

TRANSCRIPT

FAMILY AND COMMUNITY DEVELOPMENT COMMITTEE

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

Melbourne — 26 November 2012

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Witnesses

Ms B. Blaine, founder and president,

Ms N. Davis, Sydney area chapter, and

Mr M. Fabbro, Sydney area chapter and Melbourne area chapter, Survivors Network of those Abused by Priests.

The CHAIR — Good afternoon. On behalf of the committee, I welcome from the Survivors Network of those Abused by Priests Ms Barbara Blaine, founder and president; Ms Nicky Davis; and Mr Mark Fabbro.

There are a couple of housekeeping issues I will run through for members of the public gallery and yourselves. In accordance with the guidelines for the hearings, I remind members of the public gallery that they cannot participate in any way in the committee's proceedings. Only officers of the Family and Community Development Committee secretariat are to approach committee members. Members of the media are also requested to observe the media guidelines. Can you all please ensure that your mobile phones are now turned off whilst you are in the gallery.

I would also like to remind those before us that 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 the committee members will ask questions relating to the inquiry.

I would also like to acknowledge your submission and the additional material that you have given to members of the committee. I think we are getting printed some information that you have just handed to us. Thank you very much. Could I also say that obviously you have presented from an international perspective. I know Ms Blaine is here from the United States to speak to us this afternoon and will be giving a perspective in relation to what has occurred internationally. We are very focused in this inquiry on what is happening here in Victoria. We would like you to address some of those issues that relate to the terms of reference of this inquiry and how they affect those within Victoria, within our jurisdiction. We ask you to give examples of how many victims you might represent here in Victoria and what you can tell us about the situation from your organisation's perspective and how that affects people within Victoria. We welcome you, and we look forward to hearing from you. I invite you to commence. Thank you again for being before us.

Ms BLAINE — Madam Chairperson Crozier and members of the Family and Community Development Committee, it is an honour to be here before this honourable committee. We in SNAP deeply appreciate your willingness to investigate institutional sex crimes and cover-ups. We recognise and appreciate your commitment to doing everything possible to protect children today and in the future, as well as those who have suffered.

My expertise personally is mostly within the Roman Catholic Church, and I am willing to help in any way I can. I will honestly answer any of your questions and will gladly research anything I cannot answer now and get back to you later with that information. My name is Barbara Blaine, and I live in Chicago, Illinois. I hold the following degrees: a masters of divinity from Catholic Theological Union, the largest seminary in the United States; a masters of social work from Washington University; and a juris doctorate in law from DePaul University. I am licensed to practice law in the state of Illinois and in all US federal courts. But I believe my greatest expertise comes from, first, surviving child sex abuse committed by a priest in my parish, beginning when I was a young teen, and, second, from 24 years of working with other survivors.

In my capacity as SNAP's founder and president, I have listened to more than 1000 survivors, I have testified before nine state legislatures, I have witnessed dozens of criminal and civil trials and hearings, and I have travelled to 35 states in the US and to 13 nations, meeting with and helping hundreds of survivors and their supporters, and starting self-help support and advocacy groups for men and women and kids who were sexually violated in institutional settings, whether they be churches, schools, camps or day care centres. Most but not all of our 12 000 members were hurt in churches by priests, nuns, ministers, bishops, brothers, seminarians, rabbis and lay employees.

In 1988, when I was 32, I was at my wits' end. I was frustrated in dealing with Catholic Church officials. I was experiencing extremely painful consequences from abuse I suffered in my teens. This was me at the age that I was when I was first sexually violated by the priest. The reason I show this photo is because I believe that it is important to recognise that it is really the children that are violated. When you see us today you see us as grown adults and the pain is not easy to recognise necessarily or the harm done, but somehow when we see the photo of us as children maybe it is easier to recognise the innocence that was shattered and taken from us.

Naively I had assumed that once I was able as an adult to recognise that I had been abused, that I was actually the victim of a crime — I went to the church officials, and I naively assumed that they would want to help me and that they would not only facilitate my healing but help to prevent others from being harmed. So I was frustrated when the church officials were not helping me. It was the 1980s, and back then there was a self-help group for everyone, so I figured that I did not need the church officials to find healing. I thought, ‘You know what, they’re not helping anyway, so I would like to search for and find other victims, and together we could educate ourselves, figure this out and find a way to find healing’, so I began looking for other victims.

This was, if you are old enough to remember, an era before the internet, so I had to find other victims in various ways, but mostly by reading accounts in newspapers or on news reports. If I saw a story, I would contact the reporters or the attorneys involved — the prosecutors. If the victims’ names were there, I would ask for the victims. What happened is I found some of the victims and we began corresponding and then began meeting. By the early 1990s in our meetings what we were finding was hope and healing just by finding a place where we could fit in, where we felt as though we belonged, but the thing is that in one of those meetings one of the women started laughing. It was very uncomfortable because when we are talking about sexual violence it is obviously very serious and painful, so the laughter was uncomfortable, and she said, ‘Come on, people. Don’t you understand we can’t all be first?’.

Most of us did not understand the insight she had, but she had heard from so many of us. Each of us had said, ‘Oh, the bishop told me I was the first one to come forward’, and my bishop of Toledo, Ohio, told me that, and then Ed, who was sitting there, was from Philadelphia, and his bishop had told him that, and Terri from California said that is what her bishop said. That was the beginning. Her recognising this and making it public made all of us stop and say, ‘Well, what else does your bishop tell you?’, and then we began to realise that the various bishops were all telling us the exact same thing. The things that they were telling us were that we were the first ones to come forward. They made us question the veracity of our statements or allegations. They said things like, ‘Didn’t you misinterpret his affection?’, things like that, and then they would even question our motives: ‘Isn’t it true you are coming forward because you have a vendetta against the church?’ or, ‘Isn’t it true you harbour this anger at one of the nuns who maybe scolded you when you were young?’ or, ‘You are looking for money because you are poor’. There were so many issues.

The other theme that we heard was that the bishops were telling us that bad things would happen to us if we reported these crimes to the police. To be honest with you, we were only too happy to not report these to the police, because of course facing child sexual abuse is so embarrassing and painful, but what we had to painfully learn is that keeping silence only allowed our predators to be sent to new positions where they could and did hurt more children. Over the years I have heard so many stories of lives that are ruined, the innocence that has been shattered by suicides that have been attempted and committed, and devastating betrayals by church officials who preach integrity and truth.

Lastly, I just want you to know that the wisdom I have gained over the years has been really painful, that I did not come to it easily. In many ways this might seem extreme to suggest but I believe it is true, of course the sexual violence was devastating and having my innocence shattered had a profound impact on my life, and indirectly it impacted everyone in my family, and I now realise it impacted all the parishioners of our school, of our church. In so many families, lives were destroyed because of what this one particular priest did. But I really believe that what was more painful for me was coming to the recognition that the church officials were not honest, that they did not care about the innocence of children and that they were far more interested in continuing to cover up and conceal sex crimes.

From my perspective now I do not believe that the problem in our Catholic Church is because of individual sexual predators. I believe that paedophilia is an illness and will probably be in our societies forever. But what was devastating to recognise was that the church officials were covering up these crimes and that they enabled and even empowered predators to have access to more children. It was so painful to have to come to that realisation. It did not come overnight, and I did not come to that by myself. It was with the support of survivors like these brave individuals sitting next to me that we collectively came to this realisation.

We recognise that the only time and the only way church officials seem to take even the barest of minimum of steps is to protect children or to acknowledge the truth of these sex crimes is when they are forced by external pressure. I have yet to find even one instance where the church officials actually publicly removed a predator because it was the right thing to do or because they wanted to protect children. The only time they make these

changes to their policies or remove predators is when they are receiving pressure from a prestigious committee like this asking for investigations, brave journalists, the survivors who have spoken out, prosecutors, police and civil courts. Only from external pressures have church officials done anything to make any changes.

I guess I should also just say that as victims we each individually have to come to a moment of truth, in a sense, of accepting that we will never know how our lives might have been different had we not been raped as children by a priest or by someone else in a position of authority. We cannot go back and do high school over again. So that leaves us feeling helpless, which is a very negative feeling for a survivor. So we have to question: 'Okay, how do I flip that? What is the 180 so that I can now claim power?'. And what we realise is that the way we can become empowered is if we work to protect some other 12 or 13-year-old from having to endure what we experienced, so in essence working for prevention of future abuse is intimately tied to our healing. It becomes consoling for us and empowering for us to work for protecting other children.

In the process of realising that the church officials will not change we decided to look to some type of higher authority internationally that might be able to influence those church officials, and what we found in our research was that the best place that we could find was the International Criminal Court. We did file a claim there, and that claim is still pending. We filed originally in September 2011, and we added a supplement to our original submission in April 2012. Originally we brought to the International Criminal Court 20 000 pages of documents of evidence of crimes against humanity.

We added to it. One of the charges that we added was that since the original filing in 2011 we had experienced retaliation from church officials in efforts to silence and to basically try to destroy SNAP. They have done it in many ways, but the most significant was their efforts to subpoena the private confidential records of the victims who have contacted SNAP over these past decades. Unfortunately the courts initially were very supportive of the church officials in their efforts. At this time all of that has been put on hold, but we do not know whether it will come back again. At any rate, that is a case that is pending.

