



**ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES
TO CHILD SEXUAL ABUSE
AT SYDNEY**

COMMONWEALTH OF AUSTRALIA
Royal Commissions Act 1902

NEW SOUTH WALES
Royal Commissions Act 1923

QUEENSLAND
Commissions of Inquiry Act 1950

CASE STUDY 29

OPENING SUBMISSIONS BY SENIOR COUNSEL ASSISTING

INTRODUCTION

1. This is the 29th public hearing of the Royal Commission. This case study concerns the response of the church of the Jehovah's Witnesses (the **Jehovah's Witness Church**) and its corporation, the Watchtower Bible and Tract Society of Australia (**Watchtower Australia**), to reports of child sexual abuse within the Jehovah's Witness Church in Australia.
2. This case study will explore the experiences of two survivors of child sexual abuse and the Jehovah's Witness Church's response to their complaints of sexual abuse whilst they were members of the Jehovah's Witness Church.
3. The case study will also involve an examination of the systems, policies and procedures in place within the Jehovah's Witness Church and Watchtower Australia for responding to allegations of child sexual abuse, and the mechanisms in place to prevent child sexual abuse within the Jehovah's Witness Church.
4. As will be seen, the Jehovah's Witness Church is a tightly controlled, rule bound organisation that seeks to keep its members in relative isolation from the rest of society. It has rules drawn from its own version of the Bible for, amongst other things, personal presentation, the avoidance of involvement in extra-curricular activities at school,

maintenance of a constant awareness of the dangers of “bad associations” in the “secular world”, who is in the Church and who is out of the Church, and for family and home life. For example, Church doctrine places the father as head of the family with authority over his wife and children; the wife’s role is that of helper or complement. The Church teaches its members to be in subjection to it in all aspects of life.

5. The Jehovah’s Witness Church is preoccupied with sin and sinning. If a congregation member becomes aware that another member has committed a serious sin, such as “fornication, adultery, homosexuality, blasphemy, apostasy, idolatry, and similar gross sins”, he or she is obliged to report that to the congregation Elders. In the case of lesser sins as between members, the Church prescribes the steps that must be taken to reach a resolution. The more serious sins must be investigated by the Elders who must pass judgement on the accused and his or her degree of repentance for the sin. It is a system in which a group of men who are appointed from above, not by the congregation, stand in judgement over their fellow men, women and children on every aspect of their lives.
6. The result of this active involvement of the Church in every aspect of the lives of congregation members is that there is no meaningful distinction between family and Church; the family is part of the Church and what happens in the family is governed by the Church.
7. During the investigation of this case study, Watchtower Australia produced some 5,000 documents pursuant to summonses issued by the Royal Commission on 4 and 28 February 2015. Those documents include 1,006 case files relating to allegations of child sexual abuse made against members of the Jehovah’s Witness Church in Australia since 1950 – each file for a different alleged perpetrator of child sexual abuse. Royal Commission officers have analysed the case files and have recorded the outcomes of their analysis. The results of the analysis together with the experiences described by two survivor witnesses illustrate the practical application and effect of the Church’s policies and directives in relation to handling of complaints and managing the risk of child sexual abuse. I will say more about the results of the case file analysis later.
8. The facts that are identified in these submissions are drawn from witness statements and documents that will be tendered or from testimony that is expected to be given during the public hearing. It is not anticipated that these facts will be particularly in contest. They are set out here as a guide to the evidence that will be led.

BACKGROUND TO THE JEHOVAH’S WITNESS INSTITUTION

Historical overview of the Jehovah’s Witness Church

9. The Jehovah’s Witness Church was founded towards the end of the 19th century in Pennsylvania by a small group of bible students led by Charles Taze Russell. Russell had

become disillusioned with mainstream Christianity, which he argued had strayed from the first century vision of Christianity described in the Bible. Between 1870 and 1879, Russell distributed his group's first century interpretation of the Bible through a periodical that is now called *The Watchtower – Announcing Jehovah's Kingdom*. In 1884, the Zion's Watch Tower Tract Society was incorporated and carried on the business of publishing and disseminating millenarian literature – that is, literature based on the belief that the end of the world is imminent.

10. Today, the religion has a worldwide presence of 8.2 million active members in 239 countries. Over the last 25 years, the active membership of Jehovah's Witnesses worldwide has increased from 4 million members in 1990.
11. The Jehovah's Witness Church has been active in Australia since 1896, with a Branch Office first established in 1904 (**Australia Branch Office**). The Australia Branch Office is based in Sydney and coordinates the activities of all congregations in Australia, New Zealand and some other islands.

Organisational structure

12. The primary legal entity used by the Jehovah's Witness Church today is the Watch Tower Bible and Tract Society of Pennsylvania (**Watchtower Pennsylvania**). The headquarters of Watchtower Pennsylvania is in Brooklyn, New York and is also known as "Bethel" meaning "House of God".
13. The activity of Jehovah's Witnesses worldwide is overseen by the Governing Body. The Governing Body is a council of eight men based at the headquarters in Brooklyn. It is at the apex of a highly centralised and hierarchical structure.
14. The Jehovah's Witnesses believe that the teachings promulgated by the Governing Body are based on God's Word, and not devised by men. Teachings take the form of the *Awake!* and *Watchtower* magazines, letters containing directives to branch officers and Elders, handbooks, and other publications.
15. The Governing Body supervises more than 90 branches worldwide. A Branch Office is the headquarters for the Jehovah's Witness Church in a particular country or region and is also referred to as "Bethel".
16. Each Branch Office is supervised by a Branch Committee which oversees districts within the branch. The Australia Branch Office is represented around Australia by Circuit Overseers, who have pastoral responsibility for about 20 congregations (that is, a circuit). A circuit overseer travels weekly to different congregations in his circuit and is responsible for, among other things, ensuring that each congregation is complying with

all theocratic direction given by the Governing Body. By theocratic I mean a form of government in which God is recognised as the supreme civil ruler.

