

TRANSCRIPT

FAMILY AND COMMUNITY DEVELOPMENT COMMITTEE

Inquiry into the handling of child abuse by religious and other organisations

Melbourne — 10 December 2012

Members

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Witnesses

Mr M. Waks, and
Mr Z. Waks.

The CHAIR — Good afternoon. Before we commence I will just run through a few housekeeping matters. In accordance with the guidelines of the hearings, I remind members of the public gallery that they cannot participate in any way in the committee’s proceedings. Only officers of the Family and Community Development Committee secretariat are to approach committee members. Members of the media are also requested to observe the media guidelines. Could you all please now ensure that your mobile phones are turned off.

I welcome Mr Manny Waks and Mr Zephaniah Waks here this afternoon. On behalf of the committee, we appreciate you being before us and your willingness to appear before this hearing.

All evidence taken by this committee is taken under the provisions of the Parliamentary Committees Act, attracts parliamentary privilege and is protected from judicial review. Any comments made outside the precincts of the hearings are not protected by parliamentary privilege. This hearing today is being recorded, and you will be provided with a proof version of the transcript. Following your presentation the committee members will ask questions relating to your submission and the evidence provided today. We again thank you very much for being before us this afternoon. Thank you.

Mr M. WAKS — Thank you. I would like to open my statement by sincerely thanking the Victorian government for taking this bold initiative in launching this inquiry. There is no doubt in my mind that this inquiry played an instrumental part in the ultimate decision by the Prime Minister to launch the royal commission. For this achievement you should all be proud.

I am here today not only as a Jew or victim of child sexual abuse within the ultra-Orthodox Jewish community but also representing many other victims within the broader Melbourne Jewish community. This is an incredible opportunity for us victims — incredibly empowering. Frankly we never thought this day would come.

Since our joint written submission in September there have been some major developments relating to the Jewish community. No doubt you would be aware of some of them. Before I get to the specifics, I want to reiterate broadly what we have previously highlighted in our written submission — that there is overwhelming evidence that the level of child sexual abuse within the Jewish community and the appalling way in which it is being mishandled, including through credible allegations of ongoing cover-ups, may be described as being nothing short of endemic.

[In accordance with the procedures observed by Parliamentary Committees when dealing with witnesses, as stated in the *Guidelines for the Rights and Responsibilities of Witnesses*, a section has been expunged from this place in the transcript – future reference to ‘text expunged’].

Now to the specifics. First the bad news. Since our written submission there have been additional serious allegations of child sexual abuse within the Jewish community. Worse, in all of these cases — including the new cases — those in positions of authority attempted to cover up these crimes against innocent children. While only some of these allegations have been made public, as the only Australian-based victim who has gone public about my abuse, I am often contacted by victims or their families asking for advice or support. These discussions have revealed a great deal — that the abuse has been endemic within our community, and the cover-ups have been the consistent response. Make no mistake about this!

Recent revelations indicate that both the abuse and cover-ups have occurred in various institutions and are not restricted to a particular segment of the Jewish community. I feel obliged to share with you some of the allegations that have recently come to my attention. My understanding is that the police have been made aware of some of these — or most of these — allegations. I will not mention any names here, but would be happy to provide them to the committee if this is appropriate.

These include a 36-year-old male who was alleged to have sexually abused a number of children within the Yeshivah community over the past few years. My understanding is that as soon as he heard that he was under police investigation he fled the country and is now in Israel, apparently receiving psychiatric treatment. Coincidentally it is alleged that the accused was himself repeatedly sexually abused as a child by a family member. This family member is currently married with children and an active member of the Sydney Jewish community.

The next one: an older gentleman was alleged to have sexually abused at least one child when they were aged 5 years old to 12 years old. The abuse is alleged to have occurred between around 1994 and 2000 within the ultra-Orthodox community, but not Yeshivah. According to the victim, who I spoke to directly, their family was ultimately forced to leave Melbourne mainly as a result of the pressure by the rabbis who were informed of these allegations. Apparently a police statement was made by this victim in 2007. The perpetrator is still roaming freely within the Melbourne Jewish community, and until fairly recently has held at least one senior position within our community.

Next case: a male around 30 years old is alleged to have sexually abused at least one 13-year-old child within the Yeshivah community. The abuse is alleged to have occurred around three years ago. Apparently the police are aware of this case, but at this stage the young victim refuses to make a formal statement as they are concerned with the possible ramifications against him as a result of going to the police.

Another case: there is also the case that I referred to in our written submission where a young member of the ultra-Orthodox community last year apparently pleaded guilty and was convicted of multiple counts of sexual assault and related charges against several minors. **[text expunged, see page 1].**

I have also received a number of allegations regarding instances of abuse and cover-ups within the Sydney and Perth Jewish communities.

The last case: most devastatingly, over the past few days I have been informed of a possible link between an alleged incident of child sexual abuse at Yeshivah and a subsequent suicide. I must emphasise that this has just been brought to my attention, and I intend to follow this up in due course. While this is still unconfirmed, it would be naive to think that suicides due to child sexual abuse would not have occurred within our community as well, just as it does in all other segments of society.

[text expunged, see page 1].

Since the reports of abuse were revealed in September 2000 **[text expunged, see page 1]**, nobody from the organisation has ever contacted any of the victims, or anyone involved with him. The issue was swept under the proverbial rug, and no mention made of it within the organisation again. No counselling or debriefing was ever offered to any of those who knew the perpetrator, as the organisation managed to 'forget' that the incidents had ever occurred.

In November 2011, executive members of the organisation, including the president, were informed that the man had been arrested on sexual abuse charges. They were informed again by email and over the phone in June 2012, and specifically informed that victims and witnesses were soon to appear in court. In November 2012 they were informed that a trial was scheduled for July 2013. Nobody from the organisation has yet to contact any of the victims involved. In fact, when queried about their involvement just recently, they claimed, 'Nobody from the courts or police have contacted us, so it's not our issue'.

Also in November 2012, articles began circulating in online news sources about the court case. In particular an article on the *Age* website identified the type of Jewish organisation involved. Still, nobody from the organisation has made any attempt to contact any of the victims involved with the case.

The lack of support and failure to accept any responsibility for the crimes that occurred whilst the victims were ultimately in the organisation's care, serves to add to the distress and anxiety suffered by those involved. Of great concern is that no further action was ever taken to prevent the risk of sexual abuse occurring to other members of the organisation, and that the organisation continued to appoint people in positions of authority over junior members, with no code of conduct by which to abide. The organisation appears to condone sexual abuse, by virtue of its failure to accept responsibility or promote a change in its practice.

That is the end of the statement from this individual.

While in our written submission we outline the mishandling of this entire child sexual abuse scandal by the Jewish community leadership, I am disappointed to say that in some ways their response has further deteriorated. The peak body of the Australian Jewish community, the Executive Council of Australian Jewry, or the ECAJ, has done everything it can to try to downplay the scandal. In the year and a half since these allegations have been in the public spotlight the ECAJ has done very little, and in some cases their scant response was in fact highly damaging both to the victims and to the broader Jewish community. The ECAJ has published two or three media releases, held a meeting with the Yeshivah Centre and made a submission to the royal commission regarding the terms of reference — all of this has occurred in the one-and-a-half years since the allegations became public in June 2011.

