



REPORT OF CASE STUDY NO. 17

The response of the Australian Indigenous Ministries, the Australian and Northern Territory governments and the Northern Territory police force and prosecuting authorities to allegations of child sexual abuse which occurred at the Retta Dixon Home

JULY 2015

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The response of the Australian Indigenous Ministries, the Australian and Northern Territory governments and the Northern Territory police force and prosecuting authorities to allegations of child sexual abuse which occurred at the Retta Dixon Home

July 2015

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Preface

The Royal Commission

The Letters Patent provided to the Royal Commission require that it ‘inquire into institutional responses to allegations and incidents of child sexual abuse and related matters’.

In carrying out this task the Royal Commission is directed to focus its inquiries and recommendations on systemic issues but also recognise that its work will be informed by an understanding of individual cases. The Royal Commission must make findings and recommendations to better protect children against sexual abuse and alleviate the impact of abuse on children when it occurs.

A copy of the Letters Patent is at Appendix A to this report.

Public hearings

A Royal Commission commonly does its work through public hearings. A public hearing follows intensive investigation, research and preparation by Royal Commission staff and Counsel Assisting the Royal Commission. Although it may only occupy a limited number of days of hearing time, the preparatory work required to be undertaken by Royal Commission staff and by parties with an interest in the public hearing can be very significant.

The Royal Commission is aware that sexual abuse of children has occurred in many institutions, all of which could be investigated in a public hearing. However, if the Royal Commission were to attempt that task, a great many resources would need to be applied over an indeterminate, but lengthy, period of time. For this reason the Commissioners have accepted criteria by which Senior Counsel Assisting will identify appropriate matters for a public hearing and bring them forward as individual ‘case studies’.

The decision to conduct a case study will be informed by whether or not the hearing will advance an understanding of systemic issues and provide an opportunity to learn from previous mistakes so that any findings and recommendations for future change that the Royal Commission makes will have a secure foundation. In some cases the relevance of the lessons to be learned will be confined to the institution the subject of the hearing. In other cases they will have relevance to many similar institutions in different parts of Australia.

Public hearings will also be held to assist in understanding the extent of abuse that may have occurred in particular institutions or types of institutions. This will enable the Royal Commission to understand the way in which various institutions were managed and how they responded to allegations of child sexual abuse. Where our investigations identify a significant concentration of abuse in one institution, it is likely that the matter will be brought forward to a public hearing.

Public hearings will also be held to tell the story of some individuals, which will assist in a public understanding of the nature of sexual abuse, the circumstances in which it may occur and, most importantly, the devastating impact that it can have on some people’s lives.

A detailed explanation of the rules and conduct of public hearings is available in the Practice Notes published on the Royal Commission's website at:

www.childabuseroyalcommission.gov.au

Public hearings are streamed live over the internet.

In reaching findings, the Royal Commission will apply the civil standard of proof that requires its 'reasonable satisfaction' as to the particular fact in question, in accordance with the principles discussed by Dixon J in *Briginshaw v Briginshaw* (1938) 60 CLR 336:

it is enough that the affirmative of an allegation is made out to the reasonable satisfaction of the tribunal. But reasonable satisfaction is not a state of mind that is attained or established independently of the nature and consequence of the fact or facts to be proved. The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal ... the nature of the issue necessarily affects the process by which reasonable satisfaction is attained.

In other words, the more serious the allegation, the higher the degree of probability that is required before the Royal Commission can be reasonably satisfied as to the truth of that allegation.

Private sessions

When the Royal Commission was appointed it was apparent to the Australian Government that many people (possibly thousands of people) would wish to tell the Royal Commission about their personal history of sexual abuse in an institutional setting when they were a child. As a consequence, the Commonwealth Parliament amended the *Royal Commissions Act 1902* to create a process called a 'private session'.

A private session is conducted by one or two Commissioners and is an opportunity for a person to tell their story of abuse in a protected and supportive environment. As at 12 June 2015, the Royal Commission has held 3,550 private sessions and more than 1,582 people were waiting for one. Many accounts given in a private session will be reported in a de-identified form in later reports of the Royal Commission.

Research program

In addition to public hearings and private sessions the Royal Commission has an extensive research program. Apart from information gained in public hearings and private sessions, the research program will draw upon research undertaken by consultants to the Royal Commission together with the original work of its own staff. Significant issues will be considered in issues papers and discussed at roundtables.

This case study

Child sexual abuse at the Retta Dixon Home

The Royal Commission into Institutional Responses to Child Sexual Abuse examined the experiences of residents of the Retta Dixon Home in Darwin in the Northern Territory during the public hearing of Case Study 17.

The public hearing was held from 22 September 2014 until 1 October 2014 in Darwin.

The scope and purpose for the public hearing was to:

- Hear the experience of men and women who were sexually abused as children at the Retta Dixon Home in Darwin, Northern Territory, between 1946 and 1980.
- Inquire into the response of the Australian Indigenous Ministries (formally the Aborigines Inland Mission) (AIM) and the Northern Territory and Commonwealth governments to allegations of child sexual abuse against AIM workers who were employed at the Retta Dixon Home.
- Inquire into the response of the Northern Territory's Police Force and the Office of the Director of Public Prosecutions in 1975 and 2002 to allegations raised by residents of the Retta Dixon Home against Donald Henderson.
- Inquire into the current laws, policies and procedures governing children in out-of-home care in the Northern Territory today.
- Inquire into the redress schemes available to persons who were victims of child sexual abuse while resident at the Retta Dixon Home.
- Any other related matters.

General issues

Along with the findings and recommendations in this report, we have identified some issues of general significance (see section 7, 'Systemic issues').

We will consider these further in other public hearings or roundtables.

Executive summary

The Retta Dixon Home and its historical context

The Retta Dixon Home was established by AIM at Bagot Aboriginal Reserve in 1946 as a home for 'half-caste children and mothers, and a hostel for young half-caste women'.¹ AIM is a non-governmental and interdenominational faith ministry established in 1905. AIM still operates today but has changed its name to Australian Indigenous Ministries.

In December 1947, the home was granted a licence by the Australian Government to be conducted as an 'institution' for 'the maintenance, custody and care of aboriginal and half-caste children'.² Children stayed at the Retta Dixon Home until they were aged 18. The home closed in 1980.

The home was under the direction of a superintendent, who was not a Commonwealth employee.

From 1946 until 1978 various laws permitted the Australian Government to take Aboriginal and Torres Strait Islander children into institutional care. Many of the children who lived at the home now identify themselves as members of the Stolen Generations.

In 1997 the Human Rights and Equal Opportunity Commission released a report, *Bringing them home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*, which considered the circumstances in which these children became wards of the state. The commission discussed the different policies that were applied to Indigenous children compared with other Australian children. When speaking of the impact upon the children, the commission said:

For individuals, their removal as children and the abuse they experienced at the hands of the authorities or their delegates have permanently scarred their lives. The harm continues in later generations, affecting their children and grandchildren.³

The Commonwealth's supervision of the Retta Dixon Home

The Australian Government was the guardian of many children at the Retta Dixon Home. The Australian Government also had a general responsibility to all children in the home, including for their care, welfare, education and advancement, until the time of self-government in 1978.

The Australian Government was actively involved in activities at the Retta Dixon Home. This is evident from:

- participating in the appointment of the superintendent and the training of staff at the home
- considering and developing a policy in respect of corporal punishment at the home
- visiting and reporting on the activities of AIM at the home.

Experiences of former residents

We heard evidence from 10 former residents of the Retta Dixon Home about sexual and physical abuse they suffered from house parents, and occasionally other children, while living at the home. The sexual abuse included allegations of rape, sexual touching and brutal physical assaults. They named the perpetrators as former house parents Mr Desmond Walter, Mr George Pounder, Miss Judy Fergusson and Mr Donald Henderson.

We also heard of the impacts of the abuse on their lives, including serious effects on their mental health, employment and relationships. We heard of their pain and suffering over a long period and the personal costs associated with dealing with the long-lasting impacts.

Reporting of abuse at the time and the response of AIM and the Australian Government

Many former residents gave evidence that they did not report the abuse at the time because they did not understand it to be wrong or felt too ashamed or frightened to do so. Other witnesses said there was no-one they felt they could tell.

In the 1960s and 1970s several former residents told the then superintendent, Mr Mervyn Pattemore, that they were being sexually abused by a house parent. Sandra Kitching told Mr Pattemore that Mr Pounder sexually touched her. Kevin Stagg told Mr Pattemore that Mr Henderson sexually touched him. Veronica Johns told Mr Pattemore that another child in her cottage was making her sexually touch him. They all gave evidence that Mr Pattemore did not believe them, did nothing or caned them for 'lying'.

In 1966 a house parent, Mr Reginald Powell, was prosecuted and pleaded guilty to sexual offences against children at the home.

In 1973 girls at the home told Mrs Lola Wall, a house parent, that Mr Henderson was sexually abusing boys at the home. Mrs Wall told Mr Pattemore and, as a result, the Acting Director of AIM, Mr Arthur Collins, travelled from Sydney to the home. However, Mr Henderson stayed on as a house parent. He was not dismissed and the matter was not reported to the police.

In 1975, after further allegations were raised, Mr Henderson was charged with seven sexual offences against five children living at the home. None of the charges proceeded to trial and Mr Henderson was not convicted of any offence.

AIM accepts that, before 2013, AIM did not have any guidelines or procedures for persons working with children on how to respond to allegations of child sexual abuse.

AIM accepts that from 1947 until 1980, when the Retta Dixon Home operated, AIM did not provide training to persons who worked at the home on how to detect or respond to child sexual abuse.

In the mid-1960s Ms Sandra Kitching advised the superintendent of the home, Mr Mervyn Pattemore, that she was sexually assaulted by Mr Pounder. Mr Pattemore did not remove Mr Pounder from the home and did not notify the police.

The superintendent of the home, Mr Pattemore, was informed of allegations that Veronica Johns was sexually assaulted by another child, AJR. Mr Pattemore did not remove AJR from the cottage.

In the 1960s Mr Kevin Stagg advised the superintendent of the home, Mr Pattemore, that he was sexually assaulted by Mr Henderson. Mr Pattemore did not remove Mr Henderson from the home and did not notify the police.

In 1973 the superintendent of the home, Mr Pattemore, was informed by house parent AKR of allegations that Mr Henderson had sexually assaulted children at the home. Mr Pattemore notified AIM headquarters in Sydney. AIM did not remove Mr Henderson from the home and did not notify the police.

These failings lead us to conclude that, in respect of the matters the subject of the case study, AIM did not meet the obligations that it had to children in its care, including protection from sexual abuse.

The Commonwealth's knowledge of sexual abuse at the Retta Dixon Home

Documents reveal that the Commonwealth was aware in 1966 of Mr Powell's conviction for sexually abusing children at the home.⁴

There are no documents that reveal that the Commonwealth was aware of sexual abuse allegations made by residents of the home after 1966 or of Mr Henderson's prosecution in 1975.

As a consequence, we are unable to make a finding on the material presented to the Royal Commission as to whether or not the Commonwealth failed in its duty of care to the children of the Retta Dixon Home. However, a question remains as to whether in the circumstances the Commonwealth should have taken remedial action to protect the residents of the home from sexual abuse.

Later reporting of sexual abuse

In 1998 a former resident of the home, AJB, made a complaint to the police about having been sexually abused by Mr Henderson in the 1960s. During the investigation, police also obtained statements from AJD, AKU and AJE, who also alleged they had been sexually assaulted by Mr Henderson at the home.

On 4 June 2001, charges were laid against Mr Henderson by the Northern Territory Police in relation to AJB, AJD, AKU and AJE.

The Northern Territory Director of Public Prosecutions (DPP) assumed conduct of the prosecution of Mr Henderson in late 2001.

Committal proceedings were heard in the Darwin Magistrates Court on 5, 6 and 7 February 2002. AJB died before the hearing. Mr Henderson was committed for trial on 15 counts.

On 22 March 2002 Mr Henderson was arraigned in the Supreme Court on 15 counts. He pleaded not guilty.

On 7 November 2002, a senior prosecutor at the DPP, Mr Michael Carey, recommended that the prosecution be discontinued on the basis there were no reasonable prospects of conviction.

On 11 November 2002, a *nolle prosequi* was entered on all charges and the prosecution was discontinued. The DPP did not notify the victims or the officer in charge of the investigation, Detective Roger Newman, of the decision until 27 November 2002.

Response of the Northern Territory Police Force

The police investigation of Mr Henderson took place from 1998 until 2002.

During the course of the investigation, Detective Newman did not reinterview the complainants from the 1975 charges; did not take further statements from AJE and AKU to particularise the charges; did not take statements from house parents Mr and Mrs Wall or obtain the names of any other house parents from AIM who may have assisted; and did not take a signed statement from AKV, who alleged that Mr Henderson had also sexually assaulted him at the home.

The investigation was difficult because of the reticence of the witnesses, their shame in recounting sexual abuse and the historical nature of the allegations.

Police had limited resources. Also, before 2003, there were no policies, guidelines or general orders that specifically dealt with the investigation of sexual offences and there were no courses or training on how to most effectively liaise with Indigenous witnesses.

We consider that a more thorough investigation of Mr Henderson by the Northern Territory Police Force would have included:

- better attempts to reinterview the complainants from the 1975 charges
- contact with AIM to find out the names of house parents who may have assisted the investigation
- obtaining a statement from Mrs Wall
- taking addendum statements from AJE and AKU
- making contact with AKV (either through his sister or directly) to attempt to take a statement from him.

Before 2003 there were no policies, guidelines or General Orders that specifically dealt with the investigation of historical sexual offences or issues peculiar to Aboriginal and Torres Strait Islander witnesses. There were no courses or training on how to most effectively liaise and deal with Aboriginal and Torres Strait Islander witnesses.

Response of the Director of Public Prosecutions

In 2002, the Northern Territory Director of Public Prosecutions was Mr Rex Wild QC. He was overseas at the time of the Royal Commission's public hearing. The current Director of Public Prosecutions, Mr Wojciech Karczewski QC, and former senior prosecutor Mr Carey gave evidence. Neither had any independent recollection of the prosecution of Mr Henderson and relied on the tendered materials to give their evidence.

Failure to comply with DPP Guidelines

The DPP Guidelines that applied to discontinuing prosecutions in 2002 are the same as those that currently apply. The relevant section is found at paragraphs 7.11–7.13 of the DPP Guidelines.

Mr Carey agreed that his memorandum that contained his recommendation to discontinue the prosecution against Mr Henderson did not comply with the DPP Guidelines. He could provide no explanation for this.

Mr Karczewski QC concluded that Mr Carey's memorandum was insufficient and fell short of what was required by paragraph 7.11 of the DPP Guidelines. In particular, he agreed the memorandum provided no summary of the charges; no analysis of the evidence in respect of each charge; no precis or analysis of any pre-trial applications such as an application for separate trials or a stay of proceedings; and no reference to the defendant's criminal history or the previous prosecution of him in 1975. There was an inaccurate statement of the views of the police and victims about the charges being withdrawn.

After the DPP decided to discontinue the prosecution, the prosecutor did not notify the police officer in charge and the victims about the decision as soon as practicable, as required by the DPP Guidelines. Detective Newman and the complainants AKU and AJE were first advised of the decision to discontinue the prosecution on 27 November 2002. A delay of 16 days in informing the police and complainants did not meet the criteria provided for by the DPP Guidelines. There is no evidence that AJD was ever advised of the decision.

The decision to discontinue the prosecution

In 2002 the DPP concluded there were no reasonable prospects of conviction, primarily because of the latent ambiguity in the charges. The evidence was said to reveal a multiplicity of offences with nothing to identify any one of them as the offence that the accused was charged with in any particular count. The staleness of the offences and the inconsistencies between the witnesses and within the testimony of each particular witness also contributed to the decision to discontinue the prosecution.

In evidence, Mr Karczewski QC agreed that counts 1, 3, 5, 6, 11 and 15 on the indictment could have and should have proceeded to trial. Further, count 1 could have and should have been charged as two separate counts – one for penile–anal intercourse and one for digital–anal intercourse. He said that, if the same case was presented to him today, he would proceed on the nominated ‘stand-alone’ charges and that there was no reason not to proceed. He agreed it was ‘crystal clear’ that there was sufficient evidence to charge and to proceed with those charges.

We are satisfied that the memorandum with the recommendation by Mr Carey of the DPP to discontinue the prosecution against Mr Henderson did not comply with the DPP Guidelines in that it did not provide:

- a summary of the charges
- an analysis of the evidence in respect of each charge
- any reference to pre-trial applications foreshadowed by the defence, such as an application for separate trials or a stay of proceedings
- any reference to the defendant’s criminal history and the previous prosecution of him in 1975
- an accurate statement of the views of the police officer in charge and victims about the charges being withdrawn.

The DPP did not notify the police officer in charge and victims of the decision to discontinue the prosecution as soon as practicable after the decision was made, as required by the DPP Guidelines.

We are satisfied that the recommendation by Mr Carey, which was accepted by Mr Wild QC, to enter a *nolle prosequi* on counts 1, 3, 6, 11 and 15 on the Supreme Court indictment, on the basis there were no reasonable prospects of conviction and it was not in the public interest to proceed, was wrong.

Redress

Reverend Trevor Leggott, the current General Director of AIM, accepted that AIM had made no attempt to provide any form of redress to victims of the Retta Dixon Home until the Royal Commission public hearing, when he issued a public apology on behalf of AIM and indicated that AIM is willing to provide care and counselling to victims of abuse that occurred at the Retta Dixon Home.

Since the public hearing, AIM has published an apology in *The Australian* newspaper and resolved to establish a fund for financial compensation for the victims of the Retta Dixon Home by the sale of a property valued at between \$350,000 and \$380,000.

A public apology and offer of counselling on behalf of AIM was only made during the public hearing of the Royal Commission. Prior to that time AIM had not given any form of redress to any of the former residents of the Retta Dixon Home.

Since the conclusion of the public hearing, AIM has:

- published an apology to the victims in a national newspaper
- spoken to Mr Henderson about the allegations with a view to providing any information to the police
- resolved to establish a monetary compensation scheme, to be financed by the sale of a property valued at between \$350,000 and \$380,000.

Redress in the Northern Territory

Common law

The common law in the Northern Territory provides a civil cause of action for intentional trespasses to the person, including assault and battery.

The availability of a claim is subject to the provisions of the *Limitation Act 1981* (NT), which requires a claim to be brought within three years from the date the cause of action first accrued to the claimant.

The three-year period may be extended if the case was not known by the person until after it expired; the action was instituted within 12 months after that time; and it is just in all the circumstances to grant the extension of time.

The Supreme Court of the Northern Territory has not had occasion to rule on the limitation question in the context of an historical sexual abuse case.

Statutory criminal injuries assistance scheme

Since 1 May 2007, the Northern Territory has had a statutory criminal injuries assistance scheme established under the *Victims of Crime Assistance Act 2006* (NT) and the *Victims of Crime Rights and Services Act 2006* (NT).

The scheme provides financial assistance and counselling services to victims of violent acts. The maximum amount of compensation is \$40,000.⁵

There is a time limit for submitting an application for compensation, which is two years from the date of the violent act.

Applications may be accepted after that two-year time period has expired, taking into account considerations including whether the injury or death occurred as a result of sexual assault, domestic violence or child sexual abuse; the age of the applicant at the time of the violent act; and whether the offender was in a position of power, influence or trust in relation to the applicant.

These considerations reflect the experiences of many victims of child sexual abuse in that there is often a delay in the reporting of allegations of abuse.

At least one complainant of sexual abuse at the Retta Dixon Home has made a successful claim for compensation under the scheme. The claim was accepted notwithstanding the expiry of the two-year time period.

Victims' views on redress

Most of the victims and survivors of the Retta Dixon Home have not sought any form of financial compensation. Many have expressed a desire to do so.

No redress has been offered by the Australian Government or the Northern Territory Government to the victims of the Retta Dixon Home other than through the Northern Territory legislative scheme provided for by the *Victims of Crime Assistance Act 2006* (NT) and the *Victims of Crime Rights and Services Act 2006* (NT).

Consideration should be given by AIM, the Northern Territory Government and the Australian Government, in consultation with former residents, to the provision of a permanent memorial at the site of the Retta Dixon Home.

Out-of-home care in the Northern Territory

The sexual abuse described by former residents of the Retta Dixon Home occurred in the context of Aboriginal children having been removed from their families and placed in out-of-home care.

The Royal Commission heard evidence about what is considered good practice in this area, with a particular emphasis on the needs of Aboriginal children.

Previous inquiries into out-of-home care in the Northern Territory

Between 2005 and 2011 there were two significant reviews of child protection and child sexual abuse in the Northern Territory.

The Northern Territory Inquiry into the Protection of Aboriginal Children from Sexual Abuse was established by the Chief Minister in August 2006 to inquire into the nature and extent of child sexual abuse in remote communities and to identify better ways to prevent sexual abuse in communities. The report, *Ampe Akelyernemane Meke Mekarle: 'Little children are sacred' – Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse*, was released on 15 June 2007.

The second review commenced in November 2009, when an independent Board of Inquiry into the Northern Territory Child Protection System (BOI) was announced. In 2010, the BOI report, *Growing them strong, together: Promoting the Safety and Wellbeing of the Northern Territory's Children*, was published.

Current laws, policies and procedures in Northern Territory

Ms Simone Jackson, the Executive Director of the Out-of-Home Care Division of the Northern Territory Department of Children and Families, gave evidence at the public hearing about the current policies and procedures in the Northern Territory and where in her view improvements could be made.

Her evidence included the following:

- Australian Institute of Health and Welfare statistics show that the percentage of Indigenous children in the Northern Territory who are placed with kinship carers or Indigenous carers is lower than any other state or territory.⁶
- The number of Indigenous children being placed with Indigenous carers could be improved by a targeted recruitment campaign that addressed the stigma of being associated with the child protection system and more education about the role of kinship carers within the community. She does not support reducing the checks and balances on kinship carers to increase their number.⁷

- She considered that the most important issue for responding to allegations of child sexual abuse is to have adequate and appropriate training and policies and procedures that give adults the skill to identify and respond to abuse. Children also require opportunities and a supportive environment to disclose allegations of abuse.⁸
- There needs to be an emphasis on appropriate housing so that a child feels like it is their home. Carers also have to understand where the child comes from and the importance of their culture.⁹
- There is a need for case managers to meet more regularly with the children.

The role of the Northern Territory Children's Commissioner

Dr Howard Bath, the Northern Territory Children's Commissioner, gave evidence at the public hearing about his role and his view on the success of out-of-home care policies and procedures in the Northern Territory.

