



The price of battling paedophilia

Barney Zwartz

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GRAEME Sleeman knew Peter Searson was trouble even before Searson arrived as parish priest of Doveton in 1984. Searson liked to dress in military fatigues, often carried a revolver, and had a bad reputation when it came to money - and sexually abusing children.

The two locked horns immediately when Sleeman, principal of the Holy Family school, told the priest he knew of his reputation and would be watching him, and Searson replied that as priest he was the boss. Their main battleground was bizarre: the sacred Catholic sacrament of confession, where Searson could get the children alone and unsupervised.

"I was concerned about his addiction to confession," Sleeman recalls.

"Sometimes he would get children to sit on his lap, or kneel between his legs." Later he would help a church investigation into two sexual assaults during confession.

Sleeman was a respected educator and a devout Catholic. The latter cost him his career, his health and economic security for his family, as he sought to protect the children under his charge from a predatory priest while also trying to protect the good name of the church.

When Sleeman resigned as principal in 1986 in a vain bid to force the church and Catholic Education Office (CEO) to act against Searson, he was besieged by media wanting to know about the priest's behaviour. But he stayed silent, even in later job interviews, when his refusal to explain his departure worked against him.

Now, after 25 years, Graeme Sleeman, 63, is breaking his silence. Previously he feared a backlash against his family, and that he would not be believed. Now living in Queensland, he has decided to talk because "the climate is right".

He is still angry that despite repeated pleas to the church hierarchy, including to then archbishop Frank Little, and to the CEO to remove Searson - even providing proof he had stolen \$40,000 from school funds - nothing was done.

Sleeman says when the CEO asked Searson about the money, the priest said it was "a mistake" and he would repay it, though he never did.

Sleeman is also angry that he had to carry out this fight alone, with no support or counselling from the CEO.

Carmel Rafferty, a later teacher at Holy Family who stood against Searson, felt similarly abandoned.

"I felt bullied, abused, traumatised, humiliated and isolated by the principal and CEO staff," she says.

Worse still, Searson was the last in a line of six sexual abusers - some violent - who arrived in Doveton parish after it was created in 1962: the first four were parish priests at the Holy Family church, plus an assistant and a locum - a remarkable misfortune for a parish regarded as one of the most disadvantaged in Melbourne.

Sleeman, a big man who played semi-professional football, started as a Salesian novitiate at the Rupertswood school in Sunbury, where several serial abusers were based.

He left the order but later, feeling he had unfinished business with the church, became a seminarian, lasting only nine months because he didn't "fit the tea party conception" of priesthood and was uneasy about the homosexual activity of other seminarians there.

He became a bush footballer and principal at St Mary's in Sale. He arrived at Doveton in 1982, parachuted in by the CEO as a trouble shooter "because the Presentation nuns had walked out that morning after upheavals with the parish priest".

Sleeman didn't know that the priest, Victor Rubeo, was a serial abuser of boys and girls, but was aware Rubeo had affairs with women. Sleeman had a key to the priest's home, and once caught him in flagrante.

One day in 1984, Rubeo approached Sleeman "absolutely beside himself, in tears, in trouble with one of his women". Sleeman arranged for the priest to take sick leave, and helped him do a midnight flit to Malvern. Another abuser, Father Regis Smith - a female victim of whom was later paid out by the church - became interim priest at Doveton.

"I made a number of visits to [Archbishop] Frank Little and [Vicar-General] Peter Connors, asking them to send a pastorally minded priest," Sleeman says. "They appointed Peter Searson. I was on a fishing trip and saw it in *The Advocate* [a Catholic newspaper] and nearly had a heart attack."

From the start, Sleeman made sure at least one teacher was in the church when Searson took children for confession. He did not know what Searson later conceded to a reporter, that the priest arrived from Sunbury banned from being alone with children in the confessional.

One day a teacher brought him a nine-year-old girl who had rushed sobbing from the confessional. More than a decade later, she received compensation from the archdiocese for a serious sexual assault. Another pupil, also later compensated, told her mother Searson had interfered with her. Carmel Rafferty says police told her Searson was brilliant at persuading parents not to make formal complaints.

Sleeman says the education office cover-up began with making teachers doubt what they were told - "what have you really seen, what evidence have you got?" "But they also kept telling us to report incidents. So we became the policeman, and they would go to the priest and say 'we've had another complaint', so the perpetrator was always getting a heads up," Sleeman says.

At one point, he found that Searson had a 14-year-old Indian girl living with him alone in the Holy Family presbytery because of her family problems. Sleeman warned him but Searson ignored it, so Sleeman told the CEO who "counselled" Searson. Nothing changed.

"Searson got great strength because he got away with it, and he upped the ante about taking kids to the confessional. So we put in place a whole lot of things to guard against him," Sleeman says. "There were always at least two staff inside the church, and we put in place a timetable for confession, but he ignored it. If he saw my car wasn't there he'd rush over to the school and grab a group [of children]."

Despite this, Holy Family was thriving. It was a finalist in Victorian school awards, and educators came from around the country and overseas to study Sleeman's ideas.

In the end, becoming increasingly volatile himself - on one occasion he threatened to "rearrange" Searson's face - Sleeman decided he would have to resign. He thought it would create such waves that the church and CEO would have to act. Parents were up in arms and demanded Searson's removal. But Searson stayed and, apart from a short stint coaching football in Chadstone, Sleeman never worked in Catholic education again. "I was suicidal. I was treated like I had leprosy."

