

**Queensland Crime Commission
Queensland Police Service**



Project AXIS

Volume 2

Child Sexual Abuse in Queensland: Responses to the Problem

NOVEMBER 2000

This paper and others in the series *Child Sexual Abuse in Queensland* will be available for a limited time on the Queensland Crime Commission's web site — www.crimecom.qld.gov.au.

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Queensland Crime Commission
Level 2 Unisys House
147 Coronation Drive
Milton Qld 4064
GPO Box 3123
Brisbane Qld 4001

Tel.: (07) 3238 4100

Fax.: (07) 3238 4111

E-mail: Qcc.Library@bigpond.com.au

Foreword

The QCC and QPS are pleased to release Volume 2 of the report series *Child Sexual Abuse in Queensland*. This Volume, entitled *Responses to the Problem*, is a product of their joint initiative known as Project Axis, which was established to inquire into child sex offending in Queensland.

The Queensland Government has rightly acknowledged the devastating effects of child sexual abuse in our community, and continues to take action to reform the child protection and criminal justice systems to improve responses to the problem. Over the past few years an unprecedented amount of activity and changes have taken place in the Government's response to children. For example:

- In 1997, the Attorney-General requested the Queensland Law Reform Commission review the law relating to the evidence of children in Queensland.
- The QCC was established in 1997 with a specific legislative responsibility to investigate criminal paedophilia.
- The Commission of Inquiry into the Abuse of Children in Queensland Institutions (Forde Inquiry) was established in 1998 by the Minister for Families, Youth and Community Care.
- The Children's Commission was established in 1998 to monitor the delivery of children's services.
- The Child Protection Council was established in 1999 to provide advice to the Minister for Families, Youth and Community Care.
- The *Child Protection Act 1999* has been implemented to reform the outdated *Children's Services Act 1965*.
- The *Commission for Children and Young People Bill 2000* has been introduced into Parliament, which will broaden the role of the Children's Commission to advocate on behalf of young people, and extend provisions for screening employees in child-related employment.
- Funding for Families, Youth and Community Care Queensland has been increased, and commitments have been made for further increases in the future.
- \$250,000 per annum has been provided to establish an assessment and treatment program for young sex offenders in detention centres and in the community.

There has been increasing public demand for action on child sex offending. It is inevitable that growing community awareness of child sexual abuse will lead to a rise in reporting, and a consequent increase in the need for properly targeted responses. Directing resources at reacting to the problem, however, must be balanced with the need to provide preventative intervention with families and communities whose children are at risk of victimisation.

While the Government has a major role to play, clearly it is not solely responsible for finding solutions to these issues. This report emphasises the important role played by non-government and community agencies, and by the public, in shaping a society that is intolerant to child sexual abuse. The real solutions to the problem of child sex offending lie in community awareness and knowledge about how to prevent abuse, how to recognise the indicators that abuse may be occurring and how to respond appropriately to children who disclose abuse.

This publication aims to contribute to the growing community and government understanding about child sex offending. Most importantly, it examines existing responses to child sexual abuse to ensure there is an adequate and effective framework in place in Queensland for protecting our most precious assets—our children.

The report sets out the difficulties faced by law enforcement agencies in dealing with allegations of child sexual abuse. It outlines the future directions we have planned for our own agencies, the QCC and the QPS, in this area which we hope will improve the detection and investigation of child sex offences. However, the report also contains recommendations that have implications for other government and non-government agencies. These focus on improving services for both victims and offenders, and ensuring that government and community activities are effectively targeted and coordinated.

We recognise that to implement a number of the recommendations would require additional government funding. We also recognise there are competing government priorities, but at the same time we believe that we have an obligation to do our utmost to protect children from becoming victims of this crime — a crime which can have such a devastating impact on their future lives. We also believe that we should try to ensure that the criminal justice system is as sensitive as possible to the difficulties faced by children involved in cases of sexual abuse.