When compared to some of their other work it is quite clear that they do not regard this as a pressing issue. For example, the ECAJ undertakes this level of work regarding Israel-related issues in just a single week. As a

former vice-president of the ECAJ, I know this to be a fact. The following public material clearly demonstrates the ECAJ's shameful approach to the scandal. In response to an article by the *Age's* Barney Zwartz, dated 29 November 2012, the ECAJ wrote the following:

Contrary to the salacious, misleading and deceptive headline in the Barney Zwartz story in the Fairfax media today 'the Jewish community' is not 'embroiled in new child sex scandal charges'.

Allegations of serious sexual abuse in incidents some 15 to 20 years ago have been made in relation to Yeshivah College in Melbourne and are being dealt with by the courts. Allegations have also been made in connection with at least two other Jewish organisations. In the latest allegations, neither the alleged perpetrator nor many of the alleged victims are Jewish. So to smear the entire 'Jewish community' in this way is outrageous. Unlike, for example, the Catholic Church, the Jewish community is not a single organisation and cannot act as such.

As for the claim that communal organisations have done nothing about this issue, Barney Zwartz was provided with the attached media releases dated 14 and 27 November 2012 but there is no mention of them or their contents in his report.

Further, the ECAJ today lodged its submission with the royal commission into child sexual abuse in response to the federal government's consultation paper. A copy of the submission is also attached.

The alleged Israel-obsession is also nonsense. There is no domestic issue affecting the Jewish community which we have not dealt with. The ECAJ's objects, as set out in its constitution are:

- (a) to represent and speak officially on behalf of Australian Jewry;
- (b) to take such action as it considers necessary on behalf of Australian Jewry in matters that concern Australian Jewry or Jewry in other parts of the world;
- (c) to support and strengthen the connection of Australian Jewry with the state of Israel.

The letter was signed by Peter Wertheim, the executive director of the ECAJ.

In response to this ECAJ statement, on the same day I wrote the following. I will go through it point by point. The first point is:

Did the ECAJ find yesterday's Fairfax article entitled 'Gillard under Jewish pressure over Palestine' also 'salacious, misleading and deceptive headline'? Did it say anything about it? I know many within the Jewish community who were appalled at the pressure, especially coming from the ECAJ. But I haven't heard that the ECAJ raised this headline as an issue. It wasn't 'Jewish pressure' but pressure from the pro-Israel lobby (and like every other lobby, of course this lobby also has every right to lobby). So clearly they're being selective in their criticism.

My second point:

Let's be clear, the allegations we are talking about include allegations of child sexual abuse up to the past couple of years. I'm personally aware of serious allegations of abuse that occurred under three years ago (and I understand that there are also allegations of abuse even more recently). I am aware of at least two young paedophiles roaming around our community. Obviously the ECAJ is not aware that it often takes literally decades for victims to take action. Just because no statement has been given to police does not mean that abuse is not taking place. So no, the allegations regarding Yeshivah are not from 'some 15 to 20 years ago' and not all of the allegations 'are being dealt with by the courts'.

Next point, and I quote the ECAJ — what they wrote:

Allegations have also been made in connection with at least two other Jewish organisations.

My comment on that:

The important words here are 'at least'. Peter is obviously referring to Yeshivah, Adass and the most recent revelation (a major Jewish institution). But I can assure you that the allegations go well beyond that. There have been reports coming from other capital cities within Australia. Indeed, there is another very credible report from another Melbourne institution, which I'll hopefully be in a position to divulge shortly.

Next point — I am quoting the ECAJ:

In the latest allegations, neither the alleged perpetrator nor many of the alleged victims are Jewish.

My response to that:

This is not entirely accurate. Yes, the perpetrator is not Jewish, but only two of the victims are not Jewish — this could hardly be classified as 'many'. Also, importantly, the serious allegations are not only regarding the abuse itself, but of the alleged cover-up by this institution, and its alleged mistreatment of the victims. As you can appreciate, I cannot share all of the very credible (and

sensitive) information that I have but let me assure you, it paints a very grim picture of the behaviour of this institution's leadership —

as you would have seen just earlier, as I read that statement by the other victim. So despite the fact that the ECAJ or others within our community may not like it, this is very clearly a Jewish community issue. It is indeed very accurate to say that the Jewish community is embroiled in a child sexual abuse scandal. It is not one organisation, nor two, nor three; it is several that we already know of and probably others that we do not yet know of, and it is not just the abuse but also the cover-ups.

The next point, and I quote the ECAJ:

Unlike, for example, the Catholic Church, the Jewish community is not a single organisation and cannot act as such.

My response:

What chutzpah (and hypocrisy)! The ECAJ refers to itself as the voice of the Australian Jewish community — apparently it represents all of us, at least that's what it claims. Yet now that it doesn't suit the ECAJ to refer to the Jewish community as a single entity, under its jurisdiction ... how dare anyone perceive/describe us as a single entity like the Catholic Church?!

Next point, and I quote from the ECAJ:

As for the claim that communal organisations have done nothing about this issue ...

My response:

... no-one has made such a claim, not the journalist nor me. This is what was written —

in the article by Barney —

'Mr Waks said Jewish communal groups such as the Executive Council of Australian Jewry had not made tackling child sexual abuse a high enough priority.'

That is 100 per cent accurate. Disseminating a couple of media releases over the period of around one and a half years is simply not good enough — by anyone's standard. Yes, there was also a meeting or two. Should we compare that with the resources expended on, say, Israel-related issues? This was my point. It's not a high enough priority for the ECAJ. And Peter is disappointed that Barney didn't mention anything about these media releases. For the ECAJ's sake it's probably better that he didn't!

Second-last point — I say:

Good on the ECAJ for making a submission to the royal commission.

I think that was certainly a welcome development. My final point in response to the ECAJ's statement — I quote from them:

The alleged Israel obsession is also nonsense. There is no domestic issue affecting the Jewish community which we have not dealt with.

My response:

The first sentence is subjective. I and many others claim that the ECAJ (and the other peak bodies) are obsessed about Israel-related issues. Unsurprisingly, the ECAJ doesn't quite see it that way. Fair enough. But again, let's have a look at the resources expended on Israel-related issue when compared to domestic issues. It's quite clear that Israel consumes most of their resources. Regarding the second sentence, I nor anyone else has said that the ECAJ hasn't addressed a domestic issue. Again, it's simply about the priorities and resource allocation.

As you can see, the ECAJ's response to this article is riddled with many inaccuracies at best.

I don't have an adequate response as to why the ECAJ is responding to this crisis in the way they are. There may be a number of reasons for this — it could be the desire to keep things that may reflect poorly on our community out of the public's eye. It may also be due to the lack of knowledge and experience in responding to this issue. Child sexual abuse has been a taboo topic for a long time. It is now finally being discussed everywhere. But many people, including the community leadership, simply don't know how to address it.