He went to interview after interview, in Victoria and Queensland, and things would go well until he was asked why he left Doveton. He would just say "personal reasons", as advised by the education office. After he noticed a paper on a desk at an interview, he became convinced that the CEO was undermining him, telling schools "he's a great educator and works harder than anyone, but you'll never be able to control him".

The Sleemans bought a general store in Longford, then Graeme got a job driving horse semi-trailers, but his physical and mental health declined. In 1998 he had a breakdown, and was referred to Melbourne's Independent Commissioner into Sex Abuse, Peter O'Callaghan, QC.

For several years, O'Callaghan paid expenses and "wages" totalling \$90,000 for both Sleeman and his wife out of his own pocket and without the approval of the Melbourne archdiocese.

He did this until the church finally paid Sleeman \$150,000, a sum Sleeman says was not even close to what he had lost in income, superannuation and lost opportunities. "My family was totally dislocated, and we didn't know where the next meal was coming from," he says.

Carmel Rafferty joined Holy Family school the year after Graeme Sleeman left. But she wasn't forced into the front line until she started teaching grades 5 and 6 in 1992.

"I lost my job over it, and during the process I couldn't make children safe."

She says the school's staff had a good idea of what was going on with Searson. Altar boys didn't want to serve; asked why, they said "because of the way he touches us". One boy became upset during a sex education class when a teacher mentioned erections - he began rolling on the floor saying, "Oh no, Father's got a big penis".

In 1991, concerned at the way Searson was loitering around the boys' toilets, the staff sent a deputation of three teachers to the regional bishop, George Pell, now Archbishop of Sydney. Nothing was done.

Rafferty says that over time many people approached her about Searson: children seeking safety, different concerned parents, a police liaison officer who wanted her to ask Vicar General Gerald Cudmore to remove Searson (she did, in vain), and a worker at Doveton Hallam Health Centre after an incident in which Searson picked up a girl in his car.

Her relationship with Searson deteriorated. The CEO wanted to be told about Searson, but would tell her, "Don't say anything, it's being handled". Instead, she says, she was pressured out of her teaching career and livelihood. She resigned in 1993.

"This has wrecked my life, basically." She had to move house because she couldn't pay the mortgage, and spent six years working in a call centre. "I felt my soul was dying."

For 13 years she sought compensation for wrongful dismissal, and was finally given a compensation for "hardship and distress".

Searson's reign finally ended in 1997 when he was charged with the physical (not sexual) assault of two altar boys and stood down.

The Age put several questions to the Catholic Archdiocese and CEO about why they did not act against Searson despite receiving complaint after complaint.

Independent Commissioner Peter O'Callaghan noted in 2004 how surprised he was that Searson was left so long as a parish priest, "producing ill will, frustration and concern to school and parish staff, fellow priests and parishioners".

A spokesman for the archdiocese replied that Searson was an eccentric and difficult person, but until a formal complaint in 1997 there was no evidence on which the church could act.

"Searson's conduct was examined from time to time, but nothing firm could be established under the processes that were then in place."

Searson was warned about behavioural issues, but the church did not know of his sexual misconduct.

The archdiocese says it would have acted had it known about the Indian girl living with Searson, and when it found out about his gun it demanded he surrender it to police.

Similarly, the CEO says it would have acted had it known about the stolen \$40,000.

Sleeman says that given he informed authorities about both episodes, he finds this ignorance hard to explain.

Sleeman, like many victims, suspects that the archdiocese did not find evidence because it was disinclined to look too hard. At the least, they knew he was not the pastorally sensitive priest Holy Family needed.

Similarly, the CEO says it gave "regular and considerable support" to Sleeman, but did not identify a single example. Nor could Sleeman.

Both Graeme Sleeman and Carmel Rafferty plan to make submissions to the inquiry into the church's handling of sex abuse now being conducted by a parliamentary committee. Submissions close on September 21.

This story was found at: <http://www.theage.com.au/victoria/the-price-of-battling-paedophilia-20120916-2606z.html>



An unbearable secret

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TONY Hersbach was 42 when he told his wife that the man who married them and played grandfather to their children had regularly molested him during his youth. Lu Hersbach's reaction to this bombshell was disbelief. The priest whom her husband had accused of despicable acts had been a dominant influence in their lives ever since he married them as 19-year-old sweethearts.

Over the next 24 years Father Victor Gabriel Rubeo would dine with them on Sunday nights, accompany them on holidays and attend their children's birthday parties. He opened their mail and entered their bedroom unannounced.

"The man was so entrenched in our family that when I was told ... [it was like] someone really close to you has died. You have this sense of disbelief and I guess I hung on to this sense of disbelief for as long as I could," Lu Hersbach says.

In contrast to his wife's disbelief, Hersbach felt immense shame for having exposed their four children to a man he knew to be a paedophile.

"It staggers me now even to think that I allowed Rubeo to stay in my life. I know he had control over me but I still feel a lot of guilt and shame that I didn't protect my children," Hersbach, 59, says.

Rubeo had abused Hersbach from when he was 11 years old until he was 18 at a house in Laverton in Melbourne's west during the mid to late 1960s. Although the physical abuse ended when Hersbach was 18, Rubeo's psychological hold over him continued until the younger man found the courage to confront the then 61-year-old priest in April 1994.

But if Hersbach expected contrition from Rubeo, he got the opposite. "He just totally minimised it and said, 'What are you worried about, something that happened in the past', and it is not such a big deal."