17. Congregations form the basic organisational unit of the Jehovah's Witness Church. Each congregation is overseen by a body of Elders. Each congregation in Australia is, in the legal sense, a voluntary association and is registered separately as a charity.

The Jehovah's Witness Church in Australia

18. There are currently 817 congregations in Australia with over 68,000 active members. Over the past 25 years, the active membership of the Church in Australia has grown 29% from approximately 53,000 members in 1990. In the same period Australia's population growth has been 38%.
19. The Australia Branch Office relevantly comprises the following structures:
 - a. the Branch Committee, an ecclesiastical body of Elders, oversees and manages the operation of the Australia Branch Office;
 - b. the Legal Department; and
 - c. the Service Department, which cares for all aspects of the spiritual activities of the Jehovah's Witness Church.
20. The function of each of the above structures is relevant to the Royal Commission's examination of the Jehovah's Witness Church's response to child sexual abuse in its ranks. The Royal Commission will hear evidence from three institutional witnesses who serve in each of these structures.
21. Terrence O'Brien is the Coordinator of the Australia Branch and a director and Secretary of the Watchtower Bible and Tract Society of Australia. He has actively served with the Jehovah's Witness Church for 40 years. Mr O'Brien will give evidence regarding the history and organisational structure of the Jehovah's Witness Church, and he will provide an administrative perspective on the organisation's approach to the prevention and handling of child sexual abuse within Australia.
22. Rodney Spinks is the senior Service Desk Elder who has served in the Service Department since January 2007. He is specifically responsible for inquiries related to child sexual abuse and for assisting congregation Elders to implement the Australia Branch Office's guidelines for handling child abuse allegations and providing victim support. Mr Spinks will give evidence about the role of the Service Department in processes that relate to handling complaints of child sexual abuse in the Jehovah's Witness Church within Australia.

23. Vincent Toole is a solicitor who has, since 2010, overseen the operation of the Legal Department within the Church's Australia Branch Office. Mr Toole will give evidence regarding the role of the Legal Department in responding to allegations, and managing the risk, of child sexual abuse within the Jehovah's Witness Church in Australia.

Watchtower Bible and Tract Society of Australia

24. The Watchtower Bible and Tract Society of Australia (**Watchtower Australia**) is the legal entity which facilitates the production and distribution of Bible-based literature for the Church throughout Australasia. Watchtower Australia is a public company limited by guarantee and a registered charity.

Congregational membership

25. Within each congregation, the members comprise Elders, ministerial servants and publishers. A male publisher can make spiritual advancement by becoming a ministerial servant and then an Elder.
26. Congregational responsibilities are split between Elders and ministerial servants. Elders and ministerial servants are volunteer roles taken up by those men who have been actively involved in the congregation for a period of time. The Royal Commission will hear that the Jehovah's Witness Church does not have a salaried clergy and therefore considers that it has no employees. Appointments are based on scriptural qualifications and there is prescriptive guidance as to how a ministerial servant and an Elder should serve, act and behave at all times.
27. Each congregation is overseen by a body of Elders. Elders are appointed to shepherd the congregation and oversee spiritual matters. Their primary responsibilities include organising field work (or door-to-door preaching), running congregational disciplinary committees, leading the congregation services and Bible studies and attending to the pastoral care of the congregation. It is said that Elders must be experienced men who have displayed a pattern of integrity in their lives over a period of time as ministerial servants.
28. Ministerial servants predominantly provide administrative support and practical assistance to the Elders and service to the congregation. They care for organisational tasks such as acting as an attendant at congregation meetings, handling sound equipment, distributing literature, and managing congregation accounts and general maintenance at the Kingdom Hall.
29. Members of the congregation are called "publishers" and call each other "brother" and "sister". Publishers may be baptised or unbaptised. Baptism is a symbol of the publisher's dedication to Jehovah. Un-baptised publishers are those who have not been

baptised but have been given approval to join the congregation's formal ministry and to identify themselves publically with the Jehovah's Witness Church.

30. Publishers who wish to devote many hours to field service preaching may be appointed as pioneers. Regular Pioneers are exemplary congregation members who have volunteered to spend a certain amount of time in the public preaching activity each month. Special Pioneers serve full-time in preaching work and are selected from experienced long-serving regular pioneers.

Practice of being a Jehovah's Witness and key tenets of the faith

Scriptural literalism

31. The evidence will show that the key imperative belief of the Jehovah's Witness Church is that the Bible is the inspired word of God. This means that Jehovah's Witnesses interpret the Bible literally and take living in accordance with Bible principles extremely seriously. It is expected that evidence will be given that the Jehovah's Witness Church is strongly theocratic, meaning that "almost all internal organisational rules, as well as teachings, are strictly based on biblical prescriptions on how best to live according to God's plans". The English High Court has recently recognised that "[t]his distinguishes them from other religious denominations who use the bible to shape thinking, guide behaviour and teach lessons, but do not use it directly to set policy and religious practices".

Way of life

32. Being a Jehovah's Witness is a way of life for all members. The evidence will demonstrate that devotees are expected to adhere to all doctrines established by the Governing Body. These are a pervasive influence over almost every conceivable sphere of daily life. The strict code of moral conduct by which all members strive to live based on the Scriptures is enforced by the highly formalised disciplinary process for dealing with wrongdoing within the Church and its jurisdiction over all aspects of the life of Jehovah's Witnesses.

Separateness from the world

33. The Royal Commission will hear evidence of how a uniform set of doctrines prescribed by the Governing Body unites devotees in a tightly bonded community and separates them symbolically from the outside world.
34. The Jehovah's Witness Church is a world-renouncing theology. Jehovah's Witnesses are counselled to keep separate from the world and to beware of secular associates who have no love for Jehovah. Further, the Royal Commission will hear evidence from two survivor witnesses who will say that they were not permitted to associate with people

outside the Jehovah's Witness community and that non-Jehovah's Witnesses are referred to as "worldly" people and "not in the Truth".