His evidence included the following:

- Despite the Aboriginal Child Placement Principle, the Northern Territory has the lowest placement rate of Aboriginal children with Aboriginal carers in Australia.
- He believed that this could be improved by the Department of Children and Families taking an 'enabling approach' to finding kinship care placements – for example, by investing further resources in support and housing for kinship carers.
- There is still a pressing need for a community visitor program that provides for regular visits to children in residential care settings so that independent adults can advocate on their behalf.
- He thought it was very important that case workers meet with children once per month.
- The services for children who have been in out-of-home care after they turn 18 are limited and it is critical they have appropriate support.¹⁰
- It is important that there is an independent review of allegations of abuse in care because there is at least a perceived conflict of interest if the Department of Children and Families investigates its own workers or people who are working for the department.¹¹
- It is also important that there is an independent review of how all investigations are handled both where abuse is found and where it is not found.¹²

Good practice in out-of-home care

Professor Muriel Bamblett gave evidence about what is currently considered good practice in the provision of out-of-home care, with a particular emphasis on the needs of Indigenous children.

Her evidence included the following:

- The most successful approach to reducing institutional child sexual abuse is to reduce the number of children in out-of-home care.
- She stressed the importance of an adherence to the Aboriginal Child Placement Principle. She said that culture is a protective factor and Indigenous children are safest immersed in their own culture because connection to culture helps children grow strongly and protects them.¹³
- Child protection needs to be built into the community rather than reliant on a visiting service.¹⁴
- She stressed the need for sufficient support for the carers and increased levels of engagement with children.
- An independent body, such as the Northern Territory Children's Commissioner, should have the power to investigate allegations of sexual abuse made by children in out-of-home care.
- There needs to be an emphasis on prevention by providing a system that avoids becoming ineffectual because of bureaucratic considerations.

Systemic issues

The systemic issues that arise from this case study are:

- whether there is a need to establish a process of oversight of the processes of the DPP
- the availability of a redress scheme and the range of redress offered
- the appropriate criminal justice procedures for the trial of multiple offences.

1 The Retta Dixon Home and its historical context

The Retta Dixon Home was established by AIM at Bagot Aboriginal Reserve in 1946 as a home for 'half-caste children and mothers, and a hostel for young half-caste women'.¹⁵ In December 1947, the home was granted a licence by the Australian Government to be conducted as an 'institution' for 'the maintenance, custody and care of aboriginal and half-caste children'.¹⁶

The home was run by AIM. AIM is a non-governmental and interdenominational faith ministry established in 1905 by Ms Retta Dixon. The organisation sought to minister to Aboriginal persons in isolated areas. It still operates today but has amended its name to Australian Indigenous Ministries.¹⁷

The home was under the direction of a superintendent.¹⁸ The superintendent was not a Commonwealth employee but was appointed by the Administrator of the Territory.¹⁹ Miss Amelia Shankelton was the first superintendent of the home in 1946. She was replaced by Mr Pattemore in 1963. Mr Pattemore remained in that position until the home closed in 1980.

The home was situated in the Bagot Aboriginal Reserve on the outskirts of Darwin. A fence separated the home from the rest of the reserve.

The home generally housed between 70 and 100 children at any one time. Children were housed in dormitory-style accommodation. Most children stayed at the home until they were 18 years of age. They attended local schools. They received religious instruction and were required to attend church regularly.

In 1956, following reports of overcrowding, work commenced on new buildings. The new facilities were officially opened on 16 July 1961. The accommodation consisted of eight six-bedroom cottages, which could house up to 80 children in total. Each cottage was staffed by house parents (often a married couple) and run autonomously, although they were under the general control of the superintendent. The staff at the Retta Dixon Home also organised for children to go on camping holidays to places leased by AIM, including Lee Point Beach, Berry Springs and Coomalie Creek in the Northern Territory.

By the early 1970s the number of children being cared for at the home was declining. In 1973 one of the cottages was closed. In 1974, the home was devastated by Cyclone Tracy and five cottages were destroyed. About 50 children were temporarily sent interstate. Upon their return to the Northern Territory, the children were accommodated for 12 months at Batchelor, a town south of Darwin. Four of the cottages were repaired and the children were returned to the Retta Dixon Home.

Changes to government policy in the late 1970s, which was moving away from institutional care in favour of placing children in the custody of individual families, led to the decision to close the Retta Dixon Home.

The Retta Dixon Home was officially closed on 30 June 1980.

1.1 How children were placed at the Retta Dixon Home

Between 1909 and 1969 various laws were in place which permitted the Australian Government of the day to make Aboriginal persons wards of the state and to place children of mixed descent into institutional care.²⁰

Chief Protector of Aboriginals

Ms Caroline Edwards, First Assistant Secretary, Community Safety and Policy Division of the Department of Prime Minister and Cabinet gave evidence about the legislative history relating to the welfare of Aboriginal children in the Northern Territory.

The Australian Government appointed a Chief Protector of Aboriginals in 1911. The Chief Protector was 'entitled at any time to undertake the care, custody or control of any aboriginal or half-caste if in his opinion it is necessary or desirable in the interests of the aboriginal or half-caste for him to do so'.²¹

From 1918,²² the Chief Protector was given the duty to 'exercise a general care and supervision over all matters affecting the welfare of the aboriginals and to protect them against immorality, injustice, imposition and fraud'.²³

The Chief Protector was 'the legal guardian of every aboriginal and of every half-caste child, notwithstanding that the child has a parent or other relative living' until the child turned 18 years.²⁴

The Chief Protector had the power to enter premises and 'undertake the care, custody or control of any aboriginal or half-caste if in his opinion it [was] necessary or desirable in the interests of the aboriginal or half-caste for him to do so'.²⁵ The Chief Protector could 'cause any aboriginal or half-caste to be kept within the boundaries of any reserve or aboriginal institution or to be removed and kept within the boundaries of any reserve or aboriginal institution'.²⁶

Director of Native Affairs

The Commonwealth Department of the Interior established the Native Affairs Branch in 1939, which became responsible for Aboriginal welfare.²⁷ In 1939, the title of Chief Protector of Aboriginals was changed to the Director of Native Affairs, but the functions of the role remained the same.²⁸

The Native Affairs Branch was replaced by the Welfare Branch in 1953.²⁹ The Director of Native Affairs was replaced by the Director of Welfare.³⁰ The Director of Welfare had legal guardianship over all persons who were declared by the Administrator as wards.³¹ Any person could be declared a ward if that person, by reason of their manner of living, an inability to adequately manage their own affairs without assistance, their standard of social habit and behaviour and personal association, stood in need of special care or assistance.³² The Director of Welfare also had a general power to take a ward into custody and order that ward be removed to a reserve or institution.³³

Director of Social Welfare

In 1964, a Director of Social Welfare was appointed.³⁴ The Director of Social Welfare retained a number of duties in relation to ‘persons who in the opinion of the Director are socially or economically in need of assistance, to provide, upon such conditions as he thinks fit, such relief from poverty or hunger or both, and such other assistance, as may in the opinion of the Director be necessary or appropriate’.³⁵ Any reference to wards was removed from the legislation.³⁶

From 1972, the Welfare Division was transferred to a new Commonwealth Department of Aboriginal Affairs, which existed until the Northern Territory’s self-government in 1978.³⁷

1.2 The Commonwealth’s responsibility for and supervision of the Retta Dixon Home

The Australian Government accepted during the public hearing that it was the guardian of many children at the Retta Dixon Home and had a general responsibility to all children in the home, including for their care, welfare, education and advancement, until the time of self-government in 1978.³⁸

The home was run by AIM under the direction of the superintendent. The superintendent was not a Commonwealth employee but was appointed by the Administrator of the Northern Territory.

Ms Edwards stated that documents produced to the Commonwealth indicate that the Commonwealth provided financial assistance to AIM in running the Home and that this included employing social workers, purchasing furniture, staff, rations allowances, and erecting cottages when the home was moved.³⁹

The Australian Government did undertake some supervision of the home, particularly in the use of corporal punishment and the appointment of staff. Its officers also carried out inspections at the home.

Corporal punishment

There is documentary evidence of exchanges between AIM and the Australian Government on the issue of corporal punishment. The issue seems to have been controversial. In January 1956, the Acting Director of AIM, Mr Collins, wrote to Mr Harry Giese, the Director of Welfare, about the use of corporal punishment as he had been informed by the acting superintendent, Mr Stretton, that ‘corporal punishment of any sort is forbidden by your Department, and naturally the whole of our Darwin staff are greatly concerned by this’. Mr Collins wrote that the ‘ruling in the Home’ was that only the superintendent, or a person in the presence of the superintendent, was to give the punishment. Mr Collins ended the correspondence with, ‘Could you please give us further advice as to how the matter now stands?’⁴⁰

In November 1957 a telegram from Mr Giese, the Director of Welfare, to Mr Collins stated 'I should like to confirm that corporal punishment is not be inflicted on my wards in any circumstances'.⁴¹

In early September 1958, the then Department of Territories approved a policy on corporal punishment in institutions.⁴² The Minister for the Department of Territories approved the statement that:

despite that great wisdom and patience may develop in those charged with the care of the young (whether native or non-native), instances will occur which can only be met by the infliction of corporal punishment ... in proper cases [corporal punishment] can produce a result which is capable of being produced in no other way.⁴³

On 28 November 1962, an administrative officer attended at the Retta Dixon Home and asked Mr Pattemore about corporal punishment, amongst other topics. Mr Pattemore assured the administrative officer 'that he is the only one who inflicts corporal punishment'.⁴⁴

Staff appointments

Documents tendered at the public hearing indicate that the Commonwealth was involved in the appointment and training of staff at the Retta Dixon Home.

In November 1954, AIM wrote to the Acting Director of the Native Affairs Branch and told them that Mr Desmond Walter was to be appointed as assistant superintendent of the home.⁴⁵ In response, the Acting Director of the Native Affairs Branch suggested that AIM reconsider the decision.⁴⁶ The Acting Director also noted that, as the home was situated within the Bagot Road Aboriginal Reserve, he was 'required to give careful thought to the staffing of any organisation exercising control of any persons within the Reserve'.⁴⁷ In December 1954, AIM wrote to the Director of Welfare to advise they would not press the appointment.⁴⁸

The Australian Government expressed concern about the adequacy of staff training at the home. For example, the report of the inquiry into the conduct and maintenance of the Retta Dixon Home by Mr J R Ryan of the Native Affairs Branch to the District Superintendent of the Native Affairs Branch in Darwin said: 'The staff generally, although ideally suited for looking after young children, do not impress as being adapted to control the older school children.'⁴⁹

Further, Mr R K McCaffery, the Acting Director of Native Affairs, wrote to the Administrator of the Northern Territory:

The Mission is quick to place all blame on the environment, but I differ in that regard. The basic trouble is the complete inability of the staff to conduct such a Home. They are unrealistic, and particularly narrow and fanatical in their views. A number of the staff are middle-aged and older, unmarried, and obviously have had no proper training or vocation for their task.⁵⁰

By 1962, the Commonwealth required that staff be trained before coming to work at the home.⁵¹ The Commonwealth offered to subsidise positions for professionally qualified social workers to be employed by AIM and work at the home.⁵² It is unclear on the material before the Royal Commission whether AIM accepted this offer.

By March 1965, AIM required prospective staff to undertake a two-month child welfare course before working at the home.⁵³

1.3 Inspections of the Retta Dixon Home

On occasions, patrol officers and other Commonwealth officials attended the home, inspected it and provided reports on a range of topics, including housing conditions; food storage, preparation and consumption; health education; spiritual teaching and worship; employment placement; recreation and social life; transport and communication; corporal punishment; and staff and supervision.⁵⁴

The Australian Government was the guardian of many children at the Retta Dixon Home. The Australian Government also had a general responsibility to all children in the home, including for their care, welfare, education and advancement, until the time of self-government in 1978.

The Australian Government was actively involved in activities at the home. This is evident from:

- participating in the appointment of the superintendent and the training of staff at the home
- considering and developing a policy in respect of corporal punishment at the home
- visiting and reporting on the activities of AIM at the home.

2 Experiences of former residents

Ten former residents of the Retta Dixon Home gave evidence or provided statements to the Royal Commission about their experiences of sexual and physical abuse when they were children living at the home.

2.1 Mrs Lorna Cubillo

Mrs Lorna Cubillo was born in 1938 and is 76 years old.⁵⁵ Her mother died when she was a young baby.⁵⁶ She never met her father but was told he was white.⁵⁷ Mrs Cubillo grew up surrounded by her tribal family. She could speak two traditional languages.⁵⁸

When she was five years of age Mrs Cubillo was forcibly removed from her family and taken to a telegraph station called Six Mile, which was six miles from Tennant Creek.⁵⁹ She was then moved to Seven Mile – an Aboriginal settlement run by missionaries.⁶⁰ From there she was moved to Phillip Creek Mission in the Northern Territory, which was run by AIM at the time.⁶¹

In 1947, Mrs Cubillo was taken to live in what later became known as the Retta Dixon Home.⁶² The Retta Dixon Home was at this time within the Bagot Aboriginal Reserve but separated by a fence. At the time, Miss Shankelton was the superintendent of the Retta Dixon Home. Mrs Cubillo recalls being chastised and ‘flogged’ for speaking with children living at the Bagot Aboriginal Reserve.⁶³

Mrs Cubillo lived in a dormitory at the Retta Dixon Home with four other girls, and they were locked in at night.⁶⁴ She attended school during the day and church on Sundays.⁶⁵ She also recalls one of the girls being chained to her bed with a dog chain because she had fits.⁶⁶

Two missionaries, Mr and Mrs Walter, lived and worked at the Retta Dixon Home. They slept in two bedrooms at the end of Mrs Cubillo’s dormitory.⁶⁷ Mrs Cubillo gave evidence that she was physically and sexually assaulted by Mr Walter.

She said Mr Walter ‘flogged me that much ... it didn’t hurt anymore’.⁶⁸ On one occasion she was tidying the Walters’ house when Mr Walter came up behind her and fondled her breasts.⁶⁹ On another occasion she was travelling in a car to a basketball game with Mr Walter when he touched her on the upper thigh at the front of her skirt.⁷⁰ When she travelled home from the game with another person he accused her of running away and flogged her.⁷¹

Mrs Cubillo ran away from the home while on an Easter camp.⁷² She was located by another missionary who took her back to the home. The next day, she saw Mrs Mamie Merlin at the ‘Welfare office’. She believes that at the time she had injuries she had sustained from a flogging by Mr Walter and that Mrs Merlin would have seen her injuries.⁷³ She was returned to the home.⁷⁴

Mrs Cubillo said she was too scared and ashamed to tell anyone about the alleged sexual touching at the time or, indeed, for many years later.⁷⁵

Mrs Cubillo described the devastating impact of the abuse she says she suffered at the Retta Dixon Home on her marriage, family life and mental health. She suffers from depression. She does not sleep well due to flashbacks and bad dreams about being taken from her family and the abuse she suffered at the hands of Mr Walter.⁷⁶ She feels very sad about the loss of her culture.⁷⁷ She has never been initiated in tribal ways.⁷⁸ Her years at the Retta Dixon Home caused her much distress in that she does not feel capable of expressing a loving and affectionate relationship with her children.⁷⁹

Mr Walter was never charged with any criminal offence in relation to these allegations. He is still alive and was notified of this public hearing.

2.2 Mrs Sandra Kitching

Mrs Kitching was born in 1950 and is now 64 years old.⁸⁰ Her mother was from the Gurindji people.⁸¹ Her father was of German descent.⁸² Her mother had 11 children and lived in Alice Springs in the Northern Territory.⁸³ She was unemployed.⁸⁴

When Mrs Kitching was two years old she was made a ward of the state.⁸⁵ She was taken from her mother and put in the Retta Dixon Home.⁸⁶ She originally lived in a dormitory, where older children were separated from younger children; and boys were separated from girls.⁸⁷ The dormitory was supervised by two single women. Miss Shankelton was the superintendent at the time.⁸⁸ Mrs Kitching was not allowed to speak with full-blood Aboriginal children who also lived at Bagot Aboriginal Reserve.⁸⁹

Mrs Kitching's mother moved to Darwin to be closer to her children. Mrs Kitching was allowed to stay with her mother on weekends, initially monthly and then fortnightly. Mrs Kitching gave evidence that it was never explained to her why she was separated from her mother and she could not understand why she was never allowed to return to her mother despite her mother's efforts in having her stay on weekends.⁹⁰

When Mrs Kitching was 12 years old she moved into cottage-style accommodation at the Retta Dixon Home.⁹¹ Mr Pattemore was the superintendent of the home at the time.⁹²

Mrs Kitching was placed in cottage 1.⁹³ Her house parents were originally two single ladies. Subsequently, Mr Pounder became her house parent. Mrs Kitching gave evidence that Mr Pounder chained the children to their beds as a form of punishment.⁹⁴ She also described how he watched her while she showered. He barged into the showers, sniffed her and told her she had not used soap. He then stayed and watched her shower.⁹⁵ Mrs Kitching confronted Mr Pounder's wife and told her to keep her husband away from her.⁹⁶ She also complained to the superintendent, Mr Pattemore, who she said did nothing.⁹⁷ She said there was no-one else to report the abuse to.⁹⁸

Mrs Kitching also gave evidence that Mr Pounder would insist on driving her to school. On the occasions he did drive her to school he touched her on the leg in a sexual way.⁹⁹

Mr Pounder was never charged with any criminal offence. He died in 2014.

Mrs Kitching eventually ran away from the home when she was 15 or 16 years old. She went to live with her mother in Darwin. She never returned to the home.¹⁰⁰

Mrs Kitching gave evidence of the impact of the sexual abuse on her life. She gave evidence she left the home with no life skills or assistance from welfare. Most importantly, it left her without hope. She said she was offered jobs as an air hostess and model but did not have the confidence to accept them.¹⁰¹

2.3 AJA

AJA is 58 years old.¹⁰² Her mother passed away when she was two.¹⁰³ Her father was unable to care for her and her siblings. She was placed in the Retta Dixon Home by her father in 1958.¹⁰⁴ She originally lived at the home on Bagot Aboriginal Reserve. In 1961 she moved into cottage-style accommodation at the home.¹⁰⁵ She lived in cottage 7.¹⁰⁶ Mr Pattemore was the superintendent. Her house parent was Mrs Fergusson.¹⁰⁷

AJA described how she was physically belted by Mrs Fergusson on occasions when she wet the bed.¹⁰⁸ On one occasion after she had wet her bed, she said Mrs Fergusson made her put on a nappy in front of the other children to humiliate her. She also described watching Mrs Fergusson physically assault other children, including by stabbing a child with a can opener.¹⁰⁹

AJA described the sexual abuse inflicted on her by boys at the home. When she was as young as five, boys living at the home had sex with her.¹¹⁰ She said she did not report the abuse at the time because she did not understand it to be wrong. She thought it was normal behaviour and part of life.¹¹¹ Even if she had known the abuse was wrong, there was no-one she could trust whom she could report it to. She felt she would have been punished for lying.¹¹²

AJA left the Retta Dixon Home in 1969.¹¹³ She went to live with a foster family in Sydney. After a year she moved in with another foster family. Her foster father sexually abused her from the age of 13 until her 16th birthday.¹¹⁴ When she was aged 15 she tried to commit suicide by overdosing on aspirin.¹¹⁵

AJA spoke of the impact of the abuse she suffered at the Retta Dixon Home (and in foster care) on her life. She lost her Aboriginal identity and heritage. She never met any of her mother's family.¹¹⁶ She was never taught any life skills at the home. She believes she was not properly prepared for life as an adult and was robbed of opportunities because of a poor education.¹¹⁷ She has had difficulties with a lack of confidence and low self-esteem, which have adversely affected her personal and work relationships.¹¹⁸

AJA has only started to receive counselling this year and it has helped to explain her emotions. She has never before received any support in dealing with the impact that the abuse has had on her life.¹¹⁹

2.4 AKU, AJW and AKV

AKU, AJW and AKV all described sexual abuse by Mr Henderson.

AKU

AKU was born in 1958 and is 56 years old.¹²⁰ She never met her father. She has two brothers – AJE and AJM. AJM has passed away.¹²¹ AKU was placed in the Bagot Aboriginal Reserve when she was a baby.¹²² In 1962 she moved to the Retta Dixon Home along with her brothers.¹²³ While she lived at the home, Mr Pattemore was the superintendent. She lived in cottage 2 with her brothers.¹²⁴ Her house parents were Mr Donald Henderson and Mrs Barbara Henderson.¹²⁵

AKU grew up frightened of Mr Henderson. She described being beaten by him almost every day. She was so frightened of him that she wet her bed almost every night until she was 12 years old. Every time she wet the bed, Mr Henderson beat her with a cane.¹²⁶

AKU was fostered to a couple in Melbourne in 1970. After a year she returned to the home because she did not settle into her new environment. Mr Pattemore told her she had brought shame to the home.¹²⁷

AKU gave evidence that she was sexually abused by Mr Henderson from the age of five until she turned 13.¹²⁸ She said he came into her room at night and asked her to follow him into his room.¹²⁹ He then placed her feet on his penis until he became aroused.¹³⁰ She said this happened about twice a week. AKU also described other occasions, while swimming in the pool at the home and at Berry Springs and Howard Springs, when Mr Henderson bounced her up and down on his lap so that her feet rubbed his penis.¹³¹

AKU said that Mr Henderson took her and other children to the Speedway in Darwin. She saw Mr Henderson take one of the boys into the public toilet. Her brothers told her that Mr Henderson sexually abused the boy in the toilet.¹³² AKU was also told by other children that Mr Henderson sodomised boys in the chook pen and his bedroom at the home.¹³³

AKU described an incident where she accidentally slammed the car door and Mr Henderson backhanded her across the face and broke her nose.¹³⁴

AKU also described an incident that occurred when she was 15. On that occasion Mr Henderson took her into his bedroom, placed her in front of the mirror, pulled her pants down, pushed her head between her legs and beat her with a cane.¹³⁵ She said this was the last time he sexually abused her.¹³⁶

AKU reported this incident and other allegations of sexual abuse to police in 1999.¹³⁷ AKU said she was too afraid to complain to anyone at the time of the abuse, in part because of the physical beatings she endured from Mr Henderson.¹³⁸ She could not recall anyone from welfare or the government of the day checking on her or providing her with any opportunities to speak about what was happening to her.¹³⁹

AKU described the devastating impact of the alleged sexual and physical abuse on her mental health, relationships, employment opportunities, and the loss of her childhood. She gave evidence that she struggles in her relationships with men. She is overly protective of her children. She suffers from depression and as a result relies on alcohol. She still has nightmares about the home. She has not worked in over 10 years. She said the physical, emotional and sexual abuse she suffered at the home took her childhood away.¹⁴⁰

AJW

AJW is now 46 years old.¹⁴¹ Her mother was an Aboriginal Larrakia Darwin woman and her father was of Irish descent. She and her brother AJS were placed at the Retta Dixon Home when she was two years old.¹⁴² She lived in cottage 1.¹⁴³ AKR was her house parent.¹⁴⁴

After Cyclone Tracy she moved into cottage 6.¹⁴⁵ In 1980, when she was 12 years old, the home closed down.¹⁴⁶ She lived for a short time with her mother until she was abandoned by her. She then lived with her maternal grandmother. She said she received no support from the government after she left the home.¹⁴⁷

She gave evidence she was subjected to physical beatings and sexual abuse at the home. For many years she had no recollection of any sexual abuse. When she was 26 or 27 years old and in hospital for an operation, she saw a document stating that she had been sexually abused as a child and that, upon turning 18, she must be told she was sexually molested as a child.¹⁴⁸ AJW said that before reading the report she had no memory of the abuse.¹⁴⁹ However, she said she now has memories of two incidents of alleged sexual contact with Mr Henderson. She described an occasion when he asked her to ride on a motorbike with him and asked her to wrap her legs around him.¹⁵⁰ She also described an occasion when he called her into his bedroom and asked her to start tickling his feet.¹⁵¹

AJW went to court to give evidence against Mr Henderson in 1975 or 1976.¹⁵² She remembered being very frightened. She said she was unable to give her evidence because she was petrified.¹⁵³ She thought it would have helped her if she did not have to see Mr Henderson at court and if she had some kind of family figure or parental support with her.¹⁵⁴

She said that Mr Pattemore never offered her any support or counselling after the court case.¹⁵⁵ Both would have assisted her in dealing with the effects of the sexual abuse and court case.