Soon after this confrontation, Hersbach told his wife about the abuse and reported Rubeo to the Melbourne archdiocese.

As revealed by *The Age* today, the archdiocese's response to Hersbach's complaint was extraordinary. A priest, Father Frank Klep, who had just been charged with - and would later be convicted of - child sex abuse, was permitted by the archdiocese to be Rubeo's spiritual director.

Rubeo, who did not deny Hersbach's allegations of abuse when confronted by senior church figures, was allowed to continue as pastor at the Boronia parish in Melbourne's outer east. His parishioners were not told about his alleged offences. Nor was Victoria Police.

Hersbach's story encapsulates the range of experiences felt by many clergy abuse victims. It reveals a concerted effort by the church to harbour a paedophile priest. Indeed, the church's silence exposed children in Catholic communities unaware of Rubeo's history to a paedophile until December last year, when Rubeo died with 30 fresh abuse charges hanging over him.

Despite having met Melbourne archbishops George Pell and Denis Hart to discuss Rubeo's acts and his desire for pastoral care, Hersbach remains bitterly disappointed by the archdiocese's handling of his case.

"Despite all of this, I have still got a deep spiritual hunger but I probably don't look to the church or organised religion any more," Hersbach says, adding that not once in the 18 years since he reported Rubeo has anyone from the archdiocese inquired about his welfare.

"I think there is a real sense of abandonment by the church in that regard," he says.

HERSBACH first met Rubeo when he was in grade 5 at St Mary's Catholic School in Railway Street in Altona. The son of Dutch migrants, Hersbach had a tough, working-class upbringing in a housing commission estate in Laverton. His father had been deeply affected by his experiences in World War II and would often drown his problems in alcohol. His mother, a devout Catholic, missed her family in Europe.

Rubeo was a charismatic priest in his early 30s who would tell jokes and play footy with local kids. He came to Hersbach's school seeking volunteers to become altar boys to assist with Mass. Hersbach and his twin brother Will put up their hands.

Rubeo also ran a youth club each Friday night in a small hall near a temporary church in Laverton, not far from Hersbach's home. The priest would soon become a welcome visitor to Hersbach's house, helping the twin brothers with their homework.

In 1964, Rubeo told Hersbach that he was going to buy a house in Laverton so he could be closer to him. Hersbach was 10 or 11 years old. Months later, Rubeo bought a house in Ulm Street, Laverton, just doors away from Hersbach. "It was about this time that Rubeo suggested that I do my homework at his house as it was a lot quieter," Hersbach told police in a 2011 sworn statement.

Hersbach's first inkling that Rubeo was sexually interested in boys came when he was 11 or 12. After the Friday night youth club, Rubeo invited a small group of boys back to his home.

"I remember that Rubeo gave us cigarettes and beer," Hersbach told police. "I remember that Rubeo would encourage us to swear at each other, he would laugh at us. I remember that he would tell us dirty jokes and then laugh at us ... he suggested we play the Strip Jack Naked game."

The boys and Rubeo stripped off their clothing one piece at a time until all were left in their underwear. Things went no further and the boys got dressed and went home.

But Rubeo's behaviour would soon become more disturbing. Hersbach was in grade 6 when Rubeo first touched him sexually. His parents had begun to let him stay overnight at the priest's house. Nothing untoward happened on the first few sleepovers, but one night everything changed.

"When I went to bed I was wearing pyjamas ... at some stage during the night ... I woke up to find Rubeo lying in the single bed under the covers with me. When I woke I felt Rubeo put his hand on my penis ... I remember that he was rubbing my penis and testicles with his hand," Hersbach told police.

"He grabbed my hand with his other hand and put it on his erect penis. My hand was directly on his penis, he moved my hand up and down with his hand ... I didn't speak and I was pretending that I was asleep.

"I remember the next morning nothing was said. Rubeo didn't acknowledge that anything had happened. I didn't say anything because I felt bad, I was ashamed and I didn't know what to think."

This scenario was repeated frequently as Hersbach progressed through his teenage years. He and Rubeo were frequent visitors to a prestigious restaurant in Lonsdale Street called the The Latin. Rubeo would always order oysters and then go on to a pasta dish. Upon returning to Rubeo's house, the priest would fetch bottles of liqueurs and pour shots of Drambuie, Cointreau and Dom Benedictine for the 15-year-old student.

After the drinks, what Hersbach describes as "the ritual" would occur. "I remember that we were both sitting on chairs and we began to take our own clothes off .. it seemed as though the alcohol was the trigger."

Sometimes the pair would have intimate dinners at Rubeo's house on a Saturday night. The table would be set with a white tablecloth, fine china and wine glasses.

"On reflection, I see he was almost having a date with me," Hersbach recalls. "I hated that stuff going on, I really did. But after a while I probably initiated it at times. No words were ever spoken during any of it and I could never look at his face."

Perhaps Hersbach's most painful memory is not one of abuse but of Rubeo's early attempts to exercise control over his life by masquerading in public as his father.

Hersbach was a talented junior footballer playing with the Footscray under-19s in the Victorian Football League. With his father working most Saturdays, it was Rubeo who would accompany Hersbach to his games.

"He didn't wear his priestly garb, he just wore civilian clothes and everyone thought he was my father," he says.

One day Hersbach's father did turn up and was standing in the outer when a team official noticed him. In front of teammates who all believed Rubeo was his father, the official pointed out Hersbach's actual dad in the outer.