35. The Royal Commission will hear evidence that separateness from the world is reinforced by various policies of the Jehovah's Witness Church. Jehovah's Witnesses are encouraged to strictly adhere to biblical principles to the exclusion of all else, including pursuit of further education. Jehovah's Witness parents are encouraged to school their own children in matters of sex education, because the alternative of school-based sex education is considered likely to result in immorality. The general practice of the Jehovah's Witness Church is to deal with allegations of child sexual abuse internally, without reference to secular authorities.

Millenarianism

36. The Royal Commission will hear that the Jehovah's Witness Church is a millenarian Christian religion, meaning that they believe that the end of the world is near. Mr O'Brien will give evidence that the Jehovah's Witnesses have a doctrinal understanding of Bible prophecies regarding the "conclusion of the system of things", which is also referred to as "the last days". Documents will be tendered which show that Jehovah's Witnesses believe that the only way to finally end child abuse is to, as they put it, "embrace God's Kingdom under Christ" and to "love God with all your heart and your neighbour as yourself" so as to be saved when the end comes.

Evangelism

37. The Royal Commission will receive evidence that all members are expected to teach and can lead bible study. Bible study is conducted in a variety of ways, including by house to house ministry or on the street. Mr O'Brien will give evidence that members evangelize to glorify God and are instructed to go and make disciples of all people. Jehovah's Witnesses view evangelizing as a personal responsibility and the extent to which they engage in this activity is a personal decision that they make as an expression of their love for God.
38. Jehovah's Witnesses worship and praise Jehovah by attending organised meetings, bible study, Theocratic Ministry Schools and field service. Jehovah's Witness meetings are generally held in a place of worship called "Kingdom Hall". The Royal Commission will hear that each week, Jehovah's Witnesses around the world study the same passages in the *The Watchtower* as directed by the Governing Body, in preparation for the same programme of worship at Kingdom Hall.

Male headship

39. Documents will be tendered which show that Jehovah's Witnesses are counselled to demonstrate submission to Christ's headship by obedience to the Elders who are taken to be controlled by God for the purposes of accomplishing Jehovah's will. Mr O'Brien will give evidence that Jehovah's Witnesses accept the divine standard that "the head of every man is the Christ, in turn the head of a woman is the man". The evidence will reveal that this belief is reflected in the patriarchal structure of the institution, where men hold positions of authority within congregations and headship in the family. Women are expected to defer to the authority of their husbands and children are taught to obey their parents.

CHILD SEXUAL ABUSE POLICIES & PROCEDURES

Development of child sexual abuse policies

40. The Jehovah's Witness Church relies primarily on Bible passages to set its policies and practices. The Jehovah's Witness Church says that it has had Bible-based policies on child sexual abuse for over 30 years. Mr O'Brien will tell the Royal Commission that these policies have been refined and periodically addressed in various publications over the past several decades. Mr O'Brien will testify that the Governing Body is not involved in the administration and implementation of child sexual abuse policies and procedures in Branch Offices of the Jehovah's Witness Church.
41. The evidence will reveal that doctrinal information is transmitted by the Governing Body through the Branch Offices and Bodies of Elders to individual members. From at the least the 1990s, the Australia Branch Office has, with guidance from the Governing Body, periodically issued directives in the form of letters addressed to All Bodies of Elders providing instruction on how to respond to allegations of child sexual abuse.
42. In 1991, a number of articles based on Biblical principles for handling wrongdoing including child sexual abuse were compiled in a publication for Elders called "Pay Attention to Yourselves and All Your Flock" (**Pay Attention to Yourselves**). In 2010, Pay Attention to Yourselves was replaced with an updated compilation of articles entitled "Shepherd the Flock of God", which is now the primary text from which an Elder takes guidance on his congregation (the **Elders' Handbook**).
43. Additional information in support of the Jehovah's Witness Church's theocratic policies is made available to congregation members through *The Watchtower* and *Awake!* magazines and other publications.

Current child sexual abuse policies

44. Rodney Spinks of the Service Department will give evidence that the current policies of the Jehovah's Witness Church for dealing with an accusation of child sexual abuse are outlined in:
 - a. the Bible (the English edition is *New World Translation of the Holy Scriptures*);
 - b. the Elders' Handbook;
 - c. Watch Tower Society publications, such as *Organized to Do Jehovah's Will*; and
 - d. letters sent to all Bodies of Elders, in particular a letter of October 1, 2012, which consolidated (and replaced) into one letter the spiritual advice and guidance provided in various past letters from preceding years as to how Jehovah's Witnesses handle allegations of child abuse.
45. Evidence will be put before the Royal Commission that the current policies and procedures relating to child sexual abuse within the Jehovah's Witness Church are supplemented, in particular, by the following material:
 - a. a pivotal *Watchtower* article entitled "Let Us Abhor What is Wicked" published in January 1997 which clarified in Biblical terms the principles to which a congregation should have regard in considering how a "child molester" should be viewed and treated; and
 - b. updated guidelines issued by the Governing Body to all Branch Offices in August 2013 regarding how Service Desks should field questions from Elders regarding child abuse matters.
46. Elders within the Jehovah's Witness Church are given periodic training on the implementation of its policies and procedures. The training takes the form of one-day programmes or seminars called *Kingdom Ministry Schools*.

Procedure for handling allegations of child sexual abuse

47. There will be evidence regarding the established disciplinary procedure adopted by the Jehovah's Witness Church for responding to allegations of child sexual abuse in Australia. Documents will be tendered and evidence given showing that the Jehovah's Witness Church considers that it is only authorised to address child sexual abuse in accordance with Scriptural direction.

The offence of child sexual abuse

48. The Jehovah's Witness Church recognises child abuse to be a gross sin and crime. Their official position is that they abhor child sexual abuse and will not protect any perpetrator of such repugnant acts. Child sexual abuse is defined by the Jehovah's Witness Church as follows:

Child sexual abuse generally includes sexual intercourse with a minor; oral or anal sex with a minor; fondling the genitals, breasts, or buttocks of a minor; voyeurism of a minor; indecent exposure to a minor; soliciting a minor for sexual conduct; or any kind of involvement with child pornography. Depending on the circumstances of the case, it may also include "sexting" with a minor. "Sexting" describes the sending of nude photos, seminude (sic) photos, or sexually explicit text messages electronically, such as by phone.

