

VICTORIAN PARLIAMENT  
Family and Community Development Committee

INQUIRY INTO THE HANDLING OF CHILD ABUSE BY RELIGIOUS  
AND OTHER ORGANISATIONS

SUBMISSION

**Details of person making the submission**

Mr Mark Fabbro

[REDACTED]

[REDACTED]

Age 51

**Information about the Sexual Assault**

Abuse Period- 1972 until 1975 - 5 years

Perpetrator (primary abuse) - Fr John Byrne SJ

Perpetrators (secondary abuse) – UNDISCLOSED

**Type of Abuse.**

Primary abuse:

1. Sexual assault
2. A Psychiatric report has indicated Fr Byrne SJ was likely to have received pleasure of a sexual nature, from the act of inflicting pain upon an 11 year old boy.

Secondary abuse:

1. Brutal sexual assault – including forced nudity and inflicting bodily harm and injury.

**Locations where sexual assault took place.**

1. First Location - Burke Hall Preparatory School White Horse Rd Kew.
2. Second Location- Fr Charles Frazer House.
3. Third Location- Main Building. St Ignatius College Riverview.

**Date and Place reported primary abuse to Police.**

On 16<sup>th</sup> November, 2005. To: Rosemary Treacy of Box Hill Sexual Offences and Child Abuse Unit. Address: 1073 Whitehorse Rd Box Hill NSW 2765 Phone: (02) 98904977. Police statement made with the request that it be investigated.

**Date and Place reported secondary abuse to police by victim**

**Status- PENDING**

**Reasons for late reporting of primary abuse to police-**

1. I was discouraged from reporting the abuse to both the Jesuit Order and to the police by Peter O'Callaghan. Peter O'Callaghan informed that there was no point in reporting to the

Police because Fr Byrne was dead. Due to the apparent failure of Jesuits Order, Church Authority and Peter O'Callaghan QC to report the sexual assault to the police it's seemed of no consequence for me to report in my disempowered circumstance.

2. Psychological (such as low self esteem) and emotional limitations resulting from the abuse itself and resultant long term disadvantage and impoverishment.
3. Initial lack of community and family acknowledgement.
4. Lack of availability of legal advice/assistance.

#### **Reasons for late reporting of secondary abuse to police.**

1. Lack of available supporting information.
2. Lack of witnesses willing to or who are able to assist in providing information about nature and extent of the sexual and violent assaults.

#### **Background to Fr Byrne and Burke Hall- Xavier Preparatory School.**

It was not until a young boy was apparently transported away from school in an ambulance after allegedly being bashed by Fr Byrne SJ did it appear that the superiors did anything about the priest in the interest of the children in its care. Following this alleged incident, Fr Byrne was removed "to have on further contact with the boys" according to a claim made by Fr Byrne in a letter dated 5<sup>th</sup> January 1973, and addressed to the (then) Provincial of the order.

It appears that the Jesuit Order failed in their duty of care. The Order removed Fry Byrne from contact with children but it appears they did not undertake an investigation to determine the nature and extent of any harm he may have inflicted on young boys. Nor does it appear that Fr Byrne's colleagues or superiors attempted to notify or inform the police of any suspected crime/s.

It has become apparent though contact with 'old boys' that a number of the boys he went to school with at Burke Hall have suicided. A Jesuit Father apparently once admitted to a victim that there was a "dark era" at Burke Hall in the 1970's.

There are reports of alleged systemic cover up of crimes by the Jesuit Order (See Attachment Fr McGuire SJ). There had been allegations of systemic abuses at a school run by the Jesuit Order in Germany that came to light in 2009. There is a significant volume of documentary now in the public domain strongly suggestion systemic criminal activity within the Catholic Church. This conduct appears to include the aiding abetting crimes and of a conspiracy to conceal information from the police about crimes committed (i.e. moving a known child sex offender on to another parish/school without informing parishioners/parents of the threat posed to their children. It also appears there are many cases in which allegations have been made that church authorities have failed to report suspected serial child sex offenders to the police or law enforcement authorities).

In respect of this conduct there is no apparent reason to believe that the Jesuit Order in Australia would operate differently than the order does elsewhere in the world or differently than the Catholic Church and its orders operate elsewhere in Australia.

#### **My initial complaint to the archdiocese of Melbourne re primary abuse.**

In 1996, after hearing about the appointment of a very senior legal person to deal with complaints against the Catholic Church, I went (in good faith) to visit Mr O'Callaghan. At the meeting, Mr O'Callaghan said that it was out of his area of investigation as the religious orders such as the Jesuits were not party to the Archdiocese of Melbourne. He then discouraged me from reporting my claim to the police and from pursuing justice as he said "I would get nowhere" and that is was "pointless". One of the reasons included that because priest had 'vows of poverty' there was no point in pursuing the Jesuits for reparation.

As a result of his coercion I concluded it was not possible for me able to pursue the Jesuits or the Catholic Church for an acknowledgement, apology or reparation for damage done. I was under the assumption that there was no avenue to learn the truth about Fr Byrne and if my treatment was an isolated case. This situation was further disempowering and adversely affected my self esteem.

### **My experience of the Towards Healing Process in relation to primary abuse.**

It was not until 9 years later that I considered it necessary to again to pursue the matter. This impulse was a reaction after reading news reports concerning a victim of sexual abuse while at a Jesuit school in Sydney. Having understood that it was possible that Fr Byrne had abused other students and that the Jesuits failed to notify the police, I travelled to Melbourne in 2005 and lodged a police complaint.