Throughout the life of this report, Project Axis has sought and received the assistance of a number of government and non-government agencies and individuals. The success of the project relies heavily on the commitment of those who have given generously of their time and devoted significant resources to assisting the QCC and QPS in this endeavour. Again, we gratefully acknowledge the continued assistance of the Overview Committee: Dr Ann Scott (QPS), Dr David Brereton (CJC) and Ms Robin Sullivan, Children's Commissioner.

T.F. Carmody SC
Crime Commissioner

Bob Atkinson APM
Commissioner of Police

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- Penny Cooper from the Queensland Law Reform Commission;
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Table of contents

Foreword.....	iii
Acknowledgements.....	v
Abbreviations.....	viii
Executive Summary.....	ix
Chapter one: Overview.....	1
Recent child protection reform in Queensland.....	1
Sources of information used for Volume 2.....	2
The remainder of this report.....	3
Chapter two: Reporting suspected child sexual abuse to child protection agencies.....	5
Who reports child sexual abuse?.....	5
Legislative obligations to report suspicions or disclosures of child sexual abuse.....	6
Requirements in agencies' policies to report suspected child sexual abuse.....	8
Conclusion.....	12
Recommendations.....	12
Chapter three: The interface between the child protection and criminal justice systems.....	15
FYCCQ.....	15
QPS.....	17
The interface between the QPS and FYCCQ.....	18
Conclusion.....	20
Recommendations.....	21
Chapter four: Detection and investigation of child sex offenders.....	23
The QPS.....	23
Difficulties associated with the investigation and prosecution of child sex offences ...	24
Review of the QPS response to child sexual abuse.....	26
The QPS and QCC proactive detection of child sex offenders.....	30
Future directions for the QCC and QPS.....	36
Conclusion.....	40
Chapter five: The progress of cases through the criminal justice system.....	40
Child sex offence cases at the QPS.....	40
Child sex offence cases in the Magistrates Court.....	41
Child sex offence cases in the District Court.....	42
Conclusion.....	44
Recommendations.....	45
Chapter six: Improving the court system's response to child sexual abuse cases.....	48
Difficulties associated with the prosecution of child sex offences.....	49
Improvements to the system.....	49
Other responses within the criminal justice framework.....	52
Conclusion.....	56
Recommendations.....	57

Chapter seven: Sentencing, treating and monitoring offenders	58
The purposes of sentencing	58
Sentencing child sex offenders	59
Conclusion.....	66
Recommendations.....	67
Chapter eight: Employment screening.....	68
Criminal history checks for employment screening	69
Conclusion.....	80
Recommendations.....	81
Chapter nine: Handling complaints of child sexual abuse involving employees	83
Conclusion.....	91
Recommendations.....	92
Chapter ten: Services for victims of child sexual abuse	93
Gaps in service provision.....	100
Conclusion.....	103
Recommendations.....	103
Chapter eleven: The prevention of child sexual abuse.....	105
Child abuse prevention policy	105
Characteristics of offenders and their victims.....	106
Focusing on children and parents.....	107
Focusing on neighbourhoods	111
School-based interventions	111
Community information and education	113
Prevention policy framework.....	114
Resourcing of government and community prevention programs	117
Conclusion.....	118
Recommendations.....	118
Appendices	
Appendix 1: Key findings from Volume 1	120
Appendix 2: Analysis of the data on child sex offences	124
References	134

Abbreviations

ABS	Australian Bureau of Statistics
AISQ	Association of Independent Schools Queensland
CCOCA	Coordinating Committee on Child Abuse
CIB	Criminal Investigation Bureau
CJC	Criminal Justice Commission
CPC	Child Protection Council
CRISP	Crime Reporting Information System for Police
CSAIU	Child and Sexual Assault Investigation Unit
DCS	Department of Corrective Services
DPP	Director of Public Prosecutions
Forde Inquiry	Commission of Inquiry into the Abuse of Children in Queensland Institutions
FYCCQ	Families, Youth and Community Care Queensland
ICARE	Interviewing Children and Recording Evidence
JAB	Juvenile Aid Bureau
QCC	Queensland Crime Commission
QLRC	Queensland Law Reform Commission
QPS	Queensland Police Service
SACS	Sexual Abuse Counselling Service
SCAN	Suspected Child Abuse and Neglect
SOIP	Sex Offender Intervention Program
SOTP	Sex Offender Treatment Program

Executive Summary

This is the second volume of the Queensland Crime Commission (QCC) and Queensland Police Service (QPS) Project Axis report.