AJW described the devastating impact that the sexual abuse had had on her life. She described how she suffered from nightmares and had attempted suicide.¹⁵⁶ She said it affected her education; her inability to concentrate has meant she has never been able to study or get any qualifications.¹⁵⁷

AKV

AKV was born in 1960 and is now 54 years old.¹⁵⁸ His mother was an Aboriginal woman and his father was non-Indigenous. In 1966 or 1967, when he was six or seven years old, he was taken from his family and placed at the home.¹⁵⁹ He lived in cottage 5.¹⁶⁰ His house parent was Ms Margaret Parker.¹⁶¹ He described harsh physical punishment and floggings inflicted upon him by some of his house parents. He said he regularly went to school with welts across his back.¹⁶²

AKV's sister also lived in cottage 5 after a time. AKV said there were times when she was tied to the clothes line.¹⁶³ He said his sister also had faeces rubbed in her face. On another occasion a house parent deliberately burnt her with hot water.¹⁶⁴

AKV also described sexual abuse he says he suffered from Mr Henderson. He said the children called Mr Henderson 'Ticklefoot' because he would tickle boys on the feet with a feather duster to get sexual pleasure.¹⁶⁵ He described occasions in a swimming pool and at Berry Springs when Mr Henderson grabbed him, placed him on his lap, bounced him up and down and rubbed his penis against his bottom.¹⁶⁶ AKV said that he also saw Mr Henderson sexually touching other boys and heard other boys discuss the size of Mr Henderson's penis.¹⁶⁷

AKV said he never reported the allegations to anyone because he was frightened that he would be punished. He said that he was intimidated by Mr Henderson.

AKV said the sexual abuse he suffered at the home had had a terrible impact on his life.¹⁶⁸ He was not taught life skills or social skills at the home. He had no educational confidence. Throughout his life he has lacked confidence and has remained shy. He dislikes authorities. He tends to run away from tough situations.¹⁶⁹

2.5 Mr Kenneth Stagg, Mr Kevin Stagg and Mrs Veronica Johns

Mr Kenneth Stagg, Mr Kevin Stagg and Mrs Johns are siblings. They were all placed in the home as young children. All gave evidence of the sexual abuse they say they suffered at the home and the devastating impact of the abuse on their lives.

Mr Kenneth Stagg

Mr Kenneth Stagg was born in 1959 and is now 55 years old.¹⁷⁰ His mother was Aboriginal and his father of European descent. His mother had 14 children. He and two of his siblings were placed at the Retta Dixon Home when he was very young – in part because his mother was an alcoholic.¹⁷¹ He lived in cottage 3.¹⁷² Ms Majorie Spohn and Mr and Mrs Goodchild were his house parents in cottage 3.¹⁷³

Mr Kenneth Stagg gave evidence that Mr Pattemore caned him two or three times a year.¹⁷⁴

Mr Stagg described sexual activity at the home. He said he was taught about sex by an older girl.¹⁷⁵ He was 10 years old at the time and she was aged 15. He also witnessed another boy, AJD, trying to have sex with boys.¹⁷⁶ He said AJD also tried to have sex with him.¹⁷⁷ He said that, as a result, he ran away from the home on numerous occasions – probably a couple of times a year at least.

Mr Stagg said Mr Henderson sexually touched him in the chook house.¹⁷⁸ On at least one occasion, Mr Henderson grabbed him, put him on his knees and brushed his hand over his genitals.¹⁷⁹ Mr Stagg said he could feel Mr Henderson's penis harden through his clothes.¹⁸⁰

Mr Stagg recalled that his mother regularly visited him at the home until she died in 1972, when he was aged about 12.¹⁸¹ It was only then that he was allowed to leave the home.¹⁸² Mr Stagg said he was very angry that he was not allowed to leave until his mother died.¹⁸³ He was placed with his maternal uncle and aunt.¹⁸⁴ He did not know his relatives before he moved in with them. They drank heavily. Mr Stagg expressed his dismay at having been removed from his mother because she was an alcoholic and then being placed with a couple that drank heavily.¹⁸⁵ He said that welfare officers did not come and check on him when he moved in with his aunt and uncle.¹⁸⁶

Mr Stagg then went to St John's boarding school, Darwin.¹⁸⁷ He was expelled after he complained about one of the brothers mucking around with the boys.¹⁸⁸ Mr Stagg then moved to Adelaide, where he went to school and then obtained some employment.¹⁸⁹ He then travelled around Australia.¹⁹⁰

Mr Stagg said that, while he lived at the home, he did not tell the house parents about the abuse because he did not really understand that it was wrong behaviour, as he had nothing to compare it with.¹⁹¹ It was only as he grew older that he started to appreciate that it was not right.¹⁹² He did not complain at that time because he thought he would get into trouble.¹⁹³

Mr Stagg described the impact that the sexual abuse has had on his life, including not knowing who he is.¹⁹⁴ He said that after the abuse started he began to rebel and was subsequently expelled from school.¹⁹⁵ As a result, he did not complete his education.¹⁹⁶ He feels he has depression.¹⁹⁷ He said that as a young man he abused substances to block out the pain. He also had problems with alcoholism. He said his life has been affected by the abuse.¹⁹⁸

Mr Kevin Stagg

Mr Kevin Stagg was born in 1960 and is 54 years old.¹⁹⁹ He believes he was four years old when he was made a ward of the state and sent to the home.²⁰⁰ He was housed in cottage 3 with his siblings.²⁰¹ He gave evidence that he was physically abused by the house parent of cottage 1, Mr Pounder, who chained him up to the outdoor water tap like a dog.²⁰² He also described being caned by Mr Pattemore from the age of seven until he left the home.²⁰³

Mr Stagg said that he had been sexually abused by Mr Henderson from the age of seven.²⁰⁴ He said that Mr Henderson came up behind him in the chook pen, pulled down his pants and raped him.²⁰⁵ On other occasions, Mr Henderson would take him into the old truck, seat him on his lap and fondle his genitals.²⁰⁶

Mr Stagg said he tried to tell Mr Pattemore that Mr Henderson would get him to sit on his lap, but Mr Pattemore did not believe him.²⁰⁷ He tried to tell Mr Pattemore a number of times about sexual abuse by Mr Henderson, but he was caned for 'lying'.²⁰⁸

Mr Stagg also described being sexually abused by other boys in his cottage. AJQ and AJR played sexual games with him.²⁰⁹ He said that AJD raped him.²¹⁰

Mr Stagg described the impact that the sexual abuse at the Retta Dixon Home has had on his life, his difficulties with authority and his problems with substance abuse.²¹¹ He also suffers from depression, other mental health issues and sexual dysfunction. He said that no amount of redress will compensate him for the life that was taken away from him.²¹²

Mrs Veronica Johns

Mrs Johns was born in 1958.²¹³ She is now 56 years old. She lived at the home from the age of three until she was 15 years old. She lived in cottage 3 with her brothers Kenneth and Kevin Stagg.²¹⁴ She described an incident when she was seven years old, when she was sexually penetrated by a boy in the laundry.²¹⁵ She did not tell anyone and kept it a secret until she was 25 years old.²¹⁶ She also gave evidence of other sexual assaults she endured while at the home, including by a boy, AJR, who used to get under her bed at night.²¹⁷ She would wake to find his hand on her upper thigh and he would put her hand on his penis.²¹⁸

Mrs Johns gave evidence that she reported the sexual abuse by AJR to her house parent, Auntie Ruth Roberts.²¹⁹ She also told Mr Pattemore half a dozen times but nothing changed.²²⁰ AJR kept abusing her. AJR was not removed from cottage 3.²²¹

She never saw Mr Henderson sexually abuse anyone, but the children all talked about the alleged sexual abuse by him.²²²

Mrs Johns said she felt bad about the sexual abuse she endured at the home. She also said she felt guilty she was not there for her brothers.²²³ She said that the abuse has had a negative impact on her marriage. She also described going 'walkabout' in her mind on occasions.²²⁴

3 Reporting of sexual abuse at the time

3.1 Difficulties in reporting at the time

Most former residents of the home who gave evidence said that they did not report the abuse at the time because they did not understand it to be wrong and later felt too ashamed and frightened to report the abuse.²²⁵

Other witnesses said there was nobody they could report the abuse to.

For example, Mrs Kitching said she could not recall anyone from Welfare or the government of the day checking on her or providing her with any opportunities to speak about the sexual abuse.²²⁶ Mrs Johns also gave evidence that no-one ever inquired about her welfare and there was no-one she could speak to about the abuse.²²⁷

3.2 Children's reporting of abuse to the superintendent in the 1960s and 1970s

Children's reports to Mr Pattemore

Some of the witnesses reported having told Mr Pattemore about the sexual abuse they endured at the time it was occurring at the home. Mr Pattemore did not give evidence at the public hearing. He is now 92 and in ill health.

Mrs Kitching said she complained about Mr Pounder's physical abuse and sexual touching to Mr Pattemore in the mid-1960s, but he did nothing.²²⁸

Mr Kevin Stagg said he tried to tell Mr Pattemore that Mr Henderson sexually touched him, but Mr Pattemore did not believe him.²²⁹ He was caned for 'lying'.²³⁰

Mrs Johns gave evidence that she reported sexual abuse by another child – AJR, who lived in her cottage – to her house parent, Auntie Ruth Roberts.²³¹ She said she also told Mr Pattemore half a dozen times, but nothing changed.²³² AJR kept abusing her and he was not removed from cottage 3.²³³

3.3 Conviction of Mr Powell in 1966

In May 1966, Mr Powell was convicted of three counts of indecent assault on children at the home that occurred between 1 January 1966 and 23 February 1966.²³⁴ Mr Pattemore was the superintendent of the home at the time.²³⁵ Mr Pattemore told police that two of the children had told him Mr Powell had played with their penis while they were in bed at the home.²³⁶

Mr Powell made admissions to the police.²³⁷ He pleaded guilty in the Supreme Court at Darwin.²³⁸ Mr Powell was released on 23 May 1966 after entering into a recognisance for three years.²³⁹

3.4 Reports by house parents about Mr Henderson in 1973

In 1973, some girls told a house parent, Mrs Wall, that Mr Henderson had behaved in a sexually inappropriate way with some of the boys.²⁴⁰ She told her husband and they reported the allegations to Mr Pattemore. She understood that Mr Pattemore contacted the headquarters of AIM.²⁴¹

The then Secretary of AIM, Mr Collins, travelled to the home. Mr Collins told Mrs Wall that there was insufficient evidence to take any action against Mr Henderson.²⁴² There was no discussion of reporting the matter to police. No-one spoke to any of the children.²⁴³ Mr Henderson continued to work at the home as a house parent. Mrs Wall said she became more protective of the children in her care.²⁴⁴

3.5 Prosecution of Mr Henderson in 1975

Older boys related to children at the home told a house parent, AKR, in 1975 that Mr Henderson was sexually abusing children.²⁴⁵ AKR worked as a house parent from 1972 until 1978.²⁴⁶

AKR provided a statement to the Royal Commission but did not give evidence at the public hearing. She said that, after being told of the allegations of sexual abuse by children, she spoke with Mr Norman Wall and informed Mr Pattemore.²⁴⁷ Mr Pattemore told her that he would report the matter to the police.²⁴⁸

AKR said that there was a view amongst some house parents at the time that the matter should be dealt with internally and not reported to the police.²⁴⁹

The allegations were reported to police in September 1975.²⁵⁰ Mr Henderson was charged with seven sexual offences against five children living at the home.²⁵¹

Mr Henderson resigned from the home on or about 12 September 1975.²⁵²

Committal proceedings took place on 1 and 2 December 1975.²⁵³ The magistrate decided that the charges were to be heard separately.²⁵⁴ The prosecution proceeded on one count involving one child, upon which Mr Henderson was committed for trial.²⁵⁵ The other charges were dismissed. The charge that was committed for trial was later discontinued by the prosecution on 3 February 1976.²⁵⁶

Mr Henderson was not convicted of any offence relating to any of the 1975 allegations.

3.6 AIM's response to allegations of abuse in the 1960s and 1970s

After Mrs Kitching, Mr Kevin Stagg and Mrs Johns informed Mr Pattemore about allegations of sexual abuse, the alleged perpetrators, Mr Pounder and Mr Henderson, continued to work at the home.²⁵⁷ After Mrs Johns informed Mr Pattemore that AJR was sexually touching her, AJR was not removed from her cottage.²⁵⁸

AIM's historical organisational structure and policies are set out in the old AIM Mission manual that was in effect until February 2004.²⁵⁹ The manual describes general operating principles but does not refer to any guidelines or policies on how staff should respond to allegations of sexual abuse.²⁶⁰ It does not refer to any requirement for a police check or clearance to work as a missionary.²⁶¹

AKR was not aware of any guidelines at the time that set out her responsibilities for reporting child sexual abuse.²⁶²

AKR²⁶³ and Mrs Wall²⁶⁴ both said that, upon arriving at the home, they received no training or guidance on how to respond to allegations of sexual abuse.

AIM's current organisational structure and policies are set out in the AIM Practice and Procedure Manual.²⁶⁵ The manual refers to the criteria that apply to a person who works as a missionary, including a police check and a Working with Children Check if they are to come into contact with children.²⁶⁶ There are also procedures for handling allegations of child sexual abuse and sexual misconduct that have been in place since 2013.²⁶⁷

AIM accepts that, before 2013, AIM did not have any guidelines or procedures for persons working with children on how to respond to allegations of child sexual abuse.

AIM accepts that from 1947 until 1980, when the Retta Dixon Home operated, AIM did not provide training to persons who worked at the home on how to detect or respond to child sexual abuse.

In the mid-1960s Ms Sandra Kitching advised the superintendent of the home, Mr Pattemore, that she was sexually assaulted by Mr Pounder. Mr Pattemore did not remove Mr Pounder from the home and did not notify the police.

The superintendent of the home, Mr Pattemore, was informed of allegations that Veronica Johns was sexually assaulted by another child, AJR. Mr Pattemore did not remove AJR from the cottage.

In the 1960s Mr Kevin Stagg advised the superintendent of the home, Mr Pattemore, that he was sexually assaulted by Mr Henderson. Mr Pattemore did not remove Mr Henderson from the home and did not notify the police.

In 1973 the superintendent of the home, Mr Pattemore, was informed by house parent AKR of allegations that Mr Henderson had sexually assaulted children at the home. Mr Pattemore notified AIM headquarters in Sydney. AIM did not remove Mr Henderson from the home and did not notify the police.

These failings lead us to conclude that, in respect of the matters the subject of the case study, AIM did not meet the obligations that it had to children in its care, including protection from sexual abuse.

3.7 Australian Government's response to allegations of abuse in the 1960s and 1970s

The Welfare Division of the Australian Government was aware of sexual abuse and sexualised behaviour at the home in the 1960s.²⁶⁸

In a report of a Commonwealth officer's visit to the home on 7 December 1962, there is a reference to a 13-year-old girl receiving 12 strokes of the cane on the legs for sex play with a little boy.²⁶⁹ The headmaster of the local school is also reported to have said that the children from the home 'generally knew too much about sex'.²⁷⁰

In another report from a social worker dated 30 June 1967, the author referred to a boy at the home and noted that:

Recently the boy pulled a little girl down and was lying on top of her at school. Mr Pattemore went on to say that the boy had always been playing with other children's and his own genitals.²⁷¹

Commonwealth records also refer to the criminal proceedings against Mr Powell.

The minutes of the meeting of the Child Welfare Council held on 23 March 1966 record that 'a 45 year old man in Darwin, a Cottage Father at a Children's Home in Darwin, charged with indecent assault on several boys up to 13 years of age – awaiting hearing in the Supreme Court'.²⁷² This record corresponds in time and detail with the prosecution of Mr Powell in 1966, although his name is not specifically mentioned in the record. An officer of the Welfare Division of the Australian Government attended this meeting.

There is also a report from the Commonwealth Crown Solicitor's Office to the Commissioner of Police, Darwin, dated 25 May 1966, which reports on the outcome of the sentencing of Mr Powell on 16 May 1966.²⁷³

The documents that were produced at the public hearing indicate that the Welfare Division of the Australian Government and the Commonwealth Crown Solicitor's Office were aware of the sexual offending by Mr Powell against three boys at the home, for which he was convicted in 1966.²⁷⁴

The documents that were produced did not indicate that the Australian Government had any knowledge of the allegations of child sexual abuse after 1966. In particular, they did not indicate that the Department of Aboriginal Affairs of the Commonwealth Government had any knowledge of the allegations or charges brought against Mr Henderson in 1975.

Senior Counsel for the victims submitted that the Commonwealth failed in its duty of care to the children of the home by:

- not ensuring close monitoring and supervision of the staff and children in circumstances where concerns of sexualised behaviour were raised
- not investigating the causes for the sexualised behaviour
- not speaking to the children concerned
- not ensuring that Mr Pattemore and staff at the home were given advice and guidance on how to deal with sexualised behaviour
- not visiting the children on a regular basis.

The Commonwealth says that it is unclear what the scope of supervision was over time and, given the passage of time and the inadequate state of the records, some having been destroyed by Cyclone Tracy, it is not clear how the statutory functions of the Commonwealth were undertaken and fulfilled over time.

As a consequence, we are unable to make a finding on the material presented to the Royal Commission as to whether or not the Commonwealth failed in its duty of care to the children of the Retta Dixon Home. However, a question remains as to whether in the circumstances the Commonwealth should have taken remedial action to protect the residents of the home from sexual abuse.

4 Later reports of sexual abuse

A former resident of the home, AJB, made a complaint to the police in 1998²⁷⁵ alleging that Mr Henderson had sexually abused him in the 1960s.²⁷⁶

Detective Sergeant Newman (now retired) of the Northern Territory Police Force investigated the complaint.²⁷⁷

During the course of the investigation Detective Newman received complaints from former residents AJD, AKU and AJE.²⁷⁸

Charges were laid against Mr Henderson on 4 June 2001 on behalf of all four complainants.²⁷⁹

The charges proceeded through the courts until, on 12 November 2002, the DPP discontinued the prosecution.²⁸⁰

Mr Henderson was never convicted of any offence alleged to have occurred against former residents of the Retta Dixon Home.

4.1 Response of the Northern Territory Police Force

The initial investigation

Detective Newman gave evidence at the public hearing about his investigation of Mr Henderson from 1998 until 2002.

His involvement commenced with an internal memorandum from Detective Senior Constable Naomi Lockhart.²⁸¹ The memorandum referred to a list of children who may have been sexually abused by Mr Henderson.²⁸²

Detective Newman made enquiries of those persons on the list.²⁸³ Mr Kevin Stagg's name was on the list. However, Detective Newman did not speak with Mr Kevin Stagg because he could not find a contact number or address for him²⁸⁴ and he could not make contact with Mr Kenneth Stagg.²⁸⁵

Detective Newman also made inquiries of the 'Stolen Generation Litigation Unit' and was told that many of the people who could potentially provide assistance did not want to become involved.²⁸⁶

He said that the investigation was a difficult one, partly because there was a marked reluctance by many former residents to speak about Mr Henderson.²⁸⁷ Many were frightened of him and others felt shame when speaking of the sexual allegations.²⁸⁸ Detective Newman spent much time building a rapport with the former residents.²⁸⁹

On 24 February 1999, Detective Newman advised AJB that he would go ahead with his file 'singularly'.²⁹⁰ However, the investigation broadened to include allegations made by other former residents of the home.²⁹¹

As part of his investigation Detective Newman interviewed former superintendent of the home Mr Pattemore in March 1999.²⁹²

Mr Pattemore told Detective Newman that he had no recollection of any allegations of sexual abuse.²⁹³ Detective Newman did not at the time, and does not now, accept that explanation.²⁹⁴ Detective Newman was aware that Mr Pattemore had given evidence at the earlier committal of sexual charges against Mr Henderson in 1975 and it was Mr Pattemore who had made the initial complaint to police in that case.²⁹⁵ Detective Newman said that Mr Pattemore at the time appeared genuinely confused and vague, and Mr Pattemore's wife said that her husband would have a nervous breakdown.²⁹⁶ For that reason, Detective Newman did not take a witness statement from Mr Pattemore.

Detective Newman conceded that he made a note that Mr Pattemore said 'he did not suspect anything happening with Henderson'. Detective Newman did not note at the time that Mr Pattemore was vague and confused.²⁹⁷ Detective Newman was criticised during his evidence for not having taken a statement from Mr Pattemore. We accept there would have been little utility in doing so.

Other former residents

During the course of the investigation, Detective Newman took statements from AJE,²⁹⁸ AJC,²⁹⁹ AKU³⁰⁰ and AJD.³⁰¹ AJE, AKU and AJD alleged that they had been sexually abused by Mr Henderson and AJC had seen Mr Henderson behave sexually inappropriately towards another child.

