

TRANSCRIPT

FAMILYANDCOMMUNITYDEVELOPMENTCOMMITTEE

Inquiryintothehandlingofchildabusebyreligiousandotherorganisations

Melbourne — 9 November 2012

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Witnesses

Mr P. Tidmarsh, forensic interview adviser, sexual offences and child abuse investigation team (SOCIT),
and

Detective Superintendent R. Jouning, sexual and family violence directorate, Victoria Police.

TheCHAIR — I will now run through some housekeeping issues. 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 the 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. Can you all please ensure your mobile phones are turned off while in the gallery.

Good morning. On behalf of the committee I welcome from Victoria Police Mr Patrick Tidmarsh, forensic interview adviser, sexual offences and child abuse investigation team, SOCIT, and Detective Superintendent Rod Jouning, sexual and family violence directorate.

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. Witnesses may be asked to return at a later date to give further evidence.

All evidence given today is being recorded. Witnesses will be provided with proof versions of the transcript. Please note that these proceedings are not being broadcast.

Following the presentation by you this morning I will ask committee members to then ask questions of you in relation to the inquiry.

I call on Mr Tidmarsh now to give a brief presentation of no more than 30 minutes and then ask that the remaining time be allocated to members of the committee to ask questions. Thank you for being before us this morning.

Mr TIDMARSH — Thanks for having us. Actually, Rod is going to speak first.

TheCHAIR — Please go ahead.

Det.SuptJOUNING — Thank you very much for the opportunity, again, to appear before you. Just to give some background, I sit within the crime department and have responsibility for implementing the sexual assault reforms within Victoria Police and also have oversight of our sexual crimes squad and Taskforce Astraea, which looks at child exploitation, the SOCIT project teams and the family violence strategy unit.

Just to provide some background, Patrick is one of our specialist forensic interview advisers and a member of our specialisation development unit within the SOCIT project. Patrick came to us as a criminologist with very extensive experience in the interviewing of and the therapeutic treatment of adult and adolescent sexual offenders. He has significant experience with clients who have been members of religious organisations, both in Australia and overseas. Patrick is also a principal designer of the whole-story concept, which we will go into shortly.

I think prior to doing that, if I may, I will just provide some context of our history and where we are at this particular stage. Traditionally the investigation of sexual assault was treated very much like any other crime. This resulted in a very segmented investigative response, with little real understanding of the complexities of sexual offending, sexual offenders and, most importantly, the victims. To explain, a victim would report a sexual offence to police, and they would be referred to what was then known as our sexual offences and child abuse unit, which would provide them with victim support, take a statement where appropriate and obtain a forensic medical examination. The vast majority of cases are generalist — it is a detective, and a local criminal investigation would then be called in to investigate. This presented a number of issues, and the victim was often required to repeat their account numerous times, with the risk of re-traumatisation.

As was the training then, the detective would firstly try to establish if in fact a criminal offence had been committed, and this often centred on the victim — their behaviours during, pre and post offending, their presentation at the time and their recall of events. This had the potential to create significant tension between the investigator and the victim and often resulted in the victim withdrawing from the process. Having little understanding of what we now know of criminology, often unique to sexual offending, created the risk for investigator bias either in that early assessment or during the investigation. The very nature of sexual offending, particularly child sexual offending, is in my opinion one of the most difficult crimes to investigate and successfully prosecute. Despite these challenges, many high-quality investigations were conducted, not always

resulting in a conviction but outstanding nonetheless. Equally, in hindsight, with our current knowledge and specialisation, there were instances where prosecutions should have proceeded and did not.

In 2004 the Victorian Law Reform Commission *Sexual Offences* law and procedures final report highlighted that people who had been sexually assaulted were the least likely, of all crimes, to report the offence to police. The conviction rates for rape were substantially lower than those for other criminal offences. The report provided 201 recommendations in all, 36 relating to police. These focused on improved training, procedures and processes for the investigation of sexual assault. One of the key recommendations for police was the development of a specialised unit for the investigation of sexual assault. In response, during 2006–2007 the Victorian government provided funding for the trialling of specialist sexual assault units. In 2009 Deakin University evaluated the model and strongly supported the concept.

In August 2009 Victoria Police approved a statewide rollout and transition from the traditional — what was then the SOCAU CIU, or criminal investigation unit — model to the current SOCIT model, which is the sexual offence and child abuse investigation teams. During the complexities of the transition it was decided this process would be taken over a two-and-a-half-year period, and it concluded in February 2012. There are now 27 SOCIT units statewide. This involves combining the expertise of our SOCAU members with some very significant criminal investigation skills and then providing some specialisation training around sexual offending and child abuse. This comprised behavioural science of sexual offending and sexual offenders, victimology in sexual offending, forensic interviewing of victims and witnesses, forensic interviewing of children and those with a cognitive impairment and the forensic interviewing of offenders. Fundamental to this process is the whole-story concept. The training that has been undertaken is currently being evaluated through Deakin University under the supervision of Professor Martine Powell. I would like now to hand over to Patrick just to explain the whole-story concept.