It's not too late. The ECAJ and others can change their attitude and actions and start to work on this issue for the benefit of the community and the victims.

In a number of recent media interviews, Danny Lamm, president of the ECAJ, publicly stated that all Jewish community organisations were fully cooperating with the authorities and responding appropriately to this scandal. Shockingly, he singled out Yeshivah for their outstanding work. Danny also publicly questioned on ABC radio the integrity of *Herald Sun* journalist Shannon Deery for a 14 November 2012 article he wrote regarding new revelations of a cover-up. By so doing, Danny chose to completely ignore the overwhelming evidence available, including disregarding the views of the magistrate, the police, victims, their families and supporters — all of whom made it abundantly clear that cover-ups and intimidation were still prevalent within Yeshivah.

Moreover, in the comprehensive reports based on the ECAJ's annual general meeting, which was held only a few weeks ago, shockingly there was absolutely no mention whatsoever of the child sexual abuse scandal. As the report was drafted and sent to the Jewish media by the ECAJ, and published verbatim by at least one of the media outlets, this can only mean that the ECAJ felt that the child sexual abuse scandal was not worth mentioning in their lengthy report, either because it was not discussed at all at their AGM, or that it is an insignificant issue — or both.

I should note, however, that in the past couple of weeks there have been some positive signs emanating from the Jewish Community Council of Victoria, which is a constituent of the ECAJ. Hopefully this will continue. Importantly, hopefully the ECAJ will follow suit. I would like to take this opportunity to reach out to the peak bodies within the Jewish community to work closely with the victims on this issue and to address it with the importance, sensitivity and compassion that it deserves.

In this context, one of the many victims I am representing here today has asked me to read the following specific statement on their behalf.

The 'offer' by the JCCV to assist with referrals of victims to the Australian Jewish Psychologists —

or the AJP —

is naive and quite possibly unethical, especially given (at material times) the involvement of [name deleted] with the JCCV —

as the executive director:

As noted in our written submission —

she —

was the executive director ... she resigned around two months ago after a year in the role —

and I am precluded from saying why, so I need to be careful:

One seriously wonders how many contacts the JCCV has had from victims, how many have been passed to the AJP, and how many have been referred to the police. While the AJP should be commended for its initiative in extending services to the community, the JCCV should be accountable for its handling of these referrals.

The additional point the same victim has requested I raise on their behalf is the following:

Although the predominant focus of the Jewish community concern has (rightly) been Chabad and the Yeshivah Centre —

Just briefly, Chabad is essentially a Hasidic sect within the Jewish community, and Yeshivah is considered a Chabad organisation —

it should be noted that other (more secular) Jewish schools are also indirectly implicated by virtue of the spiritual/religious influence of Chabad —

and —

Yeshivah and the largely self-administered way in which rabbis at each school interpret and apply halacha —

which is Jewish law:

This is in addition to the natural exposure that many (if not most) secular Jewish school students have to Chabad/Yeshivah-influenced synagogues by virtue of their attendance for bar/bat mitzvah classes —

and other religious activities —

at an especially influential and impressionable age.

Finally, this influence is even greater (one would contend) for Jewish students who attend non-Jewish or state schools for whom their only Jewish contact may be their attendance at synagogue or a Sunday school or similar. It is much more apparent in these circumstances that these Jewish children (especially at impressionable ages with little or no ... Jewish cultural experience) would be susceptible to the advances of influential religious guides.

While it is easy in light of recent events and media coverage to focus solely on Chabad/Yeshivah in respect of its direct implication as an educational institution, it would be remiss to omit consideration of its indirect influence, and it would be wrong to conclude that only Chabad/Yeshivah is responsible for wrongful acts to our children.

I am aware of one case from the mid/late 1980s where at least one student of a large secular Jewish day school was 'groomed' by an accused (whose matter is currently before the courts), and concerned parents approached the then principal who did not refer the matter to the police but either advised the parents not to proceed any further or referred the parents to the Chabad rabbis.

That is the end of the statement from this additional victim.

As a direct result of these recent developments, I am pleased to report some good news. Of course, the obvious one is that victims or their families are now starting to speak out — in some cases to me, in other cases to the media anonymously, while in other cases to the police. To facilitate the need to address this growing crisis within our community, we are currently in the process of establishing an advocacy group for victims of child sexual abuse within the Jewish community. This has been undertaken in close consultation with many victims and in some cases their families. The group is called Tzedek, which means 'justice' in Hebrew.

Briefly, the two main goals for Tzedek are, firstly, to represent, advocate for, seek justice and accountability for, empower and provide confidential support and assistance to victims of child sexual abuse within the Australian Jewish community. The second goal is to educate the Jewish community on issues relating to child sexual abuse.

We are currently in the process of registering the organisation, and we hope the community will get behind this initiative in terms of providing the necessary resources. Many have already expressed their support and willingness to assist in whatever way they can. I would particularly like to thank and acknowledge Josh Bornstein, a principal with Maurice Blackburn Lawyers, who has agreed to be on the Tzedek board of directors and is assisting us in various ways to get this initiative off the ground. I would also like to take this opportunity to encourage child sexual abuse victims from the Jewish community to contact us at info@tzedek.org.au. Also those who are in a position to assist in whatever way, especially financially, can contact us through this email address.

I would now like to conclude this opening statement by adding to our recommendations as stipulated in our written submission. This is based on additional feedback from some of the other victims I am representing here today.

There should be a procedure in place to ensure the victims feel physically protected once they make a police statement, otherwise it may deter victims from reporting abuse.

All child sexual abuse allegations should be fully investigated by the police, irrespective of whether a formal police statement has been made. The police can then decide whether there is sufficient evidence to lay any charges.

Often, once a police statement has been made, people in the community are contacted to make additional statements. Currently there is nothing to protect the victims' identities or allegations from these individuals.

Police require revised procedures for the delivery of the court summons and police statements. These are private and personal documents, and the police should not just deliver them to anyone at the victim's mailing address — they should only be given directly to the victim, ideally in a sealed envelope.

Victims attending court are left out of pocket. Around \$5 is provided for transportation, which is insufficient even for the use of public transport. Additional reimbursement for other expenses is inadequate. Also, in some cases victims are not informed that they can claim these expenses.

Victims may feel that justice for them personally has not been served if their abuser receives a concurrent jail sentence. Perhaps this concept can be reviewed.

Something urgently needs to be done to address the lengthy duration of time between the various hearings and the trial date. The longer the process, the greater the impact on the victims' lives, and the more likely it is that victims will drop out of the case due to stress. This may also help reduce the time the accused person has access to do the same crime to a new victim. This may be a funding issue for the courts of course.

Greater emphasis should be placed on reaching a plea bargain with perpetrators.

Between the investigation and trial, the accused are generally questioned or interrogated only once, while the victims are subjected to much greater scrutiny. For instance, during the committal hearing, perhaps the accused should also be cross-examined.

It is imperative that the police keep a record of all allegations about every person, even if initially there was insufficient evidence. This will ensure that past allegations are considered when new allegations about the same person are raised. I have personal experience of this, which I am happy to respond to later on.