You might be asking how is it that Catholic Church officials are committing crimes against humanity. It was not that long ago that the Pope, the highest ranking Catholic in the world, was visiting Australia. I am sure that you all saw unbelievable thousands of people coming, and of course the Pope is held in such high regard, yet here I am alleging that he is involved in committing crimes against humanity. I recognise how extreme that must sound, but I tell you that the evidence backs it up.

Among the ways that they do this are by priest shifting — by transferring predator priests from one place to another — and by their refusal to cooperate with the civil authorities. I am assuming this is experienced here in Australia, but it was acknowledged by the highest ranking officials in the Vatican. This Cardinal Bertone has spoken out, and other bishops have followed suit, to try to somehow claim that bishops or priests are not subject to the laws of individual nations or jurisdictions. They even praise a situation where a bishop in France in 2001 was criminally convicted for keeping silent about sex crimes by a particular priest. When that happened was the then Pope, John Paul II, apparently condoned a letter sent by the Vatican to this bishop who covered up for this priest — sent him like a congratulatory message. The other way that the crimes are being committed is because of the refusal to remove accused predators from ministry and to keep them from children.

I recognise that this committee is focused on crimes in the state of Victoria, and all I have spoken about so far is something outside, but the reason I do so is because I am convinced that the bishops and the church officials here in the state of Victoria follow the same directives, guidelines and policies from the Vatican that have caused the devastation of the abuse of children across the globe, and certainly right here in the state of Victoria.

You asked for a couple of things from us in a letter before we came, so we might have to try to address those things. One of the things was for a perspective on the handling of child abuse by religious organisations. I did prepare for you a brief on this spreadsheet, so to speak. There have probably been less than 20 investigations across the globe by various agencies or government groups to investigate sex crimes within the church. They come from Belgium, Germany, Ireland, the United States and Canada. Those findings are by independent groups — they are by government groups not unlike this committee — who we believe are merely seeking truth and have no axe to grind or any type of interest in this investigation.

We believe that it is objective, but what each of these agencies or groups — grand juries, attorneys-general, commissions — came up with are the findings that are kind of on the left side. I apologise that they are so tiny. I

myself cannot read it without my glasses, but I do believe that you get the sense. There is a quotation from each of these reports that says that the children's welfare was not the concern of the church officials, that church officials do not report the crimes to police, that the principal concern is protection from scandal and that officials have knowledge and the ability to put a stop to the crimes but they refuse to do so. There is a conscious policy of secrecy regarding the predators' behaviours, and there is cooperation and complicity among bishops to rotinate and protect the abusers.

But I think what is important is what is not there, because in those reports there is not even one report that came back and said, 'Well, in our jurisdiction we found that the church officials put the innocence of children first'. We did not find any place where the church officials are reporting the information to police or assisting in the arrest and prosecution of these criminals. None of them tell victims and their family members that they really treat them with respect and dignity and make sincere efforts at making victims whole. No-one found that the church officials have put a stop to transferring predators and are committed to exposing the truth that they commit themselves to. And none of them say that the bishops are encouraging their employees or their parishioners to report information about these sex crimes to police and that it is actually everyone's civic and Christian duty to do so. So we believe that it is important to take more action to protect children and that the church officials are not engaged in that at all.

I want to move on and maybe pass over some of these pages of testimony because I trust you will have the ability to read this, and you may have questions to ask, and others are here to testify as well. But I think that it is important to recognise that the local bishop in every jurisdiction has been given guidelines on how to respond to sex crimes. It is not 100 per cent clear and there are different statements about this, but in 2003 a very powerful and important document came to light. I believe the Vatican name of it is *Crimen Sollicitationis*. I am not good at Latin, so the English is called *Instruction on the Manner of Proceeding in Cases of Solicitation, the Decree*. It is my understanding that this decree was sent from the Vatican back in 1962 to every bishop and every church official or those with authority, like the heads of religious congregations. If you would like the information, I can provide more. But the bottom line is it seems as though that policy remained in effect until 2001, when a letter was sent by then Cardinal Joseph Ratzinger who, as you all know, is now Pope Benedict XVI, but at that time he was the head of the Congregation for the Doctrine of the Faith. In that role, with the direction of Pope John Paul II, this dictate was sent to all the bishops of the globe to send all sex crime cases to that CDF, the Congregation for the Doctrine of the Faith.

When this *Crimen Sollicitationis* document became public, Vatican officials did immediately claim that the meaning of the document was being misunderstood in the press. They also claimed that it really was not the policy, but the information that the experts from several countries provided is that it probably was the policy. The other thing is that the evidence that we hear from the victims in every jurisdiction is that that is the policy: that they want to keep secrets. The exact information in it I have actually outlined for you in this testimony, but the bottom line is that it means that any information about sex crimes is to be kept secret. There is punishment for those who would break the seal or expose the truth about these sex crimes, but there is no punishment for the actual predators or those who cover up the crimes. The only crime seems to be exposing it or making it public.

You asked for a perspective on the handling of the child abuse by the religious organisations. I can tell you that without exception, in nation after nation and year after year, we see church officials try the same irresponsible pattern. We believe the first thing that happens is that abuse allegations surface because victims, whistleblowers, lawyers, journalists and police make them public. Then church officials' immediate response is to minimise the allegations and distance themselves from them by making statements like, 'Oh, it happened many years ago', or focusing strictly on the predators while ignoring their complicit colleagues and supervisors. Then they bring in their public relations experts. They publicly apologise, hoping to ameliorate cries for real reform, and then if pressure builds, they will announce some type of a hand-picked commission that will study or investigate the situation and offer a new policy.

Before long the church officials will trot out their new policy and they will claim it is revised, it is improved and suggest that the sex crimes are in the past, that they will not happen again. Then they quietly lobby and pressure secular authorities to stay out of the controversy, and they claim their remorse and their gestures and they claim that their policies are fixing things. Eventually what happens is that the public attention wanes and the media focus dissipates and victims and their allies give up. Then the church officials continue their public relations campaign and, tragically, the same irresponsible behaviours continue, albeit in a more sophisticated and subtle way and with harder ways to expose them.

Now you say, 'Why? Why does this happen?'. We believe it happens because it can, that the church officials have the authority and that they can. We believe the root cause is the unlimited power and authority of these church officials. The way they deal with this, their power stays intact. In fact, even after all that has been exposed, the thousands of victims who have reported across the globe, we do not hear of any situation where a priest or someone in a position of power and authority in the church has suffered any negative consequences.

If you were to look at any charity or not-for-profit organisation, if the CEO was involved in endangering children in our society, I mean, he or she would be forced to step down. No charity could maintain their identity or continue. Their funders would not continue to pay them if they allowed those who would endanger children to be running the organisation, and yet in the Catholic Church that is exactly what has happened. Right now in the United States the bishops acknowledge over 6000 predator priests have abused children in the US. We believe that is a very small number, but even if we accept that number that they give, when you think of 6000 priests that have abused children, you would think that that would cause some type of alarm or that someone would be punished, but we have not seen any experience of it.

The closest we have seen of punishment has come from secular authorities. In just the past couple of months, and for the first time in the world, a bishop has been criminally prosecuted for covering up and endangering children. That is Bishop Finn in Kansas City, Missouri. He is still a bishop. Just last week the US Catholic bishops were having one of their twice-yearly meetings; I understand that Australian bishops are conducting theirs now. In the US the SNAP members went and they suggested to the entire body of bishops that they not allow Bishop Finn, who has been convicted of endangering children, to be part of the meeting, but of course that fell on deaf ears. He is welcome in their meeting, and he still holds his position of power and authority today. We only know of one other church official who has been indicted for the cover-up of sex crimes, and he is lower in the line of authority. He is not a bishop himself. He was the vicar for priest and he is a monsignor, and his name is Monsignor Lynn from Philadelphia. He is currently in jail. For the very first time a church official has been jailed for endangering children across the globe.

You asked a couple of other things, but I think Nicky and Mark will cover some of the other issues. If I was allowed one last point to make, it is that we would recommend that the church officials not be trusted without verification. Two government studies in two separate countries point to this need. Recently, in 2011, in the United States it came to light in Philadelphia; a grand jury report came out. Previously in 2005 in that same jurisdiction, Philadelphia, the grand jury found that the church officials were involved in the cover-up of sex crimes. The church officials followed the procedures that I outlined a few moments ago, and they instituted their policy, and their public relations people assisted them in their commitments of reform and promises that things would be different. But in 2011, just last year, the grand jury found that the policies had not changed and that they not only continued to allow predator priests to remain in ministry and cover it up, but the grand jury found 37 accused priests working in Philadelphia archdioceses in 2011 — that is 37; it is not 1 or 2, not a dozen, but 37 priests who had been accused.

What if that type of investigation was happening everywhere? I suspect that we would find those same numbers. In Ireland the same thing happened. A previous report, the Murphy report, came out in, I believe, 2007 or maybe 2008, but that report outlined the same horrors of cover-up, concealment and shifting predators from one place to another, and then the bishops had the same public relations scheme and promises of reform.