Mr TIDMARSH — Good morning, everybody. I am going to talk about the whole-story approach that we take in investigating and interviewing in sexual crime and, most importantly I think, why we are taking this particular approach. If you listen to sex offenders talk in treatment programs, as I have been doing for 20 years, including in 1990 working in England in a group having four members of the clergy in my group at that time, listening to their stories, which were no different, what you will hear them say is how carefully they craft their relationship with individuals, with communities and with organisations — the masks they wear in order to persuade people of the way they would like to be seen and the way they manipulate children to say what they would like them to say. One man in treatment once said to me — I have never heard it said more clearly — when asked about grooming and his approach to grooming, ‘The point for me is I want the child to think like me’.

They will tell you in great detail how they go about their business. This knowledge has been available for 30 years. We have been very slow to take it into our investigations, into our courts and into child protection in the organisations that these men target, because wherever they go they are targeting vulnerability. I will talk more about that later on.

The most significant problems with investigating sexual offending against children or adults is that nearly all offending happens in private. Over 85 per cent of offending will take place in the victim’s home or the perpetrator’s home, so we know immediately that there is a relationship there. Some men will spend weeks, months or even years crafting a relationship with a family or an organisation and a child in order to gain access — unfettered access, isolated access — to that child. In sexual offending there are hardly ever any witnesses, which means that traditional notions of corroboration do not apply in the same way. The traditional notion is that crimes have to be witnessed in order to be seen to be corroborated. That does not operate in this particular field. There is seldom any evidence. As we say in training, we differentiate between what we call, for want of a better expression, evidence and ‘evidence with a capital E’ — i.e., CCTV, DNA or a witness. There is hardly ever any evidence in these particular cases, so those traditional notions do not apply.

As I am sure you already know and many people have told you, roughly one in eight people offended against will report, so the vast majority of people do not report. Of those that do, across the developed world, only 2 out of 10 cases will make it into the criminal justice system and be heard by a court — only 2 out of 10. Whilst conviction rates and being heard in court is not the be-all and end-all, our process is set up to give good outcomes across the board, that is still a very small figure. The whole-story approach is designed to elicit corroboration and evidence through victims’ narratives and suspects’ responses — to use the narrative, to use

the story, of what happened in private between two people, what was probably crafted over time deliberately so that no-one else would see it.

Offending is about relationships and not about the events of the offending itself. In order to make it to a court we need to particularise events. We have traditionally looked only to those events to see whether they did or did not take place. The whole-story approach looks at the entire relationship between a perpetrator and in this case a child — the entire time of that relationship — to look at how it was crafted over time and to gather as much evidence as possible from the narrative to be used in interview with the suspect and to present the best possible quality evidence to a court.

If you do not understand the dynamics of sexual offending when you investigate it, you will not understand what victims are telling you and you will not be able to ask them about the entirety of the relationship. This is a specialism that has now developed in policing. Our foundation course for members is four weeks. So in order to be able to talk to a child, to take video or audio recorded evidence and to interview suspects in this particular field our basic training requires four weeks. If you do not understand the dynamics of sexual offending, you will not be able to understand the experience of victims, the trauma and the way that they remember things from that trauma.

In training there is a slide that we put up and it says on it, 'Fight, flight, freeze, surrender'. We ask people to think that if you take out political correctness, what would we prefer? If we were jury members on a trial, what would we prefer victims to do? Inevitably, they say, 'We would like them to fight back', and yet they hardly ever do — for very good reasons which I will talk more about in a moment. Then what is the next thing you would like them to do? Run away. They hardly ever do. The next? We can sort of understand why people freeze, so we can opt for that — that they do not know what to do in these particular circumstances. But far and away the most common response is that they surrender to the experience — or submit, cooperate or whatever word you choose; there is not a good one.

So for most people listening to these stories, what they have learnt over time is that the world of offending looks like this — that people will fight back or they will run away. They should, and yet they do not. Most people listening to these stories have the world of sex offending in reverse. Also — and a problem for us in investigating — most jury members come in thinking, 'If it were me, I would have done X, Y or Z', and almost certainly they would not. Unless we explain to them in excruciating detail each moment of the relationship that took place and how that person came to submit to that particular act, we are always going to struggle with convictions.