Project Axis was established as a wide-ranging inquiry into child - sex offending in Queensland. It involves strategic intelligence and research activities, as well as tactical investigation. The Project aims to contribute to the community's understanding of child sex offending, its causes and its impact on victims and society, as well as to identify better ways of dealing with the problem.

The first volume reported on the nature and extent of child sex offending and the defining characteristics of offenders and their victims. This volume describes the responses of state agencies and community organisations to the problem of child sexual abuse in our community. It aims to identify gaps in the policies, procedures and services in place to respond to complaints and notifications of child sexual abuse. This report does not purport to offer a comprehensive evaluation of the various agency and community responses but draws on a range of information to provide an overview of what happens when an allegation of child sexual abuse is made.

Reporting child sexual abuse to child protection agencies

Queensland has a largely voluntary reporting framework for professionals who suspect the occurrence of child sexual abuse, although several agencies have developed internal policies to direct employees to report suspicions or allegations of child sexual abuse. The success of a voluntary reporting framework depends on a clear set of guidelines to assist people in deciding how to respond to a suspicion or disclosure of child sexual abuse. This should be accompanied by regular education for people about their legislative and other responsibilities, the indicators of child sexual abuse, available options, and the likely outcomes for the child and family.

In Queensland, there is a need for a more comprehensive education program that encompasses non-government agencies such as schools and community groups. Ideally, guidelines for agencies that assist in identifying and dealing with suspicions of child sexual abuse, and training and education programs, should be standardised across all agencies. Agencies such as Families, Youth and Community Care Queensland (FYCCQ) and the Children's Commission are best placed to develop guidelines and education programs which could be accessed by non-government organisations and adapted to meet their needs.

Importantly, there should be some onus placed on non-government agencies, particularly schools, to adopt appropriate standards in dealing with child sexual abuse.

The interface between the child protection and criminal justice systems

FYCCQ is the government agency responsible for child protection in Queensland, and the QPS focuses on the criminal justice aims of detection and investigation of

criminal offences. Together, these agencies conduct joint initial investigation of child sexual abuse complaints. In addition, the Suspected Child Abuse and Neglect (SCAN) team framework enables the close collaboration of these two lead agencies in responding to allegations of child sexual abuse. SCAN teams also facilitate the involvement of a range of other key agencies.

In addition to these mechanisms, the Child Protection Council has a broader mandate to provide policy advice to the Minister for Families, Youth and Community Care and to monitor key areas such as service provision. Together, these mechanisms provide a framework for effective inter-agency cooperation on child protection in Queensland.

The SCAN team process has now been in operation in Queensland for 20 years with many positive results. While an evaluation of SCAN teams was undertaken in the late 1980s, problems identified through consultations suggest a need for a further evaluation.

Detection and investigation of child sex offences

The QPS provides the front line response to complaints of child sexual abuse in Queensland. The adequacy of its response to the problem of child sexual abuse has been examined many times over the past 20 years, the most recent being Project Horizon, which identified some areas of concern in policing practices. The QPS has acknowledged the need to address these issues and is committed to implementing reforms to improve their response to complaints of child sexual abuse.

The QCC has been working with the QPS to identify and develop more effective proactive approaches to child sex offending, particularly in relation to the networking activities of child sex offenders. QCC and QPS investigative hearings in Operation Gecko gathered evidence indicating extensive use of the telephone services by child sex offenders, both to communicate with each other and to recruit potential victims. Existing investigative techniques can provide some evidence and intelligence about the extent, if any, of networking by offenders. However, the availability of telecommunications interception powers would improve the QCC and QPS investigation of networking offenders by allowing knowledge of the content of conversations between suspected child sex offenders.

