



Royal Commission
into Institutional Responses
to Child Sexual Abuse

Case Study 38 – Criminal Justice Project

Name: Kelly Donaghy
Rank: Detective Sergeant
Station/Unit: Miranda Local Area Command
Date: 21 March 2016

STATES:

1. This statement made by me accurately sets out the evidence that I would be prepared, if necessary, to give in court as a witness. The statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I will be liable to prosecution if I have wilfully stated in it anything that I know to be false, or do not believe to be true.
2. I made a previous statement in relation to this case study dated 14 March 2016.
3. On 18 March 2016 I was provided with a copy of the statement of CDN dated 7 March 2016 and the statement of CDP dated 9 March 2016. This statement addresses some of the issues raised in those statements.

Statement of CDN

4. At [16] of CDN's statement, CDN states that she contacted me about concerns she had in relation to CDO having started to display sexualised behaviour and a comment that CDO made about CDM being "spicy" (referred to at [15] of her statement). CDN states that I informed her that CDO's disclosures did not meet JIRT's criteria for 'significant harm' and that CDN should seek counselling from community health.
5. I do not recall this conversation, but say that the behaviour referred to in [15] of CDN's statement does not meet the criteria for a referral to JIRT. For ease of reference, I have copied below the JIRT criteria in relation to sexual abuse as it appears on the NSW Police intranet. The reference to 'CSC' in the final dot-point under 'Sexual Abuse' is a reference to the Department of Family and Community Services Community Service Centre.

Witness:


Gilbert GASSIN

Signature:


Kelly Donaghy

Statement of Kelly Donaghy
In the matter of Case Study 38 – Criminal Justice Project

Sexual Abuse

- *Disclosure and/or evidence of sexual assault*
- *Any reports of sexual abuse of a child under the age of 16 years where the alleged offender is over the age of criminal responsibility, i.e. 10 years*
- *Presentation of physical indicators consistent with sexual abuse, e.g. venereal diseases, pregnancy, unexplained bruising on or bleeding from genitals, presence of semen on child, unexplained bruises to breasts; and*
- *The CSC will assess reports of sexualised behaviour and allegations where offenders are 10 years and under*

6. At [18], CDN refers to me informing her that CDO's placement at CEG had been terminated by the Director of the centre effective immediately. I recall being aware that there were discussions and emails between CDN and the childcare centre director, CHD CHD, that were becoming heated and that, on a number of occasions I had cause to, and did, speak to CHD about those communications. I do not recall the exact words used, but I recall informing CDN that CHD terminated CDN's placement at the childcare centre and that I was upset for CDN. However, I considered that one positive outcome may be that there should be no further correspondence between CHD and CDN.
7. In relation to CDN's comments at [20]-[23] about CDO's interview at Kogarah JIRT, as referred to in my previous statement, I was not involved in interviewing CDO. I am aware of the practice at Kogarah JIRT of inviting a child complainant to take a teddy bear home at the end of an interview. These teddy bears were made by my late grandmother, and I used to hang them on the wall outside the interview room. A majority of the children and teenagers I interviewed when I was in JIRT took a teddy bear home with them. It was not my usual practice to give the parents a leaflet at the end of the interview. However if parents were extremely concerned post interview about the JIRT process, I would give them a leaflet created by the Sydney Children's Hospital, titled "Helping to make it better" which contained information in relation to the process that the Child Protection Unit attached to the Sydney Children's Hospital (CPU) follows and some contact numbers from that unit.

Witness:


 Gilbert GASSIN
 REDACTED
[REDACTED]

21 March 2016

Signature:



Kelly Donaghy
 Detective Sergeant
 Miranda LAC – 33856
 21 March 2016

Statement of Kelly Donaghy
In the matter of Case Study 38 – Criminal Justice Project

8. At [26] of CDN's statement, she states:

"Sometime after charges had been laid against CDM Detective Donaghy said that she expected CDM to plead guilty because it was an 'open and shut case'. Consequently, I formed the expectation that the criminal justice system would hold CDM accountable".

9. I did not tell CDN that I thought this was an 'open and shut case' or use those words in relation to the investigation at any stage. No case relating to child protection is an open and shut case and they are not words I would use to describe any police investigation.

10. I do not recall the issues raised in paragraphs [27] to [33] of CDN's statement in relation to FACS sending a letter to CDN informing her that JIRT had concluded its investigations and closed the case or any issue in relation to CDO's counselling from the CPU. As referred to in my previous statement, I was no longer involved in the investigation from June 2011 after I moved to another area within the NSW Police Force and the matter had been assigned to Detective Senior Constable Sandra McLachlan. I did not attend the meeting referred to at [32] of CDN's statement.

11. In relation to CDN's recommendation at [60] that there should be a support person in the interview with the child, preferably a parent or carer, there are difficulties associated with a parent being present during the interview. I am able to speak to the approach taken by NSW Police in relation to the use of support persons when I was at JIRT, however I understand that Detective Chief Inspector Yeomans of the Child Abuse Squad will be addressing this issue further in a statement to the Royal Commission.

