



Victorian Aboriginal Child Care Agency Co-Op. Ltd

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**VACCA SUBMISSION**

**ROYAL COMMISSION INTO INSTITUTIONAL**

**RESPONSES**

**TO CHILD SEXUAL ABUSE CONSULTATION**

**PAPER:**

**CRIMINAL JUSTICE**

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## **Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse Consultation Paper on Criminal Justice**

### **Introduction**

The Victorian Aboriginal Child Care Agency (VACCA) is the leading Aboriginal child and family welfare organisation in Victoria. As an Aboriginal community controlled organisation, VACCA protects and promotes the rights of Aboriginal children, families and communities. VACCA's Vision is that our children, young people, families and communities are thriving – culturally strong, empowered and safe. Our purpose is to work towards the healing of the Aboriginal community through strengthening the safety, wellbeing and cultural connectedness of vulnerable community members, particularly children.

Our Principles and Values - We believe in the principle of the right of Aboriginal people to self-determination and the rights of the child and we commit to uphold Victorian Aboriginal cultural protocols. Our values are: Best interests of the child, Aboriginal cultural observance, Respect, Healing and empowerment and Excellence.

VACCA's key areas of work are in service delivery, advocacy and training. We deliver around 50 programs across Victoria, offering a broad range of services that seek to:

- ensure child safety and community wellbeing;
- targeted support for Aboriginal people and families;
- maintain strong connections to Aboriginal culture, and
- promote culturally specific ways of growing up Aboriginal children.

Our services are underpinned by principles of prevention, early intervention and therapeutic healing. They are premised on human rights, self-determination, cultural respect and safety. They include supported playgroups, education, cultural activities, emergency relief, homelessness services, drug and alcohol support, family mental health, out-of-home care, justice services and family violence services including an Aboriginal women and children's crisis service. We also deliver cultural training and develop resources for the Aboriginal community and to a range of organisations.

We also advocate at a policy level for better outcomes for Victorian Aboriginal children, families and community members for their right to be connected to culture and to ensure that their needs are represented in culturally appropriate ways through service delivery. We promote for resources to be dedicated to early intervention and prevention that provide culturally relevant support services that keep families and children away from the child protection system.

The Victorian Aboriginal Child Care Agency (VACCA) welcomes the opportunity to contribute to the Royal Commission into Institutional Responses to Child Sexual Abuse Consultation Paper on Criminal Justice. VACCA's submission is based on our unique position as an Aboriginal Community Controlled Organisation (ACCO) which provides the Royal Commission into Institutional Responses to Child Sexual Abuse Support Service, as well as Link-Up, services in both the family violence and child protection areas and more broadly to community members experiencing disadvantage. VACCA's submission focuses on areas where we believe our knowledge and experience enable us to make a valuable contribution and has been informed by community consultation with clients who are Stolen Generations.

Our submission offers the following observations, issues, recommendations and priority actions particularly as they pertain to the Victorian Aboriginal community in which we work. Also included is VACCA's submission to the Commission's issues paper on experiences of police and prosecution responses which provides the experiences of two clients that are relevant to the current consultation paper and is included as Appendix A.

## **Key messages and recommendations**

### **Historical and current mistrust of police**

Historically and today many Aboriginal people do not trust authorities enough to report abuse. The fear of authority and reporting to police has been a significant barrier to many of our clients reporting the abuses they suffered. Very few of our Royal Commission Support Service clients tried to report their abuse while children, most feeling that as Aboriginal children abused by non-Aboriginal adults that they would not be believed.

### **Reporting to police and police responses are re-traumatising**

Clients who tried to tell police while they were children report some very concerning responses by police to very serious allegations. Clients describe not being believed and being returned by police to the very institutions they were assaulted in. Obviously this response was in itself re-traumatising and has deterred those clients from ever trusting the system that failed them so badly in protecting them as children.

### **All police and justice personnel must be trauma-informed and culturally-sensitive.**

This requires police and justice personnel to receive mandatory training in (1) complex trauma and inter-generational trauma and (2) cultural knowledge and understanding in engaging and working with Aboriginal communities. It also requires that the institutions embed and support trauma-informed practices and address current lack of cultural safety.