"I wanted to find a hole to crawl into because here was this priest masquerading as my dad. A true priest would have gone out there and brought him [dad] in and told the truth about who he was."

Rubeo said nothing and let Hersbach drown in his own embarrassment.

THE process that led to Hersbach meeting Gerald Cudmore, the Melbourne archdiocese's vicar-general, in August 1994 was hellish and drawn-out. The "big huge secret weighing me down" had caused Hersbach, by then a popular school teacher, to suffer serious bouts of depression and occasional outbursts in the classroom.

File notes held by the archdiocese show that Cudmore (now deceased) asked Rubeo about Hersbach's claim and that Rubeo did not deny it. Told that Hersbach, at that point, did not wish to press charges, Rubeo admitted he had also abused Hersbach's twin brother during the same period in the 1960s. Neither boy knew the other had been abused until much later in life. Rubeo also hinted at another victim in a different area of Melbourne.

The notes show Rubeo offered to resign. But his offer was not accepted and he continued to work in the parish in Boronia, with parishioners unaware of his criminal admissions to Cudmore. Astonishingly, Cudmore oversaw the appointment of Father Francis Klep as spiritual director to Rubeo in September 1994. At that time Klep was facing charges of child molestation and was convicted months later. However, his counselling role to Rubeo continued.

Although Rubeo and Hersbach were both provided with counselling by the church, no disciplinary action was taken against the priest. Nor were police contacted by the archdiocese. A spokesman for the archdiocese admits the response, viewed by today's standards, was inadequate.

HERSBACH is confident that Rubeo would have gone on working with unknowing parishioners if it were not for police receiving a sexual abuse complaint about the priest from an adult woman in 1996.

Although he denied the woman's claim, Rubeo admitted to police a few instances of abusing the Hersbach brothers. As a result he was charged with two counts of indecent assault and pleaded guilty in October 1996. This represented a fraction of his sustained abuse of the Hersbach twins. Rubeo was given a two-year good behaviour bond.

This time, the church accepted Rubeo's resignation. But it still did not tell his Boronia parishioners of his criminal acts. They found out only when a small article appeared in a Melbourne newspaper six months after his guilty plea. After the newspaper story appeared, the then parish priest wrote to two associated schools to inform them of Rubeo's court outcome.

Rubeo retired with full benefits from the archdiocese's superannuation fund and moved to Portarlington on the Bellarine Peninsula. There is no evidence to suggest the Catholic community in the area was told of Rubeo's past. However, an archdiocese spokesman says "details of his convictions had received media coverage".

Last year, detectives from the Knox police sexual offences unit travelled to Portarlington to lay 30 fresh abuse charges against Rubeo after taking several statements from the Hersbach brothers.

Hersbach said he was told by one of the detectives that when they arrived they found Rubeo alone in his house with a 10-year-old boy. There was nothing to suggest the boy was being mistreated, but the thought of the boy alone with Rubeo horrifies Hersbach.

"Whether he was being abused or not I'll never know, but I strongly suspect he groomed that family in the same way."

On December 16 last year, Rubeo was to face a committal hearing in the Melbourne Magistrates Court on the 30 new abuse charges. It was a day for which Hersbach had waited more than 40 years. "Finally, the truth about Rubeo would come out ... but the rug was pulled out from under our feet again," he says.

At 10am on that day, a detective called Hersbach to tell him that Rubeo had died hours earlier from natural causes, aged 78.

A few days later, one of Hersbach's children rang the Melbourne archdiocese to find out about Rubeo's funeral arrangements. Those details were never provided to the Hersbach family and no death notice for Rubeo appeared in any Victorian newspaper.

The impact of Rubeo's abuse on Tony Hersbach has been immense. It has caused him severe mental health problems and cost him two successful professional careers and relationships with friends still connected to the church.

"It's been heartbreaking to see how it has affected him," Lu Hersbach says. "The church needs to take full responsibility for what happened instead of duck-shoving it."

The archdiocese spokesman says Hersbach has been offered and received support through the Catholic Carelink agency. He says Hersbach is welcome to contact the archdiocese to obtain further pastoral care.

Despite decades of secrecy and anguish, Hersbach has survived when many others who have experienced similar abuse have not.

He says he was moved to tell his story publicly when he saw the photographs of victims of clergy abuse who had taken their own lives on the front page of *The Age* last April. "I know if it wasn't for Lu and the kids I could be one of them," he says.

Hersbach's advice to others who have suffered in silence is to do what he could not and talk to someone as soon as possible. "The hardest part is to not keep it secret."

Richard Baker and Nick Mckenzie are investigative journalists.

This story was found at: <http://www.theage.com.au/national/an-unbearable-secret-20120605-1zu9b.html>

**BEST PRACTICE IN HELPING PEOPLE EXPOSED TO BAD EVENTS
A PERSPECTIVE ON PSYCHOLOGISTS FOR CONSUMERS**

**Mr Neil Woodger
Clinical Psychologist in Private Practice**

This document was distributed as a handout for attendees at information forums on the Victorian Government Inquiry 2012. It does not constitute a thorough discussion of the issues of trauma treatment. Forums were supported by the Melbourne Victims Collective and other organisations and practitioners, including Mr Neil Woodger, presenter and author.