For example, two of the myths that are still around about the reporting of children is that they will immediately report to a trusted adult. Leave aside that most of the offending happens in families where the trusted adult is often the person doing the offending, in the context of what we are talking about today, it is extremely unlikely after the relationship has been manipulated and crafted for them to be isolated and for them to see that adult abusing them as connected to their parents and trusted by their parents. It is extremely unlikely that children will report in those circumstances.

Another myth that comes up regularly in our cases is that sex offending will never happen in the presence of any other person or in the proximity of any other person or any other adult. In fact it is extremely common for offending to happen when other people are present. One of the very — do not take this the wrong way — best ways, one of the best tactics, that offenders have to silence children is to do some of their manipulating and some of their sexualising of children when there are other people present. It is a test of that child to see whether they will report and acknowledge what has happened to them in that moment. If they do not, then the trap closes.

I could list for you — we do not have time — the many, many things we now know about sex offending that in the systems that we have to investigate it are still not adequately addressed. There is plenty of literature about counterintuitive victim behaviour of children and of adults, and it is a specialism to understand this and to know how to elicit this from victims. For example, a lot of times in the early stages of relationships victims are not aware of the process that is being enacted on them. It requires a skilled interviewer to elicit the moments in those relationships that might be seen to be evidence of predatory behaviour or the beginnings of perpetrating. It requires a skilled investigator who understands the dynamics of sex offending to be able to elicit those narratives, particularly from children.

To talk about whole-story specifically, it is the crafting of the relationship narrative, not the narrative of events. We talk about offending always beginning in the mind of the offender — that it is the offender who is the actor and victims are always reacting to the events coming their way, without necessarily having a knowledge of the intent behind that particular event. But there is always a lead-up to sexual offending, and there are three critical concepts that we teach our members.

The first is grooming, and I am sure you will all be very familiar with that particular terminology now, particularly since we have legislated for online grooming. We actually have offences of grooming. We do not where it is not online, which is interesting, but that is a discussion for another day.

One of the things that I think is not adequately known about grooming in sexual offending is that it is not exclusively about the sexualisation of the relationship with the child. We teach our investigators that what we call grooming 1 — which is the establishment of power, control and authority over that individual — is far more important in the investigation of the crime, ironically, than the sexual element, because it is in that phase, which is always present, that you will see the offender craft the silence, the surrender and the cooperation of that particular victim. As I said earlier, that can take years in some particular cases, but it often takes weeks and mostly months.

So you have grooming 1 and grooming 2 in our training. The first is establishment of power, control and authority. One more thing I want to say about grooming 1 is that the useful thing in investigating the power, control and authority aspects is that they are often visible and audible to other people, so you will see and hear him do those things, whether it is in a family or an organisation. That is what becomes visible to us; it is why it is so important to investigate. Whereas the second phase, the sexualising of the relationship, is often known only to the victim and the perpetrator themselves, because that is what happens in private once the isolation has taken place.

The second element that we teach is we have created new language to teach investigators that each one of these stories is unique, and whilst sex offending is the same — it is the same types of behaviours, the same stories coming around again and again and again, the same methodology to abuse — they all do it slightly differently. They use different language, different games, different manipulations, different masks, different ways of tricking people, and we teach our investigators how to elicit the narrative from a victim and make sure that what they get is the particular phrase, the particular game that was played in order that we can then use it as evidence and put it to suspects in interviews with them to test their reaction to that. We call that ‘unique signifiers’.

The third element is an attempt to change the notion of corroboration so that it is more relevant to the investigation of sexual crime. We call that ‘points of confirmation’ — the notion being that rather than evidence with a capital E, what we are gathering is a full and comprehensive narrative from a victim which we then put to a suspect in an interview so that he may give his version of events, and we then present those two narratives in as much detail as we possibly can to a jury in order to establish guilt or innocence.

We believe very strongly that whole story is fair for both victims and suspects. We often teach that these stories have chapters in them; there will be typical chapters in every book. Whole stories should elicit if there are chapters missing. You are probably aware that there is an extremely small rate of false reporting in sexual crime, which again is I think not understood by the general community who might think it is quite high. Most of the literature would now suggest that false report rates in sexual crime are between 2 and 10 per cent, probably closer to 5 than 10. That again is across the developed world, so it is an extremely small rate, and yet we still think that this is an utterly fair process that would pick up false reporting.

We believe that any organisation that is investigating sexual crime needs comprehensive knowledge of the subject matter, and, as I said before, it has been around for 30 years now that we have been learning about these men, what they do and how they do it. It needs the ability to honestly and openly listen and inquire. And one of the things that I think policing has struggled with traditionally is it needs an open mind. One of the things detectives were taught in Victoria Police not that long ago in detective training school is that rule no. 1 is that you have to look at the story and try to find out whether a crime has been committed. So it was quite a disincentive immediately for anyone telling their story as if they were somehow suspicious in the way that they were being heard.