### **Need for culturally safe support and counselling for survivors reporting abuse**

There is a need for support and counselling to be provided to those reporting abuse to police and throughout the investigation. The lack of support and debriefing and contextualising the process for survivors leads them to reliving the experience, being re-

traumatised and then if the case is unsuccessful being left with a sense of not being believed. This is likely to be the experience for all survivors when this is the outcome, there is another layer for Aboriginal survivors, stemming from intergenerational abuse and trauma and the continuing impacts of colonisation and white privilege. Aboriginal survivors experience two layers of trauma - interpersonal trauma such as sexual abuse combined with loss of connection to culture and heritage. While it is important that choice is available, our experience shows that few Aboriginal survivors find mainstream counselling services to be beneficial. VACCA is disappointed by the lack of any Aboriginal specific services for Aboriginal children who have experienced sexual abuse and are of the view that until an Aboriginal specific service is funded to provide these much needed services, the healing for our communities is compromised.

## **Responses to questions in the Royal Commission into Institutional Responses to Child Sexual Abuse Consultation Paper on Criminal Justice – Key issues for survivors and advocacy and support groups**

### **Chapter 3: Issues in police responses**

#### ***Should all police who may come into contact with victims or survivors be trained to have a basic understanding of complex trauma?***

Community members consulted were clear that all police should have an understanding of complex trauma and intergenerational trauma and that this should be achieved via mandatory training. In addition all police should receive mandatory cultural awareness training in relation to engaging and working with Aboriginal people and communities. There was the recommendation that all police complete *Yarning Up on Trauma*, a training package and approach to understanding trauma and attachment for Aboriginal communities and those working with Aboriginal community. The training package was developed by Berry Street Take Two in partnership with the Victorian Aboriginal Child Care Agency (VACCA) and evaluated as part of the Berry Street Take Two Third Evaluation report<sup>1</sup>.

This is an important point – **all** police must receive training in (1) complex trauma, intergenerational trauma and its impacts and (2) cultural knowledge and understanding in engaging and working with Aboriginal communities, not just police in identified roles. This is because any police officer is likely to come into contact with victims or survivors regardless of their role and it is crucial that every response and interaction by police be trauma-informed and culturally-sensitive. Furthermore, training in isolation will never be enough to ensure the police workforce is trauma-informed and culturally-sensitive. An ongoing

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<sup>1</sup> Frederico, Jackson & Black (2010). More than words – The language of relationships – Take Two Third Evaluation Report, La Trobe University, Bundoora, Australia, p. 70-77.  
[http://www.childhoodinstitute.org.au/Assets/188/1/TakeTwo\\_Evaluation\\_Report\\_3complete.pdf](http://www.childhoodinstitute.org.au/Assets/188/1/TakeTwo_Evaluation_Report_3complete.pdf)

commitment to cultural knowledge and understanding is required as well as engaging and building respectful relationships with Aboriginal organisations. It also requires that the police force as an institution embed and support trauma-informed practices and address current lack of cultural safety.

Both *trauma-informed* and *culturally-informed* are widely used terms. Trauma-informed training needs to include an understanding of the wide-ranging effects of childhood abuse on individuals, (e.g, post-traumatic stress disorder, complex trauma, depression, drug and alcohol abuse, strained relationships with family and others), concepts of intergenerational trauma and more recent findings related to both collective/community trauma and epigenetic transmission of a biological vulnerability to stress and trauma, and strategies and pathways associated with resilience, healing and recovery from trauma. Being culturally informed includes, but is not limited to, demonstrated knowledge of Australian history in relation to the ongoing displacement of Aboriginal people and the forcible removal of Aboriginal children and the ongoing impacts as documented in the *Bringing Them Home Report* (HREOC, 1997), and in addition being aware of the relevant cultural protocols (Men, Women, Elders) when engaging with Aboriginal communities.

***Should police do more to encourage victims and survivors to report their abuse? Should police provide more information to make clear that victims and survivors can withdraw at any stage in the process? Should police provide more options for reporting, including by telephone and online? What options might work best for Aboriginal and Torres Strait Islander victims and survivors? What options might work best for prisoners or survivors with criminal records?***

Community members did not support either telephone or online reporting and instead believed Aboriginal victims and survivors needed to have a support person with them at all times throughout the police reporting process. Given the fear and mistrust of police that Aboriginal people have due to previous negative experiences the need for a support person is important. Community members said it was critical that children have someone present that they know and trust as they are “not going to trust the coppers”. One community member spoke: “still today, I need to have someone I know and trust, ever since being in the home”. This is the experience for most of the clients VACCA supports through our Royal Commission Support Service.