Then in 2011 the Cloyne report came out. It was so extreme that people were incredulous. I am sure it was on the news here, as it was in the United States. The Irish people were just shocked that even after all that had been exposed nothing had changed, so much so that the Prime Minister of Ireland, Enda Kenny, incredulously exclaimed that:

The rape and torture of children were downplayed or 'managed' to uphold instead the primacy of institution, its power, standing and 'reputation'.

The highest ranking officials in the government of Ireland have now had to recognise and see the evidence that the church officials have not changed and these crimes continue.

I thank you for this opportunity to address you here today. I really respect your efforts and appreciate it so much. I want you to know from the bottom of my heart and those of so many victims that your efforts will protect so many children, not just today but in the future, children who are yet to be born. They will not be violated. Their innocence will not be shattered, because of what you have done, but they will not know it, so

they will not tell you, 'Thank you'. I want you to know that your efforts are really appreciated, and I thank you for all of them.

The CHAIR — Thank you. Nicky, would you like to give your presentation?

Ms DAVIS — Yes. I am a little cognisant of the time.

The CHAIR — It is okay.

Ms DAVIS — Would you like me to skim a little?

The CHAIR — Please just go ahead. We will work in with you, but obviously leave plenty of time for committee members to ask questions as well.

Ms DAVIS — You have copies of the document.

The CHAIR — Yes, we do have your presentation.

Ms DAVIS — I might skim through some of the other stuff and head to some of the statistics I have in here. First of all, thank you very much for this opportunity to represent victims, and not just those who are able to come and sit here before you but there are a lot of victims behind us who are not able to do that.

It is almost impossible to believe that people we have been trained, almost since birth, to think of as trustworthy, to think of as shining examples to the rest of humanity, to think of as something above the baser human nature of ordinary human beings and to think of as compassionate and generous and loving could actually be exploiting our gullibility at the same time as they are sexually exploiting our children, and having accepted this most uncomfortable truth, to then have to realise that there is something even worse than child sex predators hiding behind the perfect disguise of priestly vestments: those who knowingly cover up and enable child sex abuse.

In 2002 the *Dallas Morning News* in the US did a three-month analysis of all available evidence and reported that approximately two-thirds of top Catholic leaders covered up child sex abuse. I will expand on that. Based on published reports, court records, interviews and church records obtained in civil litigation, the study found 111 of 178 leaders of dioceses, who could be at the rank of bishop, archbishop or cardinal, protected accused priests and other religious and kept them working. They ignored warnings about suspicious behaviour and kept priests on the job after admissions of wrongdoing, diagnoses of sexual disorders, legal settlements and even criminal convictions.

BishopAccountability.org reported that most members of the 2002 bishops committee which drafted what were described at the time by the church as stringent new guidelines and a zero-tolerance policy towards child sexual abuse were included on this list of top leaders who had been covering up child sexual abuse. Recent investigations such as the latest Philadelphia grand jury report have since found these policies — devised by this committee consisting of leaders who are known to be covering up child sexual abuse — to be feeble, ineffective or even deceptive. Some church leaders in this group even repeatedly reassigned men despite evidence they were reoffending and their therapy was not working.

The pervasiveness of this attitude to protect predators rather than children surely represents a problem that church leaders either do not know how to fix or do not want to fix. The only way to break through such entrenched behaviour is for bishops, or even one bishop, to go to jail for cover-up and child endangerment. Ten years later, in September this year, Bishop Robert Finn of Kansas was the first US bishop convicted of covering up child sexual abuse. Unfortunately no bishop has yet taken up residence in a prison cell. Bishop Finn was released after his sentence was suspended.

Of course, after hearing information like this, we cannot help but ask: what about Australia? Is the pattern found in the US being repeated in Australia? If so, will it take a bishop or cardinal going to jail to force major change from within the church in Australia?

Since Australian victims have until now largely been denied the benefit of a comprehensive investigation of this issue, and since we are also largely denied the option to sue the Catholic Church — one of the major sources of hidden church documents in the US — we do not have Australian statistics on the number or percentage of

bishops and cardinals protecting our abusers. But we do have information from victims. I am not aware of nor have I ever spoken to or communicated with or heard of a victim of child sexual abuse in a religious institution whose abuse was not covered up in some form by church officials.

Will it take a bishop or cardinal going to jail to force major change from within? That is exactly what it will take. But SNAP believes we should not and cannot rely on the church to change itself. SNAP believes there is ample evidence to support the need for stringent measures to force the Catholic Church and other institutions to treat this issue seriously and to comply with the law.

In Australia, consistent with international practice, church leaders do not remove offenders from ministry as soon as a credible accusation is received, if at all. They do not refer offenders to police as soon as a credible accusation is received, if at all. They do not voluntarily offer support to known victims or assist their recovery in any way, nor do they take effective measures to protect children from sexual assault by known predators.

They do bully and intimidate victims into silence. They do create significant barriers to victims receiving help and working towards recovery. They do manipulate victims, lie to them and strip them of all rights of redress for whatever pittance church officials believe they can get away with. They do add significantly, even exponentially, to the suffering that each victim must try to survive and recover from. They do refuse to cooperate with police investigations, including refusing to surrender documents and refusing to answer police questions. A police search warrant is absolutely no guarantee that secret or hidden documents will be found or handed over.

They do everything in their power and make available, either directly or indirectly, their massive resources to ensure that as many abusers as possible escape arrest, escape court and escape conviction. And even when convicted, they appeal those convictions at a significantly higher rate than is normal for other crimes, and I have some statistics about that coming in a minute.

When victims report to church leaders, the abuse is dismissed, minimised or blamed on the victim. Victims are told they are the only victim to report abuse by the offender, when church officials know the opposite to be true. Victims are told all about the difficulties of dealing with the police and court system, when it is clearly in the church's interests to avoid court and the public disclosure and encouragement to other victims to report that will result.

Victims often complain of intimidation and ostracisation, not just by church officials but even by entire church communities, if they speak up about their abuse or express dissatisfaction with how they have been treated by church officials. Church employees and members of church communities frequently express the desire to tell police or courts what they know about abuse from within the Catholic Church, but they cannot because they will lose their jobs, their friends and their social standing in the church community if they do so.

Efforts by victims and the media to reveal the truth of the church's handling of this issue have resulted in incremental admissions of guilt by church officials. As public understanding of this issue has grown and the volume of evidence available through the media and in the public domain has swelled, church officials have been dragged fractionally closer to admitting the truth. Church officials now admit that they handled abuse poorly in the past — microscopically more accurate than the previous evasion that they did not really understand that much about abuse in the past but are doing much better now.

Before I give some examples of my own and other victims' experience of the true meaning of 'handling abuse poorly' and 'doing much better now', I want first to ask one question I find hard to understand: what makes church officials think — since they themselves have admitted they do not understand this issue, have handled it badly in the past and, as every victim knows, they refuse to listen to victims and therefore learn and improve — that they are now or ever were fit or proper persons to deal with crimes of this nature on a massive scale, involving the most vulnerable in society, in-house and without proper independent scrutiny?

Let us have a brief look at the bad old days. They were very bad indeed. Victims who reported child sexual abuse to church officials, even in some cases to their own parents, were not believed. End of story. Whether or not those they reported to were good mates of the abuser, abusers themselves, not going to allow an insignificant child to ruin the church's reputation or in denial, the result was the same: the report went nowhere. If a child reported to parents, the parents often punished the child for making up sinful stories about Father X, declaring that such things were simply not possible. If the parents supported the child and helped them to report,

immense pressure was put on both parent and child to put the church's interests first. No-one within the church gave a second thought to the right of children to be safe from sexual abuse, or if they had already been abused, their right to recover from their abuse. It would even be fair to say no-one gave a thought to the children at all.

At least that is what official inquiries in many countries found, and that is what it certainly felt like for those of us on the receiving end of this treatment. That alone would be bad enough, but many went much further. Reports from victims tell of being bullied, threatened, their families threatened, physically abused, sometimes brutally beaten, and in the worst cases, victims received death threats or were raped by those to whom they reported their initial rape. Victims and their families were also lied to — told the issue would be dealt with or told the offender would be kept away from children — anything to make us shut up and go away.

If we went to the police or tried to take the matter through the courts, we were still not believed. Some police treated it as an internal church matter and delivered victims back to their abusers. Some refused to deal with such issues or refused to accept such things could happen or refused to take on such difficult and controversial cases. The legal system did not believe us either. Child victims were considered unreliable witnesses. Judges warned juries it was dangerous to convict on the evidence of a child alone. Adult survivors were treated with great suspicion because of the delay in reporting.

The church is going through the motions of appearing to deal more compassionately with victims and of appearing to comply with the law. Initially church officials refused to admit the possibility of priests raping children and refused to discuss the issue. In recent years the media has published more and more information about this issue, first reporting the rare cases that made it to court, then investigating in more depth, demonstrating a pattern and slowly raising public awareness and public anger at how children have been sacrificed. As victims see other victims coming forward and finding some shred of justice or healing, more victims are inspired to take that step themselves.