The QPS and QCC will continue to work with other child protection agencies and with the community to improve the detection and investigation of child sex offences in Queensland.

The progress of cases through the criminal justice system

Even when a formal complaint is made to FYCCQ or police, not all offences will result in the initiation of a prosecution. Many matters will not proceed to prosecution despite the best investigative efforts of police because of the particular difficulties inherent in the investigation of child sex offences.

Available data on the progress of cases through the criminal justice system show that:

- Most offences of 'indecent assaults on children' reported to QPS were 'solved' by police, and that almost all solved offences resulted in the initiation of a prosecution.
- Of the indecent dealing matters that are finalised by the District Court, most result in a finding of guilt. In many of these cases the offender pleads guilty, thus avoiding the need for a trial.
- Indecent dealing cases have a slightly higher proportion of early pleas of guilty than do non-sexual assault cases.

An examination of the progress of child sex offence cases through the court system, and comparison with the progress of other offences, shows a considerably higher rate of indecent dealing cases dropping out in the Magistrates and District Courts. It is impossible to draw any definitive conclusions about the explanation for this difference without case by case information on the reasons for withdrawals and discharges. Further research would need to examine this issue more closely.

Before any reform of the criminal justice system can be considered, the quality of current data collection must be improved to enable a clearer understanding of the progress of child sex offence cases through the criminal justice system. The Children's Commission has recently begun planning a project to track a sample of complaints of child sexual abuse through the criminal justice system. Project Axis supports this initiative, and suggests that additional funding be granted to expand it to include more detailed information on each case.

Improving the court system's response to child sexual abuse cases

The difficulties involved in prosecuting child sex offences are well documented and reform in this area has been underway for more than a decade. Nonetheless, there is much that remains to be done to improve the court experience for child witnesses.

Consultation by Project Axis confirms research and experience from other jurisdictions, namely that there are changes to the existing legal system that could make a significant difference to the child's experience of the court process. From a child's perspective, there is a need for:

- certainty in the court process;
- active judicial case management to ensure that cases involving children are processed as efficiently as possible through the court system;
- the child to have control, as far as possible, about certain aspects of the court process and to understand the proceedings;
- continuity of legal representation as far as possible through both the committal and trial process;
- appropriate and independent support for child witnesses;

- greater awareness by the judiciary and the legal profession of the developmental needs, behaviour and capacities of children generally.

The Queensland Law Reform Commission (QLRC) is currently reviewing the capacity of the judicial system, both in its criminal and civil aspects, to properly receive the evidence of children. Project Axis looks forward to the forthcoming report of the QLRC for a comprehensive discussion of these issues and recommendations for reform.

The preceding discussion has also highlighted the need for more innovative responses to child sex offences. Accordingly, Project Axis urges the Government to broaden the range of responses available for dealing with child sex offending. In particular, Project Axis recommends that a feasibility study be conducted to assess the appropriateness of a Queensland pre-trial diversion program for first-time, intra-familial child sex offenders.

Sentencing, treating and monitoring offenders

Growing community outrage in recent years has seen an increase in the proportion of child sex offenders sentenced to imprisonment. However, the availability of treatment programs for child sex offenders both within prison and in the community, is not sufficient to meet the growing demand.

As a consequence, increasing numbers of convicted child sex offenders are released into the community after completing their sentence without treatment. Furthermore, the framework for monitoring released child sex offenders is also inadequate. To address these deficiencies will require the injection of considerable resources into the treatment and monitoring of child sex offenders and can only occur if the Government has the support of the community.

Employment screening

Employment screening can assist in identifying people with a known history of child sex offending and prevent their employment in areas where they are likely to be involved with children. In this way, effective employment screening mechanisms can help reduce the incidence of child sex offending in these environments.

In most cases, the employment process in areas of child-related employment involves, at a minimum, submission of a written application, an interview and referee checks. However, in some cases, especially in government departments, legislation requires that potential employees undergo criminal history checks.