One community member reflected on reporting institutional child sexual abuse to police and reported that the police officer “knew nothing about sexual abuse”, she was called a “black little bitch” and she stated of the experience “I would rather have died”. She also reported that she was aware that the police response she received was not unique or in fact uncommon. She was called a liar and “made us feel dirty, not wanted” and wished she had been believed and wished that police knew that children do not lie about sexual abuse; in her own words she lamented “why didn’t those coppers believe us”. The racism, disrespect and, for her most significantly, not being believed has had a lasting detrimental impact. She

stated that based on her experience she would not encourage others to report their childhood abuse to police.

This account clearly demonstrates the need for more to be done to encourage and support victims and survivors to report abuse to police but that this cannot be achieved until all police are trauma-informed and culturally-sensitive.

Currently, VACCA's experience in relation to children and young people in out-of-home care reporting abuse is that we are often excluded from being part of the police reporting process, not necessarily by police but by the Department of Health and Human Services (DHHS) who are concerned about contaminating the forensic process. VACCA and Victoria Police are currently in discussions to ensure that Aboriginal children who have been sexually abused are culturally supported to report abuse and that Victoria Police have a better understanding of the barriers in interviewing Aboriginal children.

VACCA's experience in supporting clients who have told their story to the Royal Commission as adults and then decided to report to the police has generally been positive. Police members of the SANO taskforce, established to specifically receive and investigate these reports has members who are flexible in where they will meet survivors, for example willing to attend the Link-Up office and allow the client to have their support worker in attendance throughout the interview. Learnings from the way the SANO taskforce operate need to inform police practice more broadly when dealing with victims and survivors reporting abuse.

***Is it important to victims and survivors that police maintain regular communication with them to keep them informed of the status of their report and any investigation? Is it important to victims and survivors that, as much as possible, the same police investigate their report so that they can talk to the same police over time?***

Community members believed it was very important that police keep in regular contact with survivors once they have reported their abuse, including regular updates of progress in the investigation. Community members spoke of the importance of having the same police involved throughout the reporting and investigation. Community members spoke of reporting their abuse as re-traumatising and therefore having changes in police assigned to their investigation re-triggered and re-traumatised survivors. One community member suggested that when change in police personnel was unavoidable there needed to be decent hand over to avoid the amount of re-telling and therefore re-traumatising for survivors.

From VACCA's experience in supporting clients who have told their story to the Royal Commission as adults and then decided to report to the police, changes in personnel add to what is already an extremely difficult experience. The struggle clients have with hearing the police officer they were dealing with has left or been transferred to another department

and there will be a further wait for another police officer to take over is significant. This is obviously very distressing especially for someone who has little trust in authority. For one of our clients this has occurred twice.

#### **Chapter 4: Police responses and institutions**

***If you reported abuse to the institution or to a support service, would you want them to pass your report onto police? Would you want them to ask for your consent before they gave police your name and contact details? If the institution or support service was going to give police your name and contact details even if you did not consent, would you still report to the institution or support service? If you were willing to have your report of abuse passed onto police, why would you not make the report yourself directly to police?***

With new legislation introduced in Victoria last year it is a criminal offence to fail to protect a child from a risk of sexual abuse.

Victims and survivors need to be advised, informed and updated about their reports being passed on to police. The experience of one client VACCA supported to tell their story to the Royal Commission, serves as an example of what should not happen. The client was in prison at the time of telling his story, and as part of telling his story named the perpetrator of the child sexual abuse he suffered. There was no discussion with the client of the Royal Commission personnel passing these details on to police, but they did. Without warning police arrived at prison to interview him; he was not prepared and refused to be interviewed by police. This should never have occurred and was a lost opportunity because the client had stated to VACCA staff that he was prepared to speak to police if he could have his VACCA worker present to support him through the process. No individual or institution should pass on reports of abuse to police without keeping the victim informed and supported.

#### **Chapter 5: Child sexual abuse offences**

***Should the offence of persistent child sexual abuse be reformed to recognise that victims and survivors who were abused repeatedly and extensively over a period of time may not be able to identify individual occasions of abuse?***

Community members believed that this was important and reported that survivors may never remember some of the details of their abuse. One community member reflected how a child can block out abuse for years and years.

