

SUBMISSION by Mr. D. A. Paul to INQUIRY into the HANDLING of CHILD ABUSE by RELIGIOUS and OTHER ORGANISATIONS .

September 2012

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1.	1996 Feb. Melbourne Pastoral Response Model
2.	1996 July Parish Education Forum , Oakleigh
3.	1996 Oct. Melbourne Catholic Archdiocese Protocol
4.	1992 "Procedures" document by Fr. F.G. Morrissey O.M.I. Pages 39-73 inclusive
5.	1996 Towards Healing Protocol (original issue) on blue copy paper
6.	Towards Healing ( with 2000 and 2003 amendments)on pink copy paper
7.	Extract (pp17&18) S.A. Children's Protection Act
8.	Article from Age newspaper 2 July 2005

## **The Development of Australian Catholic Church Abuse Protocols .**

Prior to the mid-1980's individual dioceses decided what their own response might be .

In 1987 the Australian Catholic Bishops Conference established a National Committee for Professional Standards to "deal with allegations of criminal conduct".

In 1989 the Centre Against Sexual Assault (CASA) and the Royal Women's Hospital invited representation from the Anglican , Catholic , and Uniting churches , Salvation Army , and the Church of Christ to join an Advisory Group to study "Women , the Church, and Sexual Violence". Melbourne Catholic Archdiocese and the Good Shepherd Order were contributors to the cost .

A growing number of women and children were disclosing sexual assault by family members , husbands , friends , and strangers . The Advisory Group were shocked at the horrifying incidence of sexual assault , and expressed outrage at the long-term injustice and pain experienced by so many women and children .

Their Report recommendations included practical suggestions for church congregations and a dozen strategies to provide Professional Education and Support for Clergy , Pastoral Ministers , Chaplains , and Church Workers . It acknowledged that many of the women and children would prefer to receive pastoral care from their church in response to their violation . The 1990 report was made widely available to all churches and faiths so as to encourage informed discussion and prayerful reflection which would lead to church administrations placing sexual violence centrally on the pastoral agenda .

In 1992 the Australian Catholic Bishops produced a draft "protocol for dealing with sexual abuse" and submitted it for assessment to the General Council of the U.S.A Bishops Conference ( the next three paragraphs may explain why they did so ) ; the upshot was a decision that a "statement of principles" was needed within such a document , and the process of review continued for another four years .

In Canada in 1987 a preliminary procedure , spelling out what could be done when situations of sexual abuse of minors came to light , had been made available to various Canadian dioceses . The text of that procedure may be found in J.E. Paulson "The Clinical and Canonical Considerations in Cases of Pedophilia : The Bishop's Role " in *Studia Canonica*, 22 /1 (1988) , pp77-124 .

In 1990 in Newfoundland , recommendation #29 of the Winter Commission of Enquiry into the Sexual Abuse of Children by Members of the Clergy aimed for " a revised protocol which has a clearly enunciated victim-oriented philosophy , where the spiritual well-being of people is of primary concern". The task of preparing a new protocol was given to a Work Group of the Bishops' Ad Hoc Commission on Sexual Abuse , and Fr. F.G.Morrissey O.M.I was chairperson of that Work Group .

During 1992 a paper\* entitled "Procedures to be Applied in Cases of Alleged Sexual Misconduct by a Priest" , by Rev. F.G.Morrissey O.M.I was published in *Studia Canonica* , 26(1992) pp39-73. In it the author acknowledged that church canon law (at that time) had not been enacted in sufficient detail to cope with the sexual abuse of minors by diocesan and religious priests . ( I offer my comments on that paper on pages 6& 7 of this submission when discussing Towards Healing ).

\*see copy at Attachment # 4 .

In NSW in 1994 a number of complaints made against church personnel in the Wollongong diocese were not acted upon by the Bishop . Ultimately the exposure of an extensive paedophile ring involving a civic councillor , businessmen , Catholic school Principal , priests and religious, led to the Royal Commission into the NSW Police Force being expanded to include paedophilia . Fr. Brian Lucas ( Sydney Archdiocese) and Bro. Julian McDonald (Christian Brothers) gave evidence at that Royal Commission and over subsequent years both have maintained a close association with the National Committee for Professional Standards with regards to Towards Healing .

In June 1994 the Catholic Bishops of England and Wales released their Working Party report which issued Pastoral and Procedural Guidelines for Cases of Sexual Abuse of Children by Priests , Religious , and Other Church Workers . They adopted the Paramountcy Principle “That the welfare of the child must be the paramount consideration throughout proceedings concerning children” , and urged that specific missions be developed to deliver effective pastoral care to the wide-ranging needs of victims , survivors , parents , the accused , and local communities , all of whom have rights to information .

In 1994 Melbourne Archbishop Frank Little and Monsignor Gerry Cudmore commissioned a pilot consultancy project which entailed structuring a comprehensive Pastoral Response Service which could respond sensitively to the needs and rights of individual survivors , their families , parish communities , and the Church itself . The professional consultant was Ms Helen Last who is highly credentialled in this field and there was to be developed an educative role to inform priests , religious, and laity of the subject and generate pro-active policies , and an Aftermath Programme to acknowledge and heal community hurt in parishes shattered by clerical child sexual assault .

The strategy was most timely because the “trickle” of allegations was to become a steady stream .

In November 1995 the Parish Council of St. Martin ( Rosanna / MacLeod) sought the services of the Pastoral Response Consultancy following the conviction of their former parish priest of child sexual assault charges, and 200 parishioners attended a meeting in the parish hall . The exercise was seen to be successful and on 8 February 1996 Vicar-General Cudmore announced the establishment of a Pastoral Response Office situate in Albert Street , East Melbourne .

On 16 February 1996 Gerry Cudmore identified the individual members of Pastoral Response Team and the services which included :

- . therapeutic counselling
- . pastoral counselling
- . information / research
- . chaplaincy
- . survivors network / support groups referral
- . parish support / intervention
- . parish education
- . religious and faith counselling

These services\* were to be available to the individual , their family , the wider community , and to parishes , upon request .