49. According to the Jehovah's Witness Church, child sexual abuse is captured by the Scriptural offences:
- a. 'Porneia' – immoral use of the genitals between two people;
 - b. 'Brazen or loose conduct' – which includes fondling of breasts, explicitly immoral proposal, showing pornography to a child, voyeurism, indecent exposure; and
 - c. 'Gross uncleanness' – heavy petting.

Reporting to Elders and the Branch Office

50. Jehovah's Witnesses are taught from the Bible that they have a personal responsibility to report wrongdoing to Elders, if the wrongdoer does not voluntarily come forward. Upon receipt of an allegation, Elders are directed to immediately call the Branch Office for direction based on the circumstances of each case. Two Elders from the congregation are also directed to immediately call the Legal Department for legal advice on mandatory reporting obligations.
51. The Legal Department is instructed to refer the Elders to the Service Department for Scriptural direction on theocratic or judicial aspects of the case and how to spiritually comfort and support the victim. The Service Department also provides guidance on when and how Elders should interview a young victim of child abuse.

Spiritual investigation and rules of evidence

52. Two Elders are directed to investigate every allegation of child sexual abuse by speaking with the victim, the alleged offender, and any other witnesses if necessary. The weight given to the testimony of youths is at the discretion of the investigating Elders. Elders are not authorised to take congregational action unless the child sexual abuse is proven according to Biblical standards which are satisfied by evidence of:
- a. a confession from the accused;
 - b. the testimony of two credible witnesses to the same incident;
 - c. the testimony of two witnesses to separate incidents of the same kind of wrongdoing; or
 - d. strong circumstantial evidence testified to by at least two witnesses.
53. Where by those rules there is insufficient evidence to substantiate the alleged child sexual abuse, the matter is held in abeyance and Elders are directed to “remain vigilant with regard to the conduct and activity of the accused”. In this event, no further action is taken in relation to the complaint and the matter is left in Jehovah’s hands. If sufficient evidence is discovered, the Elders must determine whether a judicial committee should be appointed to give scriptural discipline to the wrongdoer. Child sexual abuse is recognised as an offence for which a judicial committee should be formed.
54. The Royal Commission will hear that over the past 65 years, the requirement that there be two or more witnesses has prevented at least 125 allegations of child sexual abuse from proceeding to a judicial committee. That is not unexpected given that by its nature there are very seldom witnesses to child sexual abuse beyond the survivor and the perpetrator.

Judicial committee

55. The judicial committee is comprised of three or more Elders to determine, firstly, if the individual is guilty of violating God’s laws and, secondly, whether the individual is genuinely repentant. Repentance involves a deep regret over a damaged relationship with Jehovah, remorse over the reproach brought upon Jehovah’s name, and a sincere longing to come back into God’s favour. Documents will be tendered which show that the Jehovah’s Witnesses consider that the degree of repentance ought to be commensurate with the degree of deviation.

56. The Royal Commission will hear that since 1950, 563 alleged perpetrators of child sexual abuse were the subject of a judicial committee hearing.

Sanctions for wrongdoing

57. The judicial committee has wide-ranging sanctions available to it to deal with proven wrongdoing. If the wrongdoer is unrepentant, he is to be disfellowshipped from the congregation. To be disfellowshipped means to be excommunicated from, or cast out of, the Jehovah's Witness Church. Congregation members are directed not to associate with disfellowshipped persons. Disfellowshipping differs from disassociation which is an action taken by an individual who no longer wants to be known as a Jehovah's Witness.
58. If the wrongdoer is judged to be genuinely repentant, the sanction is to administer reproof of the wrongdoer. Reproval may be public or private and is a lesser form of discipline that allows the wrongdoer to remain a member of the congregation. Public reproof is administered before onlookers and serves to discipline the wrongdoer whilst warning the congregation that wrongdoing has been committed. Private reproof involves telling the accused that he is reprovved before only those aware of the wrongdoing. A person who is judicially reprovved is disqualified from special privileges, such as serving in a position of authority. Judicial restrictions are also imposed on those who are reprovved. The restrictions might include being counselled by the Elders about appropriate behaviour with children.
59. A public announcement is made to the congregation regarding the fact, but not the grounds, of disfellowshipping or reproof.
60. The Royal Commission will hear that since 1950:
 - a. 401 alleged perpetrators of child sexual abuse were disfellowshipped; 78 of whom were disfellowshipped on more than one occasion; and
 - b. 190 alleged perpetrators of child sexual abuse were reprovved; 11 of whom were reprovved on more than one occasion.

Appeals

61. Disfellowshipping decisions may be appealed within seven days. Appeal committees are formed "even if there seems to be no valid basis for it" comprising, to the extent possible, impartial Elders from a different congregation who hear the case *ab initio*.

Reinstatement

62. A disfellowshipped person may be reinstated into the congregation after the passage of sufficient time if the judicial committee determines that the individual is truly repentant

and the reason(s) for their removal from the congregation have been abandoned. In all cases of reinstatement, documents will be tendered which show that congregational restrictions should be applied.

63. Since 1950, of 401 disfellowshipped alleged perpetrators of child sexual abuse, 230 were later reinstated; 35 of whom were reinstated on more than one occasion.

Risk Management

64. The case study will explore a number of risk management measures that the Jehovah's Witness Church has in place regarding how a congregation might deal with a person against whom an accusation of "child molestation" has been made.

Parents with primary responsibility

65. Mr O'Brien will give evidence that the Jehovah's Witness Church believes that loving and protective parents are the best deterrent to child abuse. Mr O'Brien's evidence will be that it is the position of the Jehovah's Witness Church that parental education of children about sex and the dangers of child sexual abuse can be a major factor in its prevention. He will say that the Jehovah's Witness Church continues to educate parents via study groups and publications to help protect their children from child sexual abuse.
66. Documents will be tendered which show that the Jehovah's Witness Church considers the primary responsibility for the protection of children lies with parents. Mr O'Brien will say that this is particularly so as the Jehovah's Witness Church does not have programs or facilities that separate children from their parents such as schools and Sunday schools and so on.