***Should any remaining limitation periods that prevent charges being brought for child sexual abuse offences be removed?***



Yes, any limitation period for sexual abuse should be removed. Not only should limitation periods be removed for criminal charges but also for civil litigation.

## **Chapter 6: Third party offences**

***Should there be offences for failing to report child sexual abuse? Should there be offences where senior people in an institution fail to intervene to protect a child from sexual abuse? Should there be offences where the institution itself (rather than its management or other staff) are prosecuted for failing to protect children from sexual abuse?***

Community members stated it should be an offence in each of these three instances; failing to report child sexual abuse, senior people in an institution failing to intervene to protect a child from sexual abuse and where the institution itself fails to protect children from sexual abuse.

The feedback from community members highlighted the need for individuals and institutions to be held accountable and put this in the context of the lifelong impacts of institutional child sexual abuse for victims and survivors and their families and communities. One community member spoke of being destroyed by the abuse she suffered at the group home and the subsequent lies that staff told. One community member speaking of her experience of being forcibly removed from her parents, placed in a group home and continually physically, sexually, emotionally and culturally abused described the hatred she had for the government who were never held accountable:

*What right had the government to take me. I can't stand them. They ruined my mum's life and my dad's life and they ruined my life. I cried for my sisters and I cried for myself. They taught us to hate. They taught us to survive. And this is what we still have.*

Not only did she speak of these lifelong impacts but also the intergenerational impacts of her abuse experience and the detrimental harms this had on her own children.

This account, like so many other Stolen Generations experiences, reminds us of the importance of individuals and institutions being accountable for abuse suffered while children are in their care. This is vital both for justice for victims and survivors and to reduce the likelihood that current and future children suffer institutional child sexual abuse.

## **Chapter 7: Issues in prosecution responses**

***Should all prosecution staff who may come into contact with victims or survivors be trained to have a basic understanding of complex trauma?***

All prosecution staff must receive training in (1) complex trauma and intergenerational trauma and (2) cultural knowledge and understanding in engaging and working with Aboriginal communities.

***Is it important to victims and survivors that, as much as possible, the same prosecution staff stay involved in the prosecution so that they can deal with the same people over time?***

It is important to have the same prosecution staff involved throughout the prosecution to acknowledge the distress and re-traumatising that can occur when survivors are required to retell their stories. It is also important so that victims and survivors do not have to engage with changing prosecution staff.

***Are witness assistance services important in keeping victims and families informed and putting them in contact with support services? Should there be more specialist services, including for Aboriginal and Torres Strait Islander victims and survivors, and for victims who are still children?***

Yes, victim support services should employ Aboriginal staff so that Aboriginal victims and survivors have access to culturally-safe support.

***Should there be a right to complain or seek a review of the prosecutor's decision to discontinue a prosecution or to withdraw charges? What about for accepting a guilty plea to lesser charges?***

Yes, victims should have a right to complain or seek a review of the prosecutor's decision to discontinue a prosecution, to withdraw charges or accept a guilty plea to lesser charges and they should be supported in this process. Victims and survivors also need to be informed when this occurs. From the work supporting clients to tell their story to the Royal Commission, VACCA has examples where clients only found out in the court room that the defendant was charged with a lesser crime than what they reported.

## **Chapter 9: Evidence of victims and survivors**

***Would it help victims and survivors to give evidence if their evidence could be prerecorded earlier, even before the trial starts, so that they do not have to attend the trial? Would this help survivors who are adults at the time of the trial?***

Community members reported that it would help victims and survivors if their evidence could be prerecorded and they believed this was particularly relevant for children giving evidence.

***Should there be intermediaries available, particularly for children and people with a disability that affects communication, to help communication between the victim or survivor (on the one hand) and the court and lawyers (on the other hand)?***

Community members thought the use of intermediaries to help communication between survivors and the court and lawyers would be helpful.

***Would it help to set 'ground rules' for how a victim or survivor should be questioned before they are cross-examined to try to ensure that questions are asked in a way that is not confusing, so that they can give their best evidence?***

Community members thought ground rules for questioning victims and survivors was incredibly important.

