

**QUARTERLY REPORT FOR THE QPS AND ODPP
SEEKING JUSTICE COMMITTEE**

JUNE 2010

PREPARED BY:

**QPS AND ODPP FAILED SEXUAL OFFENCE
PROSECUTIONS WORKING PARTY**

BACKGROUND

The QPS and ODPP Failed Sexual Offence Prosecutions Working Party delivered its inaugural report to the QPS and ODPP Seeking Justice Committee in March 2010. When the Committee discussed this report at its April meeting, the Committee indicated it would like to receive quarterly reports from the Working Party that contain some brief statistics and that flag any major systemic or practice issues.

This is the Working Party's first quarterly report. There are **two parts** to the report.

Section A contains some statistical information on all cases discussed at the Working Party's meetings held in March, April and May 2010 that fell within the definition of 'a failed sexual offence prosecution' (set out in the Working Party's Terms of Reference). The vast majority of these 26 cases are cases that the ODPP was responsible for prosecuting. Section A also contains some statistical information on 19 cases that were discontinued by the ODPP – during the period 1 July 2009 to 31 May 2010 – because the complainant (or complainant's parents) did not wish to proceed.

Section B flags some practice issues that relate to some of the cases discussed by the Working Party during its March, April and May meetings. None of the 26 cases reviewed during these 3 meetings failed because of any systemic issues. Section B also contains some general comments, not directly related to any of the 26 cases, for example, it mentions that the Working Party has now amended its Terms of Reference.

SECTION A OF JUNE 2010 QUARTERLY REPORT

PERIOD: March 2010 to May 2010 Working Party meetings

Reason for Failure	QPS Region										Total	ODPP Office							Total			
	CR	FNR	MNR	MSR	NCR	NR	SCOC	SER	SER	SR		BNE	BLG	CNS	IPS	MDOR	N/A	ROCKY		SPT	TBA	TVE
Adult complainant withdrew		1		1	2	2		2	2	1	9	3	1		1	1		1		2	9	
Child complainant withdrew*		1	1	3			2	1	2	10	7	1	1	1							10	
Complainant unreliable/credibility			1	2		3			6	12	2			4			1		2	3	12	
Complainant capacity to give evidence																						
Complainant could not be located																						
Court intimation to not proceed																						
Court of Appeal acquittal																						
Particulars/elements of offence not established		4	1					2	2	7	1	1	3			1					7	
Could not negate alibi/innocent explanation		1				2	1	1	1	5		1	1							3	5	
Other					1	1				2					1					1	2	
TOTAL	0	7	3	6	3	8	3	3	6	9	45	13	4	5	6	1	2	1	2	2	9	45

*Child complainant withdrew refers to a child complainant withdrawing or a parent not wanting the matter to proceed
Table includes failed prosecutions cases from July 2009 to May 2010 where the complainant withdrew

Legend:

CR	Central	BLG	Beenleigh
FNR	Far Northern	CNS	Cairns
MNR	Metro North	IPS	Ipswich
MSR	Metro South	MDOR	Maroochydore
NCR	North Coast	N/A	Police Prosecution
NR	Northern Region	ROCKY	Rockhampton
SCOC	State Crime Operations Command	SPT	Southport
SER	South Eastern	TBA	Toowoomba
SR	Southern	TVL	Townsville
BNE	Brisbane		

SECTION B OF JUNE 2010 QUARTERLY REPORT

PRACTICE ISSUES IDENTIFIED:

- 19 of the 26 cases reviewed involved cases where s. 93A interviews were conducted – 4 of these 19 cases raised issues re the quality of the interviews (but note only 1 was discontinued primarily because of problems with the s. 93A interview)
- Problems with the interviews included: use of leading questions; further interview conducted because of failure to clarify meaning of unusual terms (touched with a 'pink broom') in original interview; and 5 separate interviews conducted resulting in inconsistencies (1 of these at the request of an ODPP legal officer without approval from a Crown prosecutor)
- 1 of the 26 cases was discontinued because there was no evidence to prove the defendant (aged 11 at the relevant time) had legal capacity (as required by s. 29 of the Criminal Code) – whether the defendant should have been charged was an issue raised by some members of the Working Party (WP) – requisite capacity will be raised by the QPS in a number of training forums

OTHER COMMENTS:

- WP's Terms of Reference have now been amended (see **attached copy**) – amendments include change in membership (QPS State Crime Operations Command (SCOC) Research Unit no longer involved); reports to Seeking Justice Committee (now annual plus short quarterly reports); and definition of a 'failed sexual offence prosecution' (excludes a discontinuance that follows a successful mediation and discontinuances that occur as part of a plea bargain)
- WP continuing to be used as a forum to raise other practice issues (unrelated to the cases reviewed) – for example, ODPP members have raised concerns about 4 separate incidents where police investigators have played s. 93A interview tapes to the mother of the child interviewed - this practice clearly inappropriate – issue will be addressed by QPS in a number of training forums
- In some of the reviewed cases there have been inconsistencies between the medical statements and the s. 93A statements – the WP has discussed the importance of advising doctors to insert 'a disclaimer' in their statements – QPS representatives are arranging for this advice to be disseminated (via Queensland Health and the child protection SCAN system)
- The ICARE facilitation team (Child Safety Coordination Unit within SCOC) is continuing to publish ICARE updates which address concerns about s. 93A interviews (raised during general discussions of the WP, as well as during discussions about failed prosecutions)