Obviously in this particular specialism of sexual crime we have moved to the teaching of an open mind — that the first job of an investigator is to listen and inquire and ask questions until they have the comprehensive narrative. So we find it hard to believe that any other organisation investigating themselves, possibly without knowledge, certainly with consequences for the organisation and the individuals, could genuinely listen with an open mind to these kinds of narratives. I find that extraordinarily hard to believe.

I want to say something about the reporting within organisations and, just a caveat, to differentiate between organisations that are investigating themselves and organisations such as our colleagues in sexual assault services who advocate on behalf of victims — to differentiate between a counsellor advocate, as CASA people would call themselves, and someone who is actively investigating — because the nature of the relationship between the victim and a counsellor is substantially different from the relationships that we are talking about in organisations who are investigating themselves.

I want to talk briefly about risk in other organisations, particularly in church organisations and particularly in the Catholic Church. The significant risks within that organisation are the lack of knowledge, the lack of ability perhaps to genuinely inquire and the lack of ability to hold an open mind, but even more importantly in the context of someone reporting to an organisation that is there for their pastoral care, their spiritual needs, the power differential between the person reporting to that organisation and the person in that organisation listening is so dramatic I find it extremely difficult to believe that there must not be some coercive element in the nature of that relationship.

I want to talk very briefly and in conclusion about some of the things that you have asked us to talk about — organisational responses. Disclosing within an organisation requires a clear sense of purpose in that disclosure. What is it for, what are the consequences of that disclosure and how will that organisation deal with it? It is not been our experience that that has been clear in some of the organisations we are talking about today.

Any organisation that genuinely wishes to take action with regard to sexual offending must have boundaries and processes in place. To give you an example, another type of organisation outside of religious areas, one that is very common for us to investigate, would be, say, a sporting organisation where there were rules about no private coaching, no isolated time with children. In grooming 1 you would have to see any man approaching that organisation and attempting to isolate and get to those children, blur the boundaries, manipulate the parents, manipulate the association itself, manipulate the other coaches there and begin to put in place practices that allowed him slowly over time to have that child isolated and away from care. Any organisation needs to understand that and needs to have the processes in place to catch people, hear them and see them in those layers as they slowly work that child away from safety and away from supervision.

Finally, we want to talk about prevention. Any organisation genuinely attempting to prevent sexual offending within its parameters must have knowledge of how this works. My old boss when I was first in treatment used to say, 'Anyone working in sex offending needs to be able to believe the unbelievable, think the unthinkable and imagine the unimaginable', which has always stuck in my head. Any organisation needs to do those three things, extremely hard as it is to believe that any member, guest or volunteer in your organisation might be there to abuse the vulnerable people who come to your organisation. Yet you must have that knowledge, and you must know how they will go about that particular business. You must have processes in place to catch and dissuade at each step of grooming as they manipulate children. You must understand the difference between ethical breaches and actual offending, and you must have the ability and the preparedness to act on the reports made to you. We have not found that to be the case.

I can tell you from my own experience of working with members of the clergy — and I am talking here almost exclusively about the Catholic Church in my experience — that they had all been known before, they had all been caught. I wracked my brains and I could not think of a single case where they were not known and had not been moved, had reoffended and, in most cases several times after that, were moved again and reoffended, moved again and reoffended, until they finally ended up in treatment. For most of the people that we were seeing at that particular time there was no criminal justice sanction placed on them.

To conclude, we have developed this process to make sure that the culture of Victoria Police in investigating sexual offending is open minded, knowledgeable, puts importance on listening to victims and their narratives at the beginning and throughout the process, understands the counterintuitive nature of victim behaviour and the

behaviour of offenders and adequately attempts to provide good outcomes for victims at whatever stage of the investigative process their case might reach.

TheCHAIR — Thank you very much, Mr Tidmarsh.

Mr McGuire — Thank you both very much for your presentation, and again thanks to Victoria Police for the insights you are providing. Obviously one of the key things we are looking at is how we come up with better models and better methods, so if you could give us a little bit more detail on what process is followed by police once contacted by a victim. Are you saying the model that you have got is the best model, and why? What recommendations would you give us directly to make changes to other models as you have described yourself?

Mr Tidmarsh — I am sorry, I am not entirely sure I understand the question in that.

Mr McGuire — What I am saying is: do you believe the way you have evolved this process is the best model, and why? And then you have gone to a description of the Catholic Church and other ways that things are handled. Would you make recommendations to us about any changes as you see them? You have referred particularly to cultural issues.