\*see copy of media release papers (4 pages) Melbourne Pastoral Response Model at Attachment # 1.

In April 1996 the “Melbourne Archdiocese Pastoral Response” was presented as a model of “best practice” at the International Conference on Sexual Exploitation by Health Professionals , Psychotherapists , and Clergy” in Sydney . This brought national recognition , liaison and networking with other dioceses and agencies , and provision of an interstate professional training placement at the Pastoral Response Office in June 1996 . In effect the range of services provided showed a commitment to the Paramountcy Principle espoused by the 1994 UK Bishops Working Group and delivered a truly Pastoral Response .

4.

In July 1996 the Pastoral Response Team was invited into Oakleigh parish by the Parish Co-ordinating Committee when Fr. K. O'Donnell , who had pleaded guilty to child sexual assault , was gaoled . A media release\* announced a Parish Education Forum for Oakleigh parish ; it was a letter of invitation to all parishioners to attend a meeting in the parish hall at 7.30pm on 29 July 1996 .

\* see copy at Attachment # 2.

In September 1996 the Catholic Church made a submission to the Wood Royal Commission into the NSW Police Force and Paedophilia . Two significant components were :

- . A 17-page explanation of the Melbourne Pastoral Response model which was held to be "world's best practice" and indicative of the Church's determination to combat this evil , and
- . A 2-page pastoral statement on child protection and child sexual assault, from the Catholic Bishops and Leaders of Religious Institutes in Australia . It affirmed that the Church had in place a policy that "priests , religious , and other church-workers will not be allowed to remain in a position involving risk to children if they are found to have offended".

It went on to assure that "the Church will play its part in co-operation with the community in creating a wholesome and protective environment for children and their families, and in finding solutions to this serious social problem".

The submission also included advice about the establishment , by the Church , of a National Therapy Programme for clergy and religious with psycho-sexual difficulties .

In October 1996 the Pastoral Response Office presented a National Clergy Education and Consultation Programme over 4 days with attendees from different faiths e.g, Anglican, Catholic , Salvationist , and Uniting , with some from interstate or overseas. Key facilitator was Mr. Ray Wyre from the U.K , an acknowledged expert on sexual abuse intervention and prevention . Bishop Peter Connors advised that the National Procedures document was being continually updated and disclosed that it was "advisory" only . Fr. Mark Coleridge's concluding address admitted that "The Church's initial response was legalistic and totally inadequate". He said the next step was to further develop the Pastoral Response Office and develop a spiritual response to generate new hope".

Within days Archbishop Pell launched the Melbourne Archdiocese Protocol \* and said that the Archdiocese and the Jesuit Order would abide by that protocol and not by Towards Healing .

\* see copy at Attachment # 3.

On 4/11/1996 the Pastoral Response Office was suddenly moved from its location and into the basement of the Archdiocesan Centre . History shows that this was the beginning of the end for the Pastoral Response Office , and indeed of the much lauded Pastoral Response Model .

On 29/11/1996 the Catholic Bishops announced that the new protocol Towards Healing would be introduced with effect from 31 March 1997 .

1996 was a watershed year in which the church did a complete U-turn . The Pastoral Response Model which had been presented so glowingly to the Wood Royal Commission was abandoned and the move to a national protocol fractured by Melbourne Archdiocese/Jesuits doing their own thing . Power politics took precedence over victims rights then and still do 16 years later . A protocol which does not address/circumvent the power abuse within the organisation cannot be accepted .

The Committee would benefit by reading the Introduction of the book "Confronting Power and Sex in the Catholic Church " written by retired Bishop Geoffrey Robinson who introduced Towards Healing in 1996 and presided over it for a number of years .

**The Melbourne Archdiocese Protocol for Dealing with Sexual Abuse of Adults or Minors by Priests , Lay people , and Religious , under the Control of the Archbishop of Melbourne .**

See Attachment # 3

It comprised of :

- . An Independent Commissioner ( Peter O'Callaghan QC) to enquire into allegations
  - . Carelink , a free counselling and professional support service for victims
  - . Compensation Panel , to provide “ex gratia” payments to victims , to a \$50,000 maximum
  - . Priest counselling support service for the accused
- and it promised an upgrading of the Pastoral Response Team .

It was announced that “The Archdiocese of Melbourne and the Society of Jesus have in place sets of procedures that are of similar intention to those set out in Part 2 of Towards Healing . Both sets of procedures are designed to meet the Principles of Part 1 of Towards Healing . Accordingly it is acknowledged that the Procedures of Part 2 of Towards Healing do not apply to the Archdiocese of Melbourne and the Society of Jesus”.

In December 2003 Mr. O'Callaghan explained how the system works :

- . If a complainant makes it clear that they intend to lay criminal charges then that precludes any involvement with the Independent Commission .
- . The Commissioner himself investigates all complaints laid . If he deems , “ on the balance of probabilities”, that sexual abuse has occurred he can refer the complainant to Carelink for free counselling , and direct the complaint to the Compensation Panel for assessment . These decisions are binding upon the Archdiocese .
- . A complainant who accepts compensation signs a “release” to the Archdiocese .
- . If an offer of compensation is rejected , then negotiations with the Panel must be kept private and confidential .

He said that since late 1996 he had received 250 complaints , roughly 140 female and 110 male , involving 65 clergy some of whom were multiple offenders, i.e more than one victim . In his experience , almost all cases reported to him have been based on truth/fact i.e, none have fabricated the allegations as far as he can find . The vast majority of cases are adults complaining of molestation in childhood . He reports progressively to the Archdiocese and to no-one else . When asked about the failure to upgrade the Pastoral Response Team he said he was not aware that the Pastoral Response Team approach had not been practiced anywhere in Australia since 1996/7. Several times he asserted that all priests whom he had deemed to have sexually assaulted children were dealt with by “having their faculties removed”.