#### **Chapter 10: Tendency and coincidence evidence and joint trials**

***Should it be easier to have joint trials so that all allegations against a particular accused can be heard and determined in the one trial?***

Community members agreed that it should be easier to have joint trials. Joint trials strengthen the case and not having joint trials takes away corroboration. In many examples police would not charge perpetrators without the corroborating evidence they have from multiple victims and it is therefore unrealistic to expect a prosecution to be successful without a joint trial. Victims' best interests are not being met if joint trials are not held.

#### **Chapter 12: Sentencing**

***Should convicted offenders be prevented from raising their 'good character' to seek a reduced sentence if their good character helped them to commit the offences? For example, their reputation might have helped them to keep their job working with children, or might have helped parents to trust them to look after their children.***

Community members raised their concerns that convicted offenders in the context of institutional child sexual abuse are in a position of power and should not be able to raise 'good character' to seek a reduction in sentence. VACCA believes offenders should always be prevented from raising 'good character' regardless of whether their 'good character' helped them commit the offences.

***Should convicted offenders be sentenced according to sentencing standards at the time they are sentenced, rather than the standards that applied at the time they committed the offence?***

Community members believed there needed to be tougher sentences applied to convicted offenders of child sexual abuse.

Convicted offenders should be sentenced according to sentencing standards at the time they are sentenced, with the rationale that this best reflects current community expectations.

### **Chapter 13: Appeals**

#### ***Should a victim or survivor's evidence in a trial be recorded so that they do not have to give evidence again if there needs to be a retrial?***

Community members reported that it would help victims and survivors if their evidence could be prerecorded and they believed this was particularly relevant for children giving evidence. As already reported, community members spoke of the re-traumatising effect of re-telling their story, therefore any methods or processes that can reduce the amount of re-telling for survivors should be implemented.

#### **General**

#### ***Are there other improvements you would like to see in the criminal justice response to institutional child sexual abuse – including police, prosecutions and trials?***

The message community members were most vocal about wanting the Commission to hear was in relation to police interactions with victims and survivors. They wanted police to be more genuine in their interactions with the child reporting abuse and they wanted the police to “have more heart and show kindness” and most importantly they wanted police to believe the child.

VACCA has a comprehensive understanding of the range of barriers to children reporting sexual abuse. As we have outlined in past submissions, the voice of the Aboriginal child in care is rarely sought out or heard, particularly by non-Aboriginal service providers. Shame is an enormous issue for Aboriginal children and young people and the continued impacts of colonisation and intergenerational trauma, the legacy of the Stolen Generations, has resulted in speaking about sexual abuse as taboo subjects where a person fears they will not be believed or worse will be blamed for the abuse. This highlights the inextricable link between cultural abuse and sexual abuse for Aboriginal children. It also highlights the need for a trauma-informed and culturally-sensitive police and justice system and for the need to work with Aboriginal organisations to encourage victims to report abuse and ensure they are supported when they do report abuse.

# **APPENDIX A**

**VACCA SUBMISSION IN RESPONSE TO THE ROYAL  
COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD  
SEXUAL ABUSE CONCERNING ISSUES PAPER 8 ON  
EXPERIENCES OF POLICE AND PROSECUTION RESPONSES**



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# VACCA SUBMISSION IN RESPONSE TO THE ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE CONCERNING ISSUES PAPER 8 ON

*EXPERIENCES OF POLICE AND PROSECUTION RESPONSES*

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## **Executive Summary**

VACCA is the lead Aboriginal child and family welfare organisation in Victoria, protecting and promoting the rights of Aboriginal children, young people, families and the community. We provide programs and services to strengthen Aboriginal culture and encourage best parenting practices, and advise government in relation to child abuse and neglect in the Aboriginal community.

VACCA welcomes this opportunity to provide input to the Royal Commission into Institutional Responses to Child Abuse concerning the Experiences of Police and Prosecution Responses Issues paper. Our perspective is particularly reflective of our Link-Up program service experience and our knowledge of the difficulties many Aboriginal people face in trusting authorities enough to make a report and be taken seriously for their claims, particularly when it involves a non Aboriginal perpetrator. The fear of authority and reporting to police has been a significant barrier to many of our clients reporting the abuses they suffered and often, those who did report to police, tell of not being believed and being returned by police to the very institutions they were assaulted in. Obviously this response was in itself re-traumatising and has deterred those client from ever having faith in the system that failed so badly in protecting them as children.