1. Best practice in trauma work has been identified for helping professionals. The term "best practice" indicates that there is a right way for professionals to proceed. The best practice guidelines point to what skills and competencies are necessary for the mental health treatment of people exposed to bad events, and how to apply them in order to be effective.
2. Trauma work has become "popular" over the past twenty years or more, and can be influenced by commercial considerations in a private practice setting. The term "trauma" is over used, and makes identification of the condition Post Traumatic Stress Disorder more difficult through over-diagnosis after many years of its being the opposite, a neglected concept.
3. It is important not to trust that every mental health professional is thoroughly competent to treat PTSD. Psychologists are no exception. One recent research study asked psychologists to rate their own competency in treating PTSD, followed by a knowledge test based on best practice criteria. The results were not encouraging as many psychologists over estimated their own competence.
4. Consumers can benefit from a better understanding of psychologists and their qualifications. Two years ago the newly formed Psychology Board of Australia set up new rules and standards. The Board, amongst many other things, wanted to control the use of the title "clinical psychologist" in order to protect the public. It specified the qualifications and experience necessary in order to obtain this credential.
5. People with chronic trauma, especially through exposure in childhood, often suffer serious consequences. All mental health professionals offering to provide services to people with a trauma history need to be able to demonstrate a range of skills based on a proper understanding of the scientific literature.

6. Clinical psychologists have to be endorsed by the Psychology Board, and are trained to assist people with problems ranging from less severe to the very severe. They are expected to grasp how various aspects of a person's problem interact with each other. In technical terms, they are expected to understand the notion of co-morbidity (several problems/conditions occurring together), and making the often difficult decision about where to begin.
7. The above comments are not meant to imply that psychologists who are not endorsed as clinical psychologists are necessarily ill prepared or unable to respond positively to trauma and its consequences. Some have made a special study of trauma over many years and have good reputations.
8. The basic message I want to convey is encouragement to assert yourselves as consumers of health services with special needs. Most of us have not been brought up to question our health providers of any sort, so we often feel inhibited.
9. I have often noted that people with a history of treatment failure come to see themselves as "hopeless cases with intractable problems". This belief is always deserving of thorough examination, perhaps through new eyes. Seeking a second opinion is common and acceptable practice in medicine. It certainly applies in the often very uncertain area of mental health.

SOME RECOMMENDATIONS

1. Familiarise yourself with the different names for mental health practitioners. The titles "Counsellor" and "Psychotherapist" are not controlled by any registration process. The title "Clinical Psychologist" offers good, basic protection (but see Point 7 above for a qualification).
2. Give yourself the right to ask questions of any professional you are seeing for the first time, or planning to see. Try:
 - "Do you have any endorsement from the Psychology Board?"
 - How many people with trauma problems have you seen?
 - Have you done any research in the area of trauma?
 - How can I be sure that you are familiar with best practice guidelines such as those put out by the Australian Centre for Post Traumatic Mental Health?"

Neil Woodger
Clinical Psychologist in Private Practice
October 2012

PRINCIPLES FOR ADVOCATING JUSTICE AND HEALING

Survivors of clergy and church abuse need to:

- Be believed and supported in their beliefs as individuals, networks, members of families and communities
- Be treated with honesty, respect, sensitivity and understanding
- Belong to a broader collective of survivors and professional supporters advocating for reform of victims’ care, recovery, restitution and community policing processes
- Benefit from expert medical, psychological, and complementary health care as well as welfare systems that to improve quality of life
- Be supported through pastoral counsel and care that spiritually affirms and assists the survivor, their family and community with issues that stem from clergy assault
- Access systemic advocacy information to enable an understanding of appropriate pathways and further options for recovery and restitution
- Receive independent legal representation, advocacy and support throughout criminal, civil processes and negotiations
- Receive individual advocacy and support to undertake professional statutory bodies complaints regarding breeches of professional conduct and ethical codes
- Be provided with restorative justice processes to support recognition of clergy assault harms, understanding of harms of clergy assault and empowerment for healing of survivors with their supporters, families and communities
- Participate in ongoing education and restorative forums with professional and community leadership to benefit from information and resources improving the safety and well being of all

Briefing on The Melbourne Response - 2010

The Melbourne Response System of the Catholic Church has directly been appraised by survivors experiencing the following systemic problems. This appraisal highlights the need for an urgent State-Led, Independent, Statutory Inquiry into The Melbourne Response.

This State-Led, Independent, Statutory Inquiry must also include the Towards Healing procedures for Clergy Abuse Complainants, set up by the Catholic Church to cover the whole of Victoria, outside the jurisdiction of the Melbourne Archdiocese.

This material is in no way complete and is supported and underpinned by personal victim/witness accounts and statements.

Briefing:

The Melbourne Response is not an investigation; it is an enquiry process that is only run in the Melbourne Archdiocese and not the rest of Australia. There is a separate system administered for the rest of Australia and it is named Towards Healing.