Now, instead of arrogantly dismissing the issue, church officials go through the motions of pretending to care, pretending to obey the law and pretending to do the right thing. Because of this need to pretend, church officials can no longer get away with denying victims justice and healing through brutality, arrogance and threats. Instead we are denied justice by lawyers and PR smokescreens and the appearance of compassion and of change, but the apologies are as fake as the wording of the 'Towards healing' document which talks of putting victims' needs first. In practice Towards Healing and the Melbourne Response serve primarily to silence victims, keep us in the dark and isolated from other victims, disempower and confuse us, manipulate and bully us into relinquishing our rights to assistance for as little as possible and neatly hide this sorry mess from public view.

Victims tell of being given the impression this is an impartial system when it is run by and for the benefit of the church and its insurers. Victims tell of being shut alone in a room with a church representative, separated from their support person and bullied until they were suicidal. Victims tell of being introduced to a lawyer who they are led to assume is representing them but who is paid for and instructed by the church. Victims tell of being treated with disdain, anger, impatience and a complete lack of consideration or understanding for their suffering or need for sensitivity, of being treated dismissively and blamed for their own abuse, of being manipulated into providing information which is used to assist and inform the abuser and the abuser's defence team if the case goes to court. Victims tell of investigations which support the victim's accusations but which are arbitrarily thrown out by a bishop, or victims of the same abuser, subject of an identical investigation, where one victim's claim is upheld and another denied.

One victim told me she attempted suicide by overdosing in Archbishop Denis Hart's office, was rushed to St Vincent's emergency department where she was treated, then taken to a private room and asked by the registrar why she attempted suicide. She explained that she was distressed by how badly the church was treating all victims, and the response was to tell her she was going to be locked away at the Queen's pleasure, never to be released. This was not a threat; this was a statement of fact. She managed to escape and, terrified, rang her psychiatrist, who promised to keep her safe.

One victim told me of how another victim had been in dire financial need and had approached St Vincent de Paul for emergency assistance. That assistance was denied, so the first victim rang the Victorian head office of St Vincent de Paul and spoke to a senior official about the case. The official refused to help, seemingly because the person in need of assistance was a clergy abuse victim. For clarification, the victim asked, 'So you don't

give help to clergy abuse victims?'. The answer she was given by the official was, 'That's right'. These victims have provided submissions to the committee and requested to appear in person if the committee would like further details or firsthand testimony of these events.

Police and courts have improved markedly in their treatment of child sexual abuse cases but still have a long way to go to remove all barriers to reporting for fragile victims and to limit as much as possible the traumatic re-abuse of victims by the police and court process, which is predator friendly to a marked degree, so predator friendly in fact that research in 2006 by Judy Courtin, a lawyer and Monash University PhD student who will be presenting her latest research to the committee at a later hearing, found that in Victoria 0.06 per cent of child sex abuse cases result in a conviction. This is based on the information provided by the Victorian Law Reform Commission of a 10 per cent reporting rate for this type of crime which results in 6 convictions per 1000 victims in the community, or 94 cases per 100 reported to police which do not result in a conviction. This means for every victim who achieves a conviction for their offender, there are another 166 whose offender is not convicted. Another way of looking at it is that 99.94 per cent of child sex abuse cases result in an offender who is likely out on the streets and not flagged on any sex offender register.

I am one of those many victims who has had to somehow find a way to come to terms with such a complete denial of justice.

The CHAIR — Please take your time.

Ms DAVIS — Judy Courtin's research paper, *Judging the Judges — How the Victorian Court of Appeal is Dealing with Appeals Against Conviction in Child Sexual Assault Matters*, is also the source of the statistic that of the tiny 6 cases per 1000 that achieve a conviction for this type of crime, more than half of the convictions are appealed. Judy notes that this is between two and six times the appeal rate for other crimes. The number of convictions is also further eroded by successful appeals — approximately half — as well as retrials, further appeals and acquittals. Judy concludes the 'secondary legal trauma' associated with the trial process, the difficulty with obtaining a conviction and the very real threat of successful appellate proceedings mean that victims are faced with a clear disincentive to use the criminal courts as a means of seeking justice.

As a quick comparison, Marci Hamilton, a professor at the Cardozo School of Law, analysed the John Jay study commissioned by the US bishops and found 3 per cent of Catholic Church child sex abusers were convicted and only 2 per cent were ever jailed. Once again, we have 98 per cent of child sex abusers free to target more victims and not appearing on any child sex register. I should note these statistics are not directly comparable, as the information from the Victorian study by Judy Courtin looks at child sexual assault in the population as a whole, whereas the US study by Marci Hamilton only looks at Catholic clergy abusers and only those reported in what can be described as a 'self-study' by the US bishops. The John Jay data in no way represents the entire picture of Catholic clergy abuse in the US, just a snapshot of those cases US bishops were prepared to acknowledge at a particular point in time. Subsequent official inquiries in certain regions have found those statistics to be understated.

The interesting point about the US figure of 3 per cent convictions is that these were cases that had been reported by victims that the bishops knew about but did not report to law enforcement. Imagine how many cases of child sexual assault could have been prevented had US bishops been less concerned with cover-up and more concerned with child protection. I should also note that Victoria Police believe that the figure of 10 per cent reporting may be much lower for Catholic Church cases. In my own case, of 49 known victims I was the only one able to report to police. Other victims spoke to police but none were able to make a statement or appear in court.

We do not have similar statistics to the John Jay study in Australia, as the Catholic Church here does not divulge abuse statistics. The Melbourne Response has released the number of victims it claims to have compensated and the number of abusers involved in those cases, but this information is not comprehensive, covers only a tiny area and is likely to be understated. I find it hard to understand why, when the Catholic Church is trying to promote an image of openness and transparency, it is unable to publish such statistics. Surely good management practices would demand the collating of information to help the Catholic Church understand and work to prevent these crimes, and surely an organisation with nothing to hide would not have a problem with publishing such statistics.

Defence lawyers make good use of this bias in Australia's police and court systems. For example, instead of trying to present evidence of innocence in cases of known child sexual predators, defence lawyers focus on attacking and undermining victims in the hope of tricking them into revealing inadmissible evidence and triggering a mistrial. The vulnerability of victims means that the additional pressure of having triggered a mistrial and becoming traumatised all over again for little or no gain may well be enough to make them crack under the pressure and be unable to survive a new trial, leading to charges being dropped.

This bias sees our legal system bending over backwards to prevent the remote possibility of an innocent man being wrongly convicted and sentenced, but perfectly comfortable with 99.94 per cent of victims being denied justice and also being sentenced to a life, or in some cases, a death sentence, and with 99.94 per cent of cases likely resulting in a child sexual predator being free to reoffend. This bias is also contained in the large number of technical loopholes that offer a smorgasbord for defence lawyers to choose from or try one by one in an attempt to avoid going to trial and a range of difficulties with this type of case ever being able to meet the criminal standard of proof, once again giving defence lawyers an arsenal of tools to defeat efforts to offer justice to victims.

Cases of this nature, those few that make it to court, invariably feature only a fraction of the actual offences committed, and frequently only a fraction of the victims actually attacked by the accused, and for the victims left behind by the justice system, it can be a devastating blow. It took me a year to start to come to terms with my chance at justice being snatched from me by a Catholic Church that does not want these cases to undergo public scrutiny. I had multiple eyewitnesses to my abuse willing to testify in court — an unusual level of corroboration for these crimes — yet it was not enough to get a paedophile off the streets and unable to reoffend. The justice system is as broken as the concept of trusting Catholic Church officials and other institutions to effectively self-police.

SNAP calls on the committee to recommend a wide-ranging review of the legal and court processes for dealing with these types of crimes, in addition to vital measures such as effective mandatory reporting and removal of statutes of limitations for these crimes.

The CHAIR — Thank you very much. Mr Fabbro?

Mr FABBRO — We will head straight into this. I am just giving you a bit of an outline of my involvement in SNAP and the campaign I have been doing and will tie that into the recommendations for this committee. SNAP in Australia is more of a collective, and I would like to outline my involvement in it. SNAP does not receive funding from any source and is underresourced.

I have been with SNAP and its predecessor assisting survivors of abuse since the Pope's visit in 2008. Along with colleagues, I have been supporting and assisting survivors by listening to their stories. I have spent many hours on a voluntary basis talking on the phone and visiting homes, sharing experiences of mediation and referring people for professional help. I have been collecting information and assisting researchers, and referring persons with allegations to Broken Rites.

Advocacy work has included writing to and meeting with bishops to demand improvements of their reporting of abuse to police, and to seek statistics and other information relating to what is now widely referred to as being a systemic cover-up of crimes against children. I, along with colleagues, have been calling the offices of and writing to politicians, including the Attorney-General of Victoria, requesting an independent inquiry into the Catholic Church. I have also been disseminating information about the issue via the SNAP website and emails, raising awareness about the issue, and of course colleagues have also been doing the same thing.