In this submission VACCA has interviewed and recorded the experiences of two clients, both of whom have agreed to their details being identified to the Royal Commission and if helpful to being further contacted by the Royal Commission. We have also included anecdotal examples from clients who have told our support workers about their experiences but have not elected to be interviewed specifically for this submission.

VACCA has also responded to the two questions for professionals which we trust will provide the Royal Commission with some helpful direction into changes needed in both the

police and prosecutions systems to ensure Aboriginal victim/survivors, particularly children, are afforded a culturally safe and responsive response.

**Client One:**

**1. What was your experience of reporting to police, police investigations and responses to reports in relation to allegations of child sexual abuse in an institutional context?**

I first reported the sexual abuse to the Greensborough police in Victoria on the 26<sup>th</sup> of March 1994. The case was not pursued by VIC police until 10<sup>th</sup> October 1995 – taking the VIC police over 18 months to produce a brief of evidence and proceed with charges. I felt as though it was a big let down and at no time did I feel safe or comfortable sharing my story and reporting the abuse. The offender, XXX and his family maintained strong relationships with the police and other important local figures such as doctors and lawyers and were respected around town. The police involved were known to the family and there were a number of changes in the investigating officers due to many of them being friends of XXX and XXX – with who they socialised with on a regular basis.

**2. What aspects of reporting to police, police investigations and responses to reports worked well? What aspects of reporting to police, police investigations and responses to reports did not work well?**

As mentioned above, reporting to police was a negative and very disappointing experience. I did not feel as though the matter was taken seriously due to the police involved and their ongoing connection with the family. I didn't feel that the police acted professionally nor in my best interests as a survivor of abuse. The police treated us as if we did something wrong and that XXX was the victim.

The police also refused to investigate the report of physical abuse I made against XXX (my foster mother who would later become my adoptive mother). Overall the process with police felt like a cover up and one that protected the family from prosecution.



3. Do you have any suggestions for improvements or reforms to police processes for receiving reports of allegations, and investigating and responding to reports?

Reporting abuse is hard. Talking about the explicit details of what happened with strangers and the authorities can make you feel embarrassed – it can be sickening. I wonder if there is another way that survivors can tell their story without it being such an intimidating process. Sometimes we don't get the support we need and this can lead to feeling alone, self-harm and substance abuse, all of which not only affects the individual but also our family and community. Reporting the abuse often stirs up old feelings and re-traumatizes a person and also continues to affect those around them, this is what happened with my sisters and me. After reporting the abuse, one of my sisters found it hard to cope and turned to drugs and another attempted suicide. Everyone looked to me to lead because I was the oldest. I think it's vital that members of the Aboriginal community have access to culturally appropriate support services, according to their preference, before, during and after reporting to the police. No one should have to go through it alone. In light of my experience with the police I believe their needs to be stronger consequences for those who don't adhere to professional codes of conduct. My report and case against the XXX suffered due to the police having a relationship with the family and I believe information was shared to protect XXX from prosecution. I believe those responsible for sharing confidential information on a case should be held accountable.

4. What was your experience of prosecution processes (including preparation for court, the trial and any sentencing or appeal processes) in relation to charges relating to child sexual abuse in an institutional context? *Please include details of the year(s) and location(s) of your experience.*

Once the VIC police had produced a brief of evidence the case proceeded to a committal hearing on 20<sup>th</sup> March, 1997. I was represented by Williams Winter and Higgs who were good leading up to the trial however due to the lack of evidence in the form of documented records they said that the case wasn't strong enough. The lawyers advised that if we did choose to continue with the case that it would cost too much and he (XXX) would most likely walk away with a bond. I felt as though the police and prosecutions were more concerned about the costs involved rather than real justice.

Baker and McKenzie Law firm in Melbourne picked up the case later on and have just recently informed me that they will be closing the case also due to a lack of evidence. I was repeatedly told that there was a lack of evidence due to records not being kept properly, records not kept at all. I was also told the case was weak because there were no witnesses, even though I had reported witnessing the abuse against my sisters. My sisters and I felt judged by the police and prosecutions.

When XXX and his legal team cross-examined us they made my sisters and I feel guilty and called us liars. They (XXX legal team) kept saying 'if this is true then why didn't you report it earlier?' I had never reported the abuse before speaking to the Greensborough police because I didn't think anyone would believe Aboriginal kids over a white family, especially a family such as the XXX who had strong connections around town. The XXX were seen by their community as good 'Christian people helping poor Aboriginal children' and who were important to the Church's work.

