processes with the relevant Church authority;
 - Review the operations of the Church sponsored complaints mechanisms to enhance transparency and accountability;
 - Report annually to the Parliament on the operation of the Churches' complaints schemes, including data on the number and nature of complaints; and
 - Publicise the existence of Church-sponsored complaints mechanisms widely throughout the community." (p. xxi)
- Review the operations of the Church sponsored complaints mechanisms to enhance transparency and accountability;
 - Report annually to the Parliament on the operation of the Churches' complaints schemes, including data on the number and nature of complaints; and
 - Publicise the existence of Church-sponsored complaints mechanisms widely throughout the community." (p. xxi)
- "Recommendation 9: That the Church and agencies publish comprehensive data on all abuse complaints received to date, and then subsequently on an annual basis, and that this information include:
 - Numbers of complainants and types of complaints received;
 - Numbers of Church/agency personnel involved in complaint allegations; and
 - Amounts of compensation paid to complainants." (p. xxi)
- "Recommendation 10: That information on the above matters be provided annually (including any reasons for non-compliance) to the national commissioner for publication in a consolidated form in the commissioner's annual report." (p. xxi)
- "Recommendation 20: That the Commonwealth and State Governments and Churches and agencies provide ongoing funding to CLAN and all advocacy and support groups to enable these groups to maintain and extend their services to victims of institutional abuse, and...widely publicise the availability of services offered by these...groups." (p. xxiv)

Endnotes

¹ See Attachment 1, Melbourne Victims' Collective, 'Towards Justice: The Charter.'

² Hereinafter "Clergy" refers to clergy, religious and lay personnel within the Catholic Archdiocese of Melbourne

³ "Non-perpetrator family members, partners, friends and children of victim/survivors are affected by a sexual assault and its aftermath, yet there has been relatively little primary research and supporting literature focused on the impact of sexual assault on these 'secondary victims.'" Morrison, Zoe, Quandara, Antonia, and Boyd, Cameron. Issues 7, June 2007, Australian Center for the Study of Sexual Assault, citing Daane, D. M. 'The ripple effects: Secondary sexual assault survivors. In F. P. Reddington & B.W. Kreisel, Eds., Sexual Assault: The victims, the perpetrators and the criminal justice system, pp. 113-131, Durham, NC: Carolina Academic Press, available at http://www.aifs.gov.au/acssa/pubs/issue/i7pdf/acssa_i7_secondary.pdf

⁴ The Melbourne Victim's Collective ("MVC") is a solidarity of survivors seeking to achieve structural and systemic change to the Melbourne Church Response to clergy sexual abuse. Through our collective voice, strategic action, and group awareness we are able to support individual survivor decisions for their own healing, restoration and dignity, and gather this into Collective activities. We support the dignity of victims to be heard, believed, and to collaborate for change following the principles of restorative justice and victim's rights.

⁵ See Attachment 4, 'Sexual and Other Abuse, The Melbourne Response,' The Catholic Archdiocese of Melbourne

Also "I believed that the Melbourne decision harmed the whole country by denying us the possibility of one system,' Sydney Auxiliary Bishop Geoffrey Robinson recently wrote." McKenzie, Nick. 'Faith betrayed,' The Age, August 10, 2009, available at <http://www.theage.com.au/national/investigations/faith-betrayed-20090809-eea1.html>

⁶ See National Committee for Professional Standards, 'Towards Healing,' available at http://www.catholic.org.au/index.php?option=com_docman&task=doc_download&gid=123&ItemId=16

⁷ See Attachment 4, 'Sexual and Other Abuse, The Melbourne Response,' The Catholic Archdiocese of Melbourne

⁸ Describing Towards Healing and the Melbourne Response recently, Cardinal George Pell said, "We got decent systems in place, and we followed them." Cardinal George Pell, spoken July 28, 2011 in Ireland at Dublin's Newman University Church, quoted in Mac Donald, Sarah. 'Victims the first priority in addressing abuse,' www.catholicweekly.com.au print edition, August 14, 2011.

See also Attachment 4, 'Sexual and Other Abuse, The Melbourne Response,' The Catholic Archdiocese of Melbourne

⁹ See Attachment 1, Melbourne Victims' Collective, 'Towards Justice: The Charter'

Also victims' experiences

¹⁰ See Attachment 1, Melbourne Victims' Collective, 'Towards Justice: The Charter'

¹¹ "The involvement of An Garda Síochána and the PSNI in child abuse cases stems from their responsibilities to protect the community and bring offenders to justice." The Irish Bishops' Conference, The Conference of Religious of Ireland, The Irish Missionary Union. 'Our Children, Our Church. Child Protection Policies and Procedures for the Catholic Church in Ireland,' p.94, Appendix 10, Role of State Agencies, 2005, Veritas Publications.

¹² "6.2 An Inter-Agency Approach. The Management and appropriate handling of child protection and welfare is a skilled and delicate task...[and] requires a coordinated interagency approach." The Irish Bishops' Conference, The Conference of Religious of Ireland, The Irish Missionary Union. 'Our Children, Our Church. Child Protection Policies and Procedures for the Catholic Church in Ireland,' p.39, 2005, Veritas Publications.