Detective Newman first made contact with AJE on 10 March 1999.³⁰² However, he was not able to obtain a statement from him until 15 September 1999.³⁰³ The statement disclosed that Mr Henderson placed his penis on AJE's feet and tickled his feet.³⁰⁴ Detective Newman said this was an unusual allegation of sexual abuse that he had not heard before in his time at the sexual assault unit.³⁰⁵ However, it was an allegation that numerous residents of the home made against Mr Henderson.

Detective Newman also obtained a statement from AJC. In his statement AJC said he saw Mr Henderson in the community store with his shorts around his knees and his penis out.³⁰⁶ He saw AJE follow Mr Henderson out of the store pulling his shorts up.³⁰⁷ AJE did not describe this incident.

Detective Newman agreed that AJC's statement provided evidence of Mr Henderson's sexual interest in AJE.³⁰⁸

Detective Newman took a statement from AKU on 7 December 1999.³⁰⁹

In her statement, AKU described Mr Henderson placing her feet on his penis to cause him to become aroused.³¹⁰ She alleged that Mr Henderson sexually touched her in his bedroom, in the pool and at Berry Springs and Howard Springs.³¹¹ She also described an occasion when Mr Henderson broke her nose.³¹² Detective Newman agreed that he obtained medical evidence of an x-ray from the Darwin Hospital that supported the allegation.³¹³

Detective Newman took a statement from AJD on 8 February 2001.³¹⁴ Detective Newman first made contact with him on 13 December 1999; however, AJD declined to give a statement.³¹⁵ The matter was complicated by the fact that AJB alleged that AJD had committed sexual offences upon him.³¹⁶ Detective Newman sought advice from the DPP and was advised to first obtain a statement from AJD about Mr Henderson and then consider the allegations made by AJB.³¹⁷ Detective Newman spoke with AJD on 25 January 2001.³¹⁸

AJD alleged in his statement that Mr Henderson had sexually touched him in the swimming pool at the home and at Howard Springs and Berry Springs.³¹⁹ He also described an occasion in the storeroom when Mr Henderson inflicted two acts of anal penetration upon him. AJD alleged that Mr Henderson anally and digitally penetrated him during the incident.³²⁰

Further investigation of 1975 allegations

During the course of the investigation, Detective Newman became aware of the previous prosecution of Mr Henderson in 1975.³²¹

The complainants in 1975 were AJT, AKN, AJS, AJW and AKP.

The police investigation diary and other documents reveal that Detective Newman knew of the 1975 charges and considered reinterviewing the complainants:

- On 3 March 1999, the name of AKN is noted in the investigation diary. Detective Newman also recorded having spoken to the DPP about relaying the 1975 charges. He noted 'OK to do so providing fresh information (e.g. similar fact evidence) is to hand'.³²²
- In a memorandum dated 2 March 2000, he described the 'ineptitude of the prosecutor at the time'.³²³ He could not recall what he was referring to; however, he agreed that he had read the transcript of the committal proceedings when he wrote that comment.
- In May 2001, in a note to the prosecutor, he referred to the 1975 charges and said that the substance of the allegations was of an identical nature to the allegations made by the current complainants.³²⁴
- Attempts were also made to find AJT between 10 January 2000 and 5 March 2001.

Detective Newman did not reinterview any of the 1975 complainants. In evidence he could not provide an explanation for not doing so.³²⁵

Senior Counsel for the Northern Territory submitted that it is speculative to suggest that the 1975 complainants could or should have been called to provide corroborating evidence in the 2001 prosecution. Therefore, there was no need to obtain statements from the former residents. The incidents that were the subject of the 1975 complaints were said to be quite distinct from those made by AJB in 1998 (and subsequently by AJD, AJE and AKU) in terms of the time, location and victims involved. There were also limited resources to do so, and this compelled a degree of prioritisation.

However, the children who made the allegations in 1975 would have been adults in 2001 and could have been more mature and better able to give evidence than they had been in 1975. The allegations made by the 1975 complainants all related to alleged sexual offending by Mr Henderson while the children were living at the Retta Dixon Home, and this way there was a potential for their evidence to be heard at any future prosecution of Mr Henderson.

No statements from Mr and Mrs Wall and no contact with other AIM house parents except AKR

Detective Newman agreed that he did not interview Mrs Wall, a former house parent at the home.³²⁶ He spoke with AKR, another house parent, but did not obtain a statement from her because she was reluctant to talk about the matter.³²⁷ He said he did not make inquiries of AIM as to the names of the relevant house parents of the day.³²⁸

The evidence of Mr and Mrs Wall was admissible and relevant to the 1975 charges had they been re-agitated by the police. Mr Wall gave evidence at the committal that Mr Henderson had admitted to engaging in some 'foolish behaviour' with boys, but denied he had done anything involving a girl.³²⁹ The failure to make contact with, or obtain statements from, other AIM house parents meant that the police lost the opportunity to find out whether those house parents had made any observations of sexual abuse by Mr Henderson on the complainants or, indeed, other children.

Senior Counsel for the Northern Territory submitted that the evidence of Mr and Mrs Wall would only have been admissible in 2001 if the police investigation had extended to the complainants in the 1975 proceedings. The historical nature of the charges, the difficulty in locating witnesses and the reticence of some witnesses meant there were insufficient resources to take such a broad approach to the investigation.

Police interview Mr Henderson

Detective Newman interviewed Mr Henderson at the Caloundra Police Station in Queensland on 6 March 2001.³³⁰ On the advice of the DPP, Detective Newman did this before laying any charges.³³¹ Mr Henderson made no admissions to the alleged offending. He requested an opportunity to obtain legal advice and then exercised his right to decline to answer any further questions.³³²

Detective Newman created a police apprehension report on 30 April 2001.³³³

Detective Newman submitted a brief of evidence in May 2001 to be considered by the DPP. He consulted with the DPP before laying any charges against Mr Henderson.³³⁴

Charges are laid in the Darwin Magistrates Court

On 4 June 2001, the police laid an Information charging Mr Henderson with 79 sexual offences and one count of assault occasioning actual bodily harm.³³⁵ Mr Henderson was charged with 55 counts of indecent assault, four counts of buggery on the male complainants and 20 counts of indecent assault on a female under the relevant legislation operating at the time of the offending.³³⁶ The complainants were AJB, AJD, AJE and AKU, all former residents of the Retta Dixon Home.

The DPP assumed conduct of the prosecution in the lead-up to the committal proceedings. Detective Newman continued as the officer in charge of the investigation throughout the subsequent prosecution.

The victim support services attached to the DPP wrote to the complainants and advised them of the committal proceedings.³³⁷

DPP request for further statements from AJD, AJE and AKU

Mr Anthony Elliott, a prosecutor at the DPP, wrote to Detective Newman in October 2001 and foreshadowed difficulties with the latent ambiguity of many of the charged counts on the Information – that is, each complainant could not give evidence about a particular occasion in respect of each charge.³³⁸ In October 2001 and January 2002, Mr Elliott requested Detective Newman to obtain further statements from AJD, AKU and AJE to particularise the charges.³³⁹

As a result of the request, Detective Newman took a further statement from AJD on 3 February 2002.³⁴⁰ AJD was able to describe a further incident of touching at Howard Springs.³⁴¹

Detective Newman did not obtain any further statements from AJE and AKU. He made appointments to see both AJE and AKU, but they both failed to keep those appointments.³⁴²

The next time Detective Newman met with AKU and AJE in preparation for the committal proceedings was when he drove AKU and AJE to the DPP's office on 4 February 2002.³⁴³

AKU told the prosecutor of another sexual incident that was not in her statement. The prosecutor led evidence of this incident at the committal hearing. That incident formed the basis of a charge upon which Mr Henderson was committed for trial.³⁴⁴

AJE also provided further details of alleged sexual offending during his evidence at the committal proceedings. His evidence included details about additional times on which Mr Henderson had sexually touched him and having seen the incident in which Mr Henderson allegedly broke AKU's nose.³⁴⁵

Before the committal, Detective Newman did not take a further statement from AKU or AJE. He said that he 'made an appointment to meet with AJE and his sister [AKU], and the appointment wasn't kept'.³⁴⁶

Senior Counsel for the Northern Territory submitted that any relevant information not in the statements of AJE and AKU was led by the prosecutor during their evidence at the committal proceedings and formed the basis of at least one charge, so the failure to obtain further statements was inconsequential.

However, we are satisfied that a carefully taken statement by Detective Newman before the committal proceedings may have elicited more material rather than the prosecutor asking questions while the witness was giving evidence.

Committal proceedings

The committal proceedings were heard in the Darwin Magistrates Court before Mr Anthony Gilles SM on 5, 6 and 7 of February 2002.³⁴⁷ Mr Glen Dooley appeared for the Northern Territory DPP.

The DPP elected to proceed with nine counts only.³⁴⁸ The charges relating to AJB were discontinued, as he had died.³⁴⁹ The DPP elected not to proceed with the other charges because of the latent ambiguity of the charges. Detective Newman was told that those charges were the 'best possible charges' with the best evidence.³⁵⁰

The complainants AJD, AJE, AKU and the witness AJC gave evidence at the committal.³⁵¹ At the conclusion of the hearing, Mr Henderson was committed for trial on nine counts charged on the Information, along with a further six charges that were added to the original Information by the magistrate.³⁵² The remaining charges were dismissed.³⁵³

No statement from AKV

Detective Newman did not obtain a signed statement from AKV.³⁵⁴

AKV came to the attention of Detective Newman after the committal proceedings on 12 February 2002. AKV's sister had seen a report of the court proceedings in the newspaper and called the DPP prosecutor, who then passed on her details to Detective Newman.³⁵⁵

Detective Newman contacted AKV's sister. She told him that AKV had been sexually assaulted by Mr Henderson.³⁵⁶ Detective Newman contacted AKV.

Both Detective Newman and AKV gave evidence that they spoke about Mr Henderson. However, there is a divergence in the evidence as to the circumstances in which they spoke and their understanding about how the matter was to progress.

AKV gave evidence that he met a police officer, whose name he could not recall, in a coffee shop.³⁵⁷ He was working at Jabiru in the Northern Territory at the time. There was a phone call and they then met in Darwin at the invitation of the police officer. After the meeting, AKV said he was expecting to hear from the police officer again but he did not hear from him.³⁵⁸ AKV said that he would have given evidence at any trial of Mr Henderson.³⁵⁹

Detective Newman gave evidence that he believed he spoke with AKV by telephone rather than in person, but he can now not recall whether or not he did meet him in person.³⁶⁰

Detective Newman made a note in his appointment diary on 13 February 2002 that read, 'Take details over the phone from [AKV] re Retta Dixon Henderson matter [AKV] in Jabiru'.³⁶¹

A lengthy case note made on 14 February 2002 details a conversation between Detective Newman and AKV. It records that 'Newman reports contacting AKV after being contacted by his sister AKT'³⁶² and 'AKV is now shifting from Jabiru to Lake Evella and will be there for at least a year. AKV will call and advise me of his phone number and also contact me personally on his next visit to Darwin'.³⁶³

The case note of 14 February 2002 also recorded details of AKV's allegations of sexual abuse against Mr Henderson.³⁶⁴ The note referred to an incident in the swimming pool when Mr Henderson rubbed himself against AKV's body and a second incident at Berry Springs when Mr Henderson sexually touched him.³⁶⁵ There was a note of AKV having seen Mr Henderson using a feather duster to tickle a boy around the anus.³⁶⁶ He provided the name of the boy.³⁶⁷ He also gave him the name of another boy who he believed had been sexually assaulted by Mr Henderson.³⁶⁸

Detective Newman said he did not take a statement from AKV either over the phone or by typing up his case note into statement form and asking him to sign it.³⁶⁹ He did not follow up the conversation with a further phone call to AKV or AKT.³⁷⁰ He said he was waiting for AKV to contact him.³⁷¹ He said that, if AKV was in a position to make a statement at the time, he would have taken one.³⁷²

He agreed that it would have been of assistance to the prosecution if he had he obtained a statement from AKV.³⁷³

Senior Counsel for the Northern Territory submitted that the more likely scenario is that a conversation took place by telephone on 13 February 2002, the details of which were recorded in the case note on 14 February 2002, and that there was no meeting in Darwin between Detective Newman and AKV. They say this because:

- The reference in the diary entry of 13 February 2002 to taking details over the phone is consistent with the substantive discussion taking place at that time.

- If Detective Newman had made arrangements to speak with AKV in person on 14 February 2002, it would be expected that those arrangements would have been recorded in the diary entry for 14 February 2002.
- The appointment diary does not record a meeting with AKV on 14 February 2002.
- Jabiru is 255 kilometres from Darwin. The case note is recorded at 11.19 am, and it is said to be unlikely that AKV drove for three hours before that time and had a meeting with Detective Newman.
- The case note entry that AKV would ‘also contact me personally on his next visit to Darwin’ would seem inconsistent on its face with the suggestion that they had met personally that morning.
- If they had met in person, Detective Newman would have taken a statement from AKV.

We accept this submission on the evidence.

Senior Counsel for the Northern Territory submitted that there was a mutual understanding between Detective Newman and AKV that AKV would consider whether he wanted to take the matter further and would make contact with Detective Newman if he decided to do so. Further, even if AKV had made a signed statement, it is unlikely that that evidence could or would have been used for the trial that had already been set for hearing or that the charges relating to AKV’s complaints could have been joined to the existing court proceeding.

We are satisfied that, no matter what understanding existed between Detective Newman and AKV, the preferable course was that Detective Newman contact AKV (directly or through his sister) to see if he wished to provide a signed statement to the police and proceed against Mr Henderson. It was at least arguable that any charges laid against Mr Henderson in respect of AKV could have been joined with the existing prosecution and strengthened the case against Mr Henderson.

Supreme Court trial

A Supreme Court indictment was presented by the DPP that charged Mr Henderson with the 15 counts upon which he had been committed for trial in March 2002.³⁷⁴ Mr Henderson was arraigned in the Supreme Court on 22 March 2002.³⁷⁵

A Supreme Court trial was listed to commence on 11 December 2002. The matter was subsequently brought forward to 9 December 2002.³⁷⁶

On 3 June 2002 DPP prosecutor Mr Dooley sent an email to Detective Newman that advised him of the trial date ‘to make sure the victims are kept up to date’.³⁷⁷ The victim support service sent letters to the complainants on 5 June 2002 advising them of the trial dates.³⁷⁸

On 24 September 2002 Mr Dooley sent an email to the Director of Public Prosecutions, Mr Wild QC, the Deputy Director, Mr Karczewski QC, and senior prosecutors Mr Carey and Mr Ron Noble advising them of the trial date and asking to be led on the matter.³⁷⁹ He concluded the email by saying:

My view is that an experienced trial lawyer should be drafted in here. At least then we can give these matters the best possible chance. A decent go, even if not culminating in convictions should satisfy the locals.³⁸⁰

On 29 October 2002 Mr Dooley sent an email to Detective Newman advising him of a separate trial application listed for 7 November 2002.³⁸¹

Mr Carey wrote a memorandum dated 7 November 2002 to Mr Wild QC recommending that the charges against Mr Henderson be withdrawn.³⁸² Mr Carey had conducted the file for one day before making the recommendation.³⁸³ Mr Wild QC sought the input of Mr Dooley, who had conducted the committal proceedings. Mr Dooley agreed with the recommendation.³⁸⁴

Mr Wild QC decided to discontinue the prosecution on the basis there were no reasonable prospects of conviction as provided by the guidelines issued by the DPP.

The prosecution was discontinued on 11 November 2002, when a *nolle prosequi* was entered on each charge against Mr Henderson.³⁸⁵

Detective Newman and the complainants AJE and AKU were informed of the decision to discontinue the prosecution on 27 November 2002.³⁸⁶

On that date, Detective Newman, AJE and AKU met with prosecutors at the DPP. Detective Newman made a case note of the meeting.³⁸⁷ He has no independent recollection of the day.³⁸⁸ By reference to the case note, he gave evidence that he met with Mr Carey, who advised him that the matter would not succeed in the Supreme Court.³⁸⁹ Mr Carey said that the chances of success were diminished by the application for separate trials.³⁹⁰ He did not note any other reason for the DPP's decision to discontinue the prosecution. Detective Newman said that, if any other reason had been given, he would expect it to appear in that case note.³⁹¹

Detective Newman could not recall any discussions with the DPP before the meeting on 27 November 2002 about the charges not proceeding to trial.³⁹² There was some discussion about separate trials, although Detective Newman never recalled seeing an application and there was never any suggestion to him from the DPP that this was a reason for the matter to be discontinued.³⁹³ His opinion on it was not sought and he was never asked for the opinions of the victims.³⁹⁴ Indeed, on 14 November 2002, after the prosecution had already been discontinued, Detective Newman was still liaising with AJD about arrangements for his appearance at the trial.³⁹⁵

Detective Newman did not know until the public hearing that the charges were discontinued only two weeks before his meeting with the DPP.³⁹⁶

Detective Newman gave evidence that, if he had been given the opportunity, he would have resisted the DPP's discontinuance of the prosecution against Mr Henderson.³⁹⁷

Detective Newman disagreed with the following statements made by Mr Carey in his memorandum of 11 November 2002:

- The police understand the predicament and do not have a problem with the matter not proceeding.
- The victims been informed of the decision.
- The victims were simply pleased to have the matter committed for trial and that fact made them feel very vindicated.³⁹⁸

He said that those statements did not reflect his views or his understanding of the victims' views at the time.³⁹⁹

Detective Newman believed then and now that the prosecution needed to be pursued because of the 'similar fact evidence' and the plain fact that the victims' stories needed to be told.⁴⁰⁰ He believed they were credible complainants.⁴⁰¹ He accepted that there were difficulties with the case but believed they could be overcome.⁴⁰²

Detective Newman felt he had let the complainants down in circumstances where they had shown tremendous courage in coming forward and making statements to the police.⁴⁰³

Police guidelines and General Orders

In 1998 there were no policies, guidelines or general police orders that specifically dealt with the investigation of historical sexual offences.⁴⁰⁴ Also, there were no courses or training on how to liaise and deal with Aboriginal and Torres Strait Islander witnesses.⁴⁰⁵ Detective Newman agreed in evidence that courses like these would have assisted him and other officers at the sexual assault unit in the investigation of cases like Mr Henderson's.⁴⁰⁶

Detective Newman gave evidence that he was guided by a General Order dealing with sexual assaults.⁴⁰⁷ Since 1989 the Northern Territory Police Force has received cross-cultural training, including on how to liaise with Aboriginal persons. General Orders in place since 1998 provided guidance to investigators on questioning persons who have difficulties with the English language.

We consider that a more thorough investigation of Mr Henderson by the Northern Territory Police Force would have included:

- better attempts to reinterview the complainants from the 1975 charges
- contact with AIM to find out the names of house parents who may have assisted the investigation
- obtaining a statement from Mrs Wall

- taking addendum statements from AJE and AKU
- making contact with AKV (either through his sister or directly) to attempt to take a statement from him.

Before 2003 there were no policies, guidelines or General Orders that specifically dealt with the investigation of historical sexual offences or issues peculiar to Aboriginal and Torres Strait Islander witnesses. There were no courses or training on how to most effectively liaise and deal with Aboriginal and Torres Strait Islander witnesses.

4.2 The DPP response

The DPP assumed conduct of the prosecution before the committal proceedings in February 2002. As previously noted, on 11 November 2002 the DPP discontinued all charges against Mr Henderson.⁴⁰⁸ The charges never proceeded to trial.

The Director of Public Prosecutions in 2002 was Mr Wild QC. Mr Wild QC was overseas at the time of the public hearing and did not give evidence or provide a statement to the Royal Commission.⁴⁰⁹

Mr Karczewski QC is the current Director of Public Prosecutions in the Northern Territory. In 2002, he held the position of the Deputy Director of Public Prosecutions.

Mr Karczewski QC has no independent recollection of the prosecution of Mr Henderson.⁴¹⁰ By reference to the tendered materials, the file of the DPP and the DPP Guidelines, he gave evidence about the DPP's decision to discontinue the charges against Mr Henderson.

Failure to comply with the DPP Guidelines

The recommendation to discontinue the prosecution against Mr Henderson is set out in a memorandum from DPP senior prosecutor Mr Carey dated 7 November 2002.⁴¹¹

Mr Carey gave evidence that he has no independent recollection of the prosecution of Mr Henderson or of writing the memorandum of 7 November 2002 in which he recommended that the prosecution of Mr Henderson be discontinued.⁴¹²

Mr Carey agreed that the memorandum did not comply with the DPP Guidelines in material ways.⁴¹³ The current DPP Guidelines are the same as those that applied in 2002.⁴¹⁴ He could provide no reason for failing to comply with the guidelines.⁴¹⁵

In 2002 the DPP Guidelines were as follows:

- 7.11 In trials (and infrequently, pleas) it is the responsibility of the prosecutor, to prepare a report to the Director's Chambers. Discontinuance reports must include:
- (1) the charges laid by the informant and/or the charges on which the offender has been committed for trial;
 - (2) a copy of the defence application or request;
 - (3) a summary of the facts of the case sufficient to permit a proper consideration of the application or request;
 - (4) a copy of the offender's criminal history;
 - (5) the views of the police officer-in-charge and the victim and/or a note as to attempts made to obtain those views; and
 - (6) the prosecutor's recommendation supported by reasons.
- 7.12 It is the responsibility of the prosecutor to ensure that consultations with the police officer-in-charge and victim have occurred. However, if the police officer-in-charge or victim is not able to be consulted within a reasonable time, the attempts made to contact him or her must be documented.
- 7.13 After a decision has been made, the prosecutor must notify the police officer-in-charge, the victim, the offender and the court of the decision as soon as practicable. Where appropriate, the police officer-in-charge and victim should also be reminded that bail conditions no longer apply.⁴¹⁶

In particular, Mr Carey agreed that he did not speak with the complainants or investigating officer directly before making the recommendation.⁴¹⁷ He does not set out in the memorandum who he spoke to in order to ascertain the views of the police and complainants.⁴¹⁸ Mr Carey said he believed that he obtained this information from Mr Dooley. However, an email from Mr Dooley to Mr Carey dated days after the memorandum is inconsistent with Mr Carey's evidence.⁴¹⁹ The email shows that Mr Dooley had not yet consulted the police or complainants, so he was not in a position to share their views with Mr Carey.⁴²⁰

Mr Carey also agreed that, unless there was a reason for urgency, a case of this complexity and seriousness required more time than 24 hours to properly consider and prepare a memorandum to discontinue the charges.⁴²¹ He could provide no reason for the urgency.⁴²²

Mr Karczewski QC also considered the memorandum of 7 November 2002. He concluded that Mr Carey did not comply with paragraph 7.11 of the guidelines on the discontinuance of prosecutions.⁴²³ Mr Karczewski QC said that the memorandum was insufficient in its brevity and fell short of what was required.⁴²⁴

The memorandum provided no summary of the charges and no analysis of the evidence on each charge.⁴²⁵ It contained no precis or analysis of any pre-trial applications foreshadowed by the defence, such as an application for separate trials or a stay of proceedings.⁴²⁶ There was no reference to the defendant's criminal history. Also, there was no reference to the previous prosecution of him in 1975.⁴²⁷ There was an inaccurate statement of the views of the police and victims about the charges being withdrawn, in that the guidelines envisage a positive assertion as to the views of the police and victims. He considered the memorandum insufficient in that respect.⁴²⁸

After the Director of Public Prosecutions has made a decision to discontinue a prosecution, the prosecutor must notify the police officer in charge, the victim, the offender and the court of the decision as soon as practicable.⁴²⁹ Detective Newman and the complainants AKU and AJE were first advised of the decision to discontinue the proceedings on 27 November 2002.