In Australia the many demands for an independent judicial inquiry of some sort did not gain traction for a number of years. As I and many other survivors understood it, this was mainly because politicians in this country failed to act. In 2010 I travelled to London for the Pope's visit in an attempt to meet survivors there and with a hope to bring greater attention to the issue. During a protest held during the pontiff's visit, the Metropolitan Police estimated that 12 000 people came out onto the streets of London, most of whom were supporting the fight for an end to the systemic crimes of concealing information about child molesters at the highest level of the Catholic Church.

Upon hearing of the purported involvement of a child sex perpetrator, Father Keating, and an associated cover-up in the excommunication of Mary MacKillop some 140 years ago, I travelled to Rome for the

canonisation in an attempt to bring attention to the current plight of survivors of clergy abuse in Australia. On arriving I learnt that the Australian Labor Party gave the wealthiest organisation in the world, the Roman Catholic Church, \$1.5 million towards the costs associated with the canonisation. I took the opportunity to present Mr Rudd, who was then the foreign minister and who was also in Rome specifically for the purpose of the canonisation, with a written request that the Labor government provide funding for financially struggling survivor groups. No response was ever received to that request. Therefore my first recommendation is I request that this Victorian parliamentary committee acknowledge the enormous financial advantage held by the Roman Catholic Church in Victoria. I recommend that it advises the Parliament of Victoria, in a spirit of democratic fairness, that public funding ought to be made available to clergy abuse support groups.

At a Vatican press conference held on 18 October 2010, immediately after the canonisation, I asked Mr Rudd:

Given the failure of the Catholic Church to adequately deal with the clergy sex abuse crisis, I ask you what, in the spirit of St Mary MacKillop, does the Labor government propose to do to help provide justice for survivors and bring the church in Australia to some sort of account?

Mr Rudd replied:

The church has dealt with many cases from the past, and where there have been imperfections in the process they have also sought to improve those processes.

As we have seen, the experience elsewhere in the world shows a pattern of non-cooperation on part of the Catholic Church when civil authorities are called in to undertake inquiries such as this one as a result of the failure of self-regulation by the church. The experience in Australia also suggests there is a reluctance of legislators to act in the interest of child protection in the face of a wealthy organisation upon which legal privilege is bestowed. So my second recommendation is that this committee advise the Premier and the Attorney-General of the state of Victoria to instruct all relevant state departments and agencies to cooperate fully with the proposed federal royal commission.

Now I would like to refer to my individual submission, which you will have a copy of there. I was sexually assaulted in Melbourne on school grounds during school hours by a prefect of discipline, Father Byrne, who is now deceased. This treatment and subsequent violent sexual assaults resulted in damage that impacted severely on my childhood development and life opportunities. In 1996 I was dissuaded by an agent of the church, Peter O'Callaghan, QC, from reporting these crimes to police. I was also dissuaded by Peter O'Callaghan, QC, from attempting to seek justice from the Jesuits. He said it was pointless 'as priests had made a vow of poverty'.

It was not until July 2005, after the Jesuits were forced to sign up to the Towards Healing protocol, that I was able to lodge a complaint. In this process, the critical evidence on which my complaint was substantiated was withheld from me. Refer to 13, 14.1.1 and 15.1.3 of the assessor's report addressed to Father King of the Jesuit order. This lack of transparency in the process is a major concern to many in the community as there appears to be a widespread pattern of secrecy designed to protect the interests of the church. For many years the leaders of government and the judiciary appear to have failed in their duty to ensure the delivery of justice and the protection of children by allowing the Catholic Church to operate its own secret investigations and by not enforcing the church to report serious crimes within the organisation to police. So my third recommendation is the committee advises Parliament to enact laws and/or provide directives to law enforcement authorities to ensure that all documents held by the church for the purposes of dealing with complaints via the Towards Healing protocol and the Melbourne Response are handed over to the state law enforcement authorities.

While there are no independently procured statistics available to the public, concerned persons wanting to know abuse rates of clergy sexual assault have no option but to rely on anecdotal evidence. Nicky gave us more information about the statistics. It can be gleaned from information uncovered as a result of my complaint that the rate of children abused at Xavier College Preparatory School, Kew, in 1971 was as high as one in five, or 20 per cent of students. There has been talk of men who were boys at this school taking their own lives.

It is well known the Jesuit order has done a great job in inspiring some of the greatest minds in this country, but what the public ought to be made aware of is the sexual assaults and brutal treatment that were dished out at Jesuit boarding schools in the 1970s. The Jesuit order is not immune from harbouring abusive priests. I have added an extra there titled 'Let him prey' about Father Maguire in America. You can see in that document there is a definite pattern of cover-up. It is interesting to note that despite the Jesuits being one of the largest religious

orders in Australia for many decades, to our knowledge not one arrest or prosecution has ever been made of a Jesuit priest.

I have information from a reliable source well connected with the Jesuit clergy of allegations that a Jesuit priest, who we can call Father X for the purpose of this inquiry, against whom credible accusations of child sexual assault have been made was still a priest of the Jesuit order as of late 2011. It is not known whether the alleged crimes of this priest had ever been reported to police in Victoria by either the Jesuit order prelates or staff or by anyone in the community.

My fourth and second-last recommendation is that the committee advise the Parliament that it provides for an appropriate authority to issue a clear direction to the Victorian community that if they have any information in relation to the assault of children by clergy, no matter how historical or trivial that information may seem, to report it to the police immediately. The public also ought to be reminded that it is a criminal offence to withhold information about criminal activity from the police and that it is also an offence to wilfully destroy documentation or digital material that contains evidence of criminal activity.

Records show that Father X was shifted back and forth between three states over decades, possibly to evade criminal prosecution. My concern is that this alleged offender may still be in the community posing a threat to the safety of children. There are many well-researched accounts of predators who have been relocated or trafficked interstate and overseas. We have seen in the media weekly reports of serial-offending prelates and ex-prelates being arrested or discovered hiding overseas. These men should have been reported to the police by the church a long time ago. My final recommendation to make to the Parliament is that an investigation of all files relating to alleged sexual assault currently held by police be assigned to a special forensic investigation team within the police force with adequate resources and relevant experience.

My final question for this inquiry is: when is the coalition government and/or the Parliament of Victoria going to show the same determination as it does in outlawing bikie gangs in relation to bringing the Catholic Church to account for what seem to be widespread, systemic crimes against children? The other question I have of course is: when is the Parliament going to show some courage and legislate to ensure the Catholic Church stops its criminal activity of not reporting crimes of child rape and molestation to the police? Thank you very much for the opportunity to come here.

The CHAIR — Thank you very much. I know you were racing through your presentation to accommodate our questions.

Mr FABBRO — Yes. I would have liked to have gone slower.

The CHAIR — Thank you for doing so. My question is probably directed to Nicky and Mark, but also to you, Barbara, because of your role. Nicky, you spoke in your presentation about technical loopholes and tools to defeat efforts to offer justice to victims. Mark, you spoke of justice denial, and also you, Barbara. We have heard from various witnesses in relation to what justice looks like. What do you think justice looks like for victims?

Ms DAVIS — It is actually hard to answer that question because we have spent our lives battling. Sorry.

The CHAIR — That is all right.

Mr FABBRO — Perhaps the opportunity to pursue our grievances through civil court processes, which we know now is not possible, so reforming the civil area would be beneficial to us. Another issue that I think would be important to survivors is that the truth of the matter be got to by the secular authorities so that we really do know the extent of the problem. I think that a lot of church people probably have the same sort of sentiment that it is in the interest of the Catholic Church in the long run if this matter is really sorted out thoroughly once and for all, so that the church can move on as well.

The CHAIR — Thank you. Barbara, would you like to comment in relation to your experience?

Ms BLAINE — I think it is as Mark described, and I think Nicky yearns for. I believe it is the exposure of the truth. It is so much more important for the victims to learn the full extent of information that is being held. For many victims, it means learning, 'Who knew that my predator was a predator, and when did they know?'

Did someone know before he got to me?'. I do not know why it is so important for us, but I have experienced that it is true. It was in my case, and it seems to be universal that we all want to know, because of the fact that those who we trusted violated the trust. It is not about the sexual violence as much as it is about the cover-up and what violence might have been prevented. We would love for justice, in a sense, to see those who have engaged in the concealment, cover-up and enabling of sex crimes to be held to account.

Ms DAVIS — Can I try again?

The CHAIR — Please do.

Ms DAVIS — I absolutely agree with what Barbara was saying. They keep us in the dark about what is so intensely personal to us, and that is so hurtful.

Mr FABBRO — I think another issue that has not really been reported on or spoken about much is the additional impact of spiritual abuse and associated spiritual trauma when abused by a figure purporting to be the representative of God on earth. It adds a whole other dimension to the impact and the damage.

Ms DAVIS — But the other thing that is so very important to every victim that I have spoken to, and I am sure everybody else has spoken to, is that it is very important to our healing to know that the same offender and other offenders are not being enabled to continue to abuse other children.

The CHAIR — Thank you for giving us your perspective. We appreciate it.

Mr McGUIRE — Thank you, all three of you, for testifying today. We want to make sure you understand that your testimony is very important to us and to try to get the facts and evidence then follow what needs to be done next, and, Barbara, from your perspective to give us the international view. If I could just ask you the first question, are you proposing that we should look at a charge of endangering children as a similar charge that we should have here? Are you saying that that is the only way that you got a conviction of a bishop internationally?