Victims and professionals have experienced *The Melbourne Response* being conducted along the following lines:

- Mr. Peter O'Callaghan, a Barrister contracted by the Melbourne Archdiocese solicitors, will hear a complaint from a victim and purports to electronically records the entire conversation. He purports to at this time encourage the victim to go to the Police. He asks the victim to sign a form acknowledging that at this time they do not want to go to the police. He will then make some notes of the complaint, informs the alleged offender of the complaint, hears his response to the allegation and in most cases establishes the complainant is a victim and then recommends the matter be compensated by a separate panel. This happens usually over a very short space of time. (The details of how the Commissioner conducts this initial contact are available on the Catholic Melbourne Archdiocese web site.)
- There is no investigation, preservation of evidence or interviews conducted of corroborating witnesses. The enquiry is ad hoc, conducted largely on the telephone and usually is abandoned once it becomes apparent that the victim has established the likelihood of contact with the offender at same time alleged. The threshold of proof is very low.
- This supports the proposition that *The Melbourne Response* is only a reputational risk management tool where victims are paid quickly and are silenced.
- The matter then goes to ex gratia payment hearing by a panel where the amount of money up to \$75,000 can be awarded only to primary victims. Although not in its charter some secondary victims have been awarded payment or expenses above the \$75000 ceiling by Mr O'Callaghan alone. The victim must then indemnify the church, archbishops past and present, the alleged offender, and the Roman Catholic Trust Corporation from any other claim related to this alleged offence. No transparent documentation on how the amount for payment is reached, no review available or appeal process is in place for the complainant.
- Carelink is the church run psychological and emotional support network and provides a service. Victims experience arbitrary and unclear responses to their psychological needs for

confidentiality, safety, and mental health, consumer status and rights. Complaints to the psychology board have been investigated in regard to conduct by the Coordinator, Ms. Susan Sharkey.

Impediments to a Police Investigation and Protection of the Public

The Melbourne Response process has significantly impeded police criminal investigations.

- The initial interview by Mr O'Callaghan may prove to be problematic as his notes do not fully record a victim's account of the sexual assault. Mr O'Callaghan is untrained in the area of taking legally admissible statements from victims of sexual crime. The system pays no attention to a complete or detailed account of the abuse and frequently the number, seriousness and context of offending is lost. The sparse and incomplete accounts have provided offender's legal counsel with a fertile field for cross examination on the basis of a prior inconsistent statement.
- The informing of suspects of the existence and nature of the complaint has caused the loss or destruction of evidence.
- Comments made by Mr O'Callaghan have also been proved to be ill informed and speculative encouraging one victim to stay in *The Melbourne Response* system instead of going to the police. He also deemed that certain touching could not be construed as sexual and would not be deemed by a court to be a criminal offence. (Nick McKenzie 2010)
- With sexual abuse comes damage and many abused persons suffer psychological trauma, emotional, personality disorder and drug or alcohol dependence. These people also have poverty and welfare needs that often translate into a dependant and coercive relationship with *The Melbourne Response* which clouds their judgment when it comes to exercising their rights. These people need careful and well trained professionals to deal with these disclosures.
- Assistance provided often falls outside the policies and processes set down by *The Melbourne Response*. This inconsistency and lack of transparency leads to confusion and a lack of trust from those advocates and legal practitioners attempting to gain appropriate justice and recovery for the victims.
- Mr. O'Callaghan's terms of appointment state that he 'may' report criminal offending directly to the police. In 16 years he has not reported to police serious and serial sexual crimes known to him to have been committed by church people.
- The encouragement of victims to stay with *The Melbourne Response* instead of going to the police results in the protection of rapists and paedophiles from criminal prosecution and exposure of these criminals to further victims when they are recycled or allowed to have further contact with the community.
- Mr O'Callaghan was appointed by Archbishop George Pell in 1996 in accordance with Canon 171 of the Code of Canon Law. This appointment continues under the present Archbishop of Melbourne, Denis Hart. Mr O'Callaghan is the "delegate" of the Archbishop appointed to "investigate matters pertaining to professional misconduct and sexual abuse alleged on the

part of priests, religious and lay workers... who were under the control of the Archbishop of Melbourne." (Attachment 15: Canon Law Appointment of Commissioner of Melbourne Archdiocese, 29 October 1996) In accordance with Canon 1717, if the alleged offender denies the allegations, Mr O'Callaghan advises the victim that he is appointed to call the alleged offender into a "hearing" which Mr O'Callaghan conducts with the assistance of Counsel. The alleged offender may be represented by a solicitor and a barrister, funded by church sources, however legal costs for the victim to have independent legal representation are not provided. The hearings may continue over many days with strenuous examination of the victim in the presence of the alleged offender. No professional advocate or psychological support professional is provided for the victim. Mr O'Callaghan's findings are based on the grounds of probability. Some victims' complaints are established through this process, or rejected. Victims' allegations put to the hearings have included serious child sexual assaults of a number of children in a Catholic Primary School by two perpetrators – a man (a priest) and a nun who was returned to her religious order.

- There is no investigation undertaken by Mr. O'Callaghan in relation to who may have assisted the offender to remain undetected, or into other inappropriate supportive co-conspirators or accessories to these crimes.
- There is no investigation plan to detect where the tentacles of the offender may have reached or who else sanctioned by the church needs investigating. If the protection of these criminals extends to those who provide comfort or those who impede the prosecution, apprehension or conviction of a person known to have committed a serious indictable offence, that person is liable to prosecution for that offence. (Section 325 Crimes Act¹)
- There is no official profiling of clerical parish offenders, no intervention to help parishes, no locating of other potential victims or co offenders and certainly no learning from the offending. By 'learning' we mean exploring the structures that have enabled this criminal activity to occur and to go undetected. There has been no recognition of the blockers and enablers and identification of processes and policy to mitigate the risk of reoccurrence.
- There is no recommendation for improved policy and accountability around reporting and recording of complaints by the Commissioners Office, yet these materials deal with criminal behaviours by clergy of the Melbourne Archdiocese and others and may be seen as concealing of these materials.
- There is no commitment to open education or training for church people to recognise danger signs, or mitigate the risks of this occurring. (May Our Children Flourish 2011 Document put out by the Archdiocese for parishes and schools is seriously inadequate.)
- There does not appear to be any opportunity to recognise the difficulties of celibacy of clergy or opportunity for supervision from trained people to assist in dealing with this. Sexuality is not dealt with holistically or healthily and with its suppression under the current hierarchy this only serves to silence sexual violence.