Depending on criminal history checks alone, however, is not only inadequate, it may well be dangerous. It may give employers undue confidence that all offenders have been detected, whereas only a small percentage of offenders are likely to be charged with, or convicted of, an offence. The new and existing employment screening legislation focus exclusively on ensuring agencies conduct criminal history checks. To be effective, this approach needs to be integrated into a more comprehensive employment screening process, including education and training.

Research by Project Axis has shown that community and church organisations, as well as schools would welcome guidance and model policies with regard to employment screening. The Children's Commission, in partnership with government departments, community organisations and churches, is ideally placed to develop and deliver comprehensive child sexual abuse prevention and employment screening training programs for these organisations.

Handling complaints of child sexual abuse involving employees

Project Axis research has highlighted the deficiencies in the policies and practices of non-government schools, churches and community groups for handling complaints of child sexual abuse against employees. While some agencies are actively taking steps to rectify the problem, this is far from universal.

It is not possible to mandate that every agency likely to have contact with children put such policies in place. However, greater community awareness, in conjunction with support, information and guidance for agencies in developing better policies and procedures, will greatly enhance agency responses to allegations of child sexual abuse.

Services for victims of child sexual abuse

Child sexual abuse involves a range of behaviour, and is interpreted by victims in a variety of ways. In fact, children may not display any adverse effects at the time of the abuse, although some children may develop problems later in life. For those children who are adversely affected by sexual abuse, the effects can vary widely.

For these reasons, there is no single treatment that will be effective for all child victims. There is a range of services available to victims of child sexual abuse, many of whom may seek services to assist them address other problems associated with their experience of child sexual abuse.

The primary agency that provides services specifically to child victims of sexual abuse and their families is FYCCQ. Queensland Health funds sexual assault services that focus exclusively on adult women, and child and youth mental health services which are provided only in acute cases.

Consultation with several agencies has revealed key gaps in services for victims of child sexual abuse. Particularly, there is a need to:

- provide services for male victims, both child victims and adult survivors;
- improve services for adult survivors of child sexual abuse;
- improve services for victims living outside the south-eastern area of Queensland;
- provide services to the families of children who have been sexually abused as well as to the children themselves.

There is also a need for better coordination between agencies providing services to victims of child sexual abuse. While a range of different services are required to meet the various needs of children, their families, and adult survivors of sexual abuse, services available in Queensland need to be documented. Such a process will assist in the appropriate referral of victims of child sexual abuse.

The prevention of child sexual abuse

Research has begun to establish the connections between various social problems — poverty, violence, social isolation, drug and alcohol abuse — and child sexual abuse. However, these links are not yet fully established or understood. Accordingly, investment in targeted child sexual abuse prevention programs may have unexpected long-term benefits and possible cost-savings in other areas.

International research demonstrates that well designed, focused and managed crime prevention strategies do work. Ultimately, the Government and the community must take a long-term view and give ongoing commitment to resolving the problems of child sexual abuse. Programs such as home visitation, positive parenting, family centres, school-based interventions, and neighbourhood-based programs such as the Inala Early Intervention Project, can take many years to achieve results. Commitment to prevention requires leadership that appreciates the complexities of the problems, is informed by research about what works and what does not, and is prepared to commit resources to ensure a safe future for our children.

List of recommendations

Project Axis recommends:

1. That Families Youth and Community Care Queensland, in conjunction with the Children's Commission Queensland, and following consultation with client groups:
 - develop a comprehensive training and education program to assist those in government and non-government agencies to identify indicators of child sexual abuse;
 - develop a set of guidelines to assist agencies who work with children to decide how best to respond to suspicions or disclosures of child sexual abuse.
2. That a working party be established comprising Education Queensland, the Board of Teacher Registration, the Association of Independent Schools Queensland (AISQ), the Queensland Catholic Education Commission and the Children's Commission Queensland to develop appropriate policies for responding to suspicions or disclosures of child sexual abuse in non-government schools. This should be undertaken in consultation with Families Youth and Community Care Queensland and the QPS (see also Recommendations 11 and 15).
3. That the Government consider including, as a requirement of their accreditation, that non-government schools have in place adequate policies for responding to suspicions or disclosures of child sexual abuse (see also Recommendations 12 and 16).