¹³ See Attachment 14, 'Learning from the Past' Submission to the Protecting Victorian Vulnerable Children's Inquiry

¹⁴ See Attachment 4, 'Sexual and Other Abuse, The Melbourne Response,' The Catholic Archdiocese of Melbourne
See also See Attachment 3, 'Appointment of Independent Commissioner to Enquire into Sexual and Other Abuse'

¹⁵ See Attachment 4, 'Sexual and Other Abuse, The Melbourne Response'

Also victims' experiences

See also Towards Healing documentation, available at

http://www.catholic.org.au/index.php?option=com_docman&task=doc_download&gid=952&Itemid=180

¹⁶ For example, In Good Faith and Associates has been informed that Father Barry Gwillim convicted of sex offences is with a youth group; Father Victor Rubeo convicted child sex offender has continued to minister to aged persons; Monsignor Murray convicted of sex offending has been accommodated in the grounds of a secondary girls' school and continues to say Mass in various locations.

See also "A paedophile clergyman has been sent to conduct an Easter mass in a church that has seen two priests convicted over sexual abuse – one as recently as last year." Nowell, Laurie, Herald Sun, May 16, 2010, available at <http://www.heraldsun.com.au/news/sex-priest-betrayal/story-e6frf7jo-1225867221610>

¹⁷ Victims' experiences

¹⁸ "But several victims are now asking if the system meant to help them has instead increased their suffering while failing to hold the church publicly accountable for its failings. For instance, there has never been any public review of whether any of the 450-odd cases shed any light on how priests suspected of abuse were able to retain their positions and reoffend. In the case of Paul Pavlou, the Melbourne response process tipped off the offending priest that he was the subject of a covert police inquiry before detectives could search his house." McKenzie, Nick. 'Faith betrayed,' The Age, August 10, 2009, available at <http://www.theage.com.au/national/investigations/faith-betrayed-20090809-eea1.html>

¹⁹ See Attachment 17, 'Findings of Child Abuse Inquiries in Australia'

²⁰ See Attachment 5, 'Archbishop affirms the importance of the Melbourne Archdiocese Response'

²¹ See Attachment 12, 'Clearer view'

²² Victims' experiences

²³ Victims' experiences, and Broken Rites' experiences, 'Fighting church sexual abuse since 1993,' available at <http://brokenrites.alphalink.com.au/>

²⁴ "Fleming's 1997 survey found that only 10 per cent of such experiences were ever reported to the police, a doctor or a helping agency (for example, community organisations, such as sexual assault services)." Fergus, Laura and Keel, Monique. Australian Institute of Family Studies, Australian Centre for the Study of Sexual Assault (ACSSA), ACSSA Wrap No. 1 November 2005, available at <http://www.aifs.gov.au/acssa/pubs/wrap/w1.html>, quoting Fleming, J. M. (1997), 'Prevalence of childhood sexual abuse in a community sample of Australian women', Medical Journal of Australia, vol. 166, no. 2, pp. 65-68, and online at <http://www.mja.com.au/public/issues/jan20/fleming/fleming.html>

²⁵ Victims' experiences

²⁶ Victims' experiences

²⁷ Lindsay, Jay. 'Boston church releases list of 159 priests accused of sex abuse since 1950; 91 names left off,' Star Tribune, August 25, 2011, available at <http://www.startribune.com/nation/128402528.html>

See also "The archdiocese itself documented 789 allegations of sexual abuse made against 237 priests and 13 other church workers from 1940 to 2000." 'Boston clergy sex scandal 'borners on the unbelievable,' Lawrence

Journal World, July 24, 2003, available at
http://www2.ljworld.com/news/2003/jul/24/boston_clergy_sex/?more_like_this

²⁸ McKenzie, Nick and Baker, Richard. 'Sex abuse led to 26 suicides, says policeman,' The Age, July 30, 2011, available at <http://www.theage.com.au/victoria/sex-abuse-led-to-26-suicides-says-policeman-20110729-1i4f0.html>

²⁹ See Attachment 2, 'List of publically known sex-offending clergy in the Melbourne Archdiocese'

³⁰ Victims' experiences

³¹ Victims' experiences

³² In Good Faith and Associates' stakeholders' meeting with Victorian Police representative

³³ See Attachment 14, 'Learning from the Past' Submission to the Protecting Victorian Vulnerable Children's Inquiry

³⁴ "But several victims are now asking if the system meant to help them has instead increased their suffering while failing to hold the church publicly accountable for its failings. For instance, there has never been any public review of whether any of the 450-odd cases shed any light on how priests suspected of abuse were able to retain their positions and reoffend. In the case of Paul Pavlou, the Melbourne response process tipped off the offending priest that he was the subject of a covert police inquiry before detectives could search his house." McKenzie, Nick. 'Faith betrayed,' The Age, August 10, 2009. available at <http://www.theage.com.au/national/investigations/faith-betrayed-20090809-eea1.html>

See also Attachment 14, 'Learning from the Past' Submission to the Protecting Victorian Vulnerable Children's Inquiry

³⁵ Victims' experiences

³⁶ Waller, Vivian. 'Sins of Brother demand inquiry,' The Age, Opinion, August 9, 2011, available at <http://www.theage.com.au/opinion/contributors/sins-of-brothers-demand-inquiry-20110808-1ij3b.html>