There needs to be more confidentiality regarding victims' identities when child sexual abuse cases are reported by the media, including ensuring that peripherally identifying details are not published. This is of greater significance within smaller communities where individuals are more easily identifiable.

The remote witness rooms at the Magistrates Court are not sufficient in making victims feel safe during the court process. As you can imagine, many victims of child sexual abuse feel uncomfortable, scared and literally ill just at the thought of seeing their abuser. The fact that the victim has to attend the same court at the same time as their abuser — and there is only one entrance/exit — makes the whole process even more overwhelming than it already is. Perhaps consideration can be given to using remote facilities in a completely separate physical location.

The final point is that in some cases, and only with the support of the victim, perhaps an appropriate sentence for a perpetrator can be to receive psychiatric help rather than to serve a jail term.

Madam Chair, committee members, I sit here before you today deeply hurt, not only by the abuse I and so many others suffered, not only at the cover-ups we have witnessed, not only at the harassment and intimidation that victims, our family members and supporters have endured over the past year or so, but also at the meek response by the Jewish community leadership. Let me assure you, this is the feeling amongst the many Jewish victims I represent here today. There is anger and incredulity about the Jewish communal leadership's response or lack thereof to this scandal that has profoundly impacted the lives of so many within our community.

When I went public with my story in July last year, I did so for a number of reasons. Firstly, I suspected that there were many other Yeshivah victims out there, and I was confident that once my story went public others would also come forward. This proved to be accurate. Secondly, I had been living with guilt, shame, pain and a profound sense of disempowerment. Going public I felt would be cathartic. This, too, proved to be accurate. Lastly, as a vice-president of the ECAJ at the time I went public, I felt that the onus was on me as a leader to take a leadership position on this relatively unaddressed issue within our community. If I was not going to do it, then who else would?

Upon reflection, I have absolutely no regrets. I am proud of what I did and what has been achieved since I went public. While initially there was an important element of catharsis in my decision to speak up, this has almost been obscured, if not completely eliminated, by the sense of communal responsibility that I now feel is the driving force behind my decision to maintain this ongoing public campaign. Unfortunately there are still major and powerful forces within our community that would love nothing more than for me to step aside from this role so that as a community we could revert back to how things used to be. I would like to make it abundantly clear that I do not plan to sit back and let that happen. I will maintain the pressure and the public campaign.

While it is most unfortunate that our community is embroiled in this scandal, it is a reality that we must face. We must learn from the past in order to address the future. We owe it to the victims and we owe it to our community. It is a case of short-term pain for long-term tranquillity. As one of the important mottos of Judaism, and as is written in the holy Torah, the five books of Moses: "Tzedek tzedek tirdof" — "Justice you shall

pursue'. This is precisely what we have been doing to date and will continue to do into the future: pursue justice, under the aptly named Tzedek organisation. Despite the many challenges and hardships, I do feel empowered, and I do feel that justice is finally prevailing. So thank you again for this incredible opportunity.

I must also take this opportunity to thank publicly those who have supported the victims. On behalf of all of us, thank you. Your ongoing support is greatly appreciated, empowering and uplifting. Please do not underestimate the impact of your support — —

The CHAIR — Take your time, Manny.

Mr M. WAKS — and our profound appreciation for it.

I would like to take this opportunity to also publicly thank and acknowledge the unequivocal support — —
Sorry.

The CHAIR — No. Please just take your time.

Mr M. WAKS — I would like to take this opportunity to also publicly thank and acknowledge the unequivocal support of my parents — sorry.

The CHAIR — Would you like to take a break?

Mr M. WAKS — No, I will do it. I have got to do it. Thank you.

The CHAIR — Would you like just to — —

Mr M. WAKS — No, I will proceed. Thank you. The unequivocal support of my parents and other family members, especially my dear wife. People often think about the toll on the victims, but there is an incredible toll that the victims' families also have to pay, often unacknowledged and in complete silence, especially the family of a victim such as myself who has chosen to speak out publicly on this issue. So my profound gratitude to all of you. Simply put: I could not have undertaken this process without your ongoing support. My sincere hope is that those within the ultraorthodox community who have not been quite as supportive or indeed have been critical or worse will see the errors of their ways. Placing religious interests above humanity really reflects poorly on you and your misguided definition of religiosity.

Before I take any questions that you may have, my father, Zephaniah Waks, who has also been invited to testify here today, would like to commence with an opening statement. Thank you.

The CHAIR — Thank you. Zephaniah, please deliver your statement.

Mr Z. WAKS — Did you guys all get the — —

The CHAIR — Yes, we have received — —

Mr Z. WAKS — You have not really had a chance to look at any of them, so maybe I will say what they are. Mine is obviously going to be much shorter than my son's. Mine I will read out in brief summary because this is the main part I am going on. I am going on the terrible pressure that is put on the families of victims and ultimately on the victims themselves because it is a small community and everybody knows what is going on. So when pressure is put on a family, it is put on the victim, and vice versa.

You have there a printout. The first word on the thing is 'Brooklyn DA — sex abuse victims bullied'. That is from the *New York Daily News* from 31 May this year — not long ago. This is the Brooklyn District Attorney, and I think Brooklyn is probably around the size of Melbourne — something like that in population. It is a large place with lots of — New York is New York; it is a whole country. So this guy, you have to listen to what he says. Now to be fair, there is probably a much bigger percentage of Jews in Brooklyn than there is in Melbourne, and within those Jews there is a large percentage of ultra-Orthodox as well. So we will modify it a little bit, but the principle is the same. It states:

Brooklyn District Attorney Charles Hynes said the intimidation of sex abuse victims in the Orthodox Jewish community went beyond the bullying tactics the mob uses to silence witnesses.

Now that is a pretty strong statement. He goes on:

‘I haven’t seen this kind of intimidation in organised crime cases or police corruption,’ Hynes said ... ‘Nobody gives a damn about victims [in that community]. All they care about is protecting the abusers.’

I would add ‘and the organisations’.

This is the thrust of what I want to talk to you about, including giving an example from our particular experience. Now I should point out to you, I only got involved in this thing really not because he is my son; I got dragged into it because he went public. If he would have asked me beforehand about going to the media, I would have had trepidation because I would have known what was coming. And I am glad he did not ask me, because I believe his position of going public has been completely vindicated by the number of people that have come forward, the very slow change in attitude and the distinction that has become clear between the under-40s and the over-55s. Most under-40s want it all out. They do not really care how it is done. They consider, as most people do these days, Facebook, the internet, police, journalism is all one big melange; it is all one big thing.

Just talking to the police privately and having it all covered up and quiet, that is exactly what everybody wanted to happen here. My son broke that. That has been very annoying to some people, including some of the examples he gave. [text expunged, see page 1].

Also, something that is bandied around all the time — I am sorry if I am going a bit here and a bit there but —

The CHAIR — That is all right.

Mr Z. WAKS — I think you are big enough to be able to put it all together and ask questions later.