Mr Karczewski QC agreed that a delay of 16 days in informing the police and complainants did not meet the criteria provided for by the guidelines.⁴³⁰ He agreed that the delay, and the failure to communicate with the complainants and the investigating officer, were wholly lamentable⁴³¹ and a serious failure by the DPP to observe the appropriate procedures.⁴³²

The decision not to proceed with the charges

The DPP Guidelines⁴³³ provide a two-fold test that is to be applied in making a decision to discontinue prosecutions: first, whether there is a reasonable prospect of conviction; and, second, whether it is in the public interest to prosecute.⁴³⁴

The DPP concluded that there was no reasonable prospect of conviction primarily because of the latent ambiguity in the charges. The evidence was said to reveal a multiplicity of offences with nothing to identify any one of them as the offence with which the accused was charged in any particular count. In that way, the DPP concluded that the charges offended against the principle enunciated in *S v The Queen*.⁴³⁵

There was also a reference in the memorandum of 7 November 2002 to the staleness of the offences and the inconsistency between the witnesses and within the testimony of each particular witness.⁴³⁶

In his case note of 27 November 2002 Detective Newman wrote that 'part of [the] decision was based on a separate trial application by Henderson which Carey believed would be successful, thus diminishing the chances of a successful prosecution'.⁴³⁷

Mr Karczewski QC conceded that the issue of the latent ambiguity of the charges did not apply to all the counts and that, at least, the DPP was wrong to have entered *nolle prosequi* on five counts on the indictment.

Ultimately, Mr Karczewski QC concluded that counts 1, 3, 5, 6, 11 and 15 on the indictment could have and should have proceeded to trial.⁴³⁸ Further, count 1 could have and should have been charged as two separate counts – one for penile-anal intercourse and one for digital-anal intercourse.⁴³⁹

Mr Karczewski QC agreed that the delay of 30 or 40 years was not in itself a reason to discontinue the prosecution and it needed to be shown that the accused was at a positive disadvantage or there was actual prejudice. There was no evidence or discussion of such prejudice in this case.⁴⁴⁰ Further, the fact that there were inconsistencies in the evidence was not of itself a reason to discontinue the prosecution.⁴⁴¹ He agreed that the potential for a separate trial application, even if it was thought it might be successful, was not a reason to discontinue the prosecution.⁴⁴²

Significantly, Mr Karczewski QC gave evidence that, if the same case was presented to him today, he would proceed on the nominated 'stand-alone' charges and that there was no reason not to proceed.⁴⁴³ He agreed it was 'crystal clear' that there was sufficient evidence to charge and to proceed with those charges.⁴⁴⁴

Since 2002, there have been significant changes to the handling of sexual assault cases within the Northern Territory DPP. First, there is a sexual assault prosecutor – a senior prosecutor who has particular experience in the area.⁴⁴⁵ Secondly, indictments can only be signed by a senior Crown prosecutor.⁴⁴⁶ Senior prosecutors are instructed not to sign an indictment in the absence of briefing notes.⁴⁴⁷ Thirdly, the Director will not sign a *nolle prosequi* until the author of the memorandum has spoken to the complainants.⁴⁴⁸

We are satisfied that the memorandum with the recommendation by Mr Carey of the DPP to discontinue the prosecution against Mr Henderson did not comply with the DPP Guidelines in that it did not provide:

- a summary of the charges
- an analysis of the evidence in respect of each charge
- any reference to pre-trial applications foreshadowed by the defence, such as an application for separate trials or a stay of proceedings
- any reference to the defendant's criminal history and the previous prosecution of him in 1975
- an accurate statement of the views of the police officer in charge and victims about the charges being withdrawn.

The DPP did not notify the police officer in charge and victims of the decision to discontinue the prosecution as soon as practicable after the decision was made, as required by the DPP Guidelines.

We are satisfied that the recommendation by Mr Carey, which was accepted by Mr Wild QC, to enter a *nolle prosequi* on counts 1, 3, 6, 11 and 15 on the Supreme Court indictment, on the basis there were no reasonable prospects of conviction and it was not in the public interest to proceed, was wrong.

5 Redress

5.1 Australian Indigenous Ministries

Reverend Leggott is the current General Director of AIM and has been in that position since 1996. During the public hearing he apologised personally and on behalf of AIM for the hurt that was caused to the children of the Retta Dixon Home.⁴⁴⁹

AIM continues to operate today. The organisation is currently an interdenominational Protestant and evangelical organisation that provides full-time workers undertaking evangelical, disciplinary and counselling work to Northern Territory Aboriginal and Torres Strait Islander communities. AIM maintains a number of ministries in the Northern Territory including in Darwin, Katherine and Tennant Creek, although its registered office is in New South Wales. AIM is currently funded through voluntary contributions. AIM personnel are all engaged as volunteers.⁴⁵⁰

AIM is an incorporated association and a registered charity. AIM is registered as a religious institution for the advancement of religion.⁴⁵¹

Reverend Leggott gave evidence that, before the Royal Commission announced a public hearing on the Retta Dixon Home, he was not aware of any claims at all of abuse at the home.⁴⁵²

In the earliest mission manual there is a requirement for records to be kept.⁴⁵³ He said that he would expect to see a written record of allegations of child sexual abuse, such as the allegations and conviction of Mr Powell in 1966 and the allegations against Mr Henderson in 1975 and 2002.⁴⁵⁴ Yet he was not aware of any documents containing allegations of sexual abuse by AIM workers at the Retta Dixon Home. Neither he nor the AIM Council was aware of any allegations of child sexual abuse at the Retta Dixon Home before the Royal Commission was announced.⁴⁵⁵

Reverend Leggott conceded that at some time (but he did not know when)⁴⁵⁶ he had heard ‘third-hand’ that a report of child sexual abuse had been made to the police in the 1970s or earlier. He said he did not make any inquiries about these allegations or consider redress at the time.⁴⁵⁷

He also conceded that he was aware of the Federal Court action by Mrs Cubillo against the Australian Government.⁴⁵⁸ In those proceedings, Mrs Cubillo and others claimed that the removal from their families and placement at the Retta Dixon Home had taken place pursuant to a policy that was endorsed by successive Australian governments. They said that their removal and detention caused them pain and suffering (including serious psychological harm), loss of enjoyment of life and loss of cultural heritage.

Reverend Leggott accepted in his evidence that AIM had made no attempt to provide any form of redress to victims at the Retta Dixon Home until the Royal Commission public hearing. It was only during the public hearing that he issued an apology on behalf of AIM and said that AIM is willing to provide care and counselling to victims of abuse that occurred at the Retta Dixon Home.⁴⁵⁹

5.2 Recent redress efforts by Australian Indigenous Ministries

Since the public hearing, AIM has published an apology in *The Australian* newspaper⁴⁶⁰ and has further considered financial compensation for victims. Reverend Leggott has also met with Mr Henderson to see if he would confess to the allegations of abuse against him.⁴⁶¹

Public apology

In a statement produced after the conclusion of the public hearing,⁴⁶² Reverend Leggott referred to the fact that AIM had paid for a national apology to be published in *The Australian*, the terms of which are set out in full in his statement. The apology also referred to counselling services being available to survivors through a service called NT Resolve, a division of Anglicare (a Northern Territory Government funded program) and that the Northern Territory Government would have no objection to any victims of abuse at the Retta Dixon Home utilising this service.⁴⁶³

Meeting with Mr Henderson

After the public hearing concluded, Reverend Leggott met with Mr Henderson on 24 October 2014 to see if Mr Henderson would make a confession that Reverend Leggott could then give to the police.⁴⁶⁴ Mr Henderson made no admissions to Reverend Leggott.⁴⁶⁵ Counsel for AIM submitted that the efforts of Reverend Leggott are evidence of a genuine effort by AIM at redress for the victims of abuse at the Retta Dixon Home.

Financial compensation

At the public hearing Reverend Leggott said that AIM has no financial capacity to provide monetary compensation to the victims.⁴⁶⁶

AIM produced a document to the Royal Commission entitled, 'Financial Statements and Reports for the year ended 31 December 2013'.⁴⁶⁷ The document reveals that AIM owns property, not all of which is held in trust for the churches.⁴⁶⁸

At the public hearing, Reverend Leggott said that AIM has not yet considered whether to sell any of those assets to provide compensation to the victims.⁴⁶⁹ He was unaware of any insurance policy held by AIM at the time it operated the Retta Dixon Home.⁴⁷⁰

Since the public hearing AIM has located a single insurance policy issued by Royal Sun Alliance with renewals for the period from 1974 to 1977. AIM has been legally advised that there is little prospect of indemnity from Royal Sun Alliance because of a requirement to notify at the first reasonable opportunity after AIM had knowledge of the criminal offences. The maximum coverage was also limited to \$10,000.⁴⁷¹

AIM has also recently considered the question of the sale of real property to provide financial compensation to the victims. In a statement dated 12 November 2014, Reverend Leggott said that AIM owns 18 properties valued at \$4,114,739.⁴⁷² However, most have stringent conditions on them and most are on Aboriginal lands. There are two properties that are not subject to any conditions. They are located in Humpty Doo, Northern Territory, and Springwood, New South Wales.⁴⁷³

The General Council of AIM has recently resolved to sell the Springwood property. The current valuation is between \$350,000 and \$380,000.⁴⁷⁴ AIM will place the net proceeds of the sale into a fund for providing financial compensation to the victims of sexual abuse that occurred at the Retta Dixon Home.⁴⁷⁵ Reverend Leggott estimated that the property would take between two to four months to sell.⁴⁷⁶

Mr Alistair Wyvill SC has agreed to oversee the apportionment of moneys from the fund to the victims.⁴⁷⁷

Roundtable discussions on redress

AIM has indicated that it is prepared to enter into roundtable discussions concerning the question of a national redress scheme.

A public apology and offer of counselling on behalf of AIM was only made during the public hearing of the Royal Commission. Prior to that time AIM had not given any form of redress to any of the former residents of the Retta Dixon Home.

Since the conclusion of the public hearing, AIM has:

- published an apology to the victims in a national newspaper
- spoken to Mr Henderson about the allegations with a view to providing any information to the police
- resolved to establish a monetary compensation scheme, to be financed by the sale of a property valued at between \$350,000 and \$380,000.

5.3 Redress available in the Northern Territory

Mr Gregory Shanahan, the Chief Executive of the Northern Territory Department of the Attorney-General and Justice, gave evidence about the redress available to victims of child sexual abuse in the Northern Territory.

Common law

The common law in the Northern Territory provides a civil cause of action for intentional trespasses to the person, including assault and battery.

The availability of a claim is subject to the provisions of the *Limitation Act 1981* (NT), which requires a claim to be brought within three years from the date the cause of action first accrued to the claimant.

The three-year period may be extended if the relevant facts were not known by the person until after it expired; the action was instituted within 12 months after that time; and it is just in all the circumstances to grant the extension of time.

The Supreme Court of the Northern Territory has not had occasion to rule on the limitation question in the context of an historical sexual abuse case.⁴⁷⁸

The Northern Territory Legal Aid Commission is funded to represent persons in bringing claims under the common law.⁴⁷⁹

Victims of Crime Assistance Act (NT)

The Northern Territory has a statutory criminal injuries assistance scheme established by the *Victims of Crime Assistance Act 2006* (NT) and the *Victims of Crime Rights and Services Act 2006* (NT), which commenced on 1 May 2007.

The scheme provides financial assistance and counselling services to victims of violent acts. The maximum amount of compensation is \$40,000.⁴⁸⁰

There is a time limit for submitting an application for compensation of two years from the date of the violent act.⁴⁸¹

Applications may be accepted following the expiry of that two-year period, taking into account considerations including whether the injury or death occurred as a result of sexual assault, domestic violence or child sexual abuse; the age of the applicant at the time of the violent act; and whether the offender was in a position of power, influence or trust in relation to the applicant.⁴⁸²

These considerations reflect the experiences of many victims of child sexual abuse in that there is often a delay in the reporting of allegations of abuse.

At least one complainant of sexual abuse at the Retta Dixon Home has made a successful claim for compensation under the scheme. The claim was accepted even though the two-year time period had expired.⁴⁸³

The Victims of Crime Assistance Act 2006 (NT) also establishes a counselling scheme. All victims are eligible for counselling.⁴⁸⁴ Regardless of the outcome of an application for financial assistance, the victims are advised about Anglicare's free counselling services.⁴⁸⁵ Anglicare is contracted by the Northern Territory Government to provide up to eight free counselling sessions for a victim of crime and to make referrals where appropriate. The counselling service is also available to a victim's family and support persons.⁴⁸⁶

There are several perceived obstacles for victims in making claims under the legislation. These include the following:

- There is a two-year limitation period.
- The scheme requires individuals to report a complaint to the police.⁴⁸⁷
- The maximum award is \$40,000.
- The legislation precludes multiple applications for compensation for separate acts on the same victim.
- The legislation does not cover the legal costs of filing the application with supporting material.

5.4 Victims' views on redress

Most of the victims and survivors of the Retta Dixon Home have not sought any form of financial compensation. Many have expressed a desire to do so.

Submissions on behalf of the victims Mr Kenneth Stagg, Mr Kevin Stagg and Mrs Johns supported the establishment of a national redress scheme through an independent statutory authority that is funded by state, territory and Australian governments.

It was submitted that a redress scheme should be well publicised, be accessible over a reasonable period of time and have a reasonable allocation of funds given the number of potential claimants. The scheme should employ the rule of plausibility rather than proof. Proof of damage should not be necessary.

The scheme should comprise both financial and non-financial redress and it should be optional. Claimants should retain the ability to pursue civil litigation if they wish. The right to monetary compensation should survive the death of the claimant so that the generational impact of childhood abuse is acknowledged.

Former residents also expressed a desire for non-pecuniary forms of compensation such as an apology, further counselling and a memorial at the site of the Retta Dixon Home.

No redress has been offered by the Australian Government or the Northern Territory Government to the victims of the Retta Dixon Home other than through the Northern Territory legislative scheme provided for by the *Victims of Crime Assistance Act 2006* (NT) and the *Victims of Crime Rights and Services Act 2006* (NT).

Consideration should be given by AIM, the Northern Territory Government and the Australian government, in consultation with former residents, to the provision of a permanent memorial at the site of the Retta Dixon Home.

6 Out-of-home care in the Northern Territory

The sexual abuse described by former residents of the Retta Dixon Home occurred in the context of Aboriginal children having been removed from their families and placed in out-of-home care.

The Royal Commission heard evidence about what is considered good practice in this area, with a particular emphasis on the needs of Aboriginal and Torres Strait Islander children.

6.1 Previous inquiries into out-of-home care in the Northern Territory

Between 2005 and 2011 there were two significant reviews of child protection and child sexual abuse in the Northern Territory.

The Northern Territory Inquiry into the Protection of Aboriginal Children from Sexual Abuse was established by the Chief Minister in August 2006 to inquire into the nature and extent of child sexual abuse in remote communities and to identify better ways to prevent sexual abuse in communities.

The report of the inquiry, *Ampe Akelyernemane Meke Mekarle: 'Little children are sacred'*, was released on 15 June 2007.⁴⁸⁸

The primary recommendations of the report included the establishment of a Northern Territory Children's Commissioner, enhanced employment screening and information sharing, the establishment of Family and Children's Services be established as a division in its own right within the Department of Health and Community Services and the permanent establishment of the Child Abuse Taskforce.⁴⁸⁹

The second review commenced in November 2009, when an independent Board of Inquiry into the Child Protection System in the Northern Territory (BOI) was announced. The BOI was conducted by an external panel of independent experts appointed by the Chief Minister. In 2010, the report of the BOI, *Growing them strong, together: Promoting the Safety and Wellbeing of the Northern Territory's Children*, was published.⁴⁹⁰ The report made 147 recommendations to improve the child protection system. Several of the recommendations were not implemented, including a community visitor program that would provide for regular visits to children in residential care settings so that independent adults can advocate on their behalf. The significance of such a program is discussed below.

6.2 Current laws, policies and procedures in the Northern Territory

Ms Jackson, the Executive Director of the Out-of-Home Care Division of the Northern Territory Department of Children and Families, gave evidence at the public hearing.

The Department of Children and Families was established as a stand-alone government agency responsible for child protection, out-of-home care and family support.⁴⁹¹

The *Care and Protection of Children Act 2007* (NT) and associated regulations currently provide the criteria for taking a child into care.

The *Care and Protection of Children Act 2007* (NT) refers to the Aboriginal Child Placement Principle, which outlines the principles specific to placing Aboriginal children in care by recognising the role and importance of kinship groups, representative organisations and communities in promoting the wellbeing of Aboriginal children.⁴⁹² An Aboriginal child, as far as practicable, is required to be placed in close proximity to their family and community.⁴⁹³

In November 2013, the Out-of-Home Care Division was established to provide centralised coordination and accountability for services in the Northern Territory.⁴⁹⁴ A placement unit was created to centralise placements through a placement request form. The form captures the child's subjective need in an attempt to inform the placement decision.⁴⁹⁵

The Out-of-Home Care Division is committed to home-based placements as the preferred option.⁴⁹⁶ It is only when home-based placements are not possible that the placement unit considers a short-term option with a Family Day Care Educator or, as a last resort, within a residential facility.⁴⁹⁷ These placements are not assessed or monitored to the same degree that kinship or foster carers are. As a result, the government is transitioning away from this placement type.⁴⁹⁸

The Out-of-Home Care Division is also responsible for therapeutic services or in-care support involving a team of psychologists, therapists, counsellors and social workers.⁴⁹⁹

There are also some mechanisms in place for children who exit care once they turn 16. These include placing the former resident on a priority housing list; involving the former resident with Anglicare for support; and the government ensuring that financial arrangements are in place for the former resident.⁵⁰⁰ Until the former resident is 25, they have a case manager who can support them and help them to access services.⁵⁰¹

Recruitment, training and monitoring of carers

Ms Jackson accepted that Australian Institute of Health and Welfare statistics show that the percentage of Aboriginal and Torres Strait Islander children in the Northern Territory who are placed with kinship carers or Aboriginal and Torres Strait Islander carers is lower than in any other state or territory.⁵⁰²

There are particular challenges for the recruitment of out-of-home carers for Aboriginal and Torres Strait Islander children in the Northern Territory, including the geographical constraints and the time it takes to check potential kinship carers and their households or contacts.⁵⁰³

Ms Jackson said that the number of Aboriginal and Torres Strait Islander children being placed with Aboriginal and Torres Strait Islander carers could be increased by using a targeted recruitment campaign that addressed the stigma of being associated with the child protection system and more education about the role of kinship carers within the community.⁵⁰⁴ She does not support reducing the checks and balances on kinship carers to increase their number.⁵⁰⁵ She said that, once they are recruited, there is a good rate of retention of kinship carers.⁵⁰⁶

As part of the placement agreement, carers are required to have training before a child is placed in their care.⁵⁰⁷ However, this does not always occur – for example, where there is an emergency placement.⁵⁰⁸ Carers are encouraged to revisit the training every 12 months.⁵⁰⁹ However, the training does not include protective behaviours in respect of child sexual assault or indicators of grooming behaviours.⁵¹⁰ Ms Jackson considered that this area of the training required improvement.⁵¹¹

There is a monthly meeting between the carer and a staff member of the Out-of-Home Care Division. A monthly face-to-face meeting also occurs between a child protection case manager and the child. Regular placement meetings are held that bring all the parties together.⁵¹²

While case managers are required to meet with children on a monthly basis, this only occurs between 40 per cent and 60 per cent of the time, in part because of geographical limitations. Ms Jackson agreed that monthly visits are optimal. She said that the rate is improving.⁵¹³ The division has remote teams to assist with the geographical difficulties and it also relies on other agencies such as schools, police and health services.⁵¹⁴ She agreed that the involvement of other agencies was an important aspect to develop in the future.⁵¹⁵

Ms Jackson is not aware of consideration having been given to a community visitor program despite the fact that it was a recommendation of the BOI in 2010.⁵¹⁶

Response to allegations of child sexual abuse

Ms Jackson also gave evidence about the current procedures for responding to allegations of child sexual abuse.

The Department of Children and Families can investigate allegations that a child in care is likely to be suffering harm and can inspect their home.⁵¹⁷

A policy named Responding to Concerns about the Safety of Children in Care was implemented in August 2014. The policy requires that any concerns about the safety or wellbeing of a child in care be reported to central intake and an investigation case be opened on the child's electronic file, through which a whole-of-department response is recorded.⁵¹⁸ The policy also established an Internal Review Unit responsible for facilitating, coordinating and monitoring all investigations into the concerns about the wellbeing of the child.⁵¹⁹

Significantly, all substantiated matters are reported to the Northern Territory Children's Commissioner, who is able to investigate the report and review the child's file to determine whether the department's response and actions are appropriate.⁵²⁰

Ms Jackson expressed the view that it would not strengthen the child protection system if the Northern Territory Children's Commissioner could also investigate the allegations, because there already exist sufficient layers to facilitate investigation and she believed that it's not the investigation component that would necessarily strengthen the system.⁵²¹

Ms Jackson considered the most important issues for responding to allegations of child sexual abuse are to have adequate and appropriate training and policies and procedures that give adults the skills to identify and respond to abuse. Children also require opportunities and a supportive environment to disclose allegations of abuse.⁵²²

With Aboriginal and Torres Strait Islander children, there needs to be an emphasis on appropriate housing so that a child feels like it is their home. Carers also have to understand where the child comes from and the importance of their culture.⁵²³

Ms Jackson also said that the support provided for families where a child has been removed is poor. She believes that this is an area that needs to be improved.⁵²⁴

6.3 The role of the Northern Territory Children's Commissioner

Dr Bath, the Northern Territory Children's Commissioner, also gave evidence.