Criticisms of the protocol , made to him at that meeting in December 2003 , included :

- . a lack of pastoral care , particularly in the form of the Response Team
- . lack of formal regular reporting to the Archdiocese
- . lack of transparency with community not being informed with details of the ongoing operations
- . lack of Catholic lay community inputs to improve the system
- . appears to be no updating taking place; brochure-named personnel out -of date
- . average compensation payment of \$28,000 appears to be very low

In 2004 the Jesuit Order , after nearly 8 years of involvement , abandoned the Melbourne Archdiocese Protocol and adopted Towards Healing . Jesuit Provincial Fr. Mark Raper said that “the former protocol fostered a legalistic approach that resulted in harassment of victims and worked against reconciliation”.

6.

Fr. Geoff King S.J had previously explained that the Jesuits had been using as a defence the fact that “the Catholic Church in Australia is not a legal entity capable of being sued” , but that the Society of Jesus has instructed its lawyers not to use that defence , and has provided a body that can be sued . He said they (the Jesuits) are committed to genuine healing . Those descriptive comments by Frs. Raper and King are an authoritative criticism of the Melbourne Archdiocese Protocol . They are valid and beyond denial .

**TOWARDS HEALING\*** . \*see copy of original document at Attachment # 5 .

Preliminary Comments .

On page 6 of the initial issue of Towards Healing is a footnote acknowledgement that :  
“This document drew upon various documents published in Australia , Canada, and the United States of America . In particular it drew upon the document *Procedures to be Applied in Cases of Alleged Sexual Misconduct by a Priest* by Rev. Francis G Morrissey O.M.I. (*Studia Canonica* 26 (1992) 39-73)”. See copy at Attachment # 4.

A thorough reading of that Morrissey document beforehand will facilitate a deeper understanding of the initial Towards Healing protocol . I offer the following comments on the Morrissey paper :

The Author divided his article into five parts ;

1. Diocesan policies precedent to all enquiry.
2. Preliminary Enquiry .
3. Administrative Procedure and Criminal Process.
4. Re-integration of the Priest into Ministry .
5. Help to the Community .

He makes it clear at Procedure 4 (p42) that the procedures are for internal church purposes .

He acknowledges that existing canon law in 1992 was inadequate to cope with the sexual abuse of minors by diocesan and religious priests .

The enquiry processes suggested by him are concerned almost exclusively with the priest , and with how the Bishop / Religious Superior is to maintain control so as to ensure that the rights of the Church and the priest are spelled out and reputations protected ; there are specific references to 17 canons . It provides insight as to how the Church strives to be seen to be acting responsibly .

There ought not be any doubt that the core topic is “sexual abuse of minors by priests” yet that gets “clouded” by including “vulnerable adults”; the abuse then comes to be described as “misconduct by a priest” and on page 67 at paragraph 7 there is reference to “misconduct with a minor” which leaves it open to interpretation of complicity by the minor in the sense of “consent”.

The (Morrissey) paper describes its procedures as being “norms”. In the form presented they fall well short of being an adequate protocol for occasions of sexual assault of children by priests / religious . There is no formal recognition or observance of the Paramountcy Principle i.e, “That the welfare of the child must receive paramount consideration in proceedings concerning children and this Principle must continue after the proceedings have been completed and where the offender , having paid the penalty , seeks to be re-instated”.

While admirable concern for the accused priest is detailed within the procedures , precious little of it is detailed for the complainant , or for the immediate secondary victims such as family and close friends of either the complainant or the accused , or for the extended parish community or for the diocesan / Religious Order community . At Procedure 6 (p44) the accused is to be given the same compassion as the complainant , but no mention of the secondary or tertiary victims .

There are numerous requests to “presume the accused innocent until proven otherwise”, but no exhortation to presume “the innocence of the complainant”. In fact he comments in top paragraph of page 45 that often the allegations are found to be untrue . That comment is not substantiated by statistical evidence anywhere in the paper and in Melbourne Archdiocese at least would be quickly refuted by the experience of Commissioner O’Callaghan (see para 4 on page 5 this submission ).

The procedures effectively place the Bishop/Superior in an untenable position to administer justice to both the accused and the complainant when , by association he is inextricably linked to the accused , and the scales heavily weighted against the complainant .

Overall , the preoccupation with the image of the church , and a reliance / preference for canon law almost to the exclusion of State law has resulted in scant protection for the rights of complainants and the communities in which the alleged offences have or may occur .

I acknowledge advice from Fr. Morrissey in his letter to me (24/7/2005) that canon law was substantially amended in 2001 . However his paper reflects the thinking of 1992 , and an examination of it as a Towards Healing source document is useful .

#### **Towards Healing (continued ) .**

It was a two-part document setting out the Principles and Procedures for responding to complaints of sexual abuse of children, adolescents or adults made against personnel of the Catholic Church in Australia ( excluding the Melbourne Archdiocese and Society of Jesus ) .

It is understood that the document was drawn up (finalised) in 1996 by a group comprised of Bishop Geoffrey Robinson , Fr. David Cappo , Mr. Laurie Rolls , Mr. Hill , Michael Salmon , and with Professor Patrick Parkinson helping with the layout .

Part 1 ( of 4 pages) identified and explained the Principles , and Part 2 ( of 12 pages) detailed the Procedures to be followed .

Prof. Parkinson subsequently chaired a review and amendments were made in 2000 to the Principles to include physical and emotional abuse , and more numerous changes were made to the Procedures to be followed . Further amendments were made in June 2003 and Part 1 was then of 5 pages , and Part 2 increased to 20 pages .

It is worth noting that a unanimous recommendation by 125 delegates at the Australian Conference of Leaders of Religious Institutes ( held 25-28 June 2003) “For establishing extra layers of recourse for victims , such as an Ombudsman” was not adopted or approved by the Australian Catholic Bishops .

Criticisms voiced of Towards Healing at Support Group meetings include :

- the expansion to include other forms of abuse tended to “collapse” the focus away from child sexual assault .
- 6 years after the launch , requests to the National Committee for Professional Standards for meaningful statistics meet a stock response “we are unable to extract those at present but hope to be able to do so in the future”.
- complainants are met with a lack of compassion . . Pastoral Response is non-existent .
- obsession with secrecy and confidentiality . . proceedings drawn out to wear down complainants .
- failure to actively promote education and information at community and parish level results in failure to engender safer environments .