See also McKenzie, Nick and Baker, Richard. 'Sex abuse led to 26 suicides, says policeman,' The Age, July 30, 2011, available at <http://www.theage.com.au/victoria/sex-abuse-led-to-26-suicides-says-policeman-20110729-1i4f0.html>

³⁷ See Attachment 3, 'Appointment of Independent Commissioner to Enquire into Sexual and Other Abuse'

Also In Good Faith and Associates' transcript of meeting with the Commissioner, 2011

³⁸ See Attachment 3, 'Appointment of Independent Commissioner to Enquire into Sexual and Other Abuse'

Also In Good Faith and Associates' transcript of meeting with the Commissioner, 2011

³⁹ Victim's experiences

⁴⁰ Victims' experiences and In Good Faith and Associates' correspondence on Towards Healing protocols with Professor Patrick Parkinson

⁴¹ In Good Faith and Associates' correspondence on Towards Healing protocols with Professor Patrick Parkinson

⁴² See Attachment 9, 'Priest Calls for Reform of Melbourne Response'

⁴³ McKenzie, Nick and Baker, Richard. 'Sex abuse led to 26 suicides, says policeman,' The Age, July 30, 2011, available at <http://www.theage.com.au/victoria/sex-abuse-led-to-26-suicides-says-policeman-20110729-1i4f0.html>

See Also Daly, Martin and Gregory, Peter. 'Church paid victim \$80,000 in secret deal,' The Age, July 10, 2004, available at <http://www.theage.com.au/articles/2004/07/09/1089000351616.html>

⁴⁴ See Attachment 7, 'Church acts to defrock all paedophile priests'

⁴⁵ See Attachment 7, 'Church acts to defrock all paedophile priests'

See also Attachment 9, 'Priest Calls for Reform of Melbourne Response'

⁴⁶ "Often taking direction from its attorneys, Archdiocese officials historically engaged in a deliberate strategy to bully, mislead, and stonewall victims. Sometimes the church hierarchy would send out agents to investigate the victims, looking for harmful information reporting the priests' crimes to law enforcement was never considered. Worst of all, after victims bravely came forward and told Archdiocese officials their wrenching stories of rape and sodomy, the church hierarchy left their attackers in assignments where they could continue to prey on youngsters. This not only endangered more children; it also left the victims who had reported their abuse feeling that they were not believed. The rejection by the church traumatized fragile survivors yet again." See Attachment 17, 'Findings of Child Abuse Inquiries in Australia'

⁴⁷ See Attachment 16, 'Catholic order 'suppressed report on child sex''

See also Daley, Paul. 'Priest on the Run,' The Bulletin magazine, August 8, 2006, available at <http://brokenrites.alphalink.com.au/nletter/page232-julian-fox.html>

⁴⁸ "Particular attention, moreover, is to be given to the necessary exchange of information in regard to those candidates to priesthood or religious life who transfer from one seminary to another, between different dioceses, or between religious Institutes and dioceses." Lombardi, Father Frank. 'Congregatio Pro Doctrina Fidei, Circular Letter to assist Episcopal conferences in developing guidelines for dealing with cases of sexual abuses of minors perpetrated by clerics,' available at http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20110503_abuso-minori_en.html.

Also "The Salesians knew not only about Klep's 1994 convictions when they sent him to Samoa but also that police were investigating further charges." Daly, Martin and Gregory, Peter. 'Church paid victim \$80,000 in secret deal,' The Age, July 10, 2004, available at <http://www.theage.com.au/articles/2004/07/09/1089000351616.html>

⁴⁹ Carlyon, Petra. 'Catholic priest jailed for child sexual assault,' ABC News, August 22, 2011, available at <http://www.abc.net.au/news/2011-08-22/catholic-priest-jailed-for-child-sexual-assault/2850380/?site=melbourne>

See also Broken Rites 'Black Collar Crimes,' available at <http://brokenrites.alphalink.com.au/nletter/bccrime.html>

⁵⁰ Carlyon, Petra. 'Catholic priest jailed for child sexual assault,' ABC News, August 22, 2011, available at <http://www.abc.net.au/news/2011-08-22/catholic-priest-jailed-for-child-sexual-assault/2850380/?site=melbourne>

⁵¹ Quoting Professor Patrick Parkinson AO, See Attachment 16 'Catholic order 'suppressed report on child sex''

⁵² Code of Canon Law, The Vatican, Prepared under the auspices of the Canon Law Society of America Canon Law Society of America, 1983 by Libreria Editrice Vaticana, available at <http://www.vatican.va/archive/ENG1104/INDEX.HTM>

See also "A lawyer representing a victim of priest abuse in a lawsuit against the Roman Catholic church said Monday Vatican documents show the church hierarchy and the pope were ultimately responsible." Bailey, David and Stern, Andrew. 'U.S. lawyer says Vatican knew of priest's sex abuse,' Reuters, August 22, 2011, available at <http://www.reuters.com/assets/print?aid=USTRE77L6RQ20110822>

⁵³ Leo XIII. ‘Circular “Immortale Dei,”’ Human and Community Christlicher review, Freiburg, Switzerland, 1945, pp 571 – 602, para 852.