The role of the Children's Commissioner is to ensure the wellbeing of vulnerable children.⁵²⁵ The primary role is to investigate complaints, monitor the administration of the *Care and Protection of Children Act 2007* (NT) and convene the child death review.⁵²⁶ The Children's Commissioner also has a policy role.⁵²⁷

The Children's Commissioner is not authorised to conduct an investigation aimed at establishing whether or not abuse or exploitation has occurred, because that is the role of the Department of Children and Families and, indeed, the police.⁵²⁸

The Commissioner's role is to examine the adequacy of the response of the relevant agency and to monitor the way in which the Department of Children and Families deals with alleged incidents of harm, including child sexual abuse, with a focus on the systemic approach to the issue.⁵²⁹

The Office of the Children's Commissioner also attends engagement activities with children in out-of-home care to provide an opportunity for children to hear about their rights and to give them the opportunity to make any complaint about their care.⁵³⁰

Success of out-of-home care policies and procedures in the Northern Territory

Dr Bath gave evidence that, despite the Aboriginal Child Placement Principle, the Northern Territory has the lowest placement rate of Aboriginal children with Aboriginal carers in Australia.⁵³¹ There are a number of reasons for this, including the limited number of available Aboriginal carers for a relatively large number of vulnerable children and the challenging living circumstances of many Aboriginal people, which impact on their capacity to provide care.⁵³² There are also difficulties with the recruitment of kinship carers and case workers in remote areas combined with the problems of supervising and communicating in remote locations.⁵³³

Dr Bath believed that this could be improved if the department took an ‘enabling approach’ to finding kinship care placements – for example, by investing further resources in support and housing for kinship carers.⁵³⁴

There is still a pressing need for a community visitor program that provides for regular visits to children in residential care settings so that independent adults can advocate on their behalf. He said that it would help to address the reluctance of children to make formal complaints. The visitor program was previously one of the recommendations of the 2010 BOI.⁵³⁵

Dr Bath thought it was very important that case workers meet with children once a month.⁵³⁶ Last year 52 per cent of children had been visited once a month and 69 per cent of children were visited within two months.⁵³⁷ He did not think these figures were satisfactory.⁵³⁸ He believed there had been an improvement in those figures over the past year.⁵³⁹ In the absence of a community visitor program, Dr Bath believed that the need for children to meet with case workers once a month was enhanced.⁵⁴⁰ In the past, he has suggested a classification system where children who are more vulnerable are given priority in terms of visits by a case worker. He is not aware whether the department has adopted this suggestion.⁵⁴¹

He does not accept the remoteness of some communities as an excuse for the department’s failure to meet with children in care in those communities once a month.⁵⁴²

Dr Bath gave evidence that when children who have been in out-of-home care turn 18, the services available to them are limited and it is critical they have appropriate support.⁵⁴³

Dr Bath said that it is important there is an independent review of allegations of abuse in care, because there is a perceived conflict of interest if the department investigates its own workers. It is also important to independently review how investigations are handled in cases where abuse is found and where abuse is not found. That way, the Northern Territory Children’s Commissioner could weigh up and evaluate whether an appropriate investigation had taken place. Currently, the Children’s Commissioner only reviews the reports of matters where abuse is found.⁵⁴⁴

Dr Bath believes that the child protection system would be strengthened if his office could also review the department’s response to allegations that were found to be unsubstantiated or not proved. Dr Bath also said that it would be helpful if he was advised of the allegations at the outset rather than after the department’s investigation had been completed.⁵⁴⁵

6.4 Good practice in out-of-home care

Professor Bamblett was asked to give the Royal Commission her opinion on what is currently considered good practice in the provision of out-of-home care, with a particular emphasis on the needs of Aboriginal and Torres Strait Islander children. She provided a statement to the Royal Commission dated 20 September 2014 and gave evidence at the public hearing.

Professor Bamblett gave evidence that the most successful approach to reducing institutional child sexual abuse is to reduce the number of children in out-of-home care. Therefore, policies and practices that reduce the number of children in out-of-home care are critical. There should also be an emphasis on reunification of the family, along with the early involvement of the family in decision making about the child.⁵⁴⁶

Professor Bamblett also stressed the importance of an adherence to the Aboriginal Child Placement Principle.⁵⁴⁷ She said that culture is a protective factor and Aboriginal and Torres Strait Islander children are safest immersed in their own culture.⁵⁴⁸ For that reason kinship care within the child's community needs to be privileged and prioritised'.⁵⁴⁹

When not placed with Aboriginal carers, cultural support plans are critical. In the Northern Territory cultural support plans are not a legislative requirement and are only covered by policy.⁵⁵⁰ Professor Bamblett stressed the importance of cultural support plans.⁵⁵¹

Professor Bamblett gave evidence that she believed that the Northern Territory needs to further engage the community rather than be driven by an office-based approach.⁵⁵² Child protection needs to be built into the community rather than being part of the visiting services.⁵⁵³ She also believed that the provision of services, including government funding, needs to be coordinated to form part of one particular plan.⁵⁵⁴

Professor Bamblett stressed the need for sufficient support for the carers and increased levels of engagement with children.⁵⁵⁵ She said it was important to meet with children in care more often than once a month.⁵⁵⁶ She also emphasised the importance of persons other than a carer having contact with the child, such as through the independent visitor scheme.⁵⁵⁷ She said it was important to have community champions to engage with children in care.⁵⁵⁸ Professor Bamblett believed that such contact gave a child in care multiple opportunities to speak of any abuse that might have taken place.⁵⁵⁹

Professor Bamblett said that for children in care to be kept safe, mechanisms such as robust screening and selection of carers, including others residing in placements, are needed. Training for staff and carers and community awareness raising around child sexual abuse, well communicated complaints processes and ongoing independent monitoring of organisations providing care and protection are also required.⁵⁶⁰ Organisation, staff and carers must be committed to child safety including cultural safety which is a crucial consideration for organisations to be child safe for Aboriginal children.⁵⁶¹

Response to allegations of child sexual abuse

Professor Bamblett said that an independent body, such as the Children's Commissioner, should have the power to investigate allegations of sexual abuse made by children in out-of-home care. She believed that the independence of the investigation was compromised if the department was in effect investigating itself.⁵⁶²

While the response to allegations of child sexual abuse needs to have the safety of the child as its focus, Professor Bamblett considered that there needs to be an emphasis on prevention by providing a system that avoids becoming ineffectual because of bureaucratic considerations. She said:

A balance is required in relation to the extent of monitoring, reporting, regulation and oversight of out-of-home care providers. Creating oversight mechanisms that are overly administratively burdensome and where the child focus is lost do not in fact ensure children are safer. On the other hand a system is needed that ensures there are checks and balances in conjunction with openness and transparency to develop child safe organisations throughout the service sector.⁵⁶³

7 Systemic issues

The systemic issues that arise from this case study are:

- whether there is a need to establish a process of oversight of the processes of the DPP
- the availability of a redress scheme and the range of redress offered
- the appropriate criminal justice procedures for the trial of multiple offences.

Appendix A: Terms of Reference

Letters Patent

ELIZABETH THE SECOND, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth:

TO

The Honourable Justice Peter David McClellan AM,
Mr Robert Atkinson,
The Honourable Justice Jennifer Ann Coate,
Mr Robert William Fitzgerald AM,
Dr Helen Mary Milroy, and
Mr Andrew James Marshall Murray

GREETING

WHEREAS all children deserve a safe and happy childhood.

AND Australia has undertaken international obligations to take all appropriate legislative, administrative, social and educational measures to protect children from sexual abuse and other forms of abuse, including measures for the prevention, identification, reporting, referral, investigation, treatment and follow up of incidents of child abuse.

AND all forms of child sexual abuse are a gross violation of a child's right to this protection and a crime under Australian law and may be accompanied by other unlawful or improper treatment of children, including physical assault, exploitation, deprivation and neglect.

AND child sexual abuse and other related unlawful or improper treatment of children have a long-term cost to individuals, the economy and society.

AND public and private institutions, including child-care, cultural, educational, religious, sporting and other institutions, provide important services and support for children and their families that are beneficial to children's development.

AND it is important that claims of systemic failures by institutions in relation to allegations and incidents of child sexual abuse and any related unlawful or improper treatment of children be fully explored, and that best practice is identified so that it may be followed in the future both to protect against the occurrence of child sexual abuse and to respond appropriately when any allegations and incidents of child sexual abuse occur, including holding perpetrators to account and providing justice to victims.

AND it is important that those sexually abused as a child in an Australian institution can share their experiences to assist with healing and to inform the development of strategies and reforms that your inquiry will seek to identify.

AND noting that, without diminishing its criminality or seriousness, your inquiry will not specifically examine the issue of child sexual abuse and related matters outside institutional contexts, but that any recommendations you make are likely to improve the response to all forms of child sexual abuse in all contexts.

AND all Australian Governments have expressed their support for, and undertaken to cooperate with, your inquiry.

NOW THEREFORE We do, by these Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia on the advice of the Federal Executive Counsel and under the Constitution of the Commonwealth of Australia, the *Royal Commissions Act 1902* and every other enabling power, appoint you to be a Commission of inquiry, and require and authorise you, to inquire into institutional responses to allegations and incidents of child sexual abuse and related matters, and in particular, without limiting the scope of your inquiry, the following matters:

- a. what institutions and governments should do to better protect children against child sexual abuse and related matters in institutional contexts in the future;
- b. what institutions and governments should do to achieve best practice in encouraging the reporting of, and responding to reports or information about, allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- c. what should be done to eliminate or reduce impediments that currently exist for responding appropriately to child sexual abuse and related matters in institutional contexts, including addressing failures in, and impediments to, reporting, investigating and responding to allegations and incidents of abuse;
- d. what institutions and governments should do to address, or alleviate the impact of, past and future child sexual abuse and related matters in institutional contexts, including, in particular, in ensuring justice for victims through the provision of redress by institutions, processes for referral for investigation and prosecution and support services.

AND We direct you to make any recommendations arising out of your inquiry that you consider appropriate, including recommendations about any policy, legislative, administrative or structural reforms.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to have regard to the following matters:

- e. the experience of people directly or indirectly affected by child sexual abuse and related matters in institutional contexts, and the provision of opportunities for them

to share their experiences in appropriate ways while recognising that many of them will be severely traumatised or will have special support needs;

- f. the need to focus your inquiry and recommendations on systemic issues, recognising nevertheless that you will be informed by individual cases and may need to make referrals to appropriate authorities in individual cases;
- g. the adequacy and appropriateness of the responses by institutions, and their officials, to reports and information about allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- h. changes to laws, policies, practices and systems that have improved over time the ability of institutions and governments to better protect against and respond to child sexual abuse and related matters in institutional contexts.

AND We further declare that you are not required by these Our Letters Patent to inquire, or to continue to inquire, into a particular matter to the extent that you are satisfied that the matter has been, is being, or will be, sufficiently and appropriately dealt with by another inquiry or investigation or a criminal or civil proceeding.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to consider the following matters, and We authorise you to take (or refrain from taking) any action that you consider appropriate arising out of your consideration:

- i. the need to establish mechanisms to facilitate the timely communication of information, or the furnishing of evidence, documents or things, in accordance with section 6P of the *Royal Commissions Act 1902* or any other relevant law, including, for example, for the purpose of enabling the timely investigation and prosecution of offences;
- j. the need to establish investigation units to support your inquiry;
- k. the need to ensure that evidence that may be received by you that identifies particular individuals as having been involved in child sexual abuse or related matters is dealt with in a way that does not prejudice current or future criminal or civil proceedings or other contemporaneous inquiries;
- l. the need to establish appropriate arrangements in relation to current and previous inquiries, in Australia and elsewhere, for evidence and information to be shared with you in ways consistent with relevant obligations so that the work of those inquiries, including, with any necessary consents, the testimony of witnesses, can be taken into account by you in a way that avoids unnecessary duplication, improves efficiency and

avoids unnecessary trauma to witnesses;

- m. the need to ensure that institutions and other parties are given a sufficient opportunity to respond to requests and requirements for information, documents and things, including, for example, having regard to any need to obtain archived material.

AND We appoint you, the Honourable Justice Peter David McClellan AM, to be the Chair of the Commission.

AND We declare that you are a relevant Commission for the purposes of sections 4 and 5 of the *Royal Commissions Act 1902*.

AND We declare that you are authorised to conduct your inquiry into any matter under these Our Letters Patent in combination with any inquiry into the same matter, or a matter related to that matter, that you are directed or authorised to conduct by any Commission, or under any order or appointment, made by any of Our Governors of the States or by the Government of any of Our Territories.

AND We declare that in these Our Letters Patent:

child means a child within the meaning of the Convention on the Rights of the Child of 20 November 1989.

government means the Government of the Commonwealth or of a State or Territory, and includes any non-government institution that undertakes, or has undertaken, activities on behalf of a government.

institution means any public or private body, agency, association, club, institution, organisation or other entity or group of entities of any kind (whether incorporated or unincorporated), and however described, and:

- i. includes, for example, an entity or group of entities (including an entity or group of entities that no longer exists) that provides, or has at any time provided, activities, facilities, programs or services of any kind that provide the means through which adults have contact with children, including through their families; and
- ii. does not include the family.

institutional context: child sexual abuse happens in an **institutional context** if, for example:

- i. it happens on premises of an institution, where activities of an institution take place, or in connection with the activities of an institution; or

- ii. it is engaged in by an official of an institution in circumstances (including circumstances involving settings not directly controlled by the institution) where you consider that the institution has, or its activities have, created, facilitated, increased, or in any way contributed to, (whether by act or omission) the risk of child sexual abuse or the circumstances or conditions giving rise to that risk; or
- iii. it happens in any other circumstances where you consider that an institution is, or should be treated as being, responsible for adults having contact with children.

law means a law of the Commonwealth or of a State or Territory.

official, of an institution, includes:

- i. any representative (however described) of the institution or a related entity; and
- ii. any member, officer, employee, associate, contractor or volunteer (however described) of the institution or a related entity; and
- iii. any person, or any member, officer, employee, associate, contractor or volunteer (however described) of a body or other entity, who provides services to, or for, the institution or a related entity; and
- iv. any other person who you consider is, or should be treated as if the person were, an official of the institution.

related matters means any unlawful or improper treatment of children that is, either generally or in any particular instance, connected or associated with child sexual abuse.

AND We:

- n. require you to begin your inquiry as soon as practicable, and
- o. require you to make your inquiry as expeditiously as possible; and
- p. require you to submit to Our Governor-General:
 - i. first and as soon as possible, and in any event not later than 30 June 2014 (or such later date as Our Prime Minister may, by notice in the *Gazette*, fix on your recommendation), an initial report of the results of your inquiry, the recommendations for early consideration you may consider appropriate to make in this initial report, and your recommendation for the date, not later than 31 December 2015, to be fixed for the submission of your final report; and
 - ii. then and as soon as possible, and in any event not later than the date Our Prime

Minister may, by notice in the *Gazette*, fix on your recommendation, your final report of the results of your inquiry and your recommendations; and

- q. authorise you to submit to Our Governor-General any additional interim reports that you consider appropriate.

IN WITNESS, We have caused these Our Letters to be made Patent.

WITNESS Quentin Bryce, Governor-General of the Commonwealth of Australia.

Dated 11th January 2013

Governor-General

By Her Excellency's Command

Prime Minister

Letters Patent dated 13 November 2014

ELIZABETH THE SECOND, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth:

TO

The Honourable Justice Peter David McClellan AM,
Mr Robert Atkinson,
The Honourable Justice Jennifer Ann Coate,
Mr Robert William Fitzgerald AM,
Dr Helen Mary Milroy, and
Mr Andrew James Marshall Murray

GREETING

WHEREAS We, by Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia, appointed you to be a Commission of inquiry, required and authorised you to inquire into certain matters, and required you to submit to Our Governor-General a report of the results of your inquiry, and your recommendations, not later than 31 December 2015.

AND it is desired to amend Our Letters Patent to require you to submit to Our Governor-General a report of the results of your inquiry, and your recommendations, not later than 15 December 2017.

NOW THEREFORE We do, by these Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia on the advice of the Federal Executive Council and under the Constitution of the Commonwealth of Australia, the *Royal Commissions Act 1902* and every other enabling power, amend the Letters Patent issued to you by omitting from subparagraph (p)(i) of the Letters Patent “31 December 2015” and substituting “15 December 2017”.

IN WITNESS, We have caused these Our Letters to be made Patent.

WITNESS General the Honourable Sir Peter Cosgrove AK MC (Ret’d), Governor-General of the Commonwealth of Australia.

Dated 13th November 2014

Governor-General

By Her Excellency’s Command

Prime Minister

Appendix B: Public hearing

The Royal Commission	Justice Peter McClellan AM (Chair) Justice Jennifer Coate Mr Bob Atkinson AO APM Mr Robert Fitzgerald AM Professor Helen Milroy Mr Andrew Murray
Commissioners who presided	Justice Peter McClellan AM (Chair) Mr Robert Fitzgerald AM Professor Helen Milroy
Date of hearing	22 September 2014 – 1 October 2014
Legislation	<i>Royal Commissions Act 1902 (Cth)</i>
Leave to appear	Lorna Cubillo Sandra Kitching AJA AKU AJW AKV Kenneth Stagg Kevin Stagg Veronica Johns Northern Territory Government Australian Government Reverend Trevor Leggott Lola Wall

Legal representation	S David SC, Counsel Assisting the Royal Commission M Grant SC, Solicitor-General and Solicitor for the Northern Territory for the Northern Territory of Australia F McLeod SC and Australian Government Solicitor, appearing for the Commonwealth of Australia G Georgiou SC, K Roussos and De Sila Hebron, appearing for Kenneth Stagg, Veronica Johns and Kevin Stagg J Lawrence SC, P MacIntyre and Pipers Barristers and Solicitors, appearing for Lorna Cubillo, Sandra Kitching, AJA, AKU, AKV and AJW M Thomas and Mr McDuff of Cridlands MB Lawyers, appearing for Reverend Trevor Leggott, Australian Indigenous Ministries
Pages of transcript	962 pages
Summons to Attend and Summons to Produce Documents issued under <i>Royal Commissions Act 1923 (NSW)</i> and documents produced	Two Summons to Attend issued. 5,418 documents produced.
Notice to Produce issued under <i>Royal Commissions Act 1902 (Cth)</i> and documents produced	32 Notices to Produce issued. 4,782 documents produced.
Number of exhibits	38 exhibits consisting of 366 documents tendered at the hearing
Witnesses	Lorna Cubillo Sandra Kitching AJA AKU AJW AKV

Witnesses
Lola Wall
AKW
Kenneth Stagg
Kevin Stagg
Veronica Johns
Roger Newman

Former Detective, Northern Territory Police Force

Reverend Trevor Leggott

General Director, Australian Indigenous Ministries

Wojciech Karczewski QC

Director of Public Prosecutions, Northern Territory

Michael Carey

Deputy Chief Magistrate, Magistrate's Court, Northern Territory

Simone Jackson

Executive Director, Out of Home Care Division, Department of Children and Families, Northern Territory

Adjunct Professor Muriel Bamblett

Chief Executive Officer, Victorian Aboriginal Child Care Agency

Gregory Shanahan

Chief Executive Officer, Department of Attorney-General and Justice, Northern Territory

Dr Howard Bath

Northern Territory Children's Commissioner

Caroline Edwards

First Assistant Secretary, Community Safety and Policy Division, Department of Prime Minister and Cabinet, Commonwealth

Endnotes

- 1 Exhibit 17-0006, AG.RDH.02.0001.0106.
- 2 Exhibit 17-0006, AG.RDH.02.0002.0020; *Aboriginals Ordinance 1918* (Cth) s 13(1).
- 3 Australian Human Rights and Equal Opportunity Commission, *Bringing them home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (1997), p 4.
- 4 Exhibit 17-0006, NT.0013.001.0006; Exhibit 17-0039, NT.0006.001.0166 at 0167.
- 5 Exhibit 17-0037, STAT.0337.001.0001 at [18].
- 6 Transcript of S Jackson, C5458 (Day 50); Exhibit 17-0029, EXH.017.029.0001.
- 7 Transcript of S Jackson, C5389–C5390 (Day 50).
- 8 Transcript of S Jackson, C5416 (Day 50).
- 9 Transcript of S Jackson, C5416 (Day 50).
- 10 Transcript of H Bath, C5522 (Day 51).
- 11 Transcript of H Bath, C5512 (Day 51).
- 12 Transcript of H Bath, C5512 (Day 51).
- 13 Exhibit 17-0030, Report of Professor Muriel Bamblett, EXP.0002.001.0001 at [50]–[51].
- 14 Transcript of M Bamblett, C5475 (Day 50).
- 15 Exhibit 17-0006, AG.RDH.02.0001.0106.
- 16 Exhibit 17-0006, AG.RDH.02.0002.0020; *Aboriginals Ordinance 1918* (Cth) s 13(1).
- 17 Australian Indigenous Ministries, <http://australianindigenousministries.org.au/> (accessed 12 June 2014).
- 18 Exhibit 17-0025, Statement of Caroline Edwards, STAT.0341.002.0001_R at [36].
- 19 Exhibit 17-0025, Statement of Caroline Edwards, STAT.0341.002.0001_R at [36].
- 20 See, for example, the *Aboriginals Ordinance 1918* (Cth), which replaced the *Northern Territory Aboriginals Act 1910* (SA) and the *Aboriginals Ordinance 1911* (Cth); the *Aboriginals Ordinance 1939* (Cth); the *Welfare Ordinance 1953* (NT); the *Aboriginals Ordinance (No 2) 1953* (NT); the *Child Welfare Ordinance 1958–1960* (NT); and the *Social Welfare Ordinance 1964* (NT).
- 21 *Aboriginals Ordinance 1911* (Cth) s3(1).
- 22 The *Aboriginals Ordinance 1918* (Cth) repealed the *Aboriginals Ordinance 1911* (Cth).
- 23 *Aboriginals Ordinance 1918* (Cth) s 5(1)(f).
- 24 *Aboriginals Ordinance 1918* (Cth) s 7(1).
- 25 *Aboriginals Ordinance 1918* (Cth) s 6(1).
- 26 *Aboriginals Ordinance 1918* (Cth) s 16(1).
- 27 Exhibit 17-0025, Statement of Caroline Edwards, STAT.0341.002.0001_R at [21].
- 28 Exhibit 17-0025, Statement of Caroline Edwards, STAT.0341.002.0001_R at [21].
- 29 Exhibit 17-0025, Statement of Caroline Edwards, STAT.0341.002.0001_R at [23].
- 30 Exhibit 17-0025, Statement of Caroline Edwards, STAT.0341.002.0001_R at [23].
- 31 Exhibit 17-0025, Statement of Caroline Edwards, STAT.0341.002.0001_R at [24].
- 32 Exhibit 17-0025, Statement of Caroline Edwards, STAT.0341.002.0001_R at [24].
- 33 Exhibit 17-0025, Statement of Caroline Edwards, STAT.0341.002.0001_R at [25].
- 34 Exhibit 17-0025, Statement of Caroline Edwards, STAT.0341.002.001_R at [26]; *Social Welfare Ordinance 1964* (Cth) s 8(1).
- 35 Exhibit 17-0025, Statement of Caroline Edwards, STAT.0341.002.0001_R at [26]; *Social Welfare Ordinance 1964* (Cth) s 10(a). *The Social Welfare Ordinance 1964* (Cth) repealed the *Welfare Ordinance 1953* (Cth).
- 36 Exhibit 17-0025, Statement of Caroline Edwards, STAT.0341.002.0001_R at [26].
- 37 Exhibit 17-0025, Statement of Caroline Edwards, STAT.0341.002.0001_R at [27].
- 38 Transcript of F McLeod SC for the Commonwealth, C4994 (Day 47) at [28]–[44].
- 39 Exhibit 17-0025, Statement of Caroline Edwards, STAT.0341.002.0001_R at [48].
- 40 Exhibit 17-0025, Annexure CE-23, AG.RDH.01.0029.0027.
- 41 Exhibit 17-0025, Annexure CE-23, AG.RDH.01.0029.0031.
- 42 Exhibit 17-0025, Statement of Caroline Edwards, STAT.0341.002.0001_R at [46]; Exhibit 17-0025, Annexure CE-24, AG.RDH.01.0027.0022; AG.RDH.01.0027.0025; AG.RDH.01.0027.0026; AG.RDH.01.0027.0027; AG.RDH.01.0027.0028.
- 43 Exhibit 17-0025, Annexure CE-24, AG.RDH.01.0027.0025; AG.RDH.01.0027.0026.
- 44 Exhibit 17-0025, Annexure CE-23, AG.RDH.01.0002.0001 at 0003.
- 45 Exhibit 17-0025, Annexure CE-27, AG.RDH.01.0017.0106.
- 46 Exhibit 17-0025, Annexure CE-27, AG.RDH.01.0017.0107.