Mr Tidmarsh — Change no. 1: I do not think they should be investigating themselves. I think that is absolutely the no. 1 issue. Personally I find it extraordinary that an organisation has set up a separate system, particularly one where, if you volunteer for that system, you give up your rights to any other system. So that is my first response. In order to answer the first bit: I think we have got the best system so far. I think there is so much knowledge coming into this particular field. There are so many things we are learning every year, particularly in online offending, which is an area that, as I am sure you are aware, has absolutely exploded in the last 10 years. It has not changed the nature of sex offending per se, but it has changed the way people target children and it has changed the way people manipulate children. It has changed the tactics, but it has not changed substantially the nature of offending.

As an aside, we have created almost 400 specialist sexual assault investigators — detectives — so they are all detective trained and specialist sexual assault trained. But there are nearly 400 of them, so for us that means maintaining and developing the culture and the appropriate attitudes that investigators need to hold, how to keep an open mind in what is a very complex and difficult area with very high volume, and how to maintain investigative thoroughness with cases that are immediate and pressing or 30 years old with most of the witnesses dead. How do you maintain that culture in an investigative process across that many people and in this big a state? That is our biggest challenge. I think we have developed a much better process. It is much fairer and it is much more knowledgeable, but I would not say it is the best. I think continuous improvement is a huge challenge across this big a state and this many people.

Mrs Coote — I would like to thank both Detective Superintendent Jouning and Mr Tidmarsh for their presentation. I am particularly interested in the process you have spoken about. You have given a historical content to this, but could I actually drill down a little further and ask you specifically if, for example, a 40-year-old man came to the police to disclose for the very first time that he was sexually abused at his Catholic primary school in 1976 and 1980, what process would you adopt to deal with this situation? The second part of that question is: now that SOCIT is in place how would that differ from what traditionally was the method used by the police? Could you walk me through that?

Mr Tidmarsh — Do you want to do the historical one?

Det.SuptJouning — Sure. I suppose in that sense we touched on that before. Historically if a victim came forward, they would be spoken to by our SOCAU person, who had very little investigative skills. Their whole process was about providing victim support and also taking the statement on what is quite often very sensitive material. A separate investigator would come in and then speak to that victim and work through that process.

As I have indicated, in that sense there is a segregation. There is a lack of empathy quite often between the investigator and the victim, so there is no trust built in that sense. That can be very detrimental to an investigation, particularly ongoing, because that whole process is very challenging in its own right. Additionally the investigators did not understand sexual offending. They did not understand victimology in particular — how a victim might present, why there have been delays in reporting, why they may have broken recollection, why they did not tell somebody at the time — and that can all feed into a perception by the investigator as to what

might have occurred and then also a degree of bias as to how they might progress that investigation. I think what Patrick has explained today is quite different in how we approach things. If a person came in, now there is an understanding of why they might not have reported it, why they have behaved in a certain way, why they did not leave an offending relationship, and so the whole thought process is quite significantly different.

Then to go to the investigative process, as Patrick has explained, it is about thinking through the identification of those unique signifiers and points of confirmation that may never even have been thought about before, so it actually starts to build a far better case and much more likelihood of a prosecution. Would you like to expand on that?

Mr TIDMARSH — I would, yes. I can give you an example. The one that occurred to me — —

Mrs COOTE — That is what I am after; I am after the example. Yes, please.

Mr TIDMARSH — The one that occurred to me is actually from an adult case. I was talking to a police officer who was herself the subject of an indecent assault — an attempted rape. She was attacked as she got out of her car on the way back into her home, and when investigators arrived — her colleagues as it were — the first questions they asked her, after she had given a very brief description, were things like, ‘Which hand did he put over your mouth?’. She could not remember. And she could see her — —

Mrs COOTE — Credibility.

Mr TIDMARSH — She could see them lose confidence in her, in a way. Then they said things like, ‘Well, how many times did he hit you?’, and she could not remember. Again she could see her value — that is not quite the right word, but I think you get the gist of what I mean — diminish in their eyes, and how frustrating! They are the wrong questions. They are the wrong questions at the wrong time because of the way people remember trauma. Whether it was just 10 minutes ago as in that case, or whether as in the case that you suggest it was 20 years ago, the way people remember trauma has to be understood and recognised by investigators, because memory does not work like that. When people are being traumatised, you have to elicit which bits of their memory were working through free narrative. You cannot get it from closed questions, so my first answer to your question is whoever is talking to that man about what happened to him in 1976 or 1980 needs to understand that and needs to elicit a full and free, uninterrupted narrative.

When you read victims’ stories as they tell them, they often come from a range of different senses all at the same time. I read one just a couple of weeks ago that spoke very clearly to how this works, where an adult woman was recalling abuse as a child. She remembered the colour of the room and how hot it was, and then she could remember some of what happened. Then other senses came into play, so what she gave was a complex and convoluted account over time. So the next thing that has to happen after you have asked the right kinds of questions in the right kind of a way is that you need to be able to hold an open mind for long enough to allow that story to play out in full before you decide what did or did not happen. Traditionally we have not been very good at that, because — part of what I said before — you know, ‘Let’s find out if a crime has been committed’. We leave that question a long, long way further down the track now. First and foremost, it is the taking of the statement.