⁵⁴ “The Church, with its moral, spiritual, and religious mission is constituted as a society founded on the communion of faith, sacraments and discipline, and governed by an autonomous legal system.” Holy See, ‘Initial Report to the Committee on Rights of the Child on the Optional Protocol on the Sale of Children, Child Prostitution on the Sale of Children, Child Prostitution and Child Pornography, available at www2.ohchr.org/english/bodies/crc/docs/.../CRC-C-OPSC-VAT-1.doc

⁵⁵ Pope Paul VI, ‘Apostolic Letter motu proprio, Sollicitudo omnium ecclesiarum,’ Office of Representatives, Pope of the Roman, June 24, 1969, speech given at Rome, St Peter, English translation available from the Vatican at http://translate.google.com.au/translate?hl=en&sl=it&u=http://www.vatican.va/holy_father/paul_vi/motu_proprio/documents/hf_p-vi_motu-proprio_19690624_sollicitudo-omnium-ecclesiarum_it.html&ei=jyFbTsHKHM3WiAKyt7jQCQ&sa=X&oi=translate&ct=result&resnum=1&ved=0CBOQ7gEwAA&prev=/search%3Fq%3D1969%2Bmotu%2Bproprio%2Bsollicitudo%2Bomnium%2Becclesiarum%2Benglish%26hl%3Den%26client%3Dfirefox-a%26hs%3DrZa%26rls%3Dorg.mozilla:en-GB:official%26biw%3D1408%26bih%3D911%26prmd%3DDivns

⁵⁶ See Attachment 15 ‘Appointment of Commissioner of Melbourne Archdiocese’

See also Can. 1717 §1. Whenever an ordinary has knowledge, which at least seems true, of a delict, he is carefully to inquire personally or through another suitable person about the facts, circumstances, and imputability, unless such an inquiry seems entirely superfluous.

§2. Care must be taken so that the good name of anyone is not endangered from this investigation.

§3. The person who conducts the investigation has the same powers and obligations as an auditor in the process; the same person cannot act as a judge in the matter if a judicial process is initiated later. Code of Canon Law, available at http://www.vatican.va/archive/ENG1104/_P6V.HTM

⁵⁷ See Attachment 15 ‘Appointment of Commissioner of Melbourne Archdiocese’

See also Delicts Against Special Obligations (Cann. 1392 - 1396)

Can. 1394 §1. Without prejudice to the prescript of ⇒can. 194, §1, n. 3, a cleric who attempts marriage, even if only civilly, incurs a latae sententiae suspension. If he does not repent after being warned and continues to give scandal, he can be punished gradually by privations or even by dismissal from the clerical state.

Can. 1395 §1. A cleric who lives in concubinage, other than the case mentioned in ⇒can. 1394, and a cleric who persists with scandal in another external sin against the sixth commandment of the Decalogue is to be punished by a suspension. If he persists in the delict after a warning, other penalties can gradually be added, including dismissal from the clerical state.

§2. A cleric who in another way has committed an offense against the sixth commandment of the Decalogue, if the delict was committed by force or threats or publicly or with a minor below the age of sixteen years, is to be punished with just penalties, not excluding dismissal from the clerical state if the case so warrants.

Code of Canon Law, available at http://www.vatican.va/archive/ENG1104/_P6V.HTM

⁵⁸ See Attachment 4, ‘Sexual and Other Abuse, The Melbourne Response’

⁵⁹ Lombardi, Father Frank. ‘Congregatio Pro Doctrina Fidei, Circular Letter to assist Episcopal conferences in developing guidelines for dealing with cases of sexual abuses of minors perpetrated by clerics,’ available at http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20110503_abuso-minori_en.html

⁶⁰ Lombardi, Father Frank. ‘Congregatio Pro Doctrina Fidei, Circular Letter to assist Episcopal conferences in developing guidelines for dealing with cases of sexual abuses of minors perpetrated by clerics,’ available at http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20110503_abuso-minori_en.html

⁶¹ “One point that remains untouched, though it has often been the subject of discussion in recent times, concerns collaboration with the civil authorities. It must be borne in mind that the Norms being published today are part of the penal code of canon law, which is complete in itself and entirely distinct from the law of States.” Lombardi,

Father Frank. Note on “The significance of the publication of the new “Norms concerning the most serious crimes,” May 21, 2010, available at http://www.vatican.va/resources/resources_lombardi-nota-norme_en.html

⁶² “A confessor who directly violates the sacramental seal incurs a latae sententiae excommunication reserved to the Apostolic See; one who does so only indirectly is to be punished according to the gravity of the delict.” Can. 1388 §1, Code of Canon Law, available at http://www.vatican.va/archive/ENG1104/_P6V.HTM

See also Johnston Matt. ‘Catholic Church won’t give up its secrets,’ Herald Sun, July 22, 2011, available at <http://www.heraldsun.com.au/news/more-news/church-wont-give-up-its-secrets/story-fn7x8me2-1226099343710>