47 Exhibit 17-0025, Annexure CE-27, AG.RDH.01.0017.0107.
 48 Exhibit 17-0025, Annexure CE-27, AG.RDH.01.0017.0108.
 49 Exhibit 17-0006, AG.RDH.01.0019.0003_R at 0008_R.
 50 Exhibit 17-0006, AG.RDH.01.0019.0020_R at 0021_R.
 51 Exhibit 17-0006, RDH.0010.001.0071.
 52 Exhibit 17-0006, RDH.0005.001.4268.
 53 Exhibit 17-0006, RDH.0005.001.6278; RDH.0007.001.1049.
 54 Exhibit 17-0006, AG.RDH.01.0019.0003_R; AG.RDH.01.0019.0018_R; RDH.0011.001.1032_R;
 RDH.0011.001.1042_R; RDH.0000010.001.0071; RDH.0011.001.0586_R; RDH.0011.001.0207;
 RDH.0011.001.0203.
 55 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [3].
 56 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [5].
 57 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [5] and [7].
 58 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [6].
 59 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [9]–[11].
 60 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [13].
 61 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [14].
 62 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [22]–[23].
 63 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [26].
 64 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [24].
 65 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [31] and [33].
 66 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [25].
 67 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [35].
 68 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [36].
 69 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [38].
 70 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [42].
 71 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [45].
 72 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [46]–[47].
 73 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [48].
 74 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [48]–[49].
 75 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [51].
 76 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [63].
 77 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [61]–[62].
 78 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [62].
 79 Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [63].
 80 Exhibit 17-0002, Statement of Sandra Kitching, STAT.0325.001.0001_R at [3].
 81 Exhibit 17-0002, Statement of Sandra Kitching, STAT.0325.001.0001_R at [6].
 82 Exhibit 17-0002, Statement of Sandra Kitching, STAT.0325.001.0001_R at [6].
 83 Exhibit 17-0002, Statement of Sandra Kitching, STAT.0325.001.0001_R at [7].
 84 Exhibit 17-0002, Statement of Sandra Kitching, STAT.0325.001.0001_R at [8].
 85 Exhibit 17-0002, Statement of Sandra Kitching, STAT.0325.001.0001_R at [8].
 86 Exhibit 17-0002, Statement of Sandra Kitching, STAT.0325.001.0001_R at [8].
 87 Exhibit 17-0002, Statement of Sandra Kitching, STAT.0325.001.0001_R at [9].
 88 Exhibit 17-0002, Statement of Sandra Kitching, STAT.0325.001.0001_R at [11].
 89 Exhibit 17-0002, Statement of Sandra Kitching, STAT.0325.001.0001_R at [12].
 90 Exhibit 17-0002, Statement of Sandra Kitching, STAT.0325.001.0001_R at [14]; Transcript of S Kitching,
 C4841:1–5 (Day 45).
 91 Exhibit 17-0002, Statement of Sandra Kitching, STAT.0325.001.0001_R at [16].
 92 Exhibit 17-0002, Statement of Sandra Kitching, STAT.0325.001.0001_R at [16].
 93 Exhibit 17-0002, Statement of Sandra Kitching, STAT.0325.001.0001_R at [18].
 94 Exhibit 17-0002, Statement of Sandra Kitching, STAT.0325.001.0001_R at [19].
 95 Exhibit 17-0002, Statement of Sandra Kitching, STAT.0325.001.0001_R at [20].
 96 Exhibit 17-0002, Statement of Sandra Kitching, STAT.0325.001.0001_R at [21].
 97 Exhibit 17-0002, Statement of Sandra Kitching, STAT.0325.001.0001_R at [21].

98 Transcript of S Kitching, C4834:28–29 (Day 45).
 99 Exhibit 17-0002, Statement of Sandra Kitching, STAT.0325.001.0001_R at [22]–[23].
 100 Exhibit 17-0002, Statement of Sandra Kitching, STAT.0325.001.0001_R at [28].
 101 Exhibit 17-0002, Statement of Sandra Kitching, STAT.0325.001.0001_R at [41].
 102 Exhibit 17-0003, Statement of AJA, STAT.0329.002.0001_R at [3].
 103 Exhibit 17-0003, Statement of AJA, STAT.0329.002.0001_R at [4].
 104 Exhibit 17-0003, Statement of AJA, STAT.0329.002.0001_R at [5].
 105 Exhibit 17-0003, Statement of AJA, STAT.0329.002.0001_R at [7].
 106 Exhibit 17-0003, Statement of AJA, STAT.0329.002.0001_R at [7].
 107 Exhibit 17-0003, Statement of AJA, STAT.0329.002.0001_R at [8].
 108 Exhibit 17-0003, Statement of AJA, STAT.0329.002.0001_R at [9].
 109 Exhibit 17-0003, Statement of AJA, STAT.0329.002.0001_R at [11].
 110 Exhibit 17-0003, Statement of AJA, STAT.0329.002.0001_R at [15].
 111 Exhibit 17-0003, Statement of AJA, STAT.0329.002.0001_R at [18].
 112 Exhibit 17-0003, Statement of AJA, STAT.0329.002.0001_R at [19].
 113 Exhibit 17-0003, Statement of AJA, STAT.0329.002.0001_R at [21].
 114 Exhibit 17-0003, Statement of AJA, STAT.0329.002.0001_R at [26]–[27].
 115 Exhibit 17-0003, Statement of AJA, STAT.0329.002.0001_R at [29].
 116 Exhibit 17-0003, Statement of AJA, STAT.0329.002.0001_R at [35].
 117 Exhibit 17-0003, Statement of AJA, STAT.0329.002.0001_R at [36].
 118 Exhibit 17-0003, Statement of AJA, STAT.0329.002.0001_R at [40].
 119 Exhibit 17-0003, Statement of AJA, STAT.0329.002.0001_R at [39].
 120 Exhibit 17-0004, Statement of AKU, STAT.0324.001.0001_R at [3].
 121 Exhibit 17-0004, Statement of AKU, STAT.0324.001.0001_R at [3].
 122 Exhibit 17-0004, Statement of AKU, STAT.0324.001.0001_R at [5].
 123 Exhibit 17-0004, Statement of AKU, STAT.0324.001.0001_R at [5].
 124 Exhibit 17-0004, Statement of AKU, STAT.0324.001.0001_R at [6].
 125 Exhibit 17-0004, Statement of AKU, STAT.0324.001.0001_R at [6].
 126 Exhibit 17-0004, Statement of AKU, STAT.0324.001.0001_R at [10].
 127 Exhibit 17-0004, Statement of AKU, STAT.0324.001.0001_R at [17]–[19].
 128 Exhibit 17-0004, Statement of AKU, STAT.0324.001.0001_R at [23].
 129 Exhibit 17-0004, Statement of AKU, STAT.0324.001.0001_R at [21].
 130 Exhibit 17-0004, Statement of AKU, STAT.0324.001.0001_R at [22].
 131 Exhibit 17-0004, Statement of AKU, STAT.0324.001.0001_R at [23]–[24].
 132 Exhibit 17-0004, Statement of AKU, STAT.0324.001.0001_R at [25].
 133 Exhibit 17-0004, Statement of AKU, STAT.0324.001.0001_R at [26].
 134 Exhibit 17-0004, Statement of AKU, STAT.0324.001.0001_R at [28].
 135 Exhibit 17-0004, Statement of AKU, STAT.0324.001.0001_R at [29].
 136 Exhibit 17-0004, Statement of AKU, STAT.0324.001.0001_R at [31].
 137 Exhibit 17-0004, Statement of AKU, STAT.0324.001.0001_R at [40].
 138 Exhibit 17-0004, Statement of AKU, STAT.0324.001.0001_R at [33].
 139 Exhibit 17-0004, Statement of AKU, STAT.0324.001.0001_R at [33]–[34].
 140 Exhibit 17-0004, Statement of AKU, STAT.0324.001.0001_R at [44]–[48].
 141 Exhibit 17-0011, Statement of AJW, STAT.0332.001.0001_R at [3].
 142 Exhibit 17-0011, Statement of AJW, STAT.0332.001.0001_R at [6].
 143 Exhibit 17-0011, Statement of AJW, STAT.0332.001.0001_R at [8].
 144 Exhibit 17-0011, Statement of AJW, STAT.0332.001.0001_R at [8].
 145 Exhibit 17-0011, Statement of AJW, STAT.0332.001.0001_R at [13].
 146 Exhibit 17-0011, Statement of AJW, STAT.0332.001.0001_R at [29].
 147 Exhibit 17-0011, Statement of AJW, STAT.0332.001.0001_R at [30].
 148 Exhibit 17-0011, Statement of AJW, STAT.0332.001.0001_R at [32].
 149 Exhibit 17-0011, Statement of AJW, STAT.0332.001.0001_R at [33].
 150 Exhibit 17-0011, Statement of AJW, STAT.0332.001.0001_R at [36].
 151 Exhibit 17-0011, Statement of AJW, STAT.0332.001.0001_R at [37].

152 Exhibit 17-0011, Statement of AJW, STAT.0332.001.0001_R at [41].
 153 Exhibit 17-0011, Statement of AJW, STAT.0332.001.0001_R at [41].
 154 Transcript of AKW, C4960:10–16 (Day 46).
 155 Exhibit 17-0011, Statement of AJW, STAT.0332.001.0001_R at [44].
 156 Exhibit 17-0011, Statement of AJW, STAT.0332.001.0001_R at [47]–[48].
 157 Exhibit 17-0011, Statement of AJW, STAT.0332.001.0001_R at [54].
 158 Exhibit 17-0007, Statement of AKV, STAT.0338.001.0001_R at [3].
 159 Exhibit 17-0007, Statement of AKV, STAT.0338.001.0001_R at [6]–[7].
 160 Exhibit 17-0007, Statement of AKV, STAT.0338.001.0001_R at [8].
 161 Exhibit 17-0007, Statement of AKV, STAT.0338.001.0001_R at [10].
 162 Exhibit 17-0007, Statement of AKV, STAT.0338.001.0001_R at [14].
 163 Exhibit 17-0007, Statement of AKV, STAT.0338.001.0001_R at [16].
 164 Exhibit 17-0007, Statement of AKV, STAT.0338.001.0001_R at [16].
 165 Exhibit 17-0007, Statement of AKV, STAT.0338.001.0001_R at [23].
 166 Exhibit 17-0007, Statement of AKV, STAT.0338.001.0001_R at [24].
 167 Exhibit 17-0007, Statement of AKV, STAT.0338.001.0001_R at [25]–[26].
 168 Exhibit 17-0007, Statement of AKV, STAT.0338.001.0001_R at [39].
 169 Exhibit 17-0007, Statement of AKV, STAT.0338.001.0001_R at [39].
 170 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [3].
 171 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [5], [17] on 0013_R.
 172 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [6].
 173 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [7].
 174 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [18].
 175 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [13] on 0007_R.
 176 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [28].
 177 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [28].
 178 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [36].
 179 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [36].
 180 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [36].
 181 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [15] on 0012_R.
 182 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [15] on 0012_R.
 183 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [15] on 0012_R.
 184 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [16] on 0012_R.
 185 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [17] on 0013_R.
 186 Transcript of K T Stagg, C4887:26–29 (Day 45).
 187 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [19] on 0013_R.
 188 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [20] on 0013_R–0014_R.
 189 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [25]–[26] on 0015_R.
 190 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [27] on 0015_R.
 191 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [56].
 192 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [57]–[58].
 193 Transcript of K T Stagg, C4886:19–24 (Day 45).
 194 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [28] on 0016_R.
 195 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [30] on 0016_R–0017_R.
 196 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [30] on 0016_R–0017_R.
 197 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [31] on 0017_R.
 198 Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [32] on 0017_R.
 199 Exhibit 17-0010, Statement of Kevin Stagg, STAT.0331.001.0001_R at [3].
 200 Exhibit 17-0010, Statement of Kevin Stagg, STAT.0331.001.0001_R at [5].
 201 Exhibit 17-0010, Statement of Kevin Stagg, STAT.0331.001.0001_R at [6].
 202 Exhibit 17-0010, Statement of Kevin Stagg, STAT.0331.001.0001_R at [8].
 203 Exhibit 17-0010, Statement of Kevin Stagg, STAT.0331.001.0001_R at [17].
 204 Exhibit 17-0010, Statement of Kevin Stagg, STAT.0331.001.0001_R at [19].
 205 Exhibit 17-0010, Statement of Kevin Stagg, STAT.0331.001.0001_R at [20].

206 Exhibit 17-0010, Statement of Kevin Stagg, STAT.0331.001.0001_R at [23].
 207 Exhibit 17-0010, Statement of Kevin Stagg, STAT.0331.001.0001_R at [24].
 208 Exhibit 17-0010, Statement of Kevin Stagg, STAT.0331.001.0001_R at [24], [29].
 209 Exhibit 17-0010, Statement of Kevin Stagg, STAT.0331.001.0001_R at [28].
 210 Exhibit 17-0010, Statement of Kevin Stagg, STAT.0331.001.0001_R at [28].
 211 Exhibit 17-0010, Statement of Kevin Stagg, STAT.0331.001.0001_R at [47], [49].
 212 Transcript of KJ Stagg, C4945 at (Day 46) at [14]–[15]; Exhibit 17-0010, Statement of Kevin Stagg, STAT.0331.001.0001_R at [57], [61].
 213 Exhibit 17-0008, Statement of Veronica Johns, STAT.0327.001.0001_R at 0001_R.
 214 Exhibit 17-0008, Statement of Veronica Johns, STAT.0327.001.0001_R at 0001_R.
 215 Exhibit 17-0008, Statement of Veronica Johns, STAT.0327.001.0001_R at 0001_R.
 216 Exhibit 17-0008, Statement of Veronica Johns, STAT.0327.001.0001_R at 0001_R.
 217 Exhibit 17-0008, Statement of Veronica Johns, STAT.0327.001.0001_R at 0002_R.
 218 Exhibit 17-0008, Statement of Veronica Johns, STAT.0327.001.0001_R at on 0002_R.
 219 Transcript of V Johns, C4931–C4932 (Day 46).
 220 Transcript of V Johns, C4932:9–23 (Day 46); Exhibit 17-0008, Statement of Veronica Johns, STAT.0327.001.0001_R at 0002_R.
 221 Transcript of V Johns, C4932:25–33 (Day 46); Exhibit 17-0008, Statement of Veronica Johns, STAT.0327.001.0001_R at 0002_R.
 222 Exhibit 17-0008, Statement of Veronica Johns, STAT.0327.001.0001_R at page 3at 0003_R.
 223 Exhibit 17-0008, Statement of Veronica Johns, STAT.0327.001.0001_R on 0003_R.
 224 Exhibit 17-0008, Statement of Veronica Johns, STAT.0327.001.0001_R on 0002_R; Exhibit 17-0009, Supplementary Statement of Veronica Johns, STAT.0327.002.0001 at 0002.
 225 Exhibit 17-0007, Statement of AKV, STAT.0338.001.0001_R at [30]; Exhibit 17-0004, Statement of AKU, STAT.0324.001.0001_R at [33]; Exhibit 17-0005, Statement of Kenneth Stagg, STAT.0342.001.0001_R at [57]–[59]; Exhibit 17-0001, Statement of Lorna Cubillo, STAT.0326.001.0001 at [43], [48], [51].
 226 Exhibit 17-0002, Statement of Sandra Kitching, STAT.0325.001.0001_R at [37].
 227 Exhibit 17-0008, Statement of Veronica Johns, STAT.0327.001.0001_R at p 3.
 228 Exhibit 17-0002, Statement of Sandra Kitching, STAT.0325.001.0001_R at [22].
 229 Exhibit 17-0010, Statement of Kevin Stagg, STAT.0331.001.0001_R at [18] and [24].
 230 Exhibit 17-0010, Statement of Kevin Stagg, STAT.0331.001.0001_R at [29].
 231 Transcript of V Johns, C4931–C4932 (Day 46).
 232 Transcript of V Johns, C4932:9–23 (Day 46); Exhibit 17-0008, Statement of Veronica Johns, STAT.0327.001.0001_R at 0002_R.
 233 Transcript of V Johns, C4932:25–33 (Day 46); Exhibit 17-0008, Statement of Veronica Johns, STAT.0327.001.0001_R at 0002_R.
 234 Exhibit 17-0006, NT.0013.001.0012_R, NT.0013.001.0006.
 235 Exhibit 17-0006, NT.0013.001.0010_R.
 236 Exhibit 17-0006, NT.0013.001.0010_R.
 237 Exhibit 17-0006, NT.0013.001.0015_R, NT.0013.001.0013_R, NT.0013.001.0018_R.
 238 Exhibit 17-0006, NT.0013.001.0006.
 239 Exhibit 17-0006, NT.0013.001.0003.
 240 Exhibit 17-0013, Statement of Lola Wall, STAT.0333.001.0001_R at [20].
 241 Exhibit 17-0013, Statement of Lola Wall, STAT.0333.001.0001_R at [20]–[21]; Transcript of L Wall, C5005 (Day 47).
 242 Exhibit 17-0013, Statement of Lola Wall, STAT.0333.001.0001_R at [21].
 243 Transcript of L Wall, C5006–C5007 (Day 47).
 244 Transcript of L Wall, C5007–C5009 (Day 47).
 245 Exhibit 17-0012, Statement of AKR, STAT.0339.001.0001_R at [25].
 246 Exhibit 17-0012, Statement of AKR, STAT.0339.001.0001_R at [9], [37].
 247 Exhibit 17-0012, Statement of AKR, STAT.0339.001.0001_R at [26], [28].
 248 Exhibit 17-0012, Statement of AKR, STAT.0339.001.0001_R at [29].
 249 Exhibit 17-0012, Statement of AKR, STAT.0339.001.0001_R at [36].
 250 Exhibit 17-0006, NT.0005.001.0340_R.
 251 Exhibit 17-0006, NT.0014.001.0373_R; Exhibit 17-0006, NT.0005.001.0341_R; Exhibit 17-0006, NT.0005.001.0065_R at 0067_R–0068_R.