Reporting to secular authorities

67. Mr O'Brien will give evidence that Elders are directed to report allegations of child abuse to authorities where mandatory reporting laws apply. The Royal Commission will hear evidence from Vincent Toole of the Legal Department of his understanding of the varying mandatory reporting obligations that apply across Australian states. Documents will be tendered which show that if no mandatory reporting obligations apply, Elders are directed that they do not themselves need to report. The evidence will show that where a matter becomes known to the authorities, Elders are directed to disclose information in their possession where legally required to do so unless ecclesiastical privilege applies.
68. The Royal Commission will hear evidence that Elders are directed never to discourage or sanction anyone from reporting an allegation of child sexual abuse to the authorities and that, if asked, they must make clear that this is a personal decision and a victim's absolute right. The Royal Commission will hear evidence from at least one survivor

witness who, contrary to this policy, was discouraged from reporting her abuse to secular authorities by Elders in the Jehovah's Witness Church. Documents will be tendered which show this is consistent with the Jehovah's Witness's policy not to resort to secular courts to resolve personal disputes with fellow Christians but to rely on Elders.

69. Evidence will be put before the Royal Commission that of the 1,006 alleged perpetrators of child sexual abuse identified by the Jehovah's Witness Church since 1950, not one was reported by the Church to secular authorities. This suggests that it is the practice of the Jehovah's Witness Church to retain information regarding child sexual abuse offences but not to report allegations of child sexual abuse to the police or other relevant authorities.
70. This case study will consider whether the practice of the Jehovah's Witnesses Church of not reporting allegations of child sexual abuse to secular authorities potentially exposes members of the Jehovah's Witness Church to criminal liability for concealment of serious indictable offences under s 316 of the *Crimes Act 1900* (NSW) and failure to disclose sexual offences against minors under s 327 of the *Crimes Act 1958* (Vic). The case study will consider the interaction of these offences with the confessional privilege provided for in s 127 of the *Evidence Act 1995* (Cth), and replicated in legislation in force in New South Wales, Victoria, Tasmania and the Northern Territory.
71. It is anticipated that documents will be tendered before the Royal Commission which will show that the Australia Branch Office have considered that confessional privilege would apply in circumstances where the perpetrator confessed to a child sexual abuse offence. The Royal Commission will hear evidence of the circumstances in which confessions relating to child sexual abuse are made to Elders within a congregation and documents recording the circumstances of such confessions then provided to the Branch Office.

Police checks

72. Mr O'Brien will say that the Jehovah's Witness Church complies fully with legislative requirements to ensure all relevant persons have the necessary clearances for working with children. Mr Toole will give evidence that there are approximately 7,000 Elders and Ministerial Servants currently serving in Jehovah's Witnesses congregations in Australia who have obtained child related police checks.

Information sharing

73. The Jehovah's Witness Church offers theocratic guidance on the sharing of information between relevant Bodies of Elders through "letters of introduction" when a member moves from one congregation to another.

74. When a known child molester moves to another congregation, Elders are instructed to send a letter of introduction with full and complete information about the person's background and current situation to the Elders of the new congregation.
75. Where an accused does not classify as a "known child molester" because there was an allegation of child abuse but this was not scripturally proven, the Branch Office determines what information regarding the accusation may be shared with the new congregation.
76. Where a disfellowshipped person moves to a new congregation before applying for reinstatement, the new Elders are directed to seek relevant information from the old congregation to determine genuine repentance for the purposes of any reinstatement application.

Appointment to positions of authority

77. The Royal Commission will hear evidence that Elders and Ministerial Servants hold positions of trust within the congregation. The Jehovah's Witness Church offers theocratic guidance on the qualification of a known child molester for such positions of responsibility.
78. Rodney Spinks will give evidence that an Elder or Ministerial Servant is immediately removed if he is found to have engaged in child sexual abuse. Documents will be tendered at the hearing which show that Elders are instructed to allow considerable time to pass before extending privileges of service to a former child abuser.
79. Since 1950, 28 alleged perpetrators of child sexual abuse were appointed to positions of authority after having been the subject of allegations of child sexual abuse. Further, of 127 alleged perpetrators of child sexual abuse deleted as Elders or Ministerial Servants as a result of allegations of child sexual abuse, 16 were later reappointed.
80. In September 2014, the Jehovah's Witness Church revised its screening process for appointments to Elder or Ministerial Servant positions. The current procedure requires the nominee to pass the Service Department's check for anything that may disqualify the individual from appointment and to answer certain questions regarding whether he has ever been involved with child sexual molestation.

Document retention policies

81. Mr Toole will give evidence regarding the document retention policies of the Jehovah's Witness Church in relation to records of child sexual abuse. The current policy provides that records concerning an individual accused of child molestation are to be indefinitely

retained in the congregational confidential file. The Royal Commission will hear evidence that this has been a long-standing practice of the Jehovah's Witness Church.

SURVIVOR WITNESSES

82. The Royal Commission has been contacted by 57 persons about child sexual abuse in the Jehovah's Witness Church. Of these, 34 are themselves survivors of child sexual abuse in the Church.
83. The Royal Commission will hear evidence from two women, each of whom was sexually abused as a child in the Jehovah's Witness Church. Their cases are considered to be the most appropriate for the purposes of the case study. They are expected to testify about their experiences of:
 - a. growing up as Jehovah's Witnesses;
 - b. being sexually abused by Jehovah's Witnesses who were in positions of authority;
 - c. being discouraged from associating with non-Jehovah's Witnesses;
 - d. the distress they experienced throughout the judicial committee hearing process which involved being interviewed by a panel of males without any support;
 - e. the blame that each accused sought to place on them as survivors;
 - f. the absence of an explained purpose to the meetings and interviews to which they were subjected; and
 - g. being discouraged from approaching authorities.
84. The Royal Commission will hear from both survivors that the impact of the child sexual abuse, and the response of the Jehovah's Witness Church, is ongoing.