Ms BLAINE — I am not sure if your law permits that, but I believe that that clearly is some level of holding those to account. I assume that if that particular charge is not available in Victoria, there are other similar types of charges. I think it is really important that the testimony be brought in. I do not know whether you have the subpoena power, but even if you have subpoena power to obtain documents, our experience is that the Church officials are not forthcoming. When they say they have turned over all the documents, we find later that they have not.

For example, in Toledo, Ohio, in the US, prosecutors came in with a subpoena regarding information about a priest who was accused of murdering a nun. It sounds so outrageous. Who could believe it? But it was true. When they went in with the subpoena, I believe they received something like 8 or 10 pages of documents. They were encouraged to go back with a second subpoena, and the second time they went with a no-knock search warrant, and with that search warrant they were not polite. They barged into the offices over the objection of secretaries and many others, and they went into those files. They found hundreds of pages of documents regarding a particular predator that they were investigating about the sex crimes and information leading to the murder. By the way, it was like the nun was potentially going to expose the priest, which is why the murder occurred.

Also they found other documentation in the files, even documents regarding abortions committed by women who were impregnated by the priest. That information was shocking for everyone, needless to say, but it has been reported and found to be true. When the investigators were questioned on why they did not bring those documents out of the files, they looked to their subpoenas and search warrants and they were only given permission to seek the information on the sexual abuse and on the issues related to the murder. The search warrants did not include information on abortion, but that was there.

The CHAIR — Just to clarify for you, we are in the process of obtaining documents, so we have been doing that. You may not be aware of that.

Ms BLAINE — I am sorry; I did not understand.

The CHAIR — You asked if we were obtaining documents. Just to clarify for your purposes, yes, we are.

Ms BLAINE — Then the only thing I would add is to please not only subpoena the documents but bring in the employees and former employees and ask them to swear under oath what documents exist. Because when that happens in other jurisdictions we find many more documents exist and more truth is exposed.

The CHAIR — Thank you.

Mr McGUIRE — Nicky, I would just like to also put to you that you raised a number of issues and a number of specific propositions, and you said that there might be some more people who are willing to come and testify. Obviously we need to take it from a general proposition to try to get specific fact and evidence and what can be validated and verified.

Ms DAVIS — Sure, and these are people who are already in the system, so they have put submissions in and they have put in a request to speak to the committee. I can give you the names of those people in private.

Mr McGUIRE — If we could work through the secretariat and just make sure that we get that on the record.

Ms DAVIS — Yes. So you are interested in following up that information?

Mr McGUIRE — Absolutely.

Ms DAVIS — Because they are very happy to speak to you about that.

The CHAIR — I am sure the secretariat will be in touch with them.

Ms DAVIS — I mean, when I heard those numbers, it was like, you know, you think you know a lot about this issue but you are just constantly hearing real-life examples that just — wow.

Mr McGUIRE — And as you would be aware, we need to get the facts, the evidence and the validation and the verification. We have to take that through to make sure that everything can be tested.

Ms DAVIS — Yes.

The CHAIR — I am sure the secretariat is following up with those people, but if they would like to contact the secretariat, then please alert them to do so.

Mrs COOTE — I would like to thank all of you. Nicky and Mark, for your presentation and the courage you showed in coming today; we really appreciate it. And Barbara, coming all the way with all your international experience is really valuable as well. So I particularly would like to thank all three of you. I have dwelt a bit upon some of the evidence that you have given and tried to pull it into being a Victorian experience, given that that is the nature of our inquiry and that we are trying to drill into some specific information. Mark, in your presentation today you talk about Father X and a whole range of things, and you say on page 4 of 5:

We see in the media weekly reports of serial-offending prelates and ex-prelates being arrested or discovered hiding overseas.

I know that we do not have time now, but if you are able to perhaps give us some more examples of that, that would be extremely useful and very helpful. If you could take that on notice.

Mr FABBRO — I think in today's paper there was mention of an alleged perpetrator currently in Sri Lanka who has apparently been able to avoid extradition for quite some time. I do not know the details about that, but certainly the story is that he was at one stage in New Zealand, and the newspaper report today suggests that he was required in Australia for 250-something offences. The other day we had a Salesian priest who was arrested also two weeks ago. So as you can see, it is quite often that law enforcement officers need to extradite a lot of perpetrators from overseas — and the Salesians, as we know, are particularly good at sending perpetrators overseas to avoid — —

Mrs COOTE — Do you have people within SNAP who are direct recipients of those particular people that you have just mentioned — not here, but if you could perhaps let us know that later — people that have come to you?

Mr FABBRO — Right. Definitely.

Mrs COOTE — With explicit details of those two examples that you have just given, that would be particularly helpful.

Mr FABBRO — That is not a problem.

Mrs COOTE — Okay. Thank you. I just wanted to ask Nicky a question as well. In your submission today you said there was absolutely no guarantee that police search warrants are going to be of any use. I note Barbara spoke of an example internationally. I am wondering if you know of any explicit examples of that here in Victoria.

Ms DAVIS — Unfortunately not off the top of my head in Victoria. In my own case, it was investigated by the New South Wales police. It also had a Victorian element in that the offender was transferred to Victoria and his name changed, hidden and not reported to police, but the police investigation was in New South Wales primarily. In that case they had search warrants, and I know of the existence of lots of documents that were never found under those powers.

I believe what they do is they move the documents around and, you know, they play on technicalities, so if you do not ask for exactly the right thing, you are not going to get what you want. And sometimes it is a matter of knowing in advance what sorts of documents and where they usually hide them and that sort of thing that will result in actually getting hold of them. But if you are not as familiar with precisely how they hide these documents, you can try and get very little.

Mrs COOTE — I just have a final one, which is in the original submission.

Ms DAVIS — But I can ask around and see if — —

Mrs COOTE — I would be very interested. Yes, please. Thank you very much.

Ms DAVIS — Yes.

Mrs COOTE — I have just one final question, which is in the written submission that was presented prior to today. It says there were:

Accusations against a Melbourne Catholic investigator tipping off accused priests about secret police investigations so that they could destroy evidence —

and that this is —

not unique.

Do you know of explicit examples of this, either Mark or Nicky, here in Victoria that you could share with us? Again, I have put you on the spot, but if you could perhaps provide our secretariat with some more information about those specifics, I think we would be very grateful.

Mr FABBRO — There have been allegations that Peter O’Callaghan was somehow involved in informing a priest who was later discovered to have had child pornographic material on his computer. We can give you all the details to that case as soon as we can.

Mrs COOTE — Thank you. That would be very helpful. Thank you again, the three of you, very much indeed.

Ms HALFPENNY — Barbara, being the international organisation that SNAP is, the submission that has been put in cites a number of reports from different countries about child abuse, particularly in the Catholic Church. As a result of those reports could you point to some good examples of law changes that have come about that have actually worked or maybe look, from a survivor’s or victim’s point of view, to be the sorts of things that are needed?

Ms BLAINE — I believe one of the most significant changes in law is to make the laws less predator friendly. I believe across the globe there is such an effort, as Nicky pointed out, to protect the rights of the accused that somehow the rights of the victims are swept under the rug. One law change that has been made in three different states in the US has been the opening of the statutes of limitations — actually setting them

aside — in the civil cases. It was also set aside in the criminal cases, but later the US Supreme Court overturned that and said that you could not apply the law retroactively for a criminal case, but they did allow for the civil cases.

Where that has happened what is significant are two things. One, and the most important, is that it allowed for previously unidentified sexual offenders to be publicly exposed. That, in and of itself, immediately makes children safer, because I can tell you I suspect all of our parents would have done anything to have protected us had they known that this was happening to us, but no-one warned them. So we believe it is helpful to expose the identity of the predators. That happened when the statutes of limitations were removed, as well as it giving an opportunity for the truth to be exposed because the discovery process was invoked, and it enabled most of the victims in those particular states — California and Delaware and now Hawaii have allowed for this to happen and the documents are being made public, which is very consoling and healing for the victims.

I think it has made those states sacred places. I think it is important to mandate that anyone, any adult that has information about child sex crimes should be required to report that information. In our society today clearly we can recognise the importance of doing the weighing. Is it more important to protect a grown adult whose reputation could potentially be harmed versus the risk of violating the innocence of a child, and when we are weighing that, we always have to weigh in favour of the child. It is always grey; we never know for certain. It is possible there could be a false allegation, but considering that the false allegations are so minimal, I think that we have to err on the side of protecting the children and not protecting the reputation of a grown adult. Those would be my recommendations.

Ms HALFPENNY — What about redress schemes? There seemed to be some, especially in the 90s in Canada, your neck of the woods. Are there any more recent ones, or do you have a view on any of those redress type of schemes?