¹ Where a person (in this section called the principal offender) has committed a serious indictable offence (in this section called the principal offence), any other person who, knowing or believing a principal offender to be guilty of the principal offence or some other serious indictable offence, without lawful authority or reasonable excuse does any act with the purpose of impeding the apprehension, prosecution, conviction or punishment of the principal offender shall be guilty of an indictable offence (Crimes Act Section 325).

- There is no appropriate ongoing mentoring of clergy or those in positional power.
- The courts when dealing with police charged offenders can impose a range of penalties on the offender, including imprisonment and registration under the Sex Offenders Registration act which forces convicted sex offenders to report their whereabouts and living circumstances to the police for periods of 5 years to life. These conditions can help ensure the offender does not reoffend.
- Police have the power to instruct the courts to also seize property or assets, under the Sentencing Act, from the offender and redistribute them to the victims. Under the Asset Confiscation Act anything used in connection with the offence can also be seized under the act, including vehicles, property and houses.
- The process of a police investigation under the Statutes and Laws of Victoria offers protection and compensation to victims and punishment and supervision of offenders.
- It is through the police and courts that administration of justice is done with independent and sworn officers of the court and this process has no allegiance to any persons or organisations.
- It is the responsibility of the state to prosecute crimes and not for the church to put itself outside the reach of the law.

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13th December 2011

Dear Sir,

We are members of the Melbourne Victims' Collective, a group which advocates for the rights of clergy abuse victims. As you are aware, the Catholic Church around the world has come under increasing scrutiny for covering up and protecting criminal behaviours committed by clergy and lay workers in the Church.

Our Collective cases provide evidence that this behaviour has also been operating in the Melbourne Archdiocese over many years and has continued since 1996 with the introduction of the “Melbourne Response” administrated by the Church appointed Commissioner, Peter O’Callaghan QC.

We are currently assisting your officers from the Victoria Police Sexual Crimes Squad with details of alleged networks of sexual abusers and systemic cover up involving the Salesian order, but also illuminating significant offences and systemic defences within the Melbourne Archdiocese.

Outside these processes and with deep concern for the safety of children, we wish to bring to your urgent attention details of the Melbourne Catholic Archdiocese “Code of Conduct for Caring for Children” recently released on their website. This prescriptive document applies to all those who work or volunteer to work with children in all parish activities or Catholic agencies within the Archdiocese, which covers a large population mass in Victoria.

We have reviewed the ‘Code’ and its attachments and believe that this ‘new’ system continues to divert victims from reporting crime and criminals to the police. It’s confusing and disjointed approach does little to establish safeguards for children who may be, or may have been, the subject of criminal sexual assault. We fear that the code itself is breaching the law, namely section 325 of the Crimes Act which provides the offence of being an accessory to the commission of a serious indictable offence. We also fear that those in the Melbourne Church following this code will ignore their legal obligations to not impede the apprehension, conviction or prosecution of a person known or believed to have committed a serious indictable offence.

The 'Code', as a direction from the highest leaders of the Melbourne Church to its people, strongly encourages those working with children to report serious criminal behaviour, not to Victoria Police, but directly to an internal system within the church. This system (The Melbourne Response) for the past 16 years has failed to report any serious sexual crimes, has not actively encouraged police interventions, has corralled victims and coerced them towards a civil ex-gratia / compensation system that effectively and legally silences victims. This internal process has jeopardised successful criminal prosecutions.

In the past the administrators of the Melbourne Response have by their actions, obliterated evidence; protected clergy offenders by providing explicit details of allegations made; downplayed the criminality of complaints; failed to protect victims from further abuse or victimisation; failed to monitor or supervise offenders and failed to protect and rehabilitate parish communities where the abuses have occurred.

Although not named in the 'Code', the type of crimes that may be reported internally to Melbourne Response administrators, as we know from the past, covers a continuum of sexual assault including penetrative offending, whether current or historical, internet related crime such as soliciting children for sexual purpose, child pornography, bodily assaults, threats to kill or injure and stalking. Intergenerational grooming with sexual assaults has been reported, also children assaulted as groups with group offenders.

The Melbourne Archdiocese, with the Catholic Church across the world, has an appalling record of dealing with clergy offenders and, as a result, known offenders continue to have unimpeded access to vulnerable children and adults in the church and wider communities.

The 'Code' has 110 paragraphs and over 6000 words of prescriptive processes but there is minimal reference or direction to police reporting. It is also unclear as to who makes the judgements with regard to reporting to police and what their qualifications and expertise may be. As we understand it, these will be the same administrators who have failed to act on recognising and reporting serious crimes in the past.

The 'Code' states that reporting may occur if the behaviour reported "*is or might be criminal*" (p.37). In the Flow Chart document there is no reference within the system for reports to police and, in fact, it puts the onus back onto the complainant. This statement is outside the flowchart and simply says, "*Nothing in this document affects the right of any person to report a matter to police or other authorities.*" This statement implies that victims or concerned others would need to opt out of the church process to get the police involved, thereby jeopardising the 'benefits' offered to victims by the Church including counselling payments, support and monetary assistance and the Church ex-gratia/compensation payment.