8.

There are more formal records of defects which I submit . The Australian Senate Enquiry into the Abuse of Children in Institutional Care issued a Progress Report in August 2004 ; in respect of Towards Healing it noted :

At 8.139. “Evidence noted that the structured nature of Towards Healing means it is difficult to initiate more informal processes that would facilitate face-to-face meetings between victims and relevant church authorities and / or perpetrators of past abuse . Victims often desire reconciliation and healing before other more material needs”.

At 8.140 . Witnesses pointed to the need for some type of Truth and Reconciliation Commission (like the South African model) where the churches come and listen for some substantial time to the people and their needs , and to work towards meeting those needs .

At 8.141 . Jobe's Trust (support group) has been trying to work within Towards Healing to make the church accountable and to reconcile with victims, but to no avail :

“We have campaigned with the chairperson of Towards Healing to acknowledge the abuses and to reconcile and to compensate these victims , and we have come up against brick walls all the way around . We have put to the church our grievances about how difficult it has been for us to get them to the table , but they refuse to budge . I am sorry , but this is a fact , Towards Healing is a farce”.

At 8.143 . The protocol was criticised as being an “in-house” procedure not subject to effective checks and balances , and one that lacked transparency and openness . One argued there was a need to “Review this program and report on its fairness to both sides , in particular who acts as judge”.

At 8.144 . Dr. T. Altobelli of the Law School , University of Western Sydney , noted that the Director of the professional resources group in each State is appointed by the church , and that complainants and the public may perceive insufficient independence from the church . He suggested that external appointments to the resource groups might be made by government or by community organisations .

At 8.145 . Dr. Altobelli argued that “outsourcing the investigation process has the potential to enhance transparency and improve public confidence in the system”. He also proposed that there should be a mechanism for independent review of the decisions of the Director(s).

At 8.146 . Dr. Altobelli advocated establishment of an overall review mechanism i.e, an independently appointed industry ombudsman ..... with extensive powers of investigation and review , whose greatest regulatory power would be to publish review findings in the public arena . It might go further and facilitate community education about awareness , prevention , and management of institutional abuse .

I purposely include the attached 2 copies of Towards Healing (on loan) and invite the Committee to utilize the services of Mr. F. Vincent to :

1. assess how much of the ethos of the Morrissey document was transported into Towards Healing 1996 issue ;
2. he request from the Church a particularised list of the amendments made to Towards Healing since 1996 and the rationale for each one ;
3. assess the degree to which they do/do not promote healing and justice for the complainant , and the degree to which they do/do not reinforce the grave power imbalance in favour of the Church.



**Mandatory Reporting.**

Justice Cummins , at the bottom of page 351 of his report said “The Inquiry is reluctant , without broader input from other faiths , to make a recommendation extending mandatory reporting to religious personnel”.

Mandatory reporting was introduced by legislation in 1993 specifically to uncover hidden but serious abuse and to accent the criminal nature of sexual abuse and severe physical abuse . The Principles of Part 1 of Towards Healing apply to all Catholic church protocols in Australia. #13 says (in part) “the church makes a commitment to seek to know the full extent of the problem of abuse .....”, and

#14 says “Concealing the truth is unjust to victims , a disservice to offenders , and damaging to the whole church community “

Their protocol procedure 37 says that in relation to an allegation of criminality the Contact Person shall explain the requirements of the law of mandatory reporting to the complainant . But the explainer knows full well that priests and religious are not currently mandated as “notifiers”; and the church stubbornly refuses to embrace mandatory reporting . The church invariably raises a defence of “seal of the confessional” , but in reality how many allegations made against church personnel actually originate inside the confessional ? *The answer to that question has to be an absolute zero if the seal of the confessional is so absolute* . How do we overcome a stalemate ?

In reality there is no such thing as automatic absolution . A prerequisite is a demonstrated remorse and genuine contrition .

The Protocol recommended by Morrissey in 1992 ( see Attachment 4 ) included :

“ Procedure 24 . At no time after an allegation has been made should the diocesan bishop or any of the priests involved in the process hear the sacramental confession of the accused ; the seal of the confessional is , of course , inviolable (see c983,1)”.

On the other hand the U.K Bishops 1994 protocol \* states that when the matter is broached a penitent should be advised to discuss any relevant information outside the sacramental context .

\* A copy of this document can be made available on loan to the Enquiry if needed .

From those two protocols I deduce that there is a latent ability for a priest to interrupt a confession at a point where a penitent may be about to admit to child sexual assault , and advise the penitent that absolution for such an admission could not be granted until genuine remorse is first demonstrated by reporting of the child sexual assault to the appropriate authority . Why else would the Morrissey protocol be worded the way it was ?

I strongly urge the Committee of Inquiry to obtain a copy of the Anglican Archdiocese of Adelaide six-page document Private Confessions Pastoral Guidelines which include a Protocol adopted on 1 March 2011 ( replacing previous protocol 008 dated 8 March 2006 ) ; in part it includes :

. The granting of absolution in confessions involving child sexual abuse is reserved to priests holding a special licence or authority from the Bishop.

. A priest who is not the holder of such licence/authority **must decline to pronounce absolution and refer the matter on** .

. Absolution must be withheld until there is genuine repentance and until the penitent has reported the matter to the police or other appropriate authority .

The Anglican church strategy demonstrates a truly pastoral concern for both the victim and the accused and should help each of the parties to achieve inner peace; it will also promote justice ..

The track record of religious organisations failing to notify police / authorities of serious allegations of child sexual assault, coupled with the fact that in many instances the accused have been transferred to, or have been imported from, another State highlights the need for a Federal Law to apply across the nation. Unless, and until, that happens there is an urgent need to make a start on having the various State Law on mandatory reporting aligned as closely as possible.

To this end I enclose an Extract from the South Australia Children's Protection Act \*(pages 17/ 18).  
\* see Attachment # 7

Under the present system in Victoria the Victorian Institute of Teaching is the only scheduled organisation. It is possible at present for allegations, made against religious personnel being transferred from state to state, to be known to the Catholic National Committee for Professional Standards but not necessarily passed on by that body to any relevant state police or to the Victorian Institute of Teaching.