BCB

85. A person given the pseudonym BCB began associating with the Jehovah's Witnesses Church when she was 10 years old and was formally baptised as a Jehovah's Witness at age 18. Between 1980 and 1986, BCB regularly stayed overnight at the house of the Neill family of whom the father was Bill Neill, one of two Elders in the Narrogin congregation in Western Australia. BCB's evidence will be that she attended weekly Bible studies led by Bill Neill at the Narrogin Kingdom Hall and at Mr Neill's house.

86. From 15 years of age, BCB was groomed and sexually abused by Mr Neill. BCB's evidence will be that Bill Neill remained a respected Elder within the congregation whilst he continued to abuse BCB. Notwithstanding this abuse, it will be BCB's evidence that she continued to respect Mr Neill and felt unable to disclose the abuse because of his position.
87. It will be BCB's evidence that, in about 1991, she disclosed Mr Neill's abuse to a Jehovah's Witness acquaintance. Thereafter the other Elder in the congregation, Max Horley, approached BCB about Mr Neill's conduct. Max Horley then arranged a meeting with Bill Neill, BCB and BCB's husband. The Royal Commission will hear that, during this meeting, BCB endured Bill Neill making inappropriate jokes about his conduct that was the subject of the meeting. It will be BCB's evidence that having to discuss her abuse in front of a room full of men, including the perpetrator, was very distressing. The Royal Commission will hear that BCB felt unable to report the full extent of Bill Neill's abuse at the meeting.
88. Max Horley organised a second meeting which was attended by BCB, BCB's husband, Bill Neill, and Doug Jackson, who was the Circuit Overseer for the Narrogin congregation. During this meeting Bill Neill lacked remorse and sought to blame BCB for wearing revealing clothing. It will be BCB's evidence that, at both meetings, she felt unsafe and uncomfortable disclosing the full extent of Bill Neill's abuse. Further, BCB's evidence will be that neither the purpose, nor the outcome, of the meetings was ever explained to her by the Elders.
89. The Royal Commission will hear evidence that following the committee meeting, Max Horley discouraged BCB from further disclosure of the abuse "out of respect for the Neill family". BCB's evidence will be that she was left feeling unsupported by the congregation and was instead encouraged to respect her abuser.
90. The Royal Commission will hear that Bill Neill stepped down as an Elder but that the grounds were not announced to the congregation. Notwithstanding abuse by Bill Neill, the Royal Commission will hear that BCB was still expected to attend Bible studies held at the Neill's house and continued to see Bill Neill several times a week at congregational meetings. The Royal Commission will hear that Bill Neill may have later been reappointed as an Elder.
91. BCB will give evidence that in about July 2014 after she had indicated that she was considering reporting her abuse to the Royal Commission, Joe Bello, an Elder in her congregation at the time asked if BCB "really wants to drag Jehovah's name through the mud". The Royal Commission will hear evidence that BCB felt brainwashed into believing that speaking with "worldly" people would bring reproach upon Jehovah's

name. BCB's evidence will be that, by reporting her story, she is riddled with guilt for betraying the Jehovah's Witness Church.

Institutional response to alleged abuse of BCB

92. The Royal Commission will hear evidence from three Elders regarding their role in handling BCB's allegations of abuse against Bill Neill.
93. Max Horley served as an Elder in the Narrogin congregation from 1988. Mr Horley will give evidence regarding his involvement in handling BCB's allegations of child sexual abuse by Bill Neill made in about 1991. Mr Horley's evidence will be that, in circumstances where Bill Neill denied any intentional misconduct, the rule requiring two or more witnesses meant that BCB's allegations could not be proven according to the Scriptures. Ultimately, Bill Neill's removal as an Elder was recommended by Mr Horley and Mr Jackson because BCB's allegations had cast a cloud over Bill Neill's qualifications. Following Bill Neill's removal, Bill Neill continued to attend meetings and was not placed on any specific restrictions. Documents will be tendered which show that the Elders considered the spirituality and the seductiveness of the complainant in determining the complaint.
94. Doug Jackson served as a Circuit Overseer in Western Australia between 1990 and 1998. The Royal Commission will hear evidence regarding Mr Jackson's involvement in the judicial committee hearing into the allegations against Bill Neill during his visit to the Narrogin congregation in early 1992. Mr Jackson will give evidence regarding his recommendation that Bill Neill no longer met the scriptural qualifications for serving as an Elder. Notwithstanding Bill Neill's admission to improper conduct, a document will be tendered which shows that in the same letter that recommends his removal as an Elder, Mr Jackson recommends that Bill Neill be re-appointed "once this has died down and it appears that brother Neill again has the freedom of speech".
95. Joe Bello has served as an Elder since 1991. The Royal Commission will hear evidence regarding Mr Bello's involvement in providing shepherding care and assistance to BCB during visits to her family in 2012, following BCB's disclosure of Bill Neill's abuse. Mr Bello will give evidence that he did not intend to discourage BCB from approaching the Royal Commission.

BCG

96. A person given the pseudonym BCG was baptised as a Jehovah's Witness when she was about 16 years old. The Royal Commission will hear evidence of BCG's experience growing up in a strict Jehovah's Witness family.
97. BCG will give evidence that her father, BCH, was a highly regarded Jehovah's Witness who was appointed as a Ministerial Servant in the Mareeba congregation in Far North

Queensland in about 1984. BCG's evidence will be that her father was influential within the congregation because he was well respected amongst members.