As you are aware, the Attorney General is inquiring into the Melbourne Response, and we have briefed him and the police minister of our concerns prior to the recent release of the Archdiocese's *Code of Conduct*. We have also provided a detailed submission to Justice Cummins, the chair of the Vulnerable Children's Inquiry. You may also be aware that it has been widely and publicly reported that a public inquiry is strongly sought into this organisation and its systemic protection of criminal behaviour.

We are aware that police in the past have pursued others in organisations acting with impunity and we believe the same scrutiny should be applied to the Catholic Church in Victoria particularly its' Melbourne Response. To encourage under-reporting is to support continued offending which further endangers vulnerable members of the community.

The Melbourne Victims' Collective, with members of the wider community, recognises it is the State's responsibility with the police, as the only appropriate professional body, to investigate serious criminality and we urge you to show leadership on this important issue. We would be happy to meet with you to discuss these matters further.

Yours sincerely

Helen Last and Pam Krstic : Spokespersons Melbourne Victims' Collective

Societas Perfecta

Societas Perfecta ("Perfect Society" or "Perfect Community") is the name given to one of several political philosophies of the Roman Catholic Church in the fields of ecclesiology and canon law.

The doctrine teaches that the Church is a self-sufficient or independent group which already has all the necessary resources and conditions to achieve its overall goal of universal salvation of mankind. It has historically been used in order to best define Church-State relations.

Its origins can be traced to the writings of Aristotle, who described the *Polis* as an amalgamation of several urban communities. The idea of "perfect community" was also present in medieval philosophy. In direct reference to Aristotle, Thomas Aquinas mentions the State ("civitas"^[1]) as a perfect community ("Communitas perfecta").^[2]

During Enlightenment period, the Societas Perfecta doctrine was strongly affirmed in order to better protect the Church from secular encroachments. It was also mentioned in the Magisterium of Pope Pius IX. And especially Leo XIII, in his encyclical *Immortale Dei*, explains this teaching in relation to the Church:

[...] It is a perfect society of its own kind and their own right, since it everything for their existence and their effectiveness is necessary, in accordance with the will and power of the grace of their Founder in and of itself owns. 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.^[3]

The two perfect societies correspond to two forces, the Church and State:

The one responsible for the care of the divine dimension, the other for the human. Each one is in the highest of its kind: each has certain limits within which it moves, borders that emerged from the nature and purpose of each of the next two forces showed.^[4]

Until the Second Vatican Council, the doctrine of the two perfect societies of Leo XIII was held to be official in theological studies. During the Council itself, as well as in the new code of Canon law, the doctrine is no longer explicitly mentioned. In the modern Catholic post-conciliar theology, it hardly has any role at all. Its abandonment was somewhat controversial.

In any event, Pope Paul VI mentioned it and summarized it in the 1969 *motu proprio Sollicitudo omnium ecclesiarum* on the tasks of the papal legate :

It cannot be disputed that the duties of Church and State belong to different orders. Church and state are in their own area perfect societies. That means: They have their own legal system and all necessary resources. They are also, within their respective jurisdiction, entitled to apply its laws. On the other hand, it must not be overlooked that they are both aiming at a similar welfare, namely that the people of God is to obtain eternal salvation.^[5]

References

1. The translation of "civitas" with "state" at this point, see Aroney, Nicholas, "Subsidiarity, Federalism and the Best Constitution : Thomas Aquinas on City, Province and Empire. "Law and Philosophy, Vol 26, pp. 161-228, 2007
2. Summa I-II q 90 a 3
3. Leo XIII.: Circular "Immortale Dei" in: Human and Community Christlicher review, Freiburg (Switzerland) 1945, p. 571-602, paragraph 852
4. Ibid Paragraph 857
5. Quoted from Listl, Church and State, p. 227

Sources

- Ernst-Wolfgang Böckenförde, State - Society - The Church, in: Writings on the State - Society - Church III, Freiburg 1990, p. 113-211
- Joseph Listl, Church and State in the recent Catholic Church Law, Berlin 1978

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Categories:

- Ecclesiology

AN ACTIVE COLLECTIVE – OUR VISION FOR REFORM

As part of its MOU, the MVC has been active in advocating for the reform of church processes for dealing with victims of clergy sexual assault. In November 2011, the MVC authored Ten Commandments which it believes *The Melbourne Response* should implement.

Ten Commandments for the Church to Follow

To ensure safety, uphold justice, and begin reconciliation and community healing in recognition of a history of abuse within the Melbourne Archdiocese of the church, the church shall:

1. Take pastoral responsibility and demonstrate contrition for past abuses and express conviction towards positive change
2. Acknowledge best interests of the child and the vulnerable to be of principal importance
3. Work with clergy survivors, support professionals, and police to encourage police reporting, and provide survivor care and eventual just compensation
4. Demonstrate importance of supporting survivors, families, schools and communities by allocating substantial financial resources toward a comprehensive response to abuse
5. Develop and train a range of professionals to provide wide-ranging pastoral care and mental health services
6. Provide appropriate treatment and monitoring for alleged offenders by working with police and forensic professionals
7. Laicise and remove offenders to promote safety and rebuild community trust
8. Prevent future abuse through education; clergy, religious and employee screening in consultation with professionals, police, survivors and government; and research
9. Cooperate with criminal investigations of abuse, and act as a model litigant in civil cases
10. Recognise the experiences of survivors and build credibility through reviewing current and past cases for the purposes of healing, justice and reform

Melbourne Victims Collective, April 2011