**5. Did you have any involvement with a witness support service? If you did, what was your experience of it?**

No. Apart from each other and our cousin, my sisters and I had no support throughout the process of making a report and during the prosecutions process.

**6. What aspects of prosecution processes worked well? What aspects of prosecution processes did not work well?**

The prosecutions experience was horrific and just made me feel worse. Retelling my story was traumatic and only stirred up old hurtful feelings and the stress had a negative impact on my health - I was in and out of hospital the whole time. We weren't prepared at all and the only support I had was my cousin.

I don't think there would have been many Aboriginal people coming forward in those days, because they knew that nothing would come from it. I wouldn't recommend for anyone to go through what we did with reporting the abuse and the prosecution.

XXX claimed he was away in NSW working on his uncle's farm at the time of the abuse and therefore was asked to produce income statements for this period as an alibi. XXX and his

defence counsel failed to produce the statements, or any sufficient evidence, however nothing was ever done about it. The Uncle that XXX claimed to be working for was Mrs XXX's brother and I believe he would have been covering up to protect his sister and her family. The prosecution refused to call Mrs XXX to the stand to be cross-examined on what she had said in her statement. They said that it was because of her age and that her health was too frail – I don't think this was the case and believe she should have been called to be cross-examined. Mrs XXX denied everything and questioned why we would want to do this to 'our' family. It was beyond me how anyone at the time could think that the four of us (my sisters and I) were lying – how could you not believe the four of us?

**7. Do you have any suggestions for improvements or reforms to prosecution processes?**

I think it would be a good idea to see what other groups in states around the country are doing to support those reporting abuse and learn from the services that are doing it successfully. I also believe that people wishing to take their case to court should be provided with ongoing support before, during and after their case is heard.

Survivors should have complete access to our files. Too often our files are damaged or they block out information that is important to us and our stories – especially when we are fighting for justice and need documented evidence to support our case in court.

**Client Two:**

**1. What was your experience of reporting to police, police investigations and responses to reports in relation to allegations of child sexual abuse in an institutional context?**

I first reported being sexually abused on 1-1-2001 at Christie's Beach Police Station in South Australia. This was a very good experience, the officer was very responsive and I have no complaints about how he treated me, in fact I think he went above and beyond what he needed to do. He advised that the report would be sent to Victoria as that was where the crime had occurred and they would investigate the report and I would be contacted by Victoria Police. **That never happened.**

Three months later I recontacted the officer at Christie's Beach as I had heard nothing from Victoria Police. He advised that he would follow this up – I still heard nothing. As I understand it, he had to resend my original report to Victoria – but still there was no word.

I continued trying to find out what was happening with my case through contact with Christies Beach Police but nothing was being communicated. Eventually Christie's Beach police advised me to give up my house and go to Victoria to make another report. I have been homeless since doing this in 2007.

I returned to Victoria in 2007 and on the 18 March 2008 made a second report to the Melbourne West Sexual Offenses and Child Abuse Unit. This statement was made to Matt Rowden and I found him to be caring and respectful. I have no complaints about the reporting processes with either Victoria Police or South Australia Police.

However it is now 2015 and I have still not been formally advised of the outcome of any investigation or provided with any formal advice about the status of my original report.

**2. What aspects of reporting to police, police investigations and responses to reports worked well? What aspects of reporting to police, police investigations and responses to reports did not work well?**

What worked well was reporting my experiences to both South Australia and Victoria Police. Both officers were responsive and caring and I was very happy with how they took the report.

The investigation and communication following reporting to Police in both states was problematic. There was and still has been no formal communication with me about the investigation and the final outcomes. I have heard (not directly from police) that Victoria Police did investigate but due to the lack of corroborating evidence there was insufficient evidence to lay charges. What really upsets me about that is that the adult who was present on the night the abuse occurred and who could have corroborated my statement, passed away in 2007, so had my original report been properly investigated police may have been in a position to lay charges.

Also there has been no written communication with me about the outcome of the investigation or the status of my complaint. I have received no communication about how the original report made in January 2001 in South Australia was "lost" and have felt very let

down that my case keeps falling through the cracks and the authorities will not taken any responsibility for this.

3. Do you have any suggestions for improvements or reforms to police processes for receiving reports of allegations, and investigating and responding to reports?