People like to use this idea that this is all stuff that happened a long time ago and it is not happening now. That is complete rubbish. Because of the pressure that has been put on, and I will describe a bit later the type of thing, I know of three particular perpetrators recent or current who are still running free today, and the chances are they will continue to be, directly because of pressure that has been applied to people, either direct pressure or because of the general community pressure — they have felt pressured, quite correctly because they know what comes. You don’t have to spell it out.

[text expunged, see page 1].

A little bit of a historical perspective: I have always understood that the no. 1 thing was at the time when the things were covered up, even though I believed it was completely wrong, I was a bit charitable in attributing a positive motive, a good motive, even though it was wrong — misplaced — the motive of trying to protect the institution. I thought it was completely wrong, but I was charitable; I thought that is what it was.

The police have made me look at it with slightly different eyes, which I have come around to look at a bit better now. They look at it as power. When the institution covers up, they are really protecting their own power. When I re-evaluated some of the people that I had judged charitably, in many cases — if not in all cases — the protection of the institution was also in fact protection of themselves, so it really was partly misplaced, this charitableness. It is good to say, ‘I’m protecting the institution’, if the institution is you and the institution is your friends, or when you are protecting the institution you are also protecting yourselves, and if the institution goes down, you also go down if your name is — you might lose your job; the institution might go down.

This is not just historical; this is used still today. That means people still raise this thing, ‘The institution must not be allowed to go down. We must not besmirch the institution. We must not besmirch people’s names’. All these things come before the victims and rooting out the problem. That is just the way it is. It is terrible, but it is still happening today, and I will give you an example in a second how it works.

I should just point out another thing, which is probably slightly different in our community and which compounds the problem. It does not excuse it, but it is understandable, and I will give you an example of why. The historical experience of Jews in the last hundreds of years is a reality. When Jews were in eastern Europe, and even a bit more recently in Russia, you did not go to the police for things; you dealt with them in house. You dealt with them, but you dealt with them in house, because you would get no justice out of house, and you would have corruption and bribery and everything else. They are the things people got used to.

For instance, in our synagogue we have a very nice old man who was in a concentration camp and came out alive. He said to me recently — I am very friendly with the guy, and he is a very nice person; he is 75, close to 80, probably, now — ‘We never would have done this. In Europe we didn’t go — we wouldn’t tell the police about another Jew’. Again I understand why. That was probably the rational thing to do then. I said, ‘But what would you do now? What would you do, though? The guy has been offending here. What are you going to do?’. ‘Send him away’. This guy, when he told that to me he knew he was saying nonsense, but that is still an approach. It is more among the much older people, but that historical approach is still there, and I believe it has been used — and it is still being used sometimes by unscrupulous rabbis to justify their power-protecting position, because they will find people like that still alive today.

They will find people who have come out of Russia who still will not trust the police. I sometimes see, when the Jewish community has a function in East St Kilda, the police come and do the traffic and put barricades up. They are helping the Jews to have whatever festival it is. Some of these old people who come from Russia — they are not even so old — cry, because they are not used to seeing police helping the Jewish community where they came from; exactly the reverse.

The climate of fear in the Yeshivah community in particular has been going on for at least 50 years. When I first came to Melbourne in 1985, 27 years ago — 28, probably — as you already heard, as my son said, the Yeshivah Centre, Chabad, because part of its work is outreach work, has an influence all over the Melbourne Jewish community. Many of the rabbis around are from that community. Even if the community they are now a rabbi of is not from that community, the rabbis themselves are. I was told when we came here that some people say the Jewish community is like it is because of him — and they were saying it in a positive way — and some people say it is like it is in spite of him.

This guy was a very conflicted type of personality. He was larger than life. He did a lot of good things. In fact the way I think of him is as a bulldozer. When you go into a ground, you have got to flatten the place; you have got to do all this very hard, groundbreaking work, and that is what he did. But then afterwards he did not know how to readjust and put other people in charge. He ran it as a bully, as a dictator. That climate of dictatorship and bullying has continued until today. He has been dead now for — I don’t know — eight years or something, but the climate is still there. This is in addition to what the DA said: that that is the way it is in other places just in general. Here we have got an extra bit because of the personality of the person who ran the community.

What sort of things are used? Why people do not talk? What sort of pressure is put on people? The pressure is put on. If you come forward and it becomes known — it is a closed community; everybody knows everything — you are going to have trouble getting marriages for your children. This is a very, very strong thing, and people are very fearful. Someone could say, let us say, ‘You’ve got the chance now; one kid of yours was a victim, and you’ve got another 10 kids. You’re not going to make them all suffer’. It is a terrible dilemma for a parent: family name, stigma — all that sort of stuff. Now, there are some rabbis overseas who have come out very strongly against this, and they look at this as — I do not know how familiar you are, but biblically it is mentioned that they used to have child sacrifices and human sacrifices. One particular rabbi has come out very strongly, an orthodox rabbi, that to him, placing the family name and marrying other children at this level where you are prepared to sacrifice other kids is how he looks at it. You are sacrificing children on the altar of getting good marriages for other kids. It is absurd.

Just a little telltale thing here, if you look at the document that says ‘Protect our children’. As families of victims and our supporters, we felt it necessary to take out a full-page, paid ad in the *Australian Jewish News* and other Jewish media. A few people got together and did it, and we got various people to sign it here. It is a motherhood statement, the way I thought of it. Would you like me to read it out, or do you each want to — —

The CHAIR — We have it, thank you.

Mr Z. WAKS — You have got a copy. Okay. I will give you time to read it first. The glaring thing here that I just want to show is that it is a motherhood statement essentially: that enablers have to be stopped, that victims and their families cannot be intimidated or have anything done to them and they should have complete support — nothing there that should not be there.

Unfortunately not a single practising rabbi from Melbourne would sign this. The Sydney Jewish court signed it — they are participants, as are many other people, including people in America and overseas. Not a single

Melbourne rabbi would sign it. There is a bit of a problem here. Why would that be? Why would other orthodox rabbis from different places sign and no-one from here?

This brings us to another problem of this intimidation and how it all works. Melbourne is not a huge community, and many people are related. I am not imputing anything bad to the guy because he would be under terrible pressure, but the current head of the Rabbinical Council of Victoria is a nephew of a past principal of the Yeshivah Centre, who was the principal at the time of the alleged events that people either standing before the court or who will be standing before the court say occurred. So for any normal person to think that this leader is now going to take on and absolutely bash the family and destroy his uncle, it is not realistic. But this is what is happening, and when one starts to look between the different organisations at how the people are related, it becomes very problematic. The current police chaplain — there is one police chaplain — is also a nephew of this same ex-principal. Without mentioning any names, this principal — —

The CHAIR — Excuse me, Zephaniah. I am conscious of the time, and committee members do want to ask questions of you, so I ask you to summarise and wrap up.

Mr Z. WAKS — Okay, I will wrap up now with just telling a single story from Yeshivah of a particular intimidation that happened to me and what happened with it. The rabbi got up a couple of months back, after my son went public, and gave a half-an-hour Sabbath sermon about how one must not speak about these things. It was not clear exactly who to. He went hammer and tongs at this. I was in the audience at the time. He said quite specifically, ‘If anybody thinks, “Maybe they mean me or maybe they don’t mean me”, I mean you’. He was having a go at me. Eight women walked out. I walked out. I challenged one of the senior Yeshivah officials afterwards about this. They said, ‘We can’t do anything about it. He is the rabbi — he does what he wants’.