4. That appropriate funding be provided to the Children's Commission Queensland to undertake a formal evaluation of the Coordinating Committee on Child Abuse (CCOCA) and Suspected Child Abuse and Neglect (SCAN) team procedures.

5. That an increase in Interviewing Children and Recording Evidence (ICARE) training, and commensurate funding, be provided to ensure QPS and Families Youth and Community Care Queensland officers are appropriately trained for the task of conducting initial interviews with child victims.
6. That the Children's Commission Queensland be granted sufficient funding to expand its trial data tracking project to examine the progress of individual cases of child sexual abuse through the criminal justice system with a view to:
 - gaining a comprehensive understanding of why child sex offence matters are withdrawn and discontinued at a higher rate than other offence types;
 - providing information about the effect of changes to legislation and court practices.

This research should be commenced as soon as possible to enable information to be collected against which the effectiveness of any reforms can be measured.

7. That the Government examine the possibility of introducing a pre-trial diversion scheme for first-time intra-familial child sex offenders in Queensland.
8. That the Queensland Government commit greater resources to custody-based treatment programs for child sex offenders to enable all eligible inmates to participate in the program.
9. That the Queensland Government increase funding for the Community Corrections Sex Offenders' program so that:
 - it will be more widely available as an option for courts to include as part of a community-based sentence in appropriate cases; and
 - it will provide more comprehensive treatment for offenders released from prison.
10. That the Government establish a working party including representatives from the Department of Corrective Services, the QPS and Families Youth and Community Care Queensland, and other relevant government and community agencies, to develop a coordinated response to the treatment, monitoring and supervision of child sex offenders in the community.
11. That the working party referred to in Recommendation 2 also develops appropriate employment screening policies for non-government schools, taking into account the legislative requirements for other child-related employers under the proposed *Commission for Children and Young People Act* (see Recommendation 15).
12. That the Government consider including, as a requirement of accreditation, that non-government schools have in place adequate policies for employment screening (see also Recommendations 3 and 16).

13. That the 12 month review of the proposed *Commission for Children and Young People Act* consider the following issues:
- whether adequate screening has been applied to private childcare providers;
 - whether the legislation should enable voluntary applications for suitability notices for areas of child-related employment not covered by existing provisions;
 - whether information in relation to disciplinary proceedings should be maintained by the Commission and taken into account in issuing suitability notices.
14. That the Children’s Commission Queensland be given responsibility and commensurate funding to develop and provide comprehensive education and training for community groups and organisations involved in child-related employment as well as an ongoing advisory service in relation to all aspects of effective employment screening, complaints handling and child protection issues more generally. This should include the development of educational resources, model policies and advice on issues such as risk assessment, selection process, developing position descriptions, conducting interviews, pre-employment checks, induction training and supervision, staff support and complaints handling. This task should be undertaken in consultation with Families Youth and Community Care Queensland, the Child Protection Council, Sport and Recreation Queensland, peak education bodies and community organisations.
15. That the working party referred to in Recommendations 2 and 11 also develop appropriate complaints handling procedures for non-government schools and that in developing these policies, the working party have regard to Education Queensland policy and to any recommendations for changes to those policies in the forthcoming Criminal Justice Commission report *Inappropriate Behaviour of a Sexual Nature by Education Queensland Employees Towards Students*.
16. That the Government consider including, as a requirement of accreditation for non-government schools, that they have in place adequate policies for handling complaints of child sexual abuse involving employees (see also Recommendations 3 and 12).
17. That the Children’s Commission Queensland consider the question of the accountability of church institutions when an allegation of child sexual abuse has been made involving a church employee, and consider whether the introduction of any official oversight mechanism might improve the response of churches.
18. That Sport and Recreation Queensland, in conjunction with the Children’s Commission Queensland, Families Youth and Community Care Queensland and sporting organisations, develop child protection advisory material to assist sporting and recreation organisations to develop their own policies for addressing complaints against staff or volunteers.