⁶³ “The acts of the investigation, the decrees of the ordinary which initiated and concluded the investigation, and everything which preceded the investigation are to be kept in the secret archive of the curia if they are not necessary for the penal process.” Can. 1719, Code of Canon Law, The Vatican, Prepared under the auspices of the Canon Law Society of America Canon Law Society of America, 1983 by Libreria Editrice Vaticana, available at http://www.vatican.va/archive/ENG1104/_P6V.HTM

⁶⁴ “The [Cloyne] report gave details of a confidential letter sent in 1997 by the Vatican’s nuncio, or ambassador, in Ireland to Irish bishops, warning them that their child-protection policies violated canon law, which states that priests accused of abuse should be able to appeal their cases to the Vatican. The nuncio also dismissed the Irish guidelines as ‘a study document.’ ” Dalby, Douglas and Donadio, Rachel. ‘Irish Report Finds Abuse Persisting in Catholic Church,’ New York Times, July 13, 2011, available at <http://www.nytimes.com/2011/07/14/world/europe/14church.html?pagewanted=all>

⁶⁵ Livingstone, Tess. ‘George Pell,’ Duffy and Snellgrove: November 2, 2002.

⁶⁶ See Attachment 13, ‘Changes to the Melbourne Response Process’

⁶⁷ “The Catholic education sector has welcomed a \$240 million funding boost in Victoria for Catholic and independent schools. [...] The government is also delivering its promised \$100 million school maintenance fund and \$208 million for school capital works, as well as providing money to help tackle bullying in schools.” ‘Vic Catholic Education welcomes funding boost,’ May 3, 2011, available at <http://www.cathnews.com/article.aspx?aeid=26161>

⁶⁸ See Attachment 14, ‘Learning from the Past’ Submission to the Protecting Victorian Vulnerable Children’s Inquiry, and ‘Victoria failing priest sex victims, inquiry told,’ Herald Sun, June 28, 2011, available at <http://www.heraldsun.com.au/news/breaking-news/victoria-is-failing-priest-sex-victims-inquiry-told/story-e6frf7jx-1226083700626>

⁶⁹ See Attachment 3, ‘Appointment of Independent Commissioner to Enquire into Sexual and Other Abuse’

See also Attachment 1, Melbourne Victims’ Collective, ‘Towards Justice: The Charter

⁷⁰ See Attachment 4, ‘Sexual and Other Abuse, The Melbourne Response,’ The Catholic Archdiocese of Melbourne

See also Attachment 3, ‘Appointment of Independent Commissioner to Enquire into Sexual and Other Abuse’

⁷¹ Victorian Police ‘Code of Practices for Sexual Assault,’ 2005, available at http://www.police.vic.gov.au/retrievemedias.asp?Media_ID=1717

⁷² Victims’ experiences

⁷³ Victims’ experiences

⁷⁴ Victims’ experiences

⁷⁵ Victims’ experiences

⁷⁶ Victims’ experiences

⁷⁷ See Attachment 1, Melbourne Victims' Collective, 'Towards Justice: The Charter'

See also McKenzie, Nick. 'Faith betrayed,' The Age, August 10, 2009, available at <http://www.theage.com.au/national/investigations/faith-betrayed-20090809-eea1.html>

⁷⁸ See Attachment 15 'Appointment of Commissioner of Melbourne Archdiocese'

⁷⁹ See Attachment 4, 'Sexual and Other Abuse, The Melbourne Response,' The Catholic Archdiocese of Melbourne

⁸⁰ See Attachment 3, 'Appointment of Independent Commissioner to Enquire into Sexual and Other Abuse'

See also Attachment 1, Melbourne Victims' Collective, 'Towards Justice: The Charter'

⁸¹ Victims' experiences

⁸² Victims' experiences

⁸³ See Attachment 12 'Clearer View.'

See also Attachment 5, 'Archbishop affirms the importance of the Melbourne Archdiocese Response'

Also victims' experience with Catholic Archdiocese of Melbourne Business Manager Francis Moore

⁸⁴ Victims' experiences

⁸⁵ Victims' experiences

⁸⁶ Victims' experiences

⁸⁷ Victims' experiences

⁸⁸ Victim's experiences

⁸⁹ Victims' experiences

⁹⁰ Victims' experiences

⁹¹ Goddard, Chris and Mudaly, Neerosh. 'Crimes cloaked in euphemisms,' The Australian, August 25, 2011, available at <http://www.theaustralian.com.au/news/opinion/crimes-cloaked-in-euphemisms/story-e6frg6zo-1226121529565>

⁹² The National Committee for Professional Standards which operates Towards Healing has commissioned two reviews of aspects of its work from independent academic Professor Patrick Parkinson AM, Family Law and Child Protection specialist at Sydney Law School, in 2001 and 2009. An acknowledgment of these reviews is in the Introduction of the Towards Healing documentation, available at http://www.catholic.org.au/index.php?option=com_docman&task=doc_download&gid=952&Itemid=180

⁹³ Victims' experiences

⁹⁴ See Attachment 5, 'Archbishop affirms the importance of the Melbourne Archdiocese Response'

⁹⁵ 'Building Bridges with Clergy' restorative justice pastoral program operated by In Good Faith and Associates

⁹⁶ Available in minutes from priests' Senate meetings of the Catholic Archdiocese of Melbourne

⁹⁷ "Regarding the victims, I would say there are three important things. Our first interest is for the victims: how can we repair the damage done? What can we do to help these people overcome this trauma, to regain their life and rediscover confidence in the message of Christ? Care, commitment to victims is the first priority, with material, psychological, spiritual aid." His Holiness, Pope Benedict, 16th September 2010, 'Comments en route to Scotland,' available at <http://www.catholicculture.org/culture/library/view.cfm?recnum=9403>.