Accordingly I recommend that in addition to extending our Victoria legislation to include ministers and other religious workers as mandated notifiers, that the Catholic National Committee for Professional Standards be scheduled alongside the Victorian Institute of Teaching.

A particular strategy adopted by the Anglican church in October 2004 was the establishment of a national register of church personnel accused, but never charged, with sex offences. The model contains measures to protect against defamation action. People are allowed access their own files, and if they disagree with a certain allegation they can have their disagreement registered. It is designed to imbue a culture of checking on the history of personnel as well as set up a system which bypasses the archbishop in any given state.

### **Transfers of Offenders**

Three dissimilar examples illustrate the extent to which evasive transfers have been used. In 1994 Wollongong diocese in NSW was a hot-bed of church-worker child abuse. One priest Fr. AVK was abruptly transferred to Australind parish on the west Australian coast. He sexually assaulted children in that parish in 2002 and was later sentenced to 8 years gaol.

A remarkable aspect of Anglican Archbishop Hollingworth mis-handling complaints in Brisbane saw an adverse finding made against cathedral precentor Fr.RMA in 1997, him given a reference by Hollingworth in 1999 and then a letter to Catholic Monsignor PG in Hobart which resulted in RMA taking up a post in the Catholic Education Office in Tasmania in 2000. PG was later convicted of sexual assault in another matter.

An article attributed to Stephen Bates of London Guardian was published in the Melbourne Age on 2 July 2005. It reported the English High Court had awarded the equivalent of A\$1.49million to a victim sexually abused from age 7 onward by Christopher Clonan, assistant parish priest at Coventry. When the allegations came to light in 1992 Clonan fled to Australia where he is believed to have died in 1998. end of quote. The further tragedy is that Clonan is understood to have been allowed to function as a priest in central Victoria in the 1990's.

In view of the ease with which the Catholic Church has transferred alleged (and known) offenders between parishes, dioceses, interstate, overseas, and is not beyond accepting inter-faith transfers, I recommend that the Catholic National Committee for Professional Standards be required by law to establish and maintain a National register of all church personnel accused of sexual abuse, with that register subject to access by relevant external authorities.

Various Judges when sentencing have commented on the practice of accused church personnel being transferred to fresh locations where they subsequently offend against further victims. I am not aware of any external authority having detailed factual knowledge of some or any cases. In order to gain factual knowledge which may enable an objective assessment to be made I recommend that the government authorise investigation of the following specific cases, so as to discern from Church records:

- . each allegation of abuse received against the subject alleged offender ;
- . the date when each allegation was received by the church ;
- . the location of the offender,s workplace when that allegation was received ;
- . name of the archbishop/bishop/religious leader in charge of the alleged offender at that time ;
- . detail of all previous and subsequent postings of the alleged offender ;
- . the grounds upon which each and every transfer/relocation was effected after each allegation was received ;
- . if the relocation was to another diocese or province , dated copies of all correspondence between the respective relinquishing and receiving dioceses/provinces facilitating the relocation(s).

Case A . Fr. G. Redfern. In the late 1970's "Jason" was abused by Fr.Redfern at Dandenong . In 1993 "Jason" complained to Mgr. G.Cudmore while Fr. Redfern was then at Seymour parish . In 1995 "Jason" went public with his complaint ; Fr.Redfern resigned his Seymour parish and went to Texas in USA for specialist treatment . In April 1996 the Australian Catholic Bishops promised that clergy who have abused their power would not be given such power again . In the Melbourne "Age" on 10/8/1996 Archbishop Pell claimed that "the church no longer attempts to conceal cases of clerical abuse by moving offenders to other parishes or schools". Fr.Redfern was found by Independent Commissioner P.O'Callaghan to have "admitted impropriety and abuse of power,position and status " . Dr.Pell apologised to "Jason" by letter in May 1998 , but he appointed Fr.Redfern to Mount Eliza parish in 1998 . (Source ; Broken Rites newsletter January 2003 ) .

Case B. Fr. G. Ridsdale. He was gaoled for 18 years in 1994 after pleading guilty to 46 charges involving 21 girls and boys between 1961 and 1982 . In August 2006 he pleaded guilty in Ballarat County Court to 35 more charges against 10 boys between 1972 and 1987 at Ballarat, Bacchus Marsh , Horsham, Edenhope, Mortlake, and Warrnambool . Bishop Mulkearns presided over Fr. Ridsdale and his transfers . Who else of the Catholic hierarchy still living was aware of and complicit in those transfers that took place after the first allegation of abuse by Fr. Ridsdale was received by the church ? Those persons should now be brought to account at law .

Case C . Marist Bro. G. McNamara . He taught at schools at Wangaratta , Sale , Preston , Shepparton , Bendigo and Traralgon in Victoria , and in Mount Gambier S.Australia , Forbes in NSW, and overseas in 1976 in Fiji . In 2005 he pleaded guilty to sexual assault of 7 boys between 1972 to 1975 at St.Paul's College , Traralgon and in Melbourne County Court on 17/6/2005 he was convicted and sentenced . What were the circumstances leading up to and during his posting to Fiji ?

Case D . Fr. T.M.Pidoto. He was ordained in 1971 and worked in parishes at Heidelberg , Box Hill North , and Kilmore . On 17/9/2007 at Melbourne County Court Judge R.Howie sentenced him to 7 years gaol for 11 charges of sexual assault of boys between 1972 and 1985 .

Case e . Christian Bro. R.C.Best . He taught at Ballarat , Box Hill , and Geelong . Six trials with the Christian Brothers allegedly paying \$1million for his defence . Guilty of 24 counts against 11 victims . Sentenced to 11years 3 months gaol . Victim lawyer V.Waller said there was evidence some Christian Brothers were told of the abuse in the 1960's and the complainants were beaten .

