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To: <fcdc@parliament.vic.gov.au>
Date: 07/06/2013 07:07 PM
Subject: Further submission and additional information for the Inquiry into the Handling of Child Abuse by Religious and other Organisations

Dear Ms Georgie Crozier, MP,

I have attached for the Committee's consideration a final submission from SNAP which goes into more depth in response to the Committee's question, "What would justice look like?" This question has not yet been answered properly by SNAP and we appreciate the opportunity to give more time and thought to this important question.

Also attached are details of the Bishops' and Cardinals' oaths discussed during our hearing before the Committee. This information is particularly relevant following Cardinal Pell's recent admission that Australian Catholic Bishops are essentially accountable only to the Vatican. This certainly raises the issue for the Committee, and all Australians, whether is it reasonable and just for Australian taxpayers to subsidise the profit making operations of an obscenely wealthy foreign state (as the Vatican claims to be when it suits them, in order to use specious claims of diplomatic immunity to shield criminals from justice). A taxpayer subsidised organisation which refuses to provide assistance to victims of the criminal activities of their local agents, instead magnifying our harm and ensuring we almost never recover, and pass on the escalating damage through multiple generations.

Finally SNAP would like to express our sincere gratitude to the Committee and the Secretariat who have risen to the task allocated to them so magnificently, and already provided important and historic support, understanding and encouragement to people who have repeatedly been betrayed and abandoned. Just being heard and believed, and seeing some of those who covered up and bullied and silenced us being held to account for their lies will make a huge difference to so many silent victims, not just those lucky enough to appear before the Committee.

We look forward with great anticipation to the Committee's report and recommendations and thank you all for your professional, compassionate and humane approach to this most difficult inquiry.

Warm regards,

Nicky Davis
SNAP Australia

What Does Justice Look Like?

Supplementary Submission by Nicky Davis and Emma Furness of SNAP Australia

In-House Processes

All in-house processes dealing with child sexual abuse by adults in positions of authority should be banned. There is simply too much opportunity for institutions to exploit the secrecy, imbalance of power and trauma suffered by victims to manipulate or coerce a result not in the victim's interest. The temptation to save money, keep the scale of the problem hidden, undermine or isolate victims, and protect predators' and their superior's reputations has been and will no doubt continue to be irresistible.

Even where adequate processes have been identified, when managed in-house, compassionate sounding PR documents can justify reasonable seeming claims of action and progress, while the masking the reality of re-abusing and denying justice and healing to victims.

Those persons managing such processes or delivering recovery services, when closely aligned to the abusive institution, are often unable to behave professionally and blame, manipulate, exploit and re-abuse victims. The harm inflicted by these people is truly devastating.

A fairer result would be achieved by a government managed, institution funded process open to all victims, not just those abused in a single specific institution.

Support for Victims

Victims deserve at the very least ongoing counseling support funded but not managed, and certainly not provided, by the abusive institutions.

This support should not have arbitrary time or monetary limits applied, as the sudden withdrawal of this support when still needed is cruel and damaging.

Surgical, medical, healing, and legal costs, and emergency financial assistance, in relation to the abuse, should also be met without question. Once again funded by the institutions but not under their control.

Support should be offered to all known surviving victims and any secondary victims, regardless of whether the victim is able to disclose, or is even still alive.

We support the efforts of survivors and the community in Ballarat to develop and trial innovative and practical solutions to assist survivors.

Compensation

In addition to the support above, victims have a right to monetary compensation to rebuild broken lives.

This compensation should supplement, if necessary, any previous miserly ex gratia payments. It should be available despite the existence of any onerous deeds of release or confidentiality agreements with the institution, obtained under duress and/or without proper legal representation.

The institutions should pay this compensation via a pooled contributory fund which is independently managed.

Both the original child sexual abuse, as well as additional pain and suffering as a result of institutional cover-up, re-abuse, re-victimisation, intimidation and denial of support should be eligible for compensation.

It is extremely important that there be compensation paid for the neglectful treatment of victims by institutions in addition to the sexual abuse itself, as the current situation rewards institutions for these appalling behaviours, and thus ensures their continuation.

