

ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES  
TO CHILD SEXUAL ABUSE

AT SYDNEY

**CASE STUDY 45  
PUBLIC INQUIRY INTO  
CHILDREN WITH PROBLEMATIC OR HARMFUL SEXUAL BEHAVIOURS IN  
SCHOOLS**

**FURTHER SUBMISSIONS IN RESPONSE ON BEHALF OF EAA**

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**INTRODUCTION**

1. EAA has read and considered the submissions in Reply on behalf of Trinity Grammar School and George Milton Cujes, Peter Green, and Kate Lumsdaine, and wishes to make the following response specifically to the former.

**SUBMISSIONS**

2. EAA maintains his submission in support of Counsel Assisting's submissions that each of proposed findings AF1-AF8 are available on the evidence available to the Commission.

**AF3**

3. EAA refers to and repeats his submissions that the incident reports compiled in the immediate aftermath of the CLB boot polish incident are sufficiently explicit for this Commission to conclude that Mr Green's report to Mr Cujes on 11 August 2000 adverted to simulated rape or that a dildo had been shoved up boys' bottoms on multiple occasions. CLB's incident report was central to the decision that Mr Cujes made to suspend those involved. Mr Green's police statement clearly documents his observation that, *"The Headmaster had a quick read of the incident reports and we discussed the situation including possible punishment to the boys who were involved in the incident involving REDACTED and CLB."*<sup>1</sup> Though Mr Green's answer whether he observed Mr Cujes read CLB's incident report was ambiguous (as noted by The School and Mr Cujes at [13]), it is not open to conclude in consequence that that Counsel Assisting had no basis for asserting that Mr Cujes had in fact read CLB's statement. The clear inference is that Mr Cujes read CLB's incident report, which was central to his decision to discipline, during this meeting, for the reasons identified by Counsel Assisting.

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<sup>1</sup> Exhibit 45-002, Case Study 45, TRIN.0006.001.0203\_R (Tab 52), [19].

4. Indeed, Mr Green gave sworn evidence that he and Mr Cujes discussed CLB's allegation that there had been simulated rape or that a dildo had been shoved up boys' bottoms on multiple occasions.<sup>2</sup> This is a powerful admission, and Mr Green has no plausible motive to be less than truthful in making this statement which is adverse to his interests in this case. It is plainly open to this Commission to conclude that this evidence is accurate, and it can safely be preferred to Mr Cujes' denial that this is an accurate reflection of the conversation.

#### **AF4**

5. The School and Mr Cujes' argument with respect to AF4 relies firstly on their submission that there is no safe basis upon which to conclude that the incident report of CLB was read by Mr Cujes on 11 August 2000 – this has been considered in EAA's response to AF3.

#### **AF4, AF6 and AF7**

6. The second strand of The School and Mr Cujes' responses to AF4 rests upon Mr Cujes' explanation that his expectation and his perception of what was to occur was for the matter to be further pursued by his senior staff and for his Senior Psychologist, Kate Pearce née Lumsdaine, to continue to support the boys and investigate the events. In relation to this strand, and also The School and Mr Cujes' responses to AF6 and AF7, EAA maintains his submission that Ms Lumsdaine conducted her inquiries on her own initiative, and not at the request or under the direction of The School or Mr Cujes. It is inappropriate for The School or Mr Cujes now to claim that that was part of the institutional response.

#### **AF8**

7. The School and Mr Cujes' second argument with respect to AF8 relies on their submission that there is no safe basis upon which to conclude that Mr Cujes was aware of the allegations made by CLB from 11 August – this has been considered in EAA's response to AF3.

#### **Trinity Grammar School's behavior after 7 September 2000**

8. EAA notes the reliance by the School and Mr Cujes on its behaviour after 7 September 2000 in mitigation of perceived inadequacies prior to that date, at paragraph [44] and following. EAA is not comforted by the School's behaviour, including its response to his son's sexual abuse. EAA expressed his concerns about the response by the school during his evidence:

*The School leadership was all about protecting the image of the school, rather than taking responsibility for what happened and using it as an opportunity to*

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<sup>2</sup> Transcript of P Green, Case Study 45, 21 October 2016, 21769:22-39

*review their policies and reporting procedures. I don't believe that they knew how to respond appropriately to this type of serious offence.*<sup>3</sup>

9. One of the particulars that the School relies upon in paragraph [44][c][i] is the assertion that the Head Master ensured that both the boys who had been subjected to the harmful behaviour and the boys whose behaviour had been harmful were provided with pastoral support. EAA repeats his earlier submission that, in his opinion, the pastoral care available to his son was utterly inadequate. Indeed, CLA's evidence was that he was not offered any support when he returned to the boarding house at Trinity after the assaults were made public. He was left unsupervised to fend for himself and *'this resulted in a number of senior boarders seeking retribution.'*<sup>4</sup> CLA was bullied and he removed himself from Trinity a few days later.
  
10. In EAA's submission, any steps taken by the School and Mr Cujes after 7 September 2000 can do little to offset the institutional failings identified by the evidence in this case and reflected in the Available Findings. Those steps are of no comfort to him.

Dr Martine Marich  
Counsel for EAA  
6 February 2017

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<sup>3</sup> Transcript of EAA, Case Study 45, 20 October 2016, T21685: 33-38.

<sup>4</sup> Exhibit 45-064, 'Statement of CLA', Case Study 45, STAT.1234.001.0001\_R at [24].