98. As head of the household, BCH dictated and enforced compliance with household rules. BCG was not permitted to associate with anybody outside the Jehovah's Witness community and was taught from a young age that "worldly" people could not be trusted. BCG was not permitted by her parents to attend school after Year 10 because choosing higher education over Jehovah was frowned upon by the Jehovah's Witness Church.
99. When she was 17, BCG was sexually abused by her father on a number of occasions over a two week period whilst her mother and siblings were away. BCG tried to report her father's abuse to two Elders within the Mareeba congregation, both of whom were friends of her father. BCG will give evidence that both Elders refused to speak with BCG without her father being present. It was not until BCG found the courage to tell a male friend, who approached BCG's father and the Elders, that the matter was investigated by the Elders.
100. BCG was interviewed by three Elders, all friends of her father, on a number of occasions. On each occasion, BCG was alone without any support and, on one occasion, her father was also present. BCG's evidence will be that, instead of being protected and supported as a victim, the Elders primarily sat in judgement of her credibility as a witness and made her feel to blame.
101. BCG will give evidence that the Elders forced BCG to directly confront her father with her abuse allegations. Her father's response was to threaten BCG and blame her for seducing him.
102. The Royal Commission will hear that when BCG disclosed the abuse to her mother, her mother advised that her father had previously abused BCG's older sister. At around the same time, BCG's two younger sisters confirmed that they were also victims of their father's abuse. The Royal Commission will hear that although the Elders were advised of the additional victims, they did not take them into consideration in their investigation.
103. BCG's father was ultimately disfellowshipped, not for his sexual abuse of BCG, but for unrelated "loose conduct" and "lying". BCG will give evidence that the Elders would not consider the evidence of her sisters' abuse because they were not witnesses to the same event. BCG was devastated that her father's sexual abuse did not appear to qualify as wrongdoing in the eyes of the Jehovah's Witness Church.

104. BCG's father immediately appealed his disfellowshipping. BCG was brought before an appeal committee, alone, to be interviewed again about the abuse. It was at this time that her father admitted the abuse, and his disfellowshipping was upheld, with grounds of "porneia" added.
105. The Royal Commission will hear that BCG's father was reinstated after only a few years. BCG will testify that she was concerned for the safety of the congregation but was discouraged from reporting to police and was herself threatened with disfellowshipping.
106. In December 1995, BCG wrote to Watchtower Australia regarding her father's premature reinstatement. Watchtower Australia responded in February 1996 by counselling faith in Jehovah and advising that it would make inquiries into the matters raised.
107. The Royal Commission will hear that when BCG eventually left the Jehovah's Witness Church, she was completely ostracized by members of her local congregation. BCG then reported her father's abuse to the police.
108. BCG's father, BCH, was ultimately convicted in 2004 for unlawful and indecent assault and attempted rape of BCG and sentenced to three years imprisonment. BCG's evidence will be that her experience of three criminal trials was easy compared to her experience of sitting through the judicial and appeal committee meetings.

Institutional response to alleged abuse of BCG

1989: Investigation and disfellowshipping

109. The Royal Commission will hear evidence from the three Elders of the Mareeba congregation (Dino Ali, Ronald De Rooy, and Kevin Bowditch) regarding their role in handling BCG's allegations of abuse by her father that she reported in about May 1989.
110. Dino Ali and Ronald De Rooy will give evidence that, in circumstances where BCH denied the allegations, the judicial committee was bound by the rule requiring two or more witnesses and did not have sufficient proof of the child sexual abuse to take judicial action. It was for this reason, the Royal Commission will hear, that BCH was ultimately disfellowshipped, not for child sexual abuse, but for "loose conduct" and for lying to the Elders about this conduct.

1989: Appeal committee hearing

111. Ronald De Rooy and Kevin Bowditch will give evidence that it was not until BCH confessed to the sexual abuse of BCG during the appeal committee hearing in 1989,

that the grounds for BCH's disfellowshipping were extended to include his sexual abuse of BCG.

1990: Reinstatement application

112. In 1990, BCH applied to the Beenleigh East congregation for reinstatement. The Royal Commission will hear evidence from Rodney Spinks and Monty Baker (both Elders in the Beenleigh East Congregation at that time) regarding their involvement on the judicial committee appointed to consider BCH's reinstatement application.
113. Rodney Spinks will give evidence that BCH's reinstatement application was rejected because he did not display "genuine repentance". Mr Baker will give evidence regarding the process of liaising with the Mareeba congregation, which was responsible for the decision to disfellowship BCH, to obtain relevant information to assess BCH's reinstatement application.

2003: Further disfellowshipping

114. Allan Pencheff was an Elder of the Loganholme congregation; he chaired the judicial committee that disfellowshipped BCH again in 2003 for lying. Mr Pencheff will give evidence that he was not aware of any reason to restrict BCH's contact with children at the time BCH joined the Loganholme congregation, and that he only became aware of BCH's abuse allegations when criminal proceedings were brought against him between about 2001 and 2004. The Mareeba congregation recommended certain restrictions be placed on BCH due to the "gravity of the wrongs committed" but did not recommend any restrictions regarding BCH's exposure to children.
115. Mr Toole will give evidence that in January 2003, he provided a memorandum to the Service Desk, which observed that the primary issue before the Loganholme judicial committee in 2003 was BCH's lying, as opposed to his sexual abuse of BCG.

2001 – 2004: Criminal proceedings against BCH

116. In about 2001, criminal proceedings commenced against BCH for child sexual abuse and, in 2004, he was convicted and sentenced to 3 years imprisonment. The Royal Commission will hear evidence from Jason Davies, a former Queensland DPP solicitor, regarding his involvement in the prosecution of the criminal proceedings against BCH between 2001 and 2004. Mr Davies will give evidence of his observations of the influence of the Jehovah's Witness faith on the behaviour of those involved in the criminal proceedings. Mr Davies' evidence will be that "matters of faith sometime (sic) take precedence over secular, moral obligations and norms" and that the "the religious persuasion of those involved [in the criminal proceedings] was integral to

understanding the behaviour of the accused, the victims and the witnesses, at least in their reluctance to go to the police". The Royal Commission will hear that the delay between the child sexual abuse and the time at which allegations come to police attention is in part attributable to the Church's practice of dealing with offending internally in accordance with its theocratic rules without referring matters to secular authorities.

2012: Further reinstatement application

117. The Royal Commission will hear of the repeated applications for reinstatement made by BCH following his release from prison, and of the factors taken into consideration by the Jehovah's Witness Church in considering those applications. The Royal Commission will hear evidence of the involvement of the Church's Service Desk in guiding the consideration of BCH's pleas for reinstatement.