[text expunged, see page 1].

The CHAIR — Sorry, I am just conscious of the time, and if you could just really wrap up at the earliest opportunity.

Mr Z. WAKS — [text expunged, see page 1].

The solution that I suggest is either somehow reverse the onus of proof where intimidation and witness intimidation is involved, taking into account everything that has been said by the Brooklyn DA, because it is very strong, or somehow they have got to get the ability of the police to get the institutions to talk, with active responses and active cooperation, and not just passive cooperation, which has been the rule here in this case.

The CHAIR — Thank you. Could I thank both of you. Manny, could I especially thank you for your presentation this afternoon and for sharing your story. Before I come to my question, there is something that I would like to make clear to you. There have been a number of statements that have been made that for important reasons are sub judice, which is why some of those statements and allegations will be carefully reviewed prior to publishing in the Hansard transcript. So there will be an interim order pending the review and suppression of reporting of this evidence if need be, so I just need to make that clear before we have that publicised.

Manny, can I go back to your presentation again? Thank you for that. You spoke of your becoming public, 18 months ago or thereabouts, and since that time a number of victims have contacted you, I think you mentioned from Perth and Sydney in particular, where there have been particular instances where sexual abuse has occurred or child abuse has occurred in those communities.

When you are speaking to those victims — and I know that you have made a number of recommendations and you have mentioned accountability and justice — could you elaborate a little bit on what you think those victims you have spoken to mean by what ‘justice’ means and what ‘accountability’ is?

Mr M. WAKS — Sure. One of the things that will stay with me forever, possibly, is that literally the day after my article was published — it was actually published on a Friday in July, and obviously my phone was running hot that whole day and there were a few phone calls — there was one specific phone call, which was from a victim from Yeshivah. He called me. I did not know him. I knew his last name, because it is a small community, so we all know each other, and he just said to me, ‘I can’t believe this. We are not supposed to talk about this. It is on the front page of the *Age*’. It is probably different. The sense of justice and accountability is

very different to us, because where we are starting from is a few levels lower, and it is firstly about even being able to talk about this issue.

Once it is out there many people feel satisfied that it is being addressed and examined. That is one element of it, but most importantly, for the people I speak with, the majority of them say that if their perpetrator is around — and pretty much everyone I have been in touch with knows where their perpetrator is — they want to go through the court proceedings. While everyone acknowledges that is going to be a tough process to relive the trauma of abuse that they have suffered, they are all willing to go through that process in order to get justice for themselves. In most cases people say that the other factor is that they want to get these people off the street, because — as my father mentioned a few times — there are still people out there who are committing these crimes. In many cases we know that they have already done it in the past, and we have no way of actually stopping them because of this culture; there is a climate of fear and silence.

The CHAIR — That is part of the accountability — to break that silence and fear?

Mr M. WAKS — Absolutely, and that is why there has been overwhelming support. I get phone calls, emails and text messages, not just from Australia, mind you, but also from around the world. As we wrote in our written submission, the global ultra-Orthodox community in particular is looking very closely at the work of the inquiry, because these things have not happened anywhere else in the world.

Mr McGuire — Thank you both first of all for bearing witness today and having the courage to speak out. Your testimonies are important to us all. Obviously what we are trying to do is see what needs to be done, particularly for future generations. First of all I will just come to you, Manny, about some of the evidence you presented. You spoke about the cover-up being endemic, and then you went through some specific allegations there. I just want to follow that up. Has that information been presented to Victoria Police?

Mr M. WAKS — In most of the cases the police are aware, as I have mentioned. In at least one of the cases — in relation to the suicide — I am not sure; I was literally informed of that case in the last two days, so I have not had a chance to follow that up. But with anything that may be of interest to the police, I am certainly in close contact with them and I do raise these issues with them occasionally.

Mr McGuire — You will after this hearing if you have not already?

Mr M. WAKS — Absolutely.

Mr McGuire — Particularly what was really troubling and concerning was that you are saying you are aware of two young paedophiles, as you put it, running around our community. Has that information been forwarded to Victoria Police?

Mr M. WAKS — The police are aware of those two cases, in particular, yes.

Mr McGuire — Just on a cultural issue, from what you are saying, you are defining a culture of denial and cover-up. Just to go to one issue, as you put it, is Jewish law placed above state law in addressing issues concerning child sexual abuse? Is that an issue?

Mr M. WAKS — I will handpass that to my father, but what I would say before that is that it probably depends on which rabbi you ask, and it depends on the context in which you ask that question. If you had a rabbi sitting here, I can assure you that he would do everything in his power to say that, 'No, the law of the land is the law that is superior and it takes precedence', but in reality it is probably very different.

Mr Z. WAKS — It has been manipulated and messed up in years, for the reasons I outlined — that people are protecting themselves. To give you an example, you would break the Sabbath, without question, to save someone's life. Here, everybody agrees that lives are involved. It is off the planet to think that you do not go to the police. Many rabbis say that today, but many of them are under pressure themselves. It is unbelievable. Almost everybody would tell you yes, but in fact at the moment today, I think, among the people with beards, it might be only a third, a quarter or a fifth who would actually do it — put the law of the land above at this stage. Among the overtly less religious just like they would when a house was burgled, they would go straight to the police. With this matter, because of the stigma involved and all the other things, the ultra-Orthodox will try to keep it in-house. I would say that it is still a majority of the ultra-Orthodox who would do that, well and truly.

Mr M. WAKS — Can I add to that? The executive vice-president of the Agudath — I think it is called the Agudath Israel, which is a major modern orthodox organisation in the US — came out and said publicly that they still expect victims who are making these allegations to go to their rabbis first, and then the rabbis would be the ones to determine whether there is a strong enough case to go to the police. A similar issue arose in Australia, where a rabbi in Sydney, Rabbi Yosef Feldman, was quoted as suggesting that basically rabbis should be consulted before going to the police. So it is still a big issue.

Mr Z. WAKS — There is that organisation we spoke about, where they said, ‘No, definitely everybody has to go to the police when it is warranted’, and the only way you know it is warranted is if you go to the rabbi first. So try to work that out.

Mr McGUIRE — What recommendations could you give this committee on how to deal with that issue?

Mr M. WAKS — I am not sure that there is an easy solution, to be honest. It is about changing mindsets. It is really about people realising that they are accountable to the local law and that they have some responsibility in that. There need to be proper legal processes in place and punitive measures in place so that if you are caught for covering things up and telling someone not go to the police, or even encouraging your congregants, ‘Don’t come to me with these sorts of allegations, go straight to the police’, only then will that be a deterrent.

Mrs COOTE — Thank you both very much, but, Manny, particularly for your courage in being here today. We really appreciate it. Thank you very much indeed.

My issue is that we have been told by other people presenting to this committee about the grooming process of getting to know the victim, understanding the victim — and not just grooming the victim, but the victim’s family as well. Is that something in your experience and in that of the people that are sharing their information with you? Has that been part of the process with the sort of grooming of the entire family and the grooming of the individual as well? Has that been happening in the Jewish community?