See Attachment 9, 'Priest Calls for Reform of Melbourne Response'

⁹⁸ Victims' experiences and letters received from Archbishop Hart.

See also His Holiness, Pope Benedict, 16th September 2010, 'Comments en route to Scotland,' available at <http://www.catholicculture.org/culture/library/view.cfm?recnum=9403>.

⁹⁹ "It is estimated more than \$1 million was spent on lawyers defending Best in his six trials, despite him being found guilty four times by juries. Millions more in taxpayer funds has been spent on a succession of prosecutions since Best first faced charges in 1995." Hedge, Mike. 'Church sex case 'shows double standards,' The Age, May 31, 2011, available at <http://news.theage.com.au/breaking-news-national/church-sex-case-shows-double-standards-20110531-1feei.html>

¹⁰⁰ Victims' experiences

¹⁰¹ Quoting studies of statistics and noting that "[t]o date, there has been no large-scale national population survey that includes childhood violence against male." Fergus, Laura and Keel, Monique, Australian Institute of Family Studies, Australian Centre for the Study of Sexual Assault (ACSSA), ACSSA Wrap No. 1 November 2005, available at <http://www.aifs.gov.au/acssa/pubs/wrap/w1.html> & '7,000 children sexually abused last year,' News report from Australian Bureau of Statistics, June 23, 2011, available at <http://www.abc.net.au/news/2011-06-23/7000-children-sexually-abused-last-year/2769310>

¹⁰² Godard, Chris and Tucci, Joe. 'The Cost of Child Abuse in Australia,' Report by Access Economics Pty Limited, Australian Childhood Foundation, and Child Abuse Prevention Research Australia at Monash University, November 2008, available at <http://www.accesseconomics.com.au/publicationsreports/getreport.php?report=180&id=230>

¹⁰³ "Fleming's 1997 survey found that only 10 per cent of such experiences were ever reported to the police, a doctor or a helping agency (for example, community organisations, such as sexual assault services)." Fergus, Laura and Keel, Monique. Australian Institute of Family Studies, Australian Centre for the Study of Sexual Assault (ACSSA), ACSSA Wrap No. 1 November 2005, available at <http://www.aifs.gov.au/acssa/pubs/wrap/w1.html>, quoting Fleming, J. M. (1997), 'Prevalence of childhood sexual abuse in a community sample of Australian women', Medical Journal of Australia, vol. 166, no. 2, pp. 65-68, and online at <http://www.mja.com.au/public/issues/jan20/fleming/fleming.html>

¹⁰⁴ "Patricia Easteal's (1992) national survey of 2,852 self-selected victim/survivors of sexual assault found that a staggering 52.6 per cent of male respondents, and 37 per cent of female respondents, had not only not reported their abuse to police, but had never disclosed their abuse to anyone at all prior to the survey." Fergus, Laura and Keel, Monique. Australian Institute of Family Studies, Australian Centre for the Study of Sexual Assault (ACSSA), ACSSA Wrap No. 1 November 2005, available at <http://www.aifs.gov.au/acssa/pubs/wrap/w1.html>, quoting Easteal, P. (1992), 'Survivors of sexual assault: A national survey', in P. Easteal (ed.), Without consent: Confronting adult sexual violence, Presented at a conference held 27-29 October 1992, Australian Institute of Criminology, Canberra, available online at <http://www.aic.gov.au/publications/proceedings/20/easteal2b.pdf>

¹⁰⁵ Victims' experiences

¹⁰⁶ Sect. 7(1)(b) Health and Other Services (Compensation) Act of 1995, Commonwealth Consolidated Acts, available at http://www.austlii.edu.au/au/legis/cth/consol_act/haosa1995370/index.html#s4

¹⁰⁷ Victims' experience

¹⁰⁸ "The State initially envisaged a compensation scheme which would follow-on from the work of the Commission to Inquire into Child Abuse. [...] During the early stages of the Commission, it became clear that the Investigation Committee would not be able to function unless the scheme of compensation was initiated." 'Residential Institutions Act,' Residential Institutions Redress Board, Ireland, available at http://www.rirb.ie/updates_article.asp?NID=117

¹⁰⁹ Residential Institutions Redress Act of 2002, Ireland, amended in accordance with Section 34 of the Commission to Inquire into Child Abuse (Amendment) Act 2005, available at http://www.rirb.ie/documents/act_13_2002.pdf and [http://www.rirb.ie/documents/2009/Commission%20to%20Inquire%20into%20Child%20Abuse%20\(Amendment\)%20Act%202005.pdf](http://www.rirb.ie/documents/2009/Commission%20to%20Inquire%20into%20Child%20Abuse%20(Amendment)%20Act%202005.pdf)