I worked with a police member on a case a month or so ago of a woman who was recalling memories from 30-plus years, over two countries, starting from as young as 4 or 5 up to now where she is 50. The answer to the next bit of your question is that it took weeks and weeks and weeks for her to remember different sections. Now traditionally you got one crack at it, and if you did not tell the whole, full and frank story right off the bat, investigators lost confidence in you. Whereas now we expect that a story like that will come higgledy-piggledy from different senses, that it will come over a long period of time, and, to elicit that story properly in a way that we might actually be able to prosecute that individual for what he did in 1976 or 1980, the time is spent there. It must be spent there. That is what would happen next — the investigator would spend weeks and weeks — —

Mrs COOTE — That is the importance of the open mind?

Mr TIDMARSH — It is definitely the importance of the open mind.

Mrs COOTE — Okay, and you do not believe that is actually the case in the organisations and the Catholic Church at the moment. Is that right?

Mr TIDMARSH — That is absolutely right, yes.

TheCHAIR — Before I move on to the next question, could I just get some clarification from you, Mr Jouning. You referred to investigatory bias on a number of occasions in that previous answer and in your opening remarks. Could you just clarify to me: was this influenced by religious affiliations or perceived authority, and did it operate to protect the offender in your view?

Det.SuptJOUNING — I missed that first part of the question, so I am sorry.

TheCHAIR — You referred to reports of investigatory bias.

Det.SuptJOUNING — Yes.

TheCHAIR — I just wanted some clarification in relation to your thoughts on whether that was influenced by religious affiliations or perceived authority, and whether it was there to protect the offender.

Det.SuptJOUNING — I think that is always possible. I think there would be a number of things that would actually come into play. I suppose in a general sense it is about those investigators being just members of the community and probably holding community thoughts, and a lot of those thoughts were about rape myth. So there are automatic assumptions or presumptions made at the outset. To say whether the bias may have been created by a religious affiliation, again that is possible. We have got no indication that is definitely the case, but it is always possible.

Mr TIDMARSH — I would like to answer some of that as well if I may.

TheCHAIR — Yes, thank you.

Mr TIDMARSH — I think you need to distinguish between what everybody thought at the time, and the next layer being offenders' tactics — so, 'He is such a nice man', 'He is always there when we need him'. I had an offender who was a priest say to me in group — this was his justification for the offence — 'I was available to my community 24/7'. You know, 'I gave myself to them, and I gave myself to the church, and I figured I was entitled to a little bit back'. That was his justification for his offending, which, to be fair, his colleagues from the church were outraged about at the time. But be that as it may, I think it was the way he presented to the community, the way he was seen to be a protector of the vulnerable rather than an exploiter of the vulnerable.

We have all fallen into those traps. We have all been hoodwinked by men like this regularly. I think we need to distinguish between what we all thought was wrong, the way we have had our pockets picked by these men for so long, and people who may, when confronted with a reality about an agenda of any kind of group or organisation or a religious affiliation, have blinkers on about the possibility that — imagine the unimaginable actually happened in that. The final stage, which I agree with, is that I have yet to come across a case where I think someone has actively got in the way because of that. That is not to say it is not possible. Of course it is.

TheCHAIR — Thank you for that clarification.

Ms HALFPENNY — Mr Tidmarsh, we know that a lot of people do not report incidents of abuse. Just in terms of the whole story system — and we should talk about it — it is about trying to get information so that there is a conviction. In terms of the actual victims or survivors themselves, how is the victim treated? Is it also about trying to encourage people to come forward as opposed to the old stories where people or victims said that going to the police was harrowing and it was uncomfortable and discouraged them from going ahead. Could you talk a bit more about how you encourage people and about the experiences victims have told you they have had of this new approach?

Mr TIDMARSH — The first thing I want to say is that it is not the intention to get a conviction. Obviously a conviction is a part of this process, but the process is more important than the result in some respect — at whatever stage — and whether people come and tell their story. Now we have multidisciplinary centres. For example, it is quite common for people who are seeing the therapeutic service to knock on the door of the police and have the police come down and explain the process to them of what would happen should they report, and then it is up to them whether they do or do not.