252 Exhibit 17-0006, NT.0014.001.0090_R at 0102_R.
 253 Exhibit 17-0006, NT.0014.001.0090_R; Exhibit 17-0006, NT.0014.001.0006_R.
 254 Exhibit 17-0006, NT.0014.001.0090_R at 0098_R.
 255 Exhibit 17-0006, NT.0014.001.0090_R at 0098_R–0099_R.
 256 Exhibit 17-0006, NT.0014.001.0003_R.
 257 Exhibit 17-0002, Statement of Sandra Kitching, STAT.0325.001.0001_R at [22], [27]; Exhibit 17-0010, Statement
 of Keven Stagg, STAT.0331.001.001_R at [18], [24].
 258 Transcript of V Johns, C4932:25–33 (Day 46); Exhibit 17-0008, Statement of Veronica Johns,
 STAT.0327.001.0001_R at 0002_R.
 259 Exhibit 17-0034, Statement of Trevor Leggott, STAT.0330.001.0001_R at 0002_R; Transcript of T Leggott,
 C5568–C5571 (Day 51).
 260 Exhibit 17-0006, AG.RDH.01.0061.0001.
 261 Transcript of T Leggott, C5568:40–47 (Day 51).
 262 Exhibit 17-0012, Statement of AKR, STAT.0339.001.0001_R at [40], [41].
 263 Transcript of AKR, C4963 (Day 46); Exhibit 17-0012, Statement of AKR, STAT.0339.001.0001_R at [9].
 264 Transcript of L Wall, C4972 (Day 46); Exhibit 17-0013, Statement of Lola Wall, STAT.0333.001.0001_R at [7].
 265 Exhibit 17-0006, AIM.0001.001.0001.
 266 Transcript of T Leggott, C5561 (Day 51).
 267 Transcript of T Leggott, C5562 (Day 51).
 268 Exhibit 17-0006, RDH.0010.001.0071 at 0073.
 269 Exhibit 17-0006, RDH.0010.001.0071 at 0073.
 270 Exhibit 17-0006, RDH.0010.001.0071 at 0073.
 271 Exhibit 17-0006, NT.0018.001.0290_R.
 272 Exhibit 17-0039, NT.0006.001.0166 at NT.0006.001.0167.
 273 Exhibit 17-0006, NT.0013.001.0006.
 274 Exhibit 17-0006, NT.0013.001.0006; NT.0014.001.0332_R.
 275 Exhibit 17-0006, NT.0014.001.0334_R.
 276 Exhibit 17-0006, RDH.0008.001.0468_R.
 277 Exhibit 17-0015, Statement of Roger Newman, STAT.0336.001.0001_R at [9], [19].
 278 Exhibit 17-0015, Statement of Roger Newman, STAT.0336.001.0001_R at [6], [7].
 279 Exhibit 17-0006, RDH.0008.001.0070_R.
 280 Exhibit 17-0023, Annexure JK12, STAT.0335.001.0088_R.
 281 Exhibit 17-0006, NT.0014.001.0332_R.
 282 Exhibit 17-0006, NT.0014.001.0332_R at 0333_R.
 283 Exhibit 17-0006, NT.0014.001.0332_R at 0333_R.
 284 Transcript of R Newman, C5031:17–43 (Day 47).
 285 Transcript of R Newman, C5032:9–11 (Day 47).
 286 Exhibit 17-0015, Statement of Roger Newman, STAT.0336.001.0001_R at [49].
 287 Transcript of R Newman, C5047:3–11 (Day 47).
 288 Transcript of R Newman, C5109:33–41 (Day 47).
 289 Transcript of R Newman, C5110:22–30 (Day 47).
 290 Exhibit 17-0021, NT.0005.001.0080_R at 0080_R.
 291 Exhibit 17-0021, NT.0005.001.0080_R at 0080_R.
 292 Exhibit 17-0015, Statement of Roger Newman, STAT.0336.001.0001_R at [53]; Exhibit 17-0021,
 NT.0005.001.0080_R at 0082_R–0083_R.
 293 Exhibit 17-0015, Statement of Roger Newman, STAT.0336.001.0001_R at [54].
 294 Transcript of R Newman, C5032:38–45 (Day 47).
 295 Transcript of R Newman, C5034:14–29 (Day 47); Exhibit 17-0006, NT.0014.001.0090_R; NT.0014.001.0006_R.
 296 Exhibit 17-0015, Statement of Roger Newman, STAT.0336.001.0001_R at [56]–[57].
 297 Transcript of R Newman, C5125 (Day 48).
 298 Exhibit 17-0006, RDH.0008.001.0500_R.
 299 Exhibit 17-0006, RDH.0008.001.0512_R.
 300 Exhibit 17-0006, RDH.0008.001.0506_R.
 301 Exhibit 17-0006, RDH.0008.001.0481_R.

302 Exhibit 17-0015, Statement of Roger Newman, STAT.0336.001.0001_R at [59]; Exhibit 17-0021,
 NT.0005.001.0080_R at 0084_R.
 303 Exhibit 17-0015, Statement of Roger Newman, STAT.0336.001.0001_R at [66]; Exhibit 17-0021,
 NT.0005.001.0080_R at 0085_R.
 304 Exhibit 17-0006, RDH.0008.001.0500_R at 0502_R–0504_R.
 305 Transcript of R Newman, C5037–C5038 (Day 47).
 306 Exhibit 17-0006, RDH.0008.001.0512_R at 0514_R.
 307 Exhibit 17-0006, RDH.0008.001.0512_R at 0514_R.
 308 Transcript of R Newman, C5039:9–16 (Day 47).
 309 Exhibit 17-0006, RDH.0008.001.0506_R.
 310 Exhibit 17-0006, RDH.0008.001.0506_R at 0508_R.
 311 Exhibit 17-0006, RDH.0008.001.0506_R at 0508_R and 0509_R.
 312 Exhibit 17-0006, RDH.0008.001.0506_R at 0509_R.
 313 Exhibit 17-0015, Statement of Roger Newman, STAT.0336.001.0001_R at [75].
 314 Exhibit 17-0006, RDH.0008.001.0481_R.
 315 Exhibit 17-0015, Statement of Roger Newman, STAT.0336.001.0001_R at [78].
 316 Exhibit 17-0015, Statement of Roger Newman, STAT.0336.001.0001_R at [79].
 317 Exhibit 17-0015, Statement of Roger Newman, STAT.0336.001.0001_R.
 318 Exhibit 17-0015, Statement of Roger Newman, STAT.0336.001.0001_R at [98].
 319 Exhibit 17-0006, RDH.0008.001.0481_R at 0487_R, 0488_R.
 320 Exhibit 17-0006, RDH.0008.001.0481_R at 0488_R, 0489_R.
 321 Exhibit 17-0006, NT.0008.007.0056_R at 0057_R; Exhibit 17-0021, NT.0005.001.0080R at 0083_R.
 322 Exhibit 17-0021, NT.0005.001.0080_R at 0083_R.
 323 Transcript of R Newman, C5045 (Day 47); Exhibit 17-0006, NT.0008.007.0056_R.
 324 Transcript of R Newman, C5119 (Day 47); Exhibit 17-0006, RDH.0008.001.0428_R.
 325 Transcript of R Newman, C5046 (Day 47).
 326 Transcript of R Newman, C5162 (Day 48).
 327 Transcript of R Newman, at C5165, C5171 (Day 48); Exhibit 17-0021, NT.0005.001.0080_R at 0081_R–0082_R
 328 Transcript of R Newman, at C5172–C5173 (Day 48).
 329 Exhibit 17-0006, NT.0014.001.0090_R at 0118_R–0119_R.
 330 Exhibit 17-0006, RDH.0008.001.0524_R.
 331 Exhibit 17-0006, NT.0005.001.0151_R
 332 Transcript of R Newman, CC5049 (Day 47); Exhibit 17-0006, RDH.0008.001.0524_R at 0541_R–0546_R.
 333 Exhibit 17-0006, RDH.0008.001.0432_R.
 334 Transcript of R Newman, C5049–C5050 (Day 47); Exhibit 17-0015, Statement of Roger Newman,
 STAT.0336.001.0001_R at [110]–[112].
 335 Exhibit 17-0023, STAT.0335.001.0029_R.
 336 Exhibit 17-0023, STAT.0335.001.0029_R.
 337 Exhibit 17-0022, NT.0022.001.0026_R; NT.0022.001.0028_R; NT.0022.001.0030_R; NT.0022.001.0032_R.
 338 Exhibit 17-0015, STAT.0336.001.0103_R.
 339 Exhibit 17-0006, STAT.0336.001.0103_R; STAT.0336.001.0107_R.
 340 Exhibit 17-0015, STAT.0336.001.0110_R.
 341 Exhibit 17-0015, STAT.0335.001.0110_R; Transcript of R Newman, C5069–C5070 (Day 47).
 342 Transcript of R Newman, C5071:43–44 (Day 47).
 343 Transcript of R Newman, C5188–C5189 (Day 48); Exhibit 17-0015, Statement of Roger Newman,
 STAT.0336.001.0001_R at [119].
 344 Exhibit 17-0023, Statement of Wojciech Karczewski, STAT.0335.001.0001_R at [60–61], [84–88];
 STAT.0335.001.0059_R at 0061; Exhibit 17-0006, RDH.0008.001.0218 at 0292_R–0293_R.
 345 Exhibit 17-0023, Statement of Wojciech Karczewski, STAT.0335.001.0001_R at [81], [106]; Exhibit 17-0006,
 RDH.0008.001.0218_R at 0243_R–0244, 0266_R–0268_R.
 346 Transcript of R Newman, C5071–C5072 (Day 47).
 347 Exhibit 17-0006, RDH.0008.001.0159_R; RDH.0008.001.0218_R; RDH.0008.001.0307_R.
 348 Transcript of R Newman, C5073–C5074 (Day 47).
 349 Exhibit 17-0023, STAT.0335.001.0070_R at 0070_R.

350 Transcript of R Newman, C5074 (Day 47).
 351 Exhibit 17-0006, RDH.0008.001.0159_R; RDH.0008.001.0218_R; RDH.0008.001.0307_R.
 352 Exhibit 17-0006, RDH.0008.001.0307_R at 0360_R–0362_R.
 353 Exhibit 17-0006, RDH.0008.001.0307_R at 0363_R.
 354 Transcript of AKV, C4910 (Day 46).
 355 Exhibit 17-0017, NT.0005.001.0225_R.
 356 Exhibit 17-0017, NT.0005.001.0225_R.
 357 Transcript of AKV, C4908–C4909 (Day 46).
 358 Transcript of AKV, C4910:25–34 (Day 46).
 359 Transcript of AKV, C4910:36–41 (Day 46).
 360 Transcript of R Newman, C5084–C5085 (Day 47).
 361 Exhibit 17-0039, NT.0024.001.005_R at 0015_R.
 362 Exhibit 17-0016, NT.0005.001.0227_R.
 363 Exhibit 17-0016, NT.0005.001.0227_R at 0228_R.
 364 Exhibit 17-0016, NT.0005.001.0227_R.
 365 Exhibit 17-0016, NT.0005.001.0227_R.
 366 Exhibit 17-0016, NT.0005.001.0227_R.
 367 Exhibit 17-0016, NT.0005.001.0227_R.
 368 Exhibit 17-0016, NT.0005.001.0227_R.
 369 Transcript of R Newman, C5085:9–12 (Day 47).
 370 Transcript of R Newman, C5085:39–44 (Day 47).
 371 Transcript of R Newman, C5086:3–20 (Day 47).
 372 Transcript of R Newman, C5195 (Day 48).
 373 Transcript of R Newman, C5086:22–26 (Day 47).
 374 Exhibit 17-0006, NT.0014.001.0716_R.
 375 Exhibit 17-0006, NT.0014.001.0716_R; Transcript of W Karczewski, C5345–C5246 (Day 49).
 376 Transcript of W Karczewski, C5238–C5239 (Day 48); C5312:11–16 (Day 49).
 377 Transcript of R Newman, C5095 (Day 47); Exhibit 17-0018, NT.0022.001.0047_R.
 378 Transcript of W Karczewski, C5238 (Day 48).
 379 Exhibit 17-0006, RDH.0008.001.0592_R; Exhibit 17-0023, STAT.0335.001.0082_R.
 380 Exhibit 17-0006, RDH.0008.001.0592_R.
 381 Exhibit 17-0006, STAT.0336.001.0123_R.
 382 Exhibit 17-0006, RDH.0008.001.0588.
 383 Transcript of W Karczewski, C5305–C5306 (Day 49).
 384 Exhibit 17-0006, RDH.0008.001.0588; Exhibit 17-0019, NT.0022.001.0051_R.
 385 Exhibit 17-0023, STAT.0335.001.0088_R.
 386 Exhibit 17-0015, Statement of Roger Newman, STAT.0336.001.0001_R at [132]–[133]; Exhibit 17-0006,
 NT.0005.001.0237_R.
 387 Exhibit 17-0006, NT.0005.001.0237_R.
 388 Transcript of R Newman, C5132:5–11 (Day 48).
 389 Exhibit 17-0015, Statement of Roger Newman, STAT.0336.001.0001_R at [133]; Exhibit 17-0006,
 NT.0005.001.0237_R.
 390 Exhibit 17-0015, Statement of Roger Newman, STAT.0336.001.0001_R at [133]; Exhibit 17-0006,
 NT.0005.001.0237_R.
 391 Transcript of R Newman, C5128 (Day 48).
 392 Transcript of R Newman, C5102–C5103 (Day 47); Exhibit 17-0015, Statement of Roger Newman,
 STAT.0336.001.0001_R at [135].
 393 Transcript of R Newman, C5102–C5103 (Day 47); Exhibit 17-0015, Statement of Roger Newman,
 STAT.0336.001.0001_R at [135].
 394 Transcript of R Newman, C5103–C5104 (Day 47).
 395 Exhibit 17-0015, Statement of Roger Newman, STAT.0336.001.0001_R at [138], Transcript of R Newman, C5098
 (Day 47); Exhibit 17-0006, NT.0005.001.0237_R; Exhibit 17-0019, NT.0022.001.0051_R.
 396 Transcript of R Newman, C5133 (Day 48).
 397 Transcript of R Newman, C5117:43–46 (Day 47).

398 Transcript of R Newman, C5108 (Day 47).
 399 Transcript of R Newman, C5108 (Day 47).
 400 Transcript of R Newman, C5057–C5058 (Day 47).
 401 Transcript of R Newman, C5111:1–10 (Day 47).
 402 Transcript of R Newman, C5058 (Day 47).
 403 Exhibit 17-0015, Statement of Roger Newman, STAT.0336.001.0001_R at [137].
 404 Exhibit 17-0015, Statement of Roger Newman, STAT.0336.001.0103_R at [32].
 405 Transcript of R Newman, C5197 (Day 48).
 406 Transcript of R Newman, C5197:26–44 (Day 48).
 407 Exhibit 17-0015, Statement of Roger Newman, STAT.0336.001.0001_R at [33].
 408 Exhibit 17-0023, STAT.0335.001.0088_R.
 409 Transcript of W Karczewski, C5252:39–41 (Day 49).
 410 Transcript of W Karczewski, C5202:3–6 (Day 48).
 411 Exhibit 17-0006, RDH.0008.001.0588.
 412 Transcript of M Carey, C5649, C5666 (Day 51).
 413 Transcript of M Carey, C5652–C5657, C5663–C5665; C5676:7–18 (Day 51).
 414 Transcript of W Karczewski, C5202 (Day 48).
 415 Transcript of M Carey, C5652–C5657, C5663–C5665; C5676:7–18 (Day 51).
 416 Exhibit 17-0023, STAT.0335.001.0094 at 0110.
 417 Transcript of M Carey, C5649:19–31 (Day 51).
 418 Transcript of M Carey, C5666–C5667 (Day 51).
 419 Exhibit 17-0019, NT.0022.001.0051_R.
 420 Exhibit 17-0019, NT.0022.001.0051_R; Transcript of M Carey, C5649, C5688 (Day 51).
 421 Transcript of M Carey, C5674, C5676:4–18 (Day 51).
 422 Transcript of M Carey, C5674, C5676:4–18 (Day 51).
 423 Transcript of W Karczewski, C5256 (Day 49).
 424 Transcript of W Karczewski, C5254 (Day 49).
 425 Transcript of W Karczewski, C5256–C5257 (Day 49).
 426 Transcript of W Karczewski, C5257–C5258 (Day 49).
 427 Transcript of W Karczewski, C5258 (Day 49).
 428 Transcript of W Karczewski, C5259 (Day 49).
 429 Exhibit 17-0023, STAT.0335.001.0094 at 0110.
 430 Transcript of W Karczewski, C5260 (Day 49).
 431 Transcript of W Karczewski, C5321:43–47 (Day 49).
 432 Transcript of W Karczewski, C5265:10–21 (Day 49).
 433 Exhibit 17-0023, STAT.0335.001.0094.
 434 Exhibit 17-0023, STAT.0335.001.0094 at 0101, Guideline 2.1.
 435 Exhibit 17-0006, RDH.0008.001.0588.
 436 Exhibit 17-0006, RDH.0008.001.0588.
 437 Exhibit 17-0006, NT.0005.001.0237.
 438 Transcript of W Karczewski, C5268–C5276; C5330 (Day 49).
 439 Transcript of W Karczewski, C5268–C5270 (Day 49).
 440 Transcript of W Karczewski, C5267 (Day 49).
 441 Transcript of W Karczewski, C5221:14–33 (Day 48); C5331–C5332 (Day 49).
 442 Transcript of W Karczewski, C5335:29–33 (Day 49).
 443 Transcript of W Karczewski, C5282–C5283 (Day 49).
 444 Transcript of W Karczewski, C5242 (Day 48).
 445 Transcript of W Karczewski, C5284 (Day 49).
 446 Transcript of W Karczewski, C5284 (Day 49).
 447 Transcript of W Karczewski, C5283–C5284 (Day 49).
 448 Transcript of W Karczewski, C5322–C5323 (Day 49).
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 450 Transcript of T Leggott, C5561 (Day 51).
 451 Transcript of T Leggott, C5558 (Day 51).

452 Transcript of T Leggott, C5576:5–12 (Day 51).
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 454 Transcript of T Leggott, C5576–C5578 (Day 51).
 455 Transcript of T Leggott, C5578:28–38 (Day 51).
 456 Transcript of T Leggott, C5579:7–24 (Day 51).
 457 Transcript of T Leggott, C5579–C5580 (Day 51).
 458 Transcript of T Leggott, C5581–C5582 (Day 51).
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 465 Exhibit 17-0041, Further witness statement of Reverend Trevor Leggott, STAT.0330.003.0001_R at [24]; STAT.0330.003.0011 at [37]–[52].
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 468 Transcript of T Leggott, C5574–C5575 (Day 51).
 469 Transcript of T Leggott, C5575 (Day 51).
 470 Transcript of T Leggott, C5586–C5587 (Day 51).
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 472 Exhibit 17-0041, Further witness statement of Reverend Trevor Leggott, STAT.0330.003.0001_R at [8]–[9].
 473 Exhibit 17-0041, Further witness statement of Reverend Trevor Leggott, STAT.0330.003.0001_R at [8].
 474 Exhibit 17-0042, Fourth statement of Reverend Trevor Leggott, STAT.0438.001.0001_R at [5].
 475 Exhibit 17-0042, Fourth statement of Reverend Trevor Leggott, STAT.0438.001.0001_R at [6].
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 493 Exhibit 17-0027, Statement of Simone Jackson, STAT.0334.001.0001 at [26].

494 Exhibit 17-0027, Statement of Simone Jackson, STAT.0334.001.0001 at [39].
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 499 Transcript of S Jackson, C5386:2–17 (Day 50).
 500 Transcript of S Jackson, C5459–C5460 (Day 50).
 501 Transcript of S Jackson, C5460 (Day 50).
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 504 Transcript of S Jackson, C5389:26–39 (Day 50).
 505 Transcript of S Jackson, C5389–C5391 (Day 50).
 506 Transcript of S Jackson, C5418:9–20 (Day 50).
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 508 Transcript of S Jackson, C5394 (Day 50).
 509 Transcript of S Jackson, C5396–C5397 (Day 50).
 510 Transcript of S Jackson, C5395–C5396 (Day 50).
 511 Transcript of S Jackson, C5396 (Day 50).
 512 Exhibit 17-0027, Statement of Simone Jackson, STAT.0334.001.0001 at [37]; Transcript of S Jackson, C5398
 (Day 50).
 513 Transcript of S Jackson, C5400 (Day 50).
 514 Transcript of S Jackson, C5400–C5401 (Day 50).
 515 Transcript of S Jackson, C5427–C5428 (Day 50).
 516 Transcript of S Jackson, C5401–C5402 (Day 50).
 517 Exhibit 17-0027, Statement of Simone Jackson, STAT.0334.001.0001 at [69]; Transcript of S Jackson, C5411–
 C412 (Day 50).
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 C5411–C5413 (Day 50).
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 C5414 (Day 50).
 521 Transcript of S Jackson, C5414–C5415 (Day 50).
 522 Transcript of S Jackson, C5416 (Day 50).
 523 Transcript of S Jackson, C5416 (Day 50).
 524 Transcript of S Jackson, C5419 (Day 50).
 525 Transcript of H Bath, C5510:7–31 (Day 51).
 526 Transcript of H Bath, C5510:7–31 (Day 51).
 527 Transcript of H Bath, C5510:33–36 (Day 51).
 528 Exhibit 17-0032; Statement of Dr Howard Bath, STAT.0340.001.0001 at 0001.
 529 Exhibit 17-0032; Statement of Dr Howard Bath, STAT.0340.001.0001 at 0002.
 530 Exhibit 17-0032; Statement of Dr Howard Bath, STAT.0340.001.0001 at 0002.
 531 Exhibit 17-0032; Statement of Dr Howard Bath, STAT.0340.001.0001 at 0004; Transcript of H Bath, C5517–
 C5518 (Day 51); Exhibit 17-0029, EXH.017.029.001, EXH.017.029.0002, EXH.017.029.0003.
 532 Exhibit 17-0032; Statement of Dr Howard Bath, STAT.0340.001.0001 at 0004; Transcript of H Bath, C5517–
 C5518 (Day 51).
 533 Exhibit 17-0032; Statement of Dr Howard Bath, STAT.0340.001.0001 at 0004; Transcript of H Bath, C5519–
 C5520 (Day 51).
 534 Transcript of H Bath, C5520:18–42 (Day 51).
 535 Exhibit 17-0032; Statement of Dr Howard Bath, STAT.0340.001.0001 at 0004–0005; Transcript of H Bath,
 C5514–C5516 (Day 51).
 536 Exhibit 17-0032; Statement of Dr Howard Bath, STAT.0340.001.0001 at 0005.

537 Exhibit 17-0032; Statement of Dr Howard Bath, STAT.0340.001.0001 at 0005.
 538 Transcript of H Bath, C5516–C5517 (Day 51).
 539 Transcript of H Bath, C5516 (Day 51).
 540 Transcript of H Bath, C5516, C5524 (Day 51).
 541 Transcript of H Bath, C5525 (Day 51).
 542 Transcript of H Bath, C5525–C5526 (Day 51).
 543 Transcript of H Bath, C5522 (Day 51).
 544 Transcript of H Bath, C5512 (Day 51).
 545 Transcript of H Bath, C5512–C5513 (Day 51).
 546 Transcript of M Bamblett, C5463–C5464 (Day 50).
 547 Transcript of M Bamblett, C5505 (Day 50).
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 549 Transcript of M Bamblett, C5465 (Day 50).
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 551 Exhibit 17-0030, Report of Professor Muriel Bamblett, EXP.0002.001.0001 at [54].
 552 Transcript of M Bamblett, C5467 (Day 50); Exhibit 17-0030, Report of Professor Muriel Bamblett,
 EXP.0002.001.0001 at [27].
 553 Transcript of M Bamblett, C5475:33–44 (Day 50).
 554 Transcript of M Bamblett, C5478–C5479 (Day 50).
 555 Transcript of M Bamblett, C5470–C5471 (Day 50).
 556 Transcript of M Bamblett, C5471 (Day 50).
 557 Transcript of M Bamblett, C5471 (Day 50).
 558 Transcript of M Bamblett, C5473 (Day 50).
 559 Transcript of M Bamblett, C5471–C5472 (Day 50).
 560 Exhibit 17-0030, Report of Professor Muriel Bamblett, EXP.0002.001.0001 at [110].
 561 Exhibit 17-0030, Report of Professor Muriel Bamblett, EXP.0002.001.0001 at [111].
 562 Transcript of M Bamblett, C5481 (Day 50).
 563 Exhibit 17-0030, Report of Professor Muriel Bamblett, EXP.0002.001.0001 at [87].



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