My suggestion for improvements is that child sexual abuse disclosures are serious and need thorough and timely investigations. It is critical to keep those making the report up to date with the investigation progress and outcome and formally (in writing) advise them of the outcome of the investigation including why – where there are not going to be any charges laid. This is a critical part of our healing. Reporting and knowing that the system is doing its best to get justice for us is one of the mechanisms that begin the healing process. We can't heal without this beginning and I feel that my healing cannot begin until I have a formal understanding of where and why my original report did not get actioned in Victoria.

4. What was your experience of prosecution processes (including preparation for court, the trial and any sentencing or appeal processes) in relation to charges relating to child sexual abuse in an institutional context? *Please include details of the year(s) and location(s) of your experience*

N/A However from my perspective this is a failure of the system for not laying charges against XXX, a non Aboriginal man within the Aboriginal community through his partner with a lot of access to Aboriginal children.

5. Did you have any involvement with a witness support service? If you did, what was your experience of it?

N/A

6. What aspects of prosecution processes worked well? What aspects of prosecution processes did not work well?

N/A

7. Do you have any suggestions for improvements or reforms to prosecution processes?

N/A

The Royal Commission is particularly interested to hear from those people who have experience in a professional capacity of police and prosecution responses in relation to allegations of child sexual abuse in an institutional context as to the following:

8. What are your observations of, and suggestions for improvements or reforms to, police processes for receiving reports of allegations, and investigating and responding to reports in relation to allegations of child sexual abuse in an institutional context?

The two examples above are both examples of clients who have only come forward to tell their stories as adults. Clients who tried to tell police while they were children report some very concerning responses by police to very serious allegations. To date very few of our clients tried to report their abuse while children, most feeling that as Aboriginal children abused by “white” adults – who would believe them? Stories of children running away from the homes they were being sexually abused in, being picked up by police, telling the police why they had “absconded” led to being called liars and returned to the place where they were being abused often with a good ‘clip around the ears” and then severe physical punished by the institution are common amongst those few who actually tried to tell.

Today there is still a serious lack of trust in authority and police in particular due to the intergenerational experiences of Aboriginal people, where even today there are incidences of serious rough handling and assault by those who are involved with general duties police. The SOCIT policing squads established to sensitively and appropriately deal with sexual and other child abuse issues are still challenged to engage with Aboriginal children and young people due to the almost innate mistrust the Aboriginal community have in police. There is a need for partnerships between Aboriginal services and police to ensure the child or young person feels culturally safe.

Currently VACCA's experience is that we are often excluded from being part of this process, not necessarily by police but by DHHS who are concerned about contaminating the forensic process. VACCA and Vic Police are currently in discussions to ensure that Aboriginal children who have been sexually abused are culturally supported to report and that Victoria Police have a better understanding of the barriers in interviewing Aboriginal children.

Our experience in supporting clients who have told their story to the Royal Commission as adults and then decide to report to the police has been generally positive. Police members of the SANO taskforce, established to specifically receive and investigate these reports has members who are flexible in where they will meet survivors, for example willing to attend the Link-Up Victoria Office and allow the client to have their support worker in attendance throughout the interview. A major difficulty which not only impacts this workforce, are the change in personnel and the difficulty clients have with hearing the police member they were dealing with has left or been transferred to another department and there will be a further wait for another investigator to take over. This is obviously very difficult for someone who has little trust and faith in authority and in one instance has occurred twice to one of our clients.

**9. What are your observations of, and suggestions for improvements or reforms to, prosecution processes in relation to charges relating to child sexual abuse in an institutional context?**

Our service has had little experience in the prosecution process with clients, however as Lynnette Austin's case demonstrates, there is a need for significant support and counselling to be provided to those going through this process. The lack of support and debriefing and contextualising the process for survivors will lead to them reliving the experience, being re-traumatised and then if the case is unsuccessful being left with a sense of not being believed and while we understand this is likely to be the experience for all survivors when this is the outcome, there is another layer for Aboriginal survivors, stemming from intergenerational abuse and trauma and the continuing impacts of colonisation and "white privilege".

Clearly the system needs to be improved so that we do not have examples such as Lynette Austin where she would not recommend for anyone to go through the reporting of abuse and the subsequent prosecution process. For as long as this is the case we are failing those most in need of protection and support; those that we have failed to protect in childhood.