### **Transparency and Accountability**

To devise a plan capable of effectively dealing with a problem it is essential that the problem first be identified and quantified as to nature, extent, cause, effect, and frequency. Only then can the necessary resources be identified, a solution be drafted, and a budget committed to the task. Regular review is necessary; statistical analysis can help identify trends and for budgetary forecast of finance, personnel and other resources.

The Catholic Church set up the National Committee for Professional Standards in 1987 to devise a national plan to deal with clerical child sexual assault, but 25 years later the church has failed to provide evidence to disclose how big the problem is, or evidence to show that their Plan succeeds.

We do know that the complaint-recording systems in each state / province were reviewed in 2004, and a new Towards Healing national statistical reporting system was to begin w.e.f. 1 January 2005 but I received a letter stating "no new system for the storage of data has been introduced and the NCPS is unsure whether any new system will ever be put in place". Any statistical analysis which seeks to quantify the known extent of clerical child sexual assault in the Australian Catholic Church will not be complete if it covers only the complaints dealt with by Towards Healing; it would also need to include those cases where the complaint is lodged with the police, and further care taken to include all of the complaints dealt with by the Melbourne Archdiocese Independent Commissioner together with those cases reported to the police in the Melbourne Archdiocese. The Church has committed itself to knowing the full extent of clerical child sexual assault and must be held to account on that commitment. A system which does not embrace collection of complaint reports from all of the sources mentioned above would be seriously inadequate.

An accumulation of statistics which encompasses the various categories of abuse by church personnel is within the church's control; the unpreparedness (refusal) to release that information in meaningful form to the wider church community in a transparent manner is a gross abuse of power.

In contrast, The Anglican Professional Standards Commission authorised a Study of Reported Child Sexual Abuse in the Anglican Church (for the period 1990 -2008) by P. Parkinson, K.Oates and A.Jayakady and released that report in May 2009. It was limited to 191 cases reported from 17 dioceses. It did not aim to determine the total number of reported cases for that period and it recognised that to do so would have required an examination of the records of the police and the child protection services nationwide.

The release of that report demonstrates a commitment to both transparency and accountability, and assists in the overall education and awareness of the wider community in this matter. In respect of the records maintained of complaints, the Anglican Professional Standards Protocol is detailed and precise as to what will be recorded, its safekeeping, and access to it. However there is no direction given as to long-term retention of those records.

I am aware that the State Electricity Commission of Victoria was required by law to keep personnel records for a term of 40 years after cessation of employment of an individual employee, and this has proved to be most helpful in dealing with asbestosis and related claims where the disease manifests itself up to 30 years after initial exposure. Very much like the effect of childhood sexual abuse, but not for the same reasons.

I urge the Committee to address the retention of complaints records . The Anglican protocol does not express any time period . Commonsense dictates that it should do so . The 1996 original issue of Towards Healing made no mention of document retention , but an amendment made in 2000 added a retention rider Procedure 40.15 which is ambiguous in fact .

“ Assessment”of a complaint is the critical part of the process , where the all of the circumstances are evaluated. The first sentence of 40.15 quite properly requires that the records of interview and all other documents or material associated with the assessment are to be treated as confidential . In the next sentence (quite properly) the Director is required to maintain a confidential record of all findings and any documents relevant to the suitability of the person for future ministry . However the final sentence states that the Director shall not retain any other documents or material for longer than five years following the completion of the assessment unless required to do so by law . The ambiguity lies in the fact that the “other documents or material” are not clearly identified . The word “other” creates the ambiguity .

The Committee should seek written clarification of that procedure 40.15 from the Australian Catholic Bishops , and aim to have the ambiguity removed and the term extended . In its present form that clause could be misused to facilitate destruction of valuable records in advance of an impending externally imposed requirement to produce them . Having regard to the reality that many victims do not disclose until 25 or more years have elapsed , and many offenders abuse a number of victims over a span of years , the records of the assessment of every assault allegation made against the accused should be required by law to be maintained up to and , for a very long period of time , after the death of the accused . There are many cases like that of Mgr.H who committed suicide on the morning of the day he was to attend court to face charges of sexually assaulting children .As well , details should be sought from the Melbourne Catholic Archdiocese Independent Commissioner as to what retention periods are provided in his domain and with what conditions . In the final analysis , the retention period ought to be prescribed by law and not left to the discretion of the organisations whose personnel have offended .

The Australian Catholic Church held out that the “alleged offender rate”of its priests & religious was only about 2% or less . From my studies over 17 years I conclude that a more probable figure is closer to 10% . Only a truly independent study like that done by the John Jay College of Criminal Justice in the USA would show the real facts . The Australian Catholic Church wont release the pertinent statistics , and I believe that this failure to do so and be held accountable stems from its reliance on its protective “ incapacity to be sued at law”.

The USA church child abuse scandal saw the church change its behaviour only after it had been successfully sued by hundreds of victims and paid hundreds of millions of dollars in settlements .\*

\* See “Age” article of 2 July 2005 as Attachment # 8 .

An article on page 6 of Time magazine 8 June 2009 refers to a 5-volume Commission report which took 9 years to complete in Ireland . It dealt with 1090 complainants who named more than 800 alleged offender nuns,priests, and monks ,over a time span of 85 years . This led the Government to demand that the 18 Catholic Religious Orders named in the report increase their victim's compensation funds nearly eightfold to \$1.4 billion .

In Australia , Prime Minister Howard refused to hold a Royal Commission into the Abuse of Children by personnel of the Catholic Church . A Senate Committee held an Inquiry into the Abuse of Children in Institutional Care ; it covered every State in Australia .