Statement of CDP

12. At [18], CDP states that, instead of a support person, CDQ was told to choose a doll to accompany her to the interview. I cannot recall that, however I would always allow a child to bring a toy of their choosing with them into the interview. As referred to above, I understand Detective Chief Inspector Yeomans is addressing the issues associated with support persons in interviews with children.

Witness:


Gilbert GASSIN
REDACTED

21 March 2016

Signature:


Kelly Donaghy
Detective Sergeant
Miranda LAC – 33856
21 March 2016

Statement of Kelly Donaghy
In the matter of Case Study 38 – Criminal Justice Project

13. At [21] – [22], CDP states:

"Detective Donaghy came into the room and said, "She doesn't want to talk to us. I recommend that you don't press a charge because she just won't talk to us". When I asked how CDQ was, Detective Donaghy said, "Yeah, she's fine"... CDQ then came into the room in the most traumatised state. I had never seen her like that. She jumped into my arms shaking and sobbing and begged me to take her home..."

14. This is not consistent with my recollection of the interview with CDQ or my observation of CDQ or discussion with CDP afterwards. I recall that CDQ was uncomfortable being at the JIRT office from the moment she arrived, but I did not see CDQ shaking or sobbing or begging to be taken home during or directly after the interview. I would recall a child shaking or sobbing during or after an interview. I have never seen this happen in the many interviews (in the hundreds) I have conducted with children. Young children can be more nervous about the process however I would never allow a situation to arise where a child was physically distressed eg. sobbing and shaking and it has never happened in any interview I have been involved with. I would never commence with an interview if a child was distressed as it would be unfair to the child and counterproductive and I have on one occasion not interviewed a child that presented as too distressed prior to interview.

15. There is no sobbing, shaking or begging reflected in the DVD recording of the interview of CDQ. The DVD of the interview with CDQ indicates that a short, non-intrusive interview (of ten minutes' duration) took place and that as soon as it became obvious that the child was not engaging or comfortable with the process, I suspended the interview. At Question 54 CDQ stated "I don't want to talk anymore" and I asked her why. She replied "I just want to go see mumma" and I replied "OK. Well we'll go and see mum in a minute" and proceeded to ask her another question. CDQ then answered further questions. At Question 93 she said "go see mumma" and I then asked final questions in an effort to ensure that she had no disclosure to make and concluded the interview at Question 104.

Witness:


 Gilberte GASSIN
 REDACTED

21 March 2016

Signature:

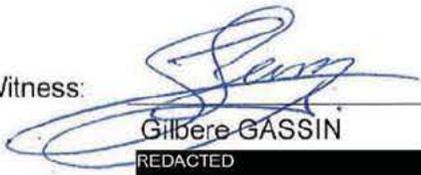


Kelly Donaghy
 Detective Sergeant
 Miranda LAC – 33856
 21 March 2016

Statement of Kelly Donaghy
In the matter of Case Study 38 – Criminal Justice Project

16. I did not consider that my interviewing placed undue pressure on CDQ or that she was unduly distressed. This approach was consistent with my training in relation to interviews with children which require the ability to make decisions in a very short amount of time having regard to the child's best interests, above and beyond the interests of pursuing criminal charges.
17. I deny saying to CDP "I recommend you don't press a charge because she just won't talk to us". This is not something I would say to a parent given that a decision to charge a person of interest is to be made by the police informant. It is not a matter for a parent to press charges. Nor did I have any reason to say those words as CDQ did not make a disclosure that would justify the laying of a charge. Charges are laid by the police when a child makes a disclosure and/or an offender makes a relevant admission, having regard to all of the evidence. In deciding to charge a person, police take into account the views of the victim, including those of the parents of a child, however I did not say the words that CDP has attributed to me.
18. At [29], CDP says, "*In May 2011, CDQ made a further disclosure which identified two more victims of CDM. As a parent, I felt a moral obligation to report this but when I spoke with Detective Donaghy, she was not receptive of my complaints. Nothing more was done with these disclosures*". I do not recall being informed by CDP of the disclosure of two further victims of CDM and I have not located a record of this. If such a disclosure was made, I would have recorded it.
19. I was no longer involved in this matter from May/June 2011 and cannot comment on the re-interview process and the reason the DPP did not proceed with the trials. Whether a matter is to proceed to trial is a decision to be made by the DPP, not by the investigating police.

Witness: _____


 Gilberte GASSIN

REDACTED


21 March 2016

Signature: _____


 Kelly Donaghy
 Detective Sergeant
 Miranda LAC – 33856
 21 March 2016

Statement of Kelly Donaghy
In the matter of Case Study 38 – Criminal Justice Project

20. I can say that I am extremely passionate about child protection and giving victims, especially children, a voice in these matters. Throughout my career, and even before my career with NSW Police, the protection of children against perpetrators of abuse has been a high priority for me. In this case, I was fully dedicated to the investigation and carried out my role to the best of my ability, having regard to my training and experience, and I gave as much support and information to the families as I was able to at the time. I am sorry that the matter was not able to proceed in this case based on the assessment of the DPP and that the families feel that they were not supported during the investigation process.

Witness:


Gilberte GASSIN
REDACTED

21 March 2016

Signature:



Kelly Donaghy
Detective Sergeant
Miranda LAC – 33856
21 March 2016