It would seem that that is encouraging more reporting — that the connection between the organisations and their ability to hear about how the process would work is encouraging more reporting inside multidisciplinary centres. We would hope that that continues and that all our SOCITs begin to get better results. But it is the process that counts, which is everything from the design of our buildings, the furnishings and who takes the first report. It is still the case that uniformed people are generally first there, so it is about our next level — going to every single one of our 10 000 members, teaching them and explaining to them the way they need to listen to people when they first make their report. I suppose the critical word is ‘respect’, and the critical task is listening. If our members treat people with respect, and listen to their stories and have the skills to elicit them, then the potential for them to go further and further down the criminal justice path is there, but it is certainly not the be-all and end-all.

In the evaluations undertaken to date, it is clearly seen to be a more effective process than the previous one. Of the people who participated in the evaluation, there was a small but significant number who had been victims and undertaken the previous police process, and who had come through the multidisciplinary centre process, and they were, with minor exceptions, overwhelmingly in favour of the new process, because of the fact that it is not a police station, so you do not have to walk right into a very authoritative and intimidating building. The fact that it was the same person who heard them — nearly always the same person who heard them — from day one and carried their case right the way through, and because of the skills and attitudes of the investigators and the specialism that we are creating, they felt they were treated with respect, and their story was heard right the way through that process.

There is one more thing I want to talk about. There has always been what is called in policing an options talk, where investigators sit down with victims and explain to them what their options are. You have read the letter in the previous submission from Victoria Police. There are plenty of ways of persuading or dissuading people to continue with any particular process. The tone with which that talk takes place, the skill with which it is delivered and the sensitivity to the trauma that individual is experiencing or has experienced is utterly critical to their belief in the process that is coming up, however difficult it might be — and of course going through the system will be difficult in some respects — and whether they feel that the investigators will be there alongside them or be separate from them. It is a critical part of the training. It is a critical part of that relationship between the investigator and the victim or survivor as they come in. I am not sure that is the best explanation I have ever given. Did that make sense?

Ms HALFPENNY — It did make sense, and it brings to mind a few other things.

Mr TIDMARSH — Yes. I think the most important bit is that when people are that vulnerable and that fragile, you can lead them in whatever direction you wish, really. I think you have probably had plenty of submissions where that has been the case, where people have been persuaded to do things that perhaps in the cooler light of day they would not have done.

Ms HALFPENNY — Just following on from that, have you seen cases where they may have reported abuse somewhere else and then come to you later, and in the other situation they were discouraged from taking action — for example, Towards Healing or any of those processes?

Mr TIDMARSH — I have not worked with victims and had that particular conversation with them, no. I am aware of it, but I have not had personal experience of that. Not here — I have in the UK.

Mr WAKELING — To you both, thank you very much for your frank presentation. To pick up on the last point, Mr Tidmarsh, I would just like to deal with the issue of balancing the personal interest of a victim and the greater need of a community, particularly where a victim may contact the police, but then advise that they do not want to take the matter further, or a person may initially indicate a willingness to proceed, but then at a later point in time decide that they do not wish to proceed in a court action. I would like to know how the police deal with that, and more importantly, is that approach different with the creation of the SOCIT unit? So was there a change in the behaviour of the way these matters were dealt with?

Det.SuptJOUNING — It is a difficult question, because each case will be so different. It will depend on the evidence you have that may sit outside the victim’s account or the victim’s testimony, and what might be left with which you could proceed with a prosecution. I think also to balance that thought, and quite often there will be cases where there will be compelling community interest to proceed, you would also have to put into that

balance the harm that it may cause the victim in forcing a proceedings. At the end of the day the victim has been through a great deal and forcing that further is very traumatising, I would imagine.

Mr TIDMARSH — I think it comes back to the discussion we were having before about relationship and the connection between the investigator and the person making the report. I think it would also depend on why it was they did not wish to proceed any further. I mean sometimes investigations end and for obvious reasons there is not enough to go forward. I think you are talking particularly where victims decide to change their minds.

Mr WAKELING — It is victims' decisions.

Mr TIDMARSH — Yes.

Mr WAKELING — So I suppose what I am really focusing on is: has the SOCIT approach actually given people greater capacity to take the matter further because they believe that they are in a much better place to take these matters further as opposed to a previous way that these matters were investigated by police?

Mr TIDMARSH — I think the short answer to that is yes, and if we were here in a year's time, we would be able to give you better statistics than I can now. But complaints withdrawn is going down in SOCIT units, yes, particularly in multidisciplinary centres, where our ability to connect with victims and hear their stories has meant that fewer people withdraw their complaints during the stage of investigation.

Mr WAKELING — During that process; great.

Det.SuptJOUNING — If I may just add one point there, I suppose one of the key aims of the whole process is twofold: one is to increase reporting so that we can provide a judicial response to the victim, but also to reduce the attrition rate at any point in that process.

