ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE AT MELBOURNE

PUBLIC INQUIRY INTO THE RESPONSE OF TURANA, WINLATON AND BALTARA, AND THE VICTORIA POLICE AND THE DEPARTMENT OF HEALTH AND HUMAN SERVICES VICTORIA (AND ITS RELEVANT PREDECESSORS)

SUBMISSIONS OF BDB (TURANA) IN REPLY

1. BDB agrees with the submission made at paragraph [16] of the written submissions on behalf of the State of Victoria, that the ‘culture amongst staff’ at Turana was a factor that inhibited reporting of child sexual abuse at the institute. Therefore, it is submitted that finding F13 as recommended by Counsel Assisting the Royal Commission (‘Counsel Assisting’) should be amended to refer not only to the ‘hierarchical staffing structure’, but also the ‘culture amongst staff’ at Turana.

2. However, in relation to paragraph [15] of the written submissions on behalf of the State of Victoria, BDB submits that the evidence referred to does not require any qualification of finding F54 as recommended by Counsel Assisting. Although it is the case that ‘some relevant written policies did exist by the 1980s’, these policies were not, in their substance or in their implementation, such as to ensure that reports of child sexual abuse were reported to the head of the Department or to the police.

3. In particular, it is noted that Dr Philip stated that the 1980s ‘incident reporting system’ required that staff report incidents to the Superintendent of a facility; and that the superintendent was responsible for deciding what action should be taken in respect of the report. Dr Philip’s evidence was that the ‘options for responding included deciding not to take further action’ and ‘having the matter dealt with at a facility level’.

4. Neither the Director’s Circular – Incident Reporting System, nor the Director’s Circular – Policy: Procedures for Divisional Action in Matters where Assault on Staff, Assault by Staff, or Assault by Trainee/Ward on

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1 SUBM.1030.017.0006, Submissions of the State of Victoria, at [16].
2 SUBM.1030.017.0006, Submissions of the State of Victoria, at [15].
3 Exhibit 30-0046, Second Statement of Varughese Pradeep Philip, Secretary, DHS at [56].
4 Exhibit 30-0011, DHS.3068.0006.0068, Director’s Circular: The Incident Reporting System.
Trainee/Ward, suggests that the reporting of sexual abuse was a focus of the new policies, or even refers to sexual abuse. In particular, sexual abuse by staff is not explicitly referred to. The ‘assaults’ for which the latter policy document recommends police involvement are cases involving ‘malicious or unprovoked attack’, physical injury, or assault or injury in the course of attempts to escape. The requirement that reports be kept on appropriate files is also confined to these three categories of physical assault. In these circumstances, the policy documents referred to in Dr Philip’s statement do not provide strong support his evidence that ‘from the 1980s the incident reporting policy required incidents of sexual and physical assaults by staff and trainees/wards against trainees/wards to be reported to the Superintendent of a facility’ (emphasis added).

5. In these circumstances, it is submitted that finding F54 as recommended by Counsel Assisting does not require amendment or qualification.

Dr Michael FitzGerald
Counsel for BDB
30 November 2015

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5 Exhibit 30-0011, DHS.3026.0001.0044, Director’s Circular – Policy; Procedures for Divisional Action in Matters where Assault on Staff, Assault by Staff, or Assault by Trainee/Ward on Trainee Ward is alleged.

6 Exhibit 30-0011, DHS.3026.0001.0044, Director’s Circular – Policy; Procedures for Divisional Action in Matters where Assault on Staff, Assault by Staff, or Assault by Trainee/Ward on Trainee Ward is alleged, p.3 at [6].

7 Exhibit 30-0011, DHS.3026.0001.0044, Director’s Circular – Policy; Procedures for Divisional Action in Matters where Assault on Staff, Assault by Staff, or Assault by Trainee/Ward on Trainee Ward is alleged, p.3 at [7].

8 Exhibit 30-0046, Second Statement of Varughese Pradeep Philip, Secretary, DHS at [56].