REDRESS

118. Mr O'Brien will give evidence that, to date, he is unaware of any claims for redress having been made in relation to child sexual abuse concerning the Jehovah's Witnesses in Australia. Watchtower Australia does not hold any insurance policy which provides cover for any claims relating to child sexual abuse. Documents will be tendered which show that in 2008, Watchtower Australia considered the formation of a separate legal entity apparently for the purposes of minimizing liability in the case of litigation.

SYSTEMIC ISSUES

119. It is expected that the case study will provide the Royal Commission with insights into systemic issues within its terms of reference in the area of institutional responses to concerns and allegations about incidents of child sexual abuse.

120. In particular, the systemic issues that are expected to be considered by the Royal Commission arising from this case study are the following:

- a. The influence of theocratic beliefs on the way in which religious institutions handle complaints and manage the risk of child sexual abuse and their interaction with government authorities.
- b. The management of complaints or allegations of child sexual abuse within an institution without reference to external authorities, and the impact that that approach may have on the institution's capacity to protect children.
- c. The impact of an institution's internal disciplinary mechanisms on criminal processes.

- d. The impact of the record-keeping practices of institutions on the ability of those institutions to manage the risk of child sexual abuse and to respond to victims of abuse.
- e. The efficacy of mechanisms to prevent child sexual abuse.
- f. The adequacy of systems to support and rehabilitate survivors of child sexual abuse.

LIST OF WITNESSES

121. It is anticipated that we will hear evidence from the following 15 witnesses in this public hearing:

No.	Name	Position
Survivor witnesses		
1.	BCB	Jehovah's Witness and survivor of child sexual abuse perpetrated by Bill Neill.
2.	BCG	Former Jehovah's Witness and survivor of child sexual abuse perpetrated by BCH.
Institutional witnesses		
3.	Max Horley	An Elder in the Dawesville Congregation. Mr Horley was appointed as an Elder in Narrogin in 1988. Along with Doug Jackson, Mr Horley investigated complaints made to him by BCB about Bill Neill. Once Bill Neill stepped aside in about 1992, Mr Horley became the Presiding Overseer of the Narrogin Congregation.
4.	Doug Jackson	Retired District Overseer, formerly Circuit Overseer, in Western Australia between 1990 and 1998. Mr Jackson was Circuit Overseer of the circuit which included Narrogin from 1990 to the end of 1992. Mr Jackson investigated the complaint made by BCB against Bill Neill on a visit to the Narrogin Congregation in early 1992.

5.	Joseph Bello	An Elder in a congregation in WA. He has served as an Elder since 1991. Mr Bello visited BCB in 2012 when she mentioned her abuse by Bill Neill in the 1980s.
6.	Dino Ali	An Elder in the Mareeba Congregation in Queensland. Mr Ali was also an Elder in Mareeba in or around 1989. Mr Ali, along with Ronald de Rooy and Kevin Bowditch, was involved in BCH's judicial committee hearing. Mr Ali appeared in court proceedings relating to the abuse of BCG by BCH.
7.	Kevin Bowditch	An Elder with the Mossman Congregation in Queensland. Mr Bowditch served as an Elder in the Mareeba Congregation from 1976 to 1994. Mr Bowditch, along with Mr Ali and Mr de Rooy, was involved in BCH's judicial committee hearing. Mr Bowditch appeared in court proceedings relating to the abuse of BCG by BCH.
8.	Ronald de Rooy	An Elder in the Mareeba Congregation from around 1985. Mr de Rooy, along with Mr Ali and Mr Bowditch, was involved in BCH's judicial committee hearing. Mr de Rooy also considered applications for BCH's reinstatement in the period 1992 onwards. Mr de Rooy appeared in court proceedings relating to the abuse of BCG by BCH.
9.	Monty Baker	No longer involved with the Jehovah's Witness Church, having been disfellowshipped in or around 1993 or 1994 due to matters not related to child sexual abuse. Mr Baker was Congregational Overseer in the Beenleigh East Congregation in the early 1990s when BCH applied for reinstatement.
10.	Alan Pencheff	An Elder in the Loganholme Congregation when he was part of a judicial committee which investigated complaints made by BCG in or around 2003, prior to the conclusion of BCH's criminal trial.
11.	Rodney Spinks	A member of Watchtower Australia's Service Department since 2007. Mr Spinks is involved with the handling of child sexual abuse matters by responding to inquiries made by Elders handling matters in Jehovah's Witness congregations. Mr Spinks is the Elder specifically assigned to handling child sexual abuse related matters and ensuring that Watchtower Australia policies are complied with.
12.	Vincent Toole	Head of the Legal Department of Watchtower Australia since 2010. The role includes providing advice as to the mandatory reporting obligations of Elders who receive allegations of child sexual abuse. Mr Toole provided voluntary legal services to Watchtower Australia from late 1993. In 1995, Mr Toole established his own legal practice called Vincent Toole Solicitor which has been engaged to provide legal services in relation to the criminal proceedings of BCH.

13.	Terrence John O'Brien	A director, and the Secretary, of Watchtower Australia and the Coordinator of the Australia Branch Committee. Previously served as a Ministerial Servant, Elder, Circuit Overseer, and a member of the India Branch Committee. Mr O'Brien has administrative responsibilities and is the Branch Committee contact for the Correspondence, Computer, Legal and Writing Departments.
Queensland DPP witness		
14.	Jason Davies	Formerly a Legal Officer in the Queensland DPP who was responsible for preparing the prosecution file in the criminal proceedings against BCH.

Expert witness		
15.	Dr Monica Applewhite	An expert consultant in the field of prevention and response to child sexual abuse by religious organisations who has been engaged by Watchtower Australia to testify about its policies and publications.

122. The public hearing is listed from Monday 27 July 2015 to Friday 7 August 2015.

Angus Stewart SC
Senior Counsel Assisting the Royal Commission
27 July 2015.