Mr O'BRIEN — Thank you for your evidence. What I was interested in following on from some of that and also from your submission in relation to not only the interests of the present victim, who is obviously of paramount importance, but also in relation to a preventative need to protect the community and future victims if a perpetrator is not properly brought to justice. And this is in the context of what is a disturbing aspect of your submission in that part of the problem is that society has placed trust in these perpetrators — and particularly in relation to the Catholic Church a whole community has placed faith in the perpetrators — and therefore victims are now in that position of special vulnerability for the reasons you have outlined. What are the benefits of your approach, particularly contrasted to an approach of self-investigation by a particular body, even where, in the case that Mr Wakeling has identified, which is quite frequent, a victim does not wish to proceed? What approaches are there for the police and other bodies to address this preventative need by looking at investigations proceeding as to the identification and accountability of perpetrators?

Mr TIDMARSH — Gosh, there were a number of things in that. First of all, it is perfectly possible for investigations to continue when people have decided that they do not wish to continue to participate within that investigation, and it would depend on the quality of the information derived from those people in their statement.

Mr O'BRIEN — I will just pause you there and ask you to go through that in a bit more elaboration, because that is a key issue for a lot of our victims that has been identified. How can a victim's desire not to proceed be matched with the desire for this community to investigate these crimes that are carried out in secrecy? How do we get through that?

Mr TIDMARSH — It depends what they said.

Mr O'BRIEN — Just take us through it.

Mr TIDMARSH — If somebody gave you the narrative of what happened within an organisation 20 years ago and they said, 'This is what happened to me', and they detailed the history of that, along the way, particularly in these kinds of stories that we are talking about here today, there would have been other people aware of some of the aspects of the grooming, there would have been other children that may have been named in their report and there would have been other perpetrators who may have been alleged or identified — not of them but of others. So there may be a whole range of investigative elements that open up that were not

specifically relating to that individual, and that investigation may well continue if that particular person decided to withdraw their part of the narrative.

So it does not preclude investigators from looking at any other aspects of alleged offending behaviour or any other people who may have been victims of that perpetrator — alleged or others. And it is common practice obviously for investigators to go and find potential witnesses to any events or to go and make contact with people who may also have been victims of particular perpetrators, whether in these kinds of organisations or others. So there is nothing precluding that investigation if one person decides to withdraw, and in these kinds of cases it is common for other people to have been named and it is common for there to have been other children who have been identified and for other perpetrators to have been alleged. Does that answer that?

Mr O'BRIEN — That is the first part; now the second part is: how does that contrast to a self-investigation process that is undertaken in terms of this desire to identify and protect the community from these perpetrators? It may be obvious to you, but if you can just take us through it.

Mr TIDMARSH — Okay. The first thing would seem to be screamingly obvious: where is the motivation to broaden the investigation to find other people and to find those perpetrators, when the kinds of consequences that are likely to come down on those individuals and that organisation are so severe? There is the independence of people, and we talked before about our colleagues in sexual assault: the counsellor/advocate is there to listen to that person and advocate on behalf of that person, and police investigators are there to investigate on behalf of the community. That crucial independence in the way you listen to the story and investigate that story must surely be absent in these particular cases. It must be. And you can call someone independent, but that does not make them so.

Mr O'BRIEN — Thank you; you have been very helpful with those answers. Just in relation to this issue, does it allow investigations to continue even when perpetrators are deceased? Is there a benefit to that, particularly for the process that may be still operating within an organisation where other perpetrators are being moved around or otherwise not been brought to justice?

Mr TIDMARSH — Briefly, where alleged perpetrators are deceased, if that were the only allegation and they were the only individual, then given the volume and given the workload, that may or may not — and probably would not — continue to be investigated. The report would be taken, and it would be acknowledged that that person had alleged that that had happened, but it would be unlikely I think with SOCITs currently that they would continue to investigate that, but — —

Mr O'BRIEN — So there is an issue out there with the systemic problem of deceased people, potentially. Is that what you are saying? You were about to say 'but', so continue.

Mr TIDMARSH — I was. There is a very big but, which comes back to the previous answer. In these kinds of cases with these kinds of organisations, it is hardly ever about one individual. The investigation might well continue to find other victims, other perpetrators, other elements of the scale of the offending story, so I think it would be unlikely, in the kind of cases we are talking about here, that investigations would close down should one person become deceased, given the network that has operated here.

Det.Supt JOUNING — May I just add to that that we have had numerous accounts of that occurring, where we have actually gone out and sought further victims, some willing to proceed, some not willing to proceed, down a justice path, but further witnesses have been identified through that process.

Mr O'BRIEN — I know, and thank you. That is what it was directed to.

The CHAIR — Could I on behalf of the committee thank you both again for appearing before us this morning. We do appreciate your time and your evidence; it has been most helpful.

Witnesses withdrew.