¹¹⁰ Doyle, Dara and Heatley, Colm. 'Ireland Faces Down Vatican as Kenny Demands \$1 Billion Abuse Compensation,' Bloomberg, August 14, 2011, available at <http://www.bloomberg.com/news/print/2011-08-14/irish-chase-church-cash-real-estate-toward-2-billion-child-abuse-bill.html>

¹¹¹ 'LA Cardinal offers abuse apology,' BBC News, July 16, 2007, available at <http://news.bbc.co.uk/2/hi/americas/6900129.stm>

Cook, Dan. 'Northwest Jesuits reach \$166 million sex abuse settlement,' March 25, 2011, available at <http://www.reuters.com/article/2011/03/25/us-jesuits-sexabuse-idUSTRE72067S20110325>

¹¹² See Attachment 4, 'Sexual and Other Abuse, The Melbourne Response,' The Catholic Archdiocese of Melbourne

¹¹³ Victims' experiences

¹¹⁴ See Attachment 17, 'Findings of Child Abuse Inquiries in Australia'

¹¹⁵ Victims' experiences

¹¹⁶ In Good Faith and Associates' experiences, an advocacy organisation for clergy abuse victims

¹¹⁷ "The Vatican encouraged Catholic bishops not to tell police about suspected paedophile priests and flouted Irish law." Pogatchink, Shawn. 'Ireland Denounces Vatican Role In Abuse Cover-Ups,' ToowoombaNews.com, 20 July 2011, available at

<http://australianews.com.au/australia/queensland/darlingdowns/toowoomba/story?cityid=9901bdf5-f527-4b68-852d-149172949fd4&storyid=882cd142-ad8d-44d1-bafd-12f033f4c16b>

¹¹⁸ See Attachment 6 'Overseas Inquiry and Investigation Findings'

¹¹⁹ See Attachment 6 'Overseas Inquiry and Investigation Findings'

¹²⁰ See Attachment 6 'Overseas Inquiry and Investigation Findings'

¹²¹ "The [Anglican Church] report analyses 191 alleged cases of child sexual abuse, reported from 17 dioceses throughout Australia between 1990 and 2008 to see what lessons can be learned to improve efforts at child protection." Parkinson, Patrick and Oates, Kim and Jayakody, Amanda. 'Study of Reported Child Sexual Abuse in the Anglican Church,' May 2009.

¹²² In Good Faith and Associates conversation with National Professional Standards Committee representative, 2004

¹²³ "The archdiocese itself documented 789 allegations of sexual abuse made against 237 priests and 13 other church workers from 1940 to 2000." 'Boston clergy sex scandal 'borders on the unbelievable,' Lawrence Journal World, July 24, 2003, available at

http://www2.ljworld.com/news/2003/jul/24/boston_clergy_sex/?more_like_this

¹²⁴ 'Boston clergy sex scandal 'borders on the unbelievable,' Lawrence Journal World, July 24, 2003, available at http://www2.ljworld.com/news/2003/jul/24/boston_clergy_sex/?more_like_this

¹²⁵ Robinson, Bishop Geoffrey. 'Confronting Power and Sex in the Catholic Church,' 2007, John Garratt Publishing, pp. 7-8.

¹²⁶ See Attachment 6 'Overseas Inquiry and Investigation Findings'

¹²⁷ See Attachment 6 'Overseas Inquiry and Investigation Findings'

¹²⁸ "Irish Catholic priests have said that they will not reveal secrets given in confession even though new legislation by the Irish government will call for it." O'Brien, James. 'Irish priests say they will not reveal confession secrets,' Irish Central, July 17, 2011, available at <http://www.irishcentral.com/news/Irish-priests-say-they-will-not-reveal-confession-secrets-125707833.html>

See also 'Clergy as Mandatory Reporters of Child Abuse and Neglect: Summary of State Laws,' Child Welfare Information Gateway, State Statutes, Current Through April 2010, http://www.childwelfare.gov/systemwide/laws_policies/statutes/clergymandated.pdf

See also Attachment 10, 'Mandatory reporting and the seal of the confessional'

¹²⁹ 'Building Bridges with Clergy' restorative justice pastoral program operated by In Good Faith and Associates

Also victims' experiences, including one victim who has told 10 clergy about current and past abuse looking for their help, to no avail

¹³⁰ "In November of 2007, the High Court agreed with the Catholic Church and refused special leave to appeal. This means that the legal position is now clear and the Catholic Church in NSW (and by extension in all Australian states where Churches have organised their affairs in a similar manner) is immune from litigation in many cases of past sexual abuse even in circumstances where it is clear that the church knew or should have known that children in its care were being abused and failed to act." Sdrinis, Angela. 'Litigation has failed victims of institutional abuse, it's time the government set up a compensation fund,' Ryan Carlisle Thomas Lawyers, May 12, 2011, available at <http://www.rct-law.com.au/blog/litigation-has-failed-the-victims-of-institutional-abuse.html> citing *The Trustees of the Roman Catholic Church v Ellis and Anor* [2007] NSWCA 117

¹³¹ See Attachment 14, 'Learning from the Past' Submission to the Protecting Victorian Vulnerable Children's Inquiry

MEDIA RELEASE

12 July 2008

VICTIMS OF CLERGY ABUSES IN MELBOURNE CATHOLIC CHURCH SHUNNED BY THEIR ARCHBISHOP

Victims of abuses by clergy in the Melbourne Catholic Archdiocese will gather with their families and supporters for their sixth peaceful rally this Sunday outside the gates of St Patrick's Cathedral, outside the 11 am solemn Mass.