Victims also deserve the specific right to sue institutions which protect, enable, and coverup the activities of child sex criminals, and deny assistance to and re-abuse victims.

Tapping into Survivors' Expertise

It is important for survivors to be listened to and able to contribute to decisions which affect how survivors are treated. The boards of any independent bodies dealing with this issue should be required to appoint at least one actual survivor, possibly supplemented by additional survivors, family members or survivor representatives.

Law Reform

The current legal and court system results in truly appalling conviction rates for this type of crime, leaving more than 90% of offenders free to re-offend and their victims permanently denied justice and unable to heal. Therefore the need for sweeping law reform cannot be understated.

Mandatory Reporting

Mandatory reporting is clearly necessary. Religious institutions in particular like to think of themselves as above the law, and can only be relied on to report child sex crimes if there is a specific legal requirement to do so. Independent monitoring of compliance and serious penalties for non-compliance are essential.

Statute of Limitations

There is simply no valid reason to apply a statute of limitations to child sex crimes. To do so is to provide a regulatory structure at odds with the essential nature of the crime and the damage it inflicts on victims. International practice is very much in favour of loosening or removing statutes of limitations.

Charitable status

Charitable status, and the resulting tax benefits, should be conditional on properly meeting all legal requirements for mandatory reporting, co-operation with police investigations, and funding for victims' recovery and healing.

Special Exceptions for Religious Ceremonies/Customs

Where religious practices are at odds with the law in relation to child sex crimes, the law must take precedence. Religious freedom does not include the freedom to abuse children or to cover up such crimes.

Coverup of child sex crimes

In light of the widespread and systemic coverup of child sex crimes across many organisations, it is vital to ensure a crime of coverup of child sex crimes exists. This law should be very clear and should be designed to actually be enforced with prosecutions, unlike in NSW. Activities such as refusing to report to police, refusing to co-operate with police, destroying evidence, lying to police, moving predators to new locations, silencing victims and their families, or hiding the whereabouts or identity of predators should be specifically identified as criminal.

Legal Loopholes

Issues surrounding admissibility of evidence, fitness to stand trial, pattern of offending, particularity and many others provide an abundant choice of get out of jail free options for these predators and their expensive institution funded lawyers.

The predator friendly bias in our legal and court systems, coupled with the lowest rate of reporting of any crime, and devastatingly abusive treatment of victims, makes it virtually impossible to hold child sex criminals accountable or to prevent them from reoffending.

It is far easier to obtain a conviction for a single offence than it is for the far more damaging ongoing series of dozens, even hundreds of offences. In some US states continuous child sexual abuse is one of the most serious crimes, attracting a mandatory sentence of 25 years to life in prison. In Australia, these truly dangerous predators are most likely to walk free.

Even the principle of innocent until proven guilty and the criminal standard of proof add to the likelihood that the only person serving any type of sentence is the life sentence imposed on the innocent victims.

Our current legal system can see no greater evil than that an innocent man be jailed for a crime he didn't commit.

Unfortunately, in trying to avoid this, we unleash large numbers of dangerous criminals on the community where they rape children unhindered.

This must change.

Responsibility

Under the current system, abusive institutions avoid their moral, legal and financial responsibilities for the crimes they callously and systematically enable and coverup.

The resulting heavy burden of suffering - physical, emotional, psychological and financial - has fallen entirely on the tiny shoulders of abused children and their families.

It is important that any changes do not shift the burden of recovery costs onto the taxpayer rather than the institutions which so cavalierly offered up vulnerable children to the very worst criminals in the state.

Thank You

Our sincere thanks to the Committee Members and the secretariat for their amazing efforts in investigating these most distressing issues. Being listened to and believed by the Committee for the first time in our lives has been enormously helpful to so many survivors.

Even more empowering was the sight of church officials, particularly Cardinal Pell and Archbishop Hart, facing tough questioning for the first time in their lives from authority figures who could not be swayed or manipulated by these entitled princes of the church employing their usual tactics of circular reasoning and mental reservation.