IN THE MATTER OF

THE ROYAL COMMISSION INTO INSTITUTIONAL
RESPONSES TO CHILD SEXUAL ABUSE

AT MELBOURNE

CASE STUDY 30: TURANA, WINLATON AND BALTARA

SUBMISSIONS ON BEHALF OF BRIAN FITZGERALD

1. This submission seeks to address Counsel Assisting’s submission into relation to available finding K 35 (Counsel Assisting Submissions (CAS) page 109).

2. Available finding:

"Available finding on the reporting of disclosures of child sexual abuse by Katherine X to Victoria Police.

F 35 In 1979, Michael Groome, Jennifer Lines and Brian Fitzgerald did not report the disclosures of child sexual abuse made by Katherine X to the Victoria Police"

3. It is submitted that Brian Fitzgerald gave evidence to the Commission frankly and to the best of his memory. In the context of events occurring some 36 years earlier, Mr Fitzgerald had no independent recall of his interactions with Katherine X (case study transcript page C9178, line 37).
4. It is agreed by Mr Fitzgerald that Katherine X made a disclosure of sexual abuse of her by her father. (Case study transcript page C9182, line 36-38).

5. It is agreed by Mr Fitzgerald that he did not personally report this disclosure to Victoria Police and that it was a matter which should have been reported to police. (Case study transcript page C9184, line 15-18 and C9176 line 47 to C9177 line 12).

6. It is submitted on behalf of Mr Fitzgerald that he did report the disclosures to his supervisor, senior social worker Ron Triffen, (case study transcript page C9184, line 23-44) or other senior staff. Is it submitted that although Mr Fitzgerald agrees that he has no specific and independent memory of so doing, it was his practice to do so when in need of direction and that it is particularly likely that he would have done so in the light of his inexperience and that this disclosure was of such a serious nature.

7. It is submitted on behalf of Mr Fitzgerald that his failure to report should be considered in the light of a lack of Departmental training, procedures and policies at the time of the disclosure to him.
8. It is submitted on behalf of Mr Fitzgerald that the current procedures of the Department of Health and Human Services would require Mr Fitzgerald if such a disclosure was made to him today, to, as to responsibility for reporting to police:

   a. The staff member or volunteer who last becomes aware of the allegation must advise the reporting senior staff member in the relevant work area of details of the allegation.

   b. The most senior staff member in the relevant work area (such as a house or unit), present at the time the allegation is made, is responsible for reporting the allegation of assault to police.

   c. The report must be made as soon as practicable, once immediate safety and medical needs are met.

   d. The staff member or volunteer who first becomes aware of the allegation must be available to assist the police with any investigation.

   (Case study exhibit 30-47 page 8; DHS Technical update 2014 – Responding to Allegations of Physical or Sexual Assault).

9. It is submitted on behalf of Mr Fitzgerald that Departmental instructions to staff have consistently provided advice that the staff member who receives the report of disclosure should report that disclosure to the senior staff member (that is, their supervisor).

   (See: “Reporting Allegations of Physical or Sexual Assault to the Police” – 22 June 1993 page 3 at 2.4 – Case Study document reference: DHS.3123.008.0011.


   See: “Responding to Allegations of Physical or Sexual Assault – Departmental Institution – August 2005 – page 10 at 3.4. Attached to this submission).
10. It is submitted on behalf of Mr Fitzgerald that although Finding F 35 is open to the
Commission, as far as it relates to Mr Fitzgerald, it should be made in the context of the
matters and facts raised therein.

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