

JCW(s) 15

Avey, Lisel

**From:** Whalley, Justin  
**Sent:** Thursday, 15 March 2012 10:56 AM  
**To:** CDW  
**Cc:** Avey, Lisel  
**Subject:** RE: Re Lifting Suppression Order for Retrial

Dear CDW,

Thank you for your email.

As you must have come to realise by now, cases such as these give rise to a balancing exercise involving competing considerations. On the one hand there is the important consideration of protecting the anonymity of those victims who do not wish the fact that they are victims of sexual abuse to become widely known. On the other hand, it is desirable that the administration of justice on behalf of the community should be conducted openly and that convicted offenders should be exposed to the negative consequences to their reputation that should result from their commission of serious criminal offences.

In this case the balancing exercise results in preference being given to the protection of the anonymity of the victims which, in turn, results in the suppression order remaining in force. Whilst I acknowledge that this is the source of some understandable frustration to you, CDX and perhaps others, I'm sure you will understand that the decision to maintain the suppression order is made in what are perceived to be the best interests of the community as a whole. If victims in other cases see publicity relating to the CDV prosecution and perceive that their own identity as a victim might be exposed in media reports then that may dissuade them from reporting abuse to police and becoming involved in the judicial process.

I understand that it is important to you that Mr CDV is convicted of the charges relating to the abuse of your son. As an independent prosecuting authority we are not permitted to express similar sentiments; as a letter from our Office in today's *West Australian* makes clear, our statutory duty is to assist the administration of justice rather than striving for convictions. I can assure you however that we will continue to use our best efforts and to expend all appropriate resources to prosecute the State case against Mr CDV and to argue vigorously for our contention that it establishes his guilt in respect of the offences with which he has been charged.

Regards,

**Justin Whalley**

Senior State Prosecutor - Trial Team 2  
 Office of the Director of Public Prosecutions  
 Level 1, 26 St Georges Terrace,  
 Perth. 6000

REDACTED

**From:** CDW [mailto:REDACTED]  
**Sent:** Wednesday, 14 March 2012 7:19 AM  
**To:** Whalley, Justin  
**Cc:** Avey, Lisel; REDACTED CDX  
**Subject:** Re Lifting Suppression Order for Retrial

Dear Justin,

Thank you for taking the time to respond to our email.

Yes, I do understand that you are obliged to consider all the victims in this case, however, we were told by our police case-officer that, when this matter was being taken on by the DPP and going to The District Court, it would mean that Mr <sup>CDV</sup> s name and the School's name would be published. We were told by our case-officer that it was worth going to court - so that other victims and witnesses have the chance to know that someone has finally accused him and been prepared to seek justice.

My reference to others being at risk of continued damage concerns;

- existing victims who may not have come forward or be able to come forward;

- <sup>CDX</sup> myself and my family, as we are all victims in this matter and continue to be damaged; and

- <sup>CDV</sup> people who have been victimized for speaking out over their concerns about Mr s behaviour.

You will understand, I am sure, that my consideration in all of these matters is first and foremost to my son and my family and secondly to the protection of all children.

I am a little concerned that you may consider that we should be satisfied that Mr <sup>CDV</sup> will no longer be able to work with children and will be on the sex offender register for the rest of his life. It is important to us, and <sup>CDX</sup> especially, that Mr <sup>CDV</sup> is convicted on the charges that relate to the abuse of our son. I am quite happy to speak with you if you are in need of further explanation.

Regards,

<sup>CDW</sup>

On Mar 1, 2012, at 7:48 AM, Whalley, Justin wrote:

Dear <sup>CDW</sup>

It is important to understand that the suppression order is not to protect Mr <sup>CDV</sup> it is to protect the identity of the known victims and others who were taught by Mr <sup>CDV</sup> whose status as his former pupils may invite speculation as to whether or not they were victims of sexual offending.

I'm unsure whether your reference to others being at risk of continued damage is a reference to existing victims or to potential future victims. If the latter then it should be noted that Mr <sup>CDV</sup> will never be allowed to work with children again and on his release from jail he will be on the sex offender register for the rest of his life. In our view the risk of him reoffending is low and the publication of his name is not going to lessen such risk as remains.

In these circumstances the State does not propose to make any application to lift the suppression order. If signed and informed consent to the lifting of the suppression order was to be given by all 5 victims the subject of the original trial then the State might reconsider its position but unless and until that occurs the order will remain in place.

It is a matter of considerable regret if this is counterproductive to <sup>CDX</sup>'s healing and obviously that is a highly relevant factor in consideration of this issue. I'm sure you will understand however that our obligation is to all victims and unless there is complete consensus on the issue amongst those victims then the default position is that the identity protection afforded by the suppression order should remain available to them.

Please contact me if you have any questions in relation to this.

Regards,

Justin Whalley

Senior State Prosecutor - Trial Team 2

Office of the Director of Public Prosecutions

Level 1, 26 St Georges Terrace,

Perth. 6000

REDACTED

-----Original Message-----

From: <sup>CDW</sup> [mailto:<sup>REDACTED</sup>]  
Sent: Wednesday, 29 February 2012 8:50 AM  
To: Whalley, Justin; Avey, Lisel  
Cc: <sup>CDX</sup> <sup>REDACTED</sup>  
Subject: Lifting Suppression Order for Retrial

> Dear Justin and Lisel,

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> Is there any chance that the Suppression Order can be lifted on naming Mr CDV for the upcoming retrial?

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> We understand that it may not have been possible before, however with what has come to light in the current Katanning Hostel Inquiry, can an application be lodged? We feel strongly that the anonymity that protects Mr CDV is counterproductive to CDX's healing and still places others at risk of continued damage.

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> Kind regards,

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> CDW, REDACTED and CDX

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> REDACTED

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