Ms BLAINE — I think that the hearings and the redress that happened in Canada were the most that the law would provide for. I think many victims are left still feeling that they have not received justice. They are happy for glimpses, but it almost seems as though we as victims have to accept the bare minimum crumbs that might come down to us rather than really having our lives made whole. When the victims in those three states in the US were permitted to bring their claims, they at least had the opportunity to have their lives be made whole, where they were given substantial settlements and the whole truth was permitted to be exposed, but you should know that there is still haggling going on over that. In California in the Archdiocese of Los Angeles, even though they had agreed at the time of the settlements to turn over all the documents and make them public, once the documents were signed and the cases were supposedly ended, which was about five years ago, the church officials immediately filed to keep those records hidden, and it is still being debated in the courts, so all of those files have not been released, but I think it is really important that they be released. I mean, for the most part we are treated as though we are enemies when we come forward as victims, and just to be treated with dignity and respect as you all are doing here means the world to victims. The fact you are doing this inquiry you are really helping so many — you have no idea.

Ms DAVIS — Can I speak to that issue? I would like to say that so often when you are talking about these sorts of things, it keeps coming down to money, and money is just not the key issue.

Ms HALFPENNY — I understood the redress was not just about money.

Ms DAVIS — The vast majority of victims are not getting any help, and it is important to understand that because I think there is a lot of misinformation out there that implies that everybody is getting help. There are a lot of victims who have never been helped, who have never come forward. Some of those are known to institutions and they do not reach out to them and they do not offer them voluntarily any help at all, and that is obscene. These people should at the very least be getting access to free-of-charge counselling as an absolute minimum. It is just unthinkable that we could be turning our backs on these people and saying let them suffer, because that is what we are doing. We are saying they should suffer because this issue is too hard to deal with. Moving on from counselling, there is a range of other needs that would help people put their lives back together again. The thing is that victims are quite broken, but we started out with lots of potential and we can put our lives back together again with the right help.

Ms BLAINE — That is very true, and there should be no impediments to the victims immediately being able to access the basic mental health services. They should not be required to go to someone else to make a referral, they should just be able to go. And there should be no limitation on how long they can receive their services. In many jurisdictions in the US they give them only six months of treatment, and then in order to continue it they are required to go through a whole series of obstacles. I mean, the mental health professionals who are providing the services are certainly capable of deciding when and if the victims have received sufficient treatment rather than these third-party bodies, either government or church officials.

Ms DAVIS — And another thing that is very important to victims is that they not be forced to deal with the abuser organisation. In a lot of cases we find that very offensive, very challenging, and in some cases it is just quite simply a barrier to seeking help that is insurmountable for some people. So services need to be delivered outside of the organisation even if the organisation pays for them, but they should never be delivering them. What we have seen with the delivery of services by the Catholic Church and other institutions is that their staff seem incapable of treating victims respectfully and sensitively and compassionately, that they have this ingrained resentment of victims. As Barbara said, they see us as the enemy and they treat us as the enemy, and that really is unhelpful.

Mr WAKELING — To each of you, thank you very much for giving your time today, particularly Nicky and Mark for your personal stories and Barbara for travelling to Melbourne to participate in this important inquiry. We do thank you for that. I just have a couple of questions if I may. Firstly, Mark, just to pick up on Mrs Coote's earlier point in regards to your presentation where you talk about Father X. You make the comment in your presentation, and I quote from the documentation:

Records show Father X was shifted back and forth between three states over decades, possibly to evade criminal prosecution.

Mr FABBRO — Possibly — the emphasis being on 'possibly'.

Mr WAKELING — Can I confirm firstly that when you say 'records show'; are they records that you have — —

Mr FABBRO — They are records that are held by the church, the directory of priests. There is a directory of priests and their location. It is a historical record that is available — —

Ms DAVIS — It is called the Australian Catholic Church directory, I believe.

Mr WAKELING — I just want to clarify that you have sighted that information.

Mr FABBRO — Yes. I have had some access to those records, and of course saw that he had been shifted interstate number of times.

Mr WAKELING — Barbara, if I may, thank you very much for your presentation and particularly your overview of the international investigation. That was very useful. I am just interested to perhaps pick further up on the point Ms Halfpenny made. Clearly there have been a number of investigations, and we are keen to see how that has worked in those particular jurisdictions and how that will impact here, but I am also interested from an international perspective. How did these inquiries deal with the impact and the role of Vatican, and how much change can be implemented at the local level, or in your opinion do the Vatican and the controls of the Vatican, as identified in your submission, still have a significant impact in the way in which these matters will be dealt with within the church once a report is tabled and changes are implemented by legislators?

Ms BLAINE — I believe that the best mechanism to possibly bring about reform that I believe everyone wants from the Vatican would be to first recognise that Vatican law and canon law have no jurisdiction over the state and over how matters of crime are dealt with by the state, and to recognise — and maybe this will seem extreme but I believe it is really appropriate — that canon law, I believe, should be looked upon the way you would look upon a personnel policy of any corporation, that it should hold no more weight in dealing with matters in Victoria than the personnel policy of IBM Corporation or any other corporation if there were crimes being committed. I do not believe that canon law, as it stands, can bring about any of the changes.

To be honest with you, I think it is the authority of your government and the power of this committee and of your findings that ultimately has to hold them accountable. We just cannot rely on them making the changes themselves. They have not yet, in spite of decades of scandal coming out. Why they refuse to make the changes

I do not know, but clearly they do not make the changes. I cannot wager to understand their motives, but we know it is not the protection of children. They continue — when I say ‘they’ I mean church officials — to exercise control in so many ways in the running of the churches and the church institutions. I am a product of a fairly decent education in Catholic institutions from my earliest days of primary school up until graduate level of education, so I acknowledge there are good Catholic institutions, and I will be the first to acknowledge there are good services that the church provides to the world. The problem is that they cannot be left on their own when it comes to dealing with these sex crimes. I believe the day that they are held accountable will be a day that makes everyone safe. I do not know if I am addressing your concerns.

Mr WAKELING — The real question I am looking at — and I am just going from your list here of New York, New Hampshire, Massachusetts and Philadelphia, where they have had inquiries. Assuming that legislative change was implemented to improve this situation with regard to preventing further crimes occurring, did the role of the Vatican potentially impede the changes that were sought by the legislators to stop the cover-up of crimes and the movement of offending priests et cetera?

Ms BLAINE — I must admit that by and large many, if not most — most would be over 50 per cent — of the recommendations that have been made by these committees, commissions, grand juries et cetera have not been implemented. They are not implemented because of the influence of Catholic Church officials on law-makers and others when it comes to the lobby impact on making the laws. You know, it is tough. I personally cannot understand why or who lacks the courage or who is not able to recognise the importance of it. Even in Philadelphia after three grand juries have promoted the elimination of the statutes of limitation, or at a bare minimum opening a window of opportunity for those who previously were prevented from coming to the court to have their day in court — to open up a two-year window or a one-year window — the law-makers of the state of Pennsylvania have still not implemented that legislation. They have made minimal changes that tweak the law on the exterior. I believe that is why the crimes have continued after 2005 until 2011, and I suspect they will continue because there is no mechanism to make them stop.

Ms DAVIS — Can I just add something there? It might be useful if we provide to you copies of the oath that cardinals and bishops swear. It shows exactly where their loyalties do lie. So when the committee is looking at recommendations you could maybe look at the fact that this is where they are being told to put their loyalty and what the legal structure of Victoria can do to ensure that their first loyalty is to this country and not to a religion which sometimes calls itself a sovereign country, doesn't it? So they are not working for the benefit of a country other than Australia.

Mr O'BRIEN — I join my colleagues in thanking you all for coming, from your various perspectives. To pick up some of the commentary, in a prelude to my questions, it seems to me that this is a very significant issue at an individual, personal level for all of you, as it is at a parish or family level; a state level obviously for the state of Victoria here; a national level, as we have with the recently called federal royal commission; and an international level given that all of these things seem to be occurring simultaneously around the world. For us as state legislators, that gives us two very important aspects from your testimony: it gives us some perspective in which to receive your evidence and the evidence from other witnesses; and also a coordination in terms of the context in which we seek to undertake activities, being effectively the first inquiry in Australia on this issue.

The first question I wanted to ask in that context is: we have not had a coordination submission from any of the victims groups, to our knowledge. I make no criticism in that regard. The church has not provided us with a database of offenders et cetera, although they have provided that summary information that you have correctly identified. One of the first tasks for us is to catalogue and receive the information, particularly of what you call the cover-ups or what has been called the perpetrators moving. We had the very compelling evidence of the Fosters last Friday, and other witnesses, who explained the problem of when a priest is being moved from parish to parish: it is that endangerment of innocence that is a particularly heartbreaking aspect of this issue.

We are endeavouring to begin the process of cataloguing these offences effectively and building this database, and the cooperation of the church will obviously be critical in that, both here and overseas. What level of activity has your organisation, SNAP, done to localise the evidence you have? Specifically you have mentioned there are 20 000 pages of evidence in your ICC case and 12 000 members. Are you able to tell us either now or later how much, if any, of that has come from Australia?

Ms BLAINE — We can check. I do not have that information available right now.

Mr O'BRIEN — For example, in the case of Father Kevin O'Donnell, he has now passed away, so it is an accountability exercise.

Mr FABBRO — A lot of the records are in the public domain via the Broken Rites website, so that would be a very useful resource.