A precis of the Senate Inquiry Interim Report (August 2004) recommendations included :

- At # 4 . Make tax concessions to charitable/religious/not-for-profit organisations dependent on them becoming incorporated , and so remove the difficulty applicants now face trying to take civil action against them .
- At # 5 . Whistleblower legislation for the charity/religious/not-for-profit sectors .
- At # 7 . All church/agency complaint processes to have independent input to the appointment of key personnel , and appointment of independent external persons to conduct review .
- At # 8 . A Commissioner for Children as an external review mechanism to :
  - . investigate complaints of those dissatisfied with church process
  - . review church processes to enhance transparency and accountability
  - . report annually to parliament on church schemes , number& type of complaints
- At # 9 . Require churches/agencies to publish comprehensive data on all complaints received to date and then report annually :
  - . the number of complaints and the type of complaints received
  - . the number of church personnel accused in the complaint allegations
  - . amounts of compensation paid to complainants
- At # 10 Commissioner include that info in consolidated form in annual report to Parliament
- At # 11 Government to require all charitable/church-run institutional care facilities to open their files and co-operate fully with authorities to investigate the nature and extent of criminal assault . Failing full co-operation within 6 months there be established a Royal Commission to determine the facts .

Sadly , those interim recommendations were not included in the final report of March 2005 . I include them here to demonstrate that a lot of time and effort has already been put into carefully and patiently examining the performance of religious organisations , identifying deficiencies in church complaint procedures , and proposing remedial strategies , but has little effect when government simply rolls over and takes no action .

It is heartening that this current Inquiry is , in effect , enacting recommendation 8.2 above . I strongly urge that each of the other strategies listed above be included in this Committee's final recommendations .

The failure, to make enquiries in previous areas where an accused has worked so as to :

1. establish as far as possible the known extent of all abuse , and
2. uncover procedural flaws/irregularities that may have occurred/be present , indicates a culture of secrecy which enables further abuse to flourish and be concealed . A complaints-handling procedure which does not mandate such an enquiry process is unacceptable .

The same can be said for failure to ensure safer environments , which would require :

1. public disclosure be made in all communities where the accused had previously worked
2. public invitation for members of those communities to air any concerns they may have
3. public discussion meetings be held in those communities
4. structured public education alertness/awareness programmes

In April 2007 the Latrobe Valley Express (p5) reported the case of former Gippsland Grammar teacher P Hazeldine who was jailed in 1998 for offences against students at the junior St. Anne's campus in the 1970/80's , and had pleaded guilty in 2002 to further offences after more victims came forward . The Anglican diocese had held a "healing service for victims" at Sale cathedral in March .Both the relatively new Bishop J.McIntyre and school Principal M. Clapper offered acknowledgements of the abuse and made apology . In addition to the healing service the school and diocese sent a letter , to all students who had attended the school during the period in which Hazeldine had taught , to acknowledge what had happened and find out if any other students had been affected . " I think there's a growing awareness in the churches of what needs to be done to help people recover" , said Bishop McIntyre .

The responses of the Anglican and Catholic churches were similar but marked differences are now evident .

Both churches have been guilty of allegation cover-ups , failure to report knowledge of alleged crimes against minors to Police , and facilitating transfer of accused church-workers to other parishes/dioceses .

The Catholic church adopted its first national protocol between 1982-87 and this has morphed into Towards Healing . However that church appears to hold that its canon law has precedence particularly as to the reporting of alleged crimes against children , and this position seems to flow from its "incapable of being sued" status which it uses as a defence .The Melbourne Archdiocese Protocol was abandoned by the Jesuits as "fostering a legalistic approach that resulted in the harassment of victims and worked against reconciliation". Towards Healing has lots of genes from a Canadian protocol ( the Morrissey paper Attachment 4 ) which made little provision for pastoral care to victims , to families , and to communities .

Despite several reviews of Towards Healing and constructive criticism from Government Enquiries e.g, Mullaghan Report South Australia , Senate Enquiry Children in Institutional Care , the church persists in maintaining a "self-regulatory" stance and Towards Healing fails to make provision of adequate pastoral care a major priority .

The Anglican church adopted its first national protocol in 2004 and appears to have modelled it upon Towards Healing . However bypassing the bishop enables greater transparency and accountability to be demonstrated . The protocol is reflective of the input of a number of senior Anglican laity who no doubt were painfully aware of the millions of dollars awarded in costs and compensation to victims who had successfully sued the church. Nevertheless , while pastoral care gets a mention , there is a "Towards Healing-like" failure to make provision of adequate pastoral care a major priority .

The protocols of both churches are fatally flawed in that they fail to adopt or embody the Paramountcy Principle of "Put the interest of the child first". Both churches err by trying to investigate complaints made against their personnel and also administer , on their own terms ,their concept of justice to the complainant .The inherent conflict of interest has been recognised by the Anglicans and addressed to some degree , but neither church has acknowledged or rectified the massive power imbalance facing the complainant throughout the process , and the failure to deliver true pastoral care to the required degree .

Victoria Police will receive , record , and assess all complaints of clerical child sexual assault reported to them by a complainant wanting charges to be laid . With many reports being made many years after the alleged event there may be little or insufficient evidence available to sustain a case through to prosecution , and at present there is nowhere else for the complainant to go , except to the church .

Whilst attributing the noblest of intentions to the churches in these instances , there must be a better way . Consider the following; up until the moment of disclosure there is no-one upholding the rights of the child . Immediately upon disclosure various entities may have rights to be upheld , e.g.

- . the child , whose interests must be held paramount
- . the responsible “report to” authority ( this should be the Police )
- . other family members , siblings , extended family
- . the respondent
- . respondent's employer
- . the school/church community
- . the immediate general community
- . the remaining total church community , i.e. ministers , religious , laity
- . all children and their families in other communities where the respondent had once worked .

These rights include protection , belief , investigation and protection of evidence , prevention , love , care , advocacy , information , counselling , support services , professional advice , adequate legal representation , rehabilitation , reconciliation , overt justice , compensation where payable .

A truly pastoral response will strive to adequately cater for , uphold and protect those rights .

However the churches seem unable to accept the need to give the best chance for the complainant's story to be verified , and that they must refrain from prematurely alerting the accused . The sooner the facts of the matter are established by diligent investigation and assessment , the sooner that both the complainant and the respondent can begin the long road to healing .