They continue to seek to be heard by their Archbishop as he is the highest ranking cleric of the Melbourne Catholic Church and as such the leader directly responsible for addressing their plight. As sexual abuse victims of Melbourne priests, these vulnerable victims have been stripped of their dignity, identity, Catholic faith, and lifelong wellbeing. They ask their Archbishop Denis Hart only, for a restorative pastoral meeting to address their urgent justice and healing needs.

So far the Archbishop has responded to their presence by walking past, saying he would "pray" for them, yet other Church dignitaries and elderly clergy have talked to them compassionately. Parishioners attending these Masses express support and encouragement to the protesters.

Last night the Archbishop hosted a high cost "joy, hope and light" party at Telstra Dome for 30,000 youthful Catholics with a "spectacular laser" show depicting the "Holy Spirit". Victims say that the Archbishop's current display of popularity, power and high spending on youth, further demonstrates his priorities for the Melbourne Church which includes his pastoral shunning of clergy victims.

The cathedral rally now represents four victims' advocacy groups. They head up larger numbers of traumatized victims, primary, secondary and tertiary, who feel abused again by the Melbourne Archbishop's current response to them which they say dismisses, sidelines and silences them.

Melbourne victims' groups are also distressed by Archbishop Pells' mismanagement and complete lack of empathy and understanding towards victim Mr Anthony Jones, shown on national television this week. These groups also experience the Melbourne Church hierarchy prioritizing the needs of abusive clergy over their own.

Victims and supporters will gather every week outside the gates of St Patrick's Cathedral until the Archbishop of the Melbourne Catholic Church, Denis Hart offers them his pastoral time to meet.

Join us this Sunday 13 July outside St Patrick's Cathedral, cnr Gisborne Street and Cathedral Place, East Melbourne at 10.30 am, before Solemn Mass, and weekly thereafter. Visit www.igfa.com.au for more information.

The time has come for the Church to offer more than prayers alone!

MEDIA CONTACTS:

Helen Last, In Good Faith and Associates

Tel: (03) 9326 5991 (Mon-Fri); [REDACTED] (Sat-Sun only)

Email: info@igfa.com.au Web: www.igfa.com.au

Pam Krstic, HEAR (Healesville Education and Awareness Raising

re Clergy Professional Misconduct and Sexual Abuse)

Tel: [REDACTED] Email: heargroup@optusnet.com.au

***State Government Inquiry into Handling of Child Abuse by
Religious and Other Non-Government Organisations***

You are invited to attend an:

Information Forum for Victims

Wednesday 18th July, 2012 9:30am - 12:00 pm

Join us for an morning forum to hear about and discuss:

- Why a Government Inquiry has been called for Victoria?
- Global responses by church, government and police
- How to assist victims to make a submission to this Inquiry
- Understanding sexual assault of children and adults
- Factors that support, enable or encourage clergy sexual and church abuse
- Guidelines and advice for practical support of victims of clergy sexual and church abuse
- Pathways to assist victims, families and communities with justice and restoration

*Talk with experts from:
victimisation and victims' advocacy, sexual
crime prevention, mental health care, pastoral care
and clerical leadership*

Wednesday 18th July, 2012 9:30 am - 12:00 pm

Brian Boru Room Level 1
Celtic Club 316-320 Queen Street
Melbourne Corner of La Trobe & Queen

**RSVP by Saturday, 14th July to victims.forum.victoria@gmail.com
Phone: (03) 9326 5991 b/h**

Donations of \$50.00 or less welcomed to assist this work



SAVAs
Sexual Assault Victims'
Advocates



**FR BOB MAGUIRE
FOUNDATION**



**Melbourne Victims'
Collective**
all about survivors

*State Government Inquiry into Handling of Child Abuse by
Religious and Other Non-Government Organisations*

You are invited to attend an:

Information Forum to Assist Submissions

Monday 13th August 2012

Registration - 9:30am

Close - 3:30 pm

Join us at in Ballarat to hear about and discuss:

- Why a Government Inquiry has been called for Victoria?
- How to assist victims making submissions to this Inquiry
- Understanding the role of police and reporting
- Exploring church responses to clergy and religious sexual offending and church systems abuse
- Current understandings of child and adult sexual abuse
- Preventing the suicide cycle; helping families and communities
- Working with local organisations, practitioners and support groups

Talk with experts from:

**victimisation and victims' advocacy, sexual
crime prevention, mental health, pastoral care and
local services**

Venue: The Fairways Room

Midlands Golf Club

Heinz Lane, Ballarat

Refreshments provided with a \$10.00 Lunch available

Donations on the day to assist this work

Please RSVP to victims.forum.victoria@gmail.com or

Contact: (03) 9326 5991 convenors Helen Last and Glenn Davies

Organised by independent education and advocacy professionals with survivor support groups



SAVAs
Sexual Assault Victims'
Advocates
Melbourne



**Melbourne Victims'
Collective**



For The Innocents
(Support Group, Melbourne)