

ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES  
TO CHILD SEXUAL ABUSE

AT SYDNEY

PUBLIC INQUIRY INTO

THE RESPONSE OF TRINITY GRAMMAR SCHOOL TO ALLEGATIONS OF CHILD  
SEXUAL ABUSE

(CASE STUDY 45)

SUBMISSIONS IN REPLY ON BEHALF OF MR ROBERT SCOTT

INTRODUCTION

1. These submissions are made on behalf of Mr Robert Scott and address the findings proposed by Counsel Assisting and the submissions submitted on behalf of Ms Lumsdaine, Mr Green and Trinity Grammar.
2. Those participating in these proceedings have the advantage of hindsight and information that was not available to Mr Scott when he made decisions or responded to events in real time. The benefit of hindsight is easily articulated but, in practice, the considerable advantages of hindsight are hard to ignore.
3. It is submitted that those participating in the proceedings must be vigilant about the prejudice hindsight can impose in retrospective assessments of past actions. This is particularly so in relation to findings that involve serious criticisms of past actions which are likely to have

serious consequences and be distressing to persons called before the Commission.

#### Response to Available Finding 2

4. Counsel Assisting submits the following finding is available:

*As at 11 August 2000, the boarding master at Trinity, Mr Scott, knew of allegations by CLB that other boys in the boarding house attempted to sexually assault him that day, and that CLB had alleged that other boys in the boarding house had sexually assaulted boys and used wooden dildos on boys in the boarding house on multiple occasions before 11 August 2000*

5. Mr Scott notes the evidence summarised at paragraphs 54 – 56 of the CA Submissions and makes no submission with respect to the proposed finding.

#### Response to Available Finding 5

6. Counsel Assisting submits the following finding is available:

*Mr Green and Mr Scott did not inform CLB's grandfather about his allegations that he had been sexually assaulted, and they should have done so.*

7. Whilst Mr Scott has limited recollection of the meeting with CLB's grandfather, he accepts that he was present with Ms Lumsdaine and Mr Green. He accepted in evidence that the school had a positive obligation to inform CLB's grandfather of what had occurred to CLB. He accepted, that he bore some responsibility as he was present. He said, 'there were three there

and I suppose the responsibility is shared three ways, but there was a responsibility to make him aware of it, yes'.<sup>1</sup>

8. Given that evidence it is submitted that the finding could be expressed in the following way:

*The School did not inform CLB's grandfather about his allegations that he had been sexually assaulted, and they should have done so.*

9. Mr Scott submits that any suggestions that the failure to disclose the information to CLB is evidence of an 'attitude of concealment' ought to be rejected. There is no evidence to support suggest a suggestion.

#### Response to Available Finding 6

10. Counsel Assisting submits the following finding is available:

*Despite having knowledge of CLB's allegations on 11 August 2000, Mr Scott did not conduct a proper investigation into those allegations or make any notification to the Department of Family and Community Services*

11. Mr Scott accepts this finding is available but submits that regard must be had to what was precisely known to him at the relevant time. Any criticism of his actions should only be made without the benefit hindsight.

12. Mr Scott gave evidence that his primary concern was for CLBs welfare rather than any need for investigation.<sup>2</sup> He immediately informed his superior Mr Green of what he knew of the incident and ensured that the

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<sup>1</sup> Transcript 21820.19-21

<sup>2</sup> Transcript 21801.18-23

school procedure was followed by taking the boys to Mr Green's office for incident reports to be filled out.<sup>3</sup>

13. He gave unchallenged evidence that he believed the protocol for reporting incidents at the time was that it was for the counselling team to make a judgement about whether the matter should be reported.<sup>4</sup> He accepted that it was the responsibility of the school to investigate the matter<sup>5</sup> and gave evidence of the steps he took to investigate the matter, including speaking to the boys and conducting a search for the 'weapon'. He gave evidence that he believed that he had reported matter to the appropriate staff in the school and that they would ultimately decide how the school would best handle the matter<sup>6</sup>.

Louise Jardim

Counsel for Mr Robert Scott.

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<sup>3</sup> Transcript 21801.42-46

<sup>4</sup> Transcript 21806. 12-18

<sup>5</sup> Transcript 21806. 24-28

<sup>6</sup> Transcript 21812. 28 – 21814