Mr M. WAKS — Absolutely, yes. As I said, I was a dual victim, so I had two different perpetrators. Both perpetrators were family friends, one more so than the other. My parents had trusted them. One of them was a karate teacher, and obviously both had some form of authority, a position of power, over me at least. It is a small community. So during Jewish festival events they are coming over to your house, and singing, drinking and they are having some alcohol. It is like a family and it is a fun atmosphere. It was not something that all of a sudden happened overnight. It was a process. We had complete trust in these perpetrators, and eventually it just escalates.

Mrs COOTE — So did that, therefore, make it much more difficult to share what had happened to you with your family members, and do you think this is part of the process for the people who are perpetrating sexual abuse against children in the Jewish community — how they are going about what they are doing?

Mr M. WAKS — Absolutely. I think that there is certainly a grooming practice going on. I think there is an additional issue within the ultra-Orthodox community. I do not know how much that has changed over the years, but there is the issue of the ritual bath, where males go every day to the mikvah, it is called. I used to go every morning, before prayers, and Friday afternoon as well, so it just does not stop. It used to be that back in my day it was just a free-for-all. You would go there, there was no supervisor on site, adults and kids would go together and everyone would be naked the whole time. You go there, you take your clothes off, you go into the shower, which is open for everyone to see, then you go into the cubicle and again everyone is in there at the same time. So those types of issues are an additional problem because how do you address that — where sometimes you can have an adult and a child there at the same time? I am not sure if there are any measures in place at the moment about keys, but back in those days it was open and accessible most of the time.

Mrs COOTE — So presumably, being the ritual baths, they were supervised by a rabbi or by an authority?

Mr M. WAKS — By the Yeshivah Centre. But it was unlocked and accessible to the community.

Mrs COOTE — Thank you very much indeed.

Ms HALFPENNY — Thank you for coming today. The Rabbinical Council of Victoria says in their submission that they are doing a lot of education among rabbis and that they do not support child abuse and they

are encouraging rabbis to speak up at the synagogue. There is also the Jewish council talking about doing training to try and stop this sort of thing. Is that substantial? We heard there are moves by one rabbi, a first step, to excommunicate you. You were talking about that. Does the Rabbinical Council of Victoria have those same powers to do things to rabbis who may not be supportive of those who have been abused, in trying to change the course?

Mr Z. WAKS — That rabbi is on that council. The rabbi I am talking about is on that council. The guy that is the head of the council is much junior to him. He is young enough to be almost his grandson. That guy is not going to fight with him.

Mr M. WAKS — I think also what I would say is that in most cases the feeling is that they are paying a lip service. It is quite ironic, in the Jewish community, that people refer to the Muslim community as saying one thing in Arabic and other things in English to their constituents.

Ms HALFPENNY — We have heard that.

Mr M. WAKS — But that is something that is very common, and I would say the same thing occurs within some of these groups. I will not tarnish them all with the same brush, but I can assure you that certainly some of the leadership within the Yeshivah Centre, including the rabbi that my father alluded to, would certainly be saying one thing publicly and in private saying something completely different. So they are saying the right things, but just by the very fact that the Rabbinical Council of Victoria, if I correctly remember, said that they were not even going to make a submission but they made the submission after meeting with the Premier and he suggested that they make a submission, to me it is like: why would you need the Premier of Victoria to tell you to make a submission? If you are a roof body, to some degree, of the rabbinical council, which is under pressure, and this obviously is something that is relevant to them, why would you not put a submission together of your own accord and make sure it is comprehensive, it is unequivocal and answers all the questions?

So if you read between the lines and the nuances, you can probably find a lot of gaps in what they actually say. But that does not mean that any of these individuals condone child sexual abuse, it does not mean that they are not sympathetic; it just means that their priorities are all confused, to be honest with you.

My father pointed out that in some cases there is conflict of interest everywhere. He was saying about the president of the Rabbinical Council of Victoria. I am not sure which president he is talking about because just on Thursday night they had their AGM, and the person who stepped down from the AGM was Rabbi Yaakov Glasman — that is a nephew of Rabbi Glick — and his replacement is Rabbi Meir Shlomo Kluwgant, another nephew of Rabbi Glick, who is also present, so there are those types of issues.

Ms HALFPENNY — Just following on from that, we have heard in terms of the Catholic Church that the priest is in control of the parish and is quite autonomous in what they do, so there is not really anyone watching — they can do their own thing. I am not really familiar with the Jewish structure, but it seems it is a similar structure.

Mr M. WAKS — It depends on the level of religiosity. The more Orthodox you are, the more you entrust your rabbi. So an ultra-Orthodox Jew would, in almost all circumstances, ask their rabbi any question they have about anything within their daily lives — ‘I would like to go to the US on a business trip, do I have your blessing or not?’. It is literally to that extent. Or, ‘I want to buy a house. Should I buy a house?’. Then to the more serious questions about, ‘My son has told me this. Can I go to the police about it?’. So it really is the more ultra-Orthodox you are, the more adherent you will be to the rabbi.

Mr WAKELING — Zephaniah and Manny, thank you very much for your presentation this afternoon. I have a couple of questions. To pick up on Mr McGuire’s question about your comments about the endemic nature of this, as you may be aware, this committee has had a lot of evidence presented regarding the Catholic Church, and one of the things our committee has been very focused on is examples of priests in that situation where there has been movement of priests and there has been ongoing and systematic cover-up.

Appreciative of the fact that it is just yourselves effectively doing the work in your community, the evidence that has been given to you by those you have spoken to — when you say ‘endemic’ do you actually believe that there are enough examples in your community of people who have acted in this way — inappropriately over a

period of time — which has been actively covered up within the Jewish community and by the Jewish hierarchy?

Mr M. WAKS — Absolutely, yes. And it is not just within the ultra-Orthodox community. As I have come to learn only very recently, which I must say surprised me as well, it is an across-the-board issue— for example, there were the recent revelations of another major Jewish institution which has not been identified due to a suppression order, and as I quoted from what the victim was saying, there was a complete cover-up. The leadership did not want to know of anything. So we are talking about, within the ultra-Orthodox community and also within the non-religious community. This is an entity that is not really religious, and definitely I would say endemic, without doubt. And these are only the incidents that I actually know of.

Mr WAKELING — Sure, and we have received information on a range of these examples within the Catholic faith, so obviously anything that you are able to provide to us, which is on the record, would be appreciated. The other question I have, and you may not be able to provide an answer, was that we talked about members of the Jewish community who have been flown out of Australia. We have had examples in the Catholic community where offenders have been flown to Australia. Are you aware of any of those examples on the evidence that you have been provided from people you have spoken to?

Mr M. WAKS — My father is saying that there is one person, and that is the only one that was coming into my head as well. I seem to have heard that in one case one of the teachers that was flown to Australia apparently had a chequered history in that regard as well. But I cannot say that that has come up as an issue.