The Jesuits were reluctant to join Towards Healing. It appears that the Jesuits preferred to manage complaints secretly and without accountability- to the Professional Standards Office of the Catholic Church. It appears they did not join until they were forced to as a condition of settlement by an outspoken abuse survivor whose actions were a threat to the reputation of the order

When the Jesuits eventually joined the Towards Healing process, I was afforded another opportunity to address the matter. Despite being unable to afford legal advice, I lodged a complaint (in good will) to the Catholic Churches' Professional Standard Office which had access to a vast amount of legal and financial resource. Contrary to many claims made by the Catholic Church officials in relation to the operation of the Howards Healing Process, my experience of it gave me the impression that the main objective of the process was to contain the financial liability of the Church and to ensure adverse information about the conduct of the Jesuits did not get into the public domain.

It seems the Jesuits were on the, most part, were not obliging and were unable to assist in the Towards Healing investigation into my complaint in any meaningful way. For this reason, at a critical stage in the investigation stage of my complaint appeared to be unsubstantiated.

Of my own volition I then referred the assessor to 4 potential witnesses (Refer attached report by a lawyer, Robyn Bailey). The evidence of 'Mr. EE' on Page 8 had been deleted in its entirety, whereas - in the interests of protection of privacy, only his name would have required removal.

Upon questioning the Director of Professional Standards Office Director Michael Salmon (a lawyer) in this regard, I was advised that Mr EE also had submitted a complaint to Towards Healing and therefore all the relevant evidence in the report that I received had been deleted. It appears from the report that the evidence provided by Mr EE was sufficient for the assessor to find my complaint substantiated (Refer attached letter PSO).

The evidence that resulted in my complain being substantiated "beyond reasonable doubt "has not been made available to me. This lack of transparency in the Towards Healing process is concerning. I believe if I was able to seek redress through the civil courts system then this information would have been made available. Further more if I had the opportunity to pursue the Jesuits in the civil court this evidence may have played a role in the determination of the quantum damages that may have been awarded to me.

In my case the totally inadequate 'financial gesture' a sum of \$25,000 was offered through the Towards Healing Process including legal costs. At this stage the TH process was terminated and the mater considered unresolved.

It is evident that the lack of provision of critical evidence to a complainant that the Towards Healing Protocol, by virtue of its lack of transparency, would provide a mechanism limiting financial liability of church institutions.

## **Conclusion.**

The experiences of myself and others I have spoken to as a support leader for abuse victims indicate the practices, policies and protocols used by the Catholic Church for handling allegations of criminal abuse of children are far from fair and transparent.

From 1996, the year I visited O'Callaghan QC, it was close to 15 years before I finally accepted acknowledgement, apology and reparation from the Jesuits. Compounding the matter had been a shortage of solicitors who were willing to pursue legal action against the Jesuits. The inadequacy of the civil law in providing an avenue for resolution seemed to be the reason the solicitor I engaged was reluctant to follow my instructions and pursue the matter for over a 5 year period. As a result of this delay my then already limited legal position with the Jesuits was further compromised. It also caused additional personal stress, cost and many, many hours of my time wasted that could have been better utilised.

In light of the terms of reference of the inquiry, the following should be considered:-

1. The practices, policies and protocols in such organisations for the handling of allegations of criminal abuse of children, including measures put in place by various organisations in response to concerns about such abuse within the organisation or the potential for such abuse to occur;

***This case demonstrates the lack of effective practices, transparency and accountability on part of one particular religious order. This order was reluctant to join the established church protocol for dealing with complaints and once it did, was unhelpful with the internal investigations into allegations of abuse within its ranks. Once the order was obliged to accept the substantiation and validity of my complaint, it was reluctant to consider offering reparation in any measure commensurate with the damage incurred and a fraction of what would have been a likely outcome in a court of law***

2. Whether there are practices in such organisations that operate to preclude or discourage the reporting of suspected criminal abuse of children to State authorities;

***This case is one of many examples of how a vulnerable, uniformed and unsupported victim was discouraged by an agent of the church (Peter O'Callaghan) from reporting to the police and seeking justice from a religious order.***

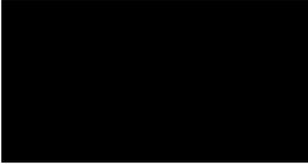
3. Whether changes to law or to practices, policies and protocols in such organisations are required to help prevent criminal abuse of children by personnel and to deal with allegations of such abuse.

***The Towards Healing investigation of my complaint was able to substantiate my allegation. However it is clear that the internal process is not transparent. No reliable statistics are available on which to determine its effectiveness in dealing with complaints.***

***The Catholic Church authority has been accused of adding and abetting, being an accessory after the fact, compounding a felony and criminal conspiracy. Senator Murray was calling for a Federal Royal Commission in 2002. (Commonwealth parliamentary Debates Senate Democrat Senator Andrew Murray 19th June 2002 2140. See attachment). Laws such as the privilege of confession (meaning exemption from prosecution for withholding of evidence of a serious crime) enables senior church persons commit crimes with relative impunity. It could be argued that legal exemptions and privileges afforded to the clergy are not warranted.***

***A lack of avenues for justice for victims of the Catholic Church through the civil legal system is indicated and highlighted in the "Ellis Precedent". To investigate the issue of justice thoroughly and to ensure the protection of children in the care of religious organisations in the future, a Royal Commission or similar judicial inquiry needs to be undertaken by a suitably empowered authority independent of political pressures and/or influence from the religious organisations .***

Signed,



Mark Fabbro Date

Attachments

1. Letter signed by Michael Salmon, Director of the Professional Standard Office of the Archdiocese of Sydney
2. Professional Standards Office Towards Healing Report by Robyn Bailey
3. Fr Fessio and Fr McGuire – Let Him Prey
4. Commonwealth Parliamentary Debates, Senate 19<sup>th</sup> June 2002 2140