Mr O'BRIEN — It is. Just so that you do not misunderstand where I am coming from, I make no criticism, because this is an exercise that has not been undertaken by the church. If they are going to improve or *mea culpa* or whatever, the first thing they have to do is acknowledge the past, which has not properly been done in terms of accountability, even in the case of priests who are dead. That is really my thinking, to some extent, but that seems to be a first step of where they have got to head. For us, we have received submissions from people like In Good Faith and Associates, who have acknowledged 19 priests who have moved on. I identified another 10 to 15 from Broken Rites. You have said there is a cover-up in every case, by way of example.

Ms DAVIS — Yes. There is also my own case.

Mr O'BRIEN — Of course there is your own case, and we have had Mr Lawther's case. We have had all the individual cases plus your collective cases, and this will have to be coordinated effectively for the first time by this inquiry.

Mr FABBRO — As we know, there is very little transparency on the part of the church. We certainly expect that the committee might in some way be able to demand or extract a greater amount of transparency from the church in relation to how many priests have had allegations that have been credible against them and how many priests have been perhaps moved around overseas and interstate. So I think an investigation would need to be almost of a forensic nature, but of course the documentation and evidence would need to be extracted from the church first.

Mr O'BRIEN — We are very much aware of that, and that is what is being worked through. It has to be carefully done because individual victims, as you know, have to have their individual concerns about whether they wish to come forward, if they have not come forward — and obviously police investigations need to be respected as well. So that is a very careful process. I do not know what to go to that aspect. I want to go to what extent is your membership coordinated with these localised memberships, as a first question. I have sort of asked that.

The second one is in relation to civil law, which is a different standard to the criminal standard, but there are some options in civil cases, both for coordination and in terms of class actions. We have a famous case in Australia of pleadings of statute of limitations. In the case of *Commonwealth v. Verwayen*, which was a commonwealth case and is known as the *Voyager* case, the commonwealth initially tried to change that plea in relation to whether they would take a statute of limitations point.

If it is the case that the church, for example, wishes to be open and transparent, one of its options is, in any particular piece of civil litigation, without necessarily any statute changes, to elect not to take a statute of limitations, by way of example. I ask you again, within the Australian context, to what extent have you coordinated your activities with the Australian lawyers — some of them are still to give their evidence to the committee — in relation to individual cases and individual defences?

Mr FABBRO — We do not have a lot of resources.

Mr O'BRIEN — I am not having a go. I am just asking for the information.

Ms DAVIS — Yes. Coordination with lawyers, is that what you are asking?

Mr O'BRIEN — Yes.

Ms DAVIS — Yes. We have relationships with a number of lawyers around the country, but at SNAP we tend to support the victims individually. One of our most useful roles — and I think Barbara talked about their support group meetings — but the other one is particularly when victims first come out, they have never been believed and they have never been listened to, and what we can provide them with is we are somebody that actually understands exactly what they are going through. We believe them instantly, and there is just this instant connection between victims that we have been in the same situation and we get it. People who have not

been in that situation, much as they try to sympathise, just cannot get it to that extent. So that is really, really helpful for victims to have someone to speak to. So we are not working to a great extent with people's defences. Where we would engage with that is if somebody said to me, 'I want to go to the police', or, 'I want to speak to a lawyer. Who can I speak to?'. So we refer them on, but we would not have numbers of cases and that sort of thing. The lawyers themselves are probably the best source of that information.

Mr O'BRIEN — And they are coming; I should let you know that. For example, in your case you have identified evidence that was redacted from your personal case.

Mr FABBRO — That is right, yes, and that was the only data on which I could make any assessment of the potential rate of abuse at that particular school at that time.

Mr O'BRIEN — And reading that report I could understand why you would be desirous of seeking that, and as we engage we will endeavour to — —

Mr FABBRO — Yes, the church could certainly show some goodwill with this whole issue and provide — you were talking about the statute of limitation — a window, a moratorium, for cases to be able to come forward in the civil courts, and also to provide documentation in a way that can give a complete picture, rather than hand-picking documents to provide to the committee.

Mr O'BRIEN — Thank you. I was a civil lawyer, but I am not giving any legal advice obviously; people have to get their own. But the thing about the civil law as opposed to the criminal is that it has a balance of probabilities standard. Obviously the role of the courts is capable of coordination, subject to, one, the church being willing to cooperate in that sort of way if it is in the *mea culpa*, genuine transparency, mode at this point in time, given the evidence that has been elucidated, even by the Fosters and others to date and even in relation to priests who have passed on, but also assuming that the victims groups can coordinate in a way that is satisfactory and carefully done so that there is not greater — and that is a challenge for all of us — traumatisation of victims than there need be.

Ms DAVIS — Yes, it is certainly the intention of groups to coordinate a lot more. It is actually since this inquiry and the royal commission were announced that we find that we are getting together a lot more. Before we did not have time for a lot of that sort of stuff; we were busy supporting victims. But now this has become a key issue because we have got to get these things absolutely right because they can make such a huge difference to the outcomes for so many people. So coordination is on the rise at the moment, and we are all very keen to do that. I think that that is a very good way to help victims.

Mr O'BRIEN — The chair has explained a number of times, but just for your benefit, that the powers of this committee through its Parliament and the process in which we are engaged is to call for the documents from the church and to obviously hear from the church in due course. But we are interested to get a very clear understanding on a forensic basis, particularly in cases that show systemic fault in relation to how the abuse was handled, because that is effectively where our terms of reference lie. Thank you for that.

Ms DAVIS — Can I just make a comment? You would like to see the church coming forward and voluntarily allowing the statute of — —

Mr O'BRIEN — It was just an option.

Ms DAVIS — It is a lovely thought, but I would not trust them. I really would not trust them.

The CHAIR — Mr O'Brien, do you have a final question?

Ms DAVIS — I would be much happier with something that enforces — —

Mr O'BRIEN — Just for example, in the case of *Commonwealth v. Veryawen*, the whole case was about how the voluntary statement by the commonwealth at the time that it would not rely on the statute of limitations was subsequently changed, which became the very point that the High Court tested. And, please, it was not legal advice. It was just an example of the sort of coordination issues that are facing all of us, and I wanted to know — and I am happy to have it on notice — how you fit in with all the other groups, given particularly your international focus, because it is those lessons learnt from other jurisdictions that we wish to benefit from in the way that Mr Wakeling has identified. Thank you for that, and if there are any other matters that you could relate

to the committee once you have engaged in that process, it would be most appreciated, either on an individual basis or a collective basis.

Mr McGUIRE — Barbara, I would like to go to part of your submission where you outlined an international culture within the Catholic Church of denial and cover-up to avoid scandal. I just want to get your view, given that that has now led to a bigger scandal. Have we now reached a tipping point in this issue, or do you think that the Catholic Church will still try to fight this jurisdiction by jurisdiction, inquiry by inquiry? I would just like your international perspective on that.

Ms BLAINE — I believe that we have no evidence to think that things have changed. I believe that — Nicky made a reference to the fact that the bishops and cardinals make a solemn vow or promise when they are ordained to that higher position in the church that they will protect the identity of the institution and that there is an effort to keep the identity free from scandal at all costs. We even learnt as children: they taught us how there is a permission to maybe withhold truth or to not explain everything if there is a higher value or a higher goal of protecting the institution. Every bishop makes that commitment, and I believe that those are true to themselves.

I do not know if that makes sense, but I believe that is probably their focus. They have not made any changes anywhere else, and from that list of almost 20 investigations that have happened, they have continued to allow for the cover-up and the transfer of the priests. To be honest with you, when you think how large the globe this, we are still in the very early stages of any belief that there is enough for a tipping point. I would love to think that, but I just do not believe we should. So much is at stake, right? It is the innocence of children, so it would be reckless to assume that there has been any change and that they will really make that change.

The CHAIR — Before we conclude, are there any final comments you would like to make to the committee?

Mr FABBRO — I certainly hope, as I said in my submission, that the committee can make recommendations to the government of Victoria that they cooperate entirely with the royal commission. We also would like to be involved. We are going to be involved in the drafting of the terms of reference for the commission, so we are looking for a conference with politicians, just to let you know, in Canberra later in the week. But certainly the findings of this inquiry will be of much benefit to that commission as well.

The CHAIR — Thank you, Mark. Nicky?

Ms DAVIS — I just want to say thank you very much. Clearly, you all want to help victims.

The CHAIR — Thank you.

Ms BLAINE — I would just say that I reiterate the thanks of my colleagues for your patience and your sensitivity. Your compassion is evident, and it is appreciated. I do want to make a commitment to you all that under the suggestion of Mr O'Brien we will attempt to ask our members to bring further information with details to you, and if we are able to help in any way, we will. It is not really part of our mission, but we want to do everything we can to help, and we will.

Mr FABBRO — One last thing: given that the Roman Catholic Church in Australia wields a lot of political influence and holds considerable legal privilege, I think it is going to require some courage from the elected representatives in Victoria to really get some change happening and bring the church to some sort of account. I certainly hope that you have the courage to do things.

The CHAIR — On behalf of the committee I thank the three of you for sharing your stories with us this afternoon and for coming before us. We do appreciate your time. Thank you very much indeed. The committee is now adjourned.

Committee adjourned.