Mr WAKELING — There is no protocol in place, in your understanding of the Jewish community, to vet these issues, whether there has been criminal behaviour or allegations on their arrival here by the Jewish community?

Mr Z. WAKS — It would have been lied about. Even if the person had already offended, I can guarantee that they would have lied.

Mr WAKELING — And the question then is: would they have been aware of the fact that the offender had actually offended overseas?

Mr Z. WAKS — I am not certain about that.

Mr M. Waks — I think it is also important to note that the Yeshivah institution, for example, is part of a global movement based in New York, and what they do is they send Chabad emissaries throughout the world, including to Australia, to assist the local community to develop and grow from a religious perspective.

What often used to happen when I was around — and to my understanding some of these things have remained but are perhaps a little different — they got people who were not qualified to be teachers to instruct students from a religious perspective. So none of them has any education degrees; they do not have any degrees at all in most cases, not even religious ones. They simply grow up, until the age of 18, within an institution in the US, they study the Torah, the bible, the Hasidic texts, all sorts of mysticism and whatever else they need to study, then at the age of 18 they go overseas to do a placement for anywhere between one and three years. They would come to Yeshivah and they have a lot of authority and power at the age of 18 with no formal education. A lot of them do not even know how to read or write English, literally, because they do not learn that basic education in America.

So they come here, teaching kids at Yeshivah back then, and that is where a lot of the issues come up because they are not teachers. I do not know what the screening methods or the work requirements are. Is it just a part-time teacher? They may not even be paid because they come as emissaries, so I am not sure if they are even captured within the framework for what is required.

Mr O'BRIEN — Thank you, particularly Manny, for coming today to give your evidence in relation to personal experience. I have some questions arising in relation to some of your recommendations on removal of the statute of limitations and institutional legal structure — paragraphs 4.2 and 4.6 of your written submission. In doing so, I note that a number of times you make reference in relation to the Catholic Church and you say it is a single entity. Just for your information, we have received submissions, evidence and essentially opinions of some of the difficulties in victims' groups in suing or having accountability within the Catholic Church because

of different dioceses and also trust structures with ultimate hierarchical accountability to the pope. Where is the ultimate accountability within a particular rabbinical structure? Is it back to the rabbi or is there a council of rabbis, in an individual situation?

Mr M. WAKS — My father reminds me that when Rabbi Glick was in court in one of the other cases as a witness, he was asked who was in charge of the Yeshivah College at the time when the abuse was alleged to have occurred and he responded, ‘The Lubavitcher Rebbe’. The Lubavitcher Rebbe, firstly now he is no longer — —

Mr Z. WAKS — [inaudible] in New York.

Mr M. WAKS — Exactly. So he is based in New York, essentially. To respond to your question, basically there is no one person that that lies with; really there is a committee. Each organisation has its own rabbi. If it is the Caulfield synagogue, they have the Caulfield rabbi and [inaudible] have their own rabbi, and that rabbi is essentially responsible for the religious needs of the community and essentially they would be accountable to their board of management.

Within Yeshivah, the issue is that the board of management are again related to one another. So you have the same family names; they are all related. I have had interactions with some of them recently. Some are there just because they are part of the original five or so families who came and established the Chabad community. They readily admit this to me. There is a commitment that those names, their children and grandchildren and great-grandchildren, will be on the board forever. That is the kind of attitude they take.

Mr O’BRIEN — Just specifically, in paragraph 2.7 you make reference to what you call a deterrent to reporting — this was touched on by Mr McGuire’s question — to the doctrine of mesirah, the perceived prohibition against reporting to authorities. Again I am happy for you to speak generally, but to what extent do you perceive that to be a genuine obstacle to reporting of child abuse within your communities or in orthodox communities that this committee needs to considers recommendations in relation to?

Mr M. WAKS — It is probably the most serious obstacle to reporting child sexual abuse allegations to police. As I said before, some of the rabbis have come out publicly, including I think the Rabbinical Council of Victoria, and made it clear that the laws of the mesirah do not apply in the cases of child sexual abuse allegations. The problem arises, however, when there are mixed messages being sent by different rabbis. There was the rabbi in the US, for example, who said what I said earlier. Then you have the rabbi in Sydney, who said that rabbis need to be consulted. With each rabbi that comes up and raises this issue, generally adherents to this strict form of Judaism will take no chances; they will always go to their rabbis first. If in private that rabbi will tell them, ‘You can’t do it’ for whatever reason, that is exactly what they will do. So again they may say things publicly but, due to the uncertainty and confusion about this issue, many more would go to their rabbis first, and I have no doubt that — as we heard in one particular instance of some allegations of rape years ago and someone who has continued that behaviour, this person does not want to come forward after consulting their rabbi. We are talking about in the last two years, possibly the last year, that he has come out.

Mr O’BRIEN — The last question. I would prefer you to take it on notice because I would like you to consider it in the context and how you answer it carefully. I asked this of some other witnesses who came and gave us evidence in relation to the Catholic Church. You said at 4.2 that you would like to remove the statute of limitations on civil claims. There is one legal opinion or view that that is potentially available already to parties in a litigation — in other words, they could waive reliance on the statute of limitations as a defence or be estopped from relying on it in certain circumstances. I do not need you to comment on that legal view. To the extent that you are seeking this committee’s recommendation, would you be seeking that as a statutory recommendation, or do you need to consider that in relation to any existing or previous litigation where this specific defence has been raised as a problem? As I said, I think there are probably good reasons why it is best you take that on notice and get back to us rather than try to answer it today. Unless you have an answer on the spot, I would not trouble you with that today.

Mr M. WAKS — Thank you for the opportunity to do that. I will. There are two other brief points that I wanted to raise. One point is in terms of an example of the way the leadership have been addressing this. There is a case — this was in the media as well — of Mr Sam Tatarka, who is the president of the Zionist Council of Victoria. He was in a confrontation with a supporter, someone who is publicly supporting the victims and their

families. There was a confrontation inside the synagogue where Mr Tatarka was alleged to say some threatening things and this person felt intimidated and threatened. Ultimately Mr Tatarka was forced to apologise to him, and that was reported. Just to put a context to what level of abuse and intimidation victims and their families are experiencing, it is not just within the ultra-Orthodox community. This individual, I would not describe him as ultra-Orthodox. That was one of the points I wanted to make.

The other one is that it was reported recently in a publication that Mr — I have forgotten his first name — Abelesz commented on the fact that there have not been any recent child sexual abuse allegations coming out of the schools must mean that the schools in our community are doing a great job in keeping things in check and obviously it is not an issue for us because there are no cases coming out. So again that is the mindset that we are dealing with.

The CHAIR — Thank you, Manny. Before we conclude, I did make reference to some statements and allegations just following your evidence, Mr Zephaniah Waks. As chair, I formally advise you and members of the media and the public gallery that, pending a review and publication of the Hansard transcript and further notice and order of the committee, all reporting of Mr Zephaniah Waks's evidence will be suppressed. I have to make that clear to you in relation to those statements you have made.

Again, we do appreciate the time you have been before us. Your evidence has been most helpful. Thank you very much indeed.

Witnesses withdrew.