## **Conclusion .**

For the Committee to be better able to assess the information received from contributors to this Inquiry , it should first set out to determine the size of the problem . I recommend that :

1. the Committee require the mainstream churches to provide within the next 3 months a candid summation for each of the past 25 years ( i.e. on a year by year basis) statistical classification of all complaints received alleging child abuse by church personnel , on both a state by state basis and also on a national basis so as to encompass all dioceses , eparchies and religious institutes within that church ( those churches );
2. the Committee follow the money trail and require the mainstream churches to provide within the next 3 months , for each of the past 25 years ( on a year by year basis ) a financial summation in respect of such complaints to show :
  - . yearly total \$..... paid out to Church's solicitors
  - . “ “ \$..... paid out to the accused's solicitors
  - . “ “ \$..... compensation paid to claimants
  - . “ “ \$..... pastoral resources expended on claimants ,
 and also for the period since the introduction of each church's national protocol
  - . yearly total \$..... budget provided for administering that protocol in each state ;

Continues....



3. the Committee , within the next 3 months , conduct and finalise a survey of all inmates within the Victoria prison system to seek to know the level of child abuse allegedly suffered and the status of the alleged perpetrator to determine whether there was a “church or other organisation” context ;
4. the Committee , within the next 3 months , obtain from Victoria Police a statistical summation for each of the last 25 years ( on a year by year basis ) of all complaints received alleging child abuse by church / religious / organisation personnel .

The aggregate of that information should reliably expose ( for the first time ) the extent of clerical child sexual assault . It may help identify changes . It should be a reliable guide as to costs met by the churches in their dealing with complaints . It is information which the Committee should publish in its Report , not only to demonstrate the extent of its “in depth” investigations , but also to educate the public by shining a light on the key facts and statistics so fiercely hidden by churches .

The churches will face expense in providing the information required ; any refusal to do so on those grounds would simply reinforce the power imbalance they have enjoyed and abused for so long .

A New Model is needed . I propose that the existing conflict of interest and power imbalance could be resolved by legislating for :

- . Taking the complaint reporting / investigation / assessment / compensation procedure away from the churches
- . Giving those functions to a new independent authority
- . Requiring the churches to administer full pastoral care to those whose rights remain unfulfilled .

That is to say :

- . In the first instance all clerical child sexual assault complaints must be reported to Police ; it is a criminal offence .
- . after the police have determined whether or not it is appropriate , those cases which are not to be the subject of charges being laid all be referred to the new independent authority for the purpose of verifying the complaint or otherwise and in the meantime the accused is not to be prematurely alerted ; the cases which the police retain for their own investigation remain subject to their process .
- . obviously , close liaison would be required to determine the appropriate time to suspend the respondent if the circumstances of the activity made that choice desirable .
- . the independent authority would carry out all stages of the investigation process , interviewing , and assessment , and provide a written report to the three principal parties involved i.e, the complainant , the respondent , and the respondent's employer . This would assist the complainant to make a fully informed decision as to what further action may be considered . It may also offer a much better prospect of reconciliation with the faith community .
- . the independent authority would determine the justification for and the amount of compensation to be paid to the complainant and in so doing may consider the range of sums settled upon in the many civil cases handled by the Courts .
- . the independent authority should have the power to regularly review the level and quality of pastoral care administered by the churches , and to that end should embody a panel of at least three women of proven expertise such as Hetty Johnston (Bravehearts) , Prof. Freda Briggs , and Ms Helen Last to do so .
- . the independent authority to maintain records of all complaints received , with due observance of privacy laws , but with statistics of the various categories of complaints and their outcomes being made regularly available to the public in meaningful form and reported annually to parliament .

- . provision should be included for the decisions of the independent authority to be open to review by an appropriate ombudsman mechanism .
- . the independent authority should be jointly funded by government in concert with substantial ongoing levies from the churches ( economies of scale would accrue by eliminating the need for each church to have its own structure of committees , contact persons , assessors , reviewers dedicated to handling such complaints ).

No doubt there will be other features needed to make such a model adequate for the task . As a note , I expect that the Committee will realise that the size and nature of incidence of clerical child abuse is so widespread that it requires federal strategies and federal legislation to curb it .However the pressing need is to wrest control from the churches and protect the victims in this state until such time as a federal agency is created to deal with this nationwide affliction .

#### Precis of other recommendations

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|------------------------|---|
| Page 8 , final para ;  | Invite assessment of Morrissey paper , original issue Towards Healing and subsequent amendments ;                 |
| Page 9 , para 5 ;      | Get copy Adelaide Anglican Archdiocese “Private Confessions Pastoral guidelines”;                                 |
| Page 10, para 3 ;      | Legislate to include ministers/religious as mandated notifiers and schedule Catholic NCPS alongside VIT ;         |
| Page 10, para 8 ;      | Legislate to require NCPS to maintain a register of accused personnel ;   |
| Page 11, para 1 ;      | Investigate church records of 5 convicted offenders being transferred ;   |
| Page 13 , para's 1-3 ; | Retention period for complaint records be prescribed by government and not left to discretion of record-keepers ; |
| Page 14 , para 3 ;     | Consider 7 strategies of Senate Inquiry Interim Report (August 2004) ;  |

#### End Note.

Disclosures of cover-ups have had a demoralising effect across the nation and contribute to a diminution of our national conscience .The evasive tactics destroy church credibility and extend to limit the churches' ability to engage credibly in government abuse-education programmes .

As Dr. Jim Post said at a public meeting in Melbourne 27 June 2003 “to know of the abuse and do nothing about it is to give *SILENT ASSENT*”; he went on to say “*We have to find a way to change the church ; to change the conditions that allow this terrible evil to exist in our church*”.

Thousands of clergy , religious and laity have walked away in disgust and frustration . From among those remaining come plaintive accusations of “church-bashing” , but those same voices are rarely raised to demand rights for victims or change in church abuse management practices .

Hearteningly, the lead-up to the appointment of this Committee saw a number of clerics bravely stand up in the public arena and demand change, and even a call for a Royal Commission . For them *SILENT ASSENT* is not an option . This Committee can help provide them with a solution .

It is time for change to be imposed by Government and I hope that the endeavours of this Committee of Enquiry lead to precisely that outcome .

Mr. D. A. Paul.