19. That the Children's Commission Queensland explore mechanisms for improving accountability of childcare centres and other youth recreation and adventure groups to ensure that complaints handling policies are in place and enforced, and that allegations of child sexual abuse are brought to the attention of the appropriate authorities.
20. That the Children's Commission Queensland be adequately funded to enable it to document the services available for victims of child sexual abuse and identify any gaps in services provided.
21. That the Children's Commission Queensland consider the feasibility of establishing a centralised facility to advise children and their families of available services.
22. That the Queensland Government broaden its commitment to crime prevention, and allocate appropriate resources, to include strategies and programs that are specifically focused on the prevention of child sexual abuse, or that may have the prevention of child sexual abuse as an outcome. These include:
 - developing other innovative area-based government and community collaborative prevention programs, such as the Inala Early Intervention Project;
 - conducting appropriate research to better identify 'at risk' neighbourhoods and families with a view to targeting appropriate services and programs;
 - extending home visiting and positive parenting services to 'at risk' families and neighbourhoods; these should specifically address the needs and responsibilities of male parents;
 - continuing to examine and support more comprehensive, integrated approaches such as the 'family centre' and the 'integrated hub' concepts to address the overall needs of families and children;
 - ensuring all schools provide appropriate child abuse and sex education programs that meet 'best practice' standards; and
 - undertaking a scan of programs and services operated by departments to ascertain if efficiencies can be gained through greater coordination of existing programs and services.
23. That the Child Protection Council coordinate a broad-based child sexual abuse prevention media campaign in Queensland and that the Queensland Government allocate new funds for this purpose to participating government departments.
24. That an Inter-departmental Working Group, chaired by the Children's Commission Queensland, be established to take responsibility for coordinating government child abuse prevention activities. The Working Group should liaise with the Crime Prevention Task Force and the Child Protection Council and have responsibility for developing whole of government policies and programs and

coordination of programs and service delivery to effectively prevent child abuse in general and child sexual abuse in particular.

Chapter one

Overview

This is the second volume of the Queensland Crime Commission (QCC) and Queensland Police Service (QPS) Project Axis Report — a report on child sexual abuse in Queensland. Project Axis was established as a wide-ranging inquiry into child-sex offending in Queensland. It involves strategic intelligence and research activities, as well as tactical investigation. The Project aims to contribute to the community's understanding of child sex offending, its causes and its impact on victims and society, as well as to identify better ways of dealing with the problem.

The first volume, which was published in June 2000, reported on the nature and extent of child sexual abuse in Queensland (QCC & QPS 2000).¹ As Volume 1 showed, child sexual abuse encompasses a range of behaviour, and may constitute a range of different criminal offences.² Similarly, allegations of such behaviour arise in numerous different contexts, and disclosure of these matters can be made to many different individuals or state agencies. The various activities which comprise child sexual abuse have led to the establishment of a range of legal and non-legal responses to allegations of child sexual abuse.

This volume describes the responses of state agencies and community organisations to the problem of child sexual abuse in our community. It aims to identify gaps in the policies, procedures and services in place to respond to complaints and notifications of child sexual abuse. This report does not purport to offer a comprehensive evaluation of the various agency and community responses but draws on a range of information to provide an overview of what happens, in a legal and non-legal context, when an allegation of child sexual abuse is made.

This chapter describes the key reforms that have been implemented to address the problem of child sexual abuse in Queensland over the course of Project Axis. The chapter then describes the sources of information used by Project Axis in preparing Volume 2, and provides an overview of the contents of this report.

Recent child protection reform in Queensland

During the course of Project Axis, the Queensland Government has implemented a number of changes to the child protection framework. For example, the *Child Protection Act 1999* was introduced in 1999 and further amendments were passed in 2000. The Act replaced the outdated *Children's Services Act 1965* and more adequately defines the role of government in protecting children and supporting families. The reforms reflect improved service delivery methods and changing community values.³

¹ Refer to Appendix 1 of this volume for a list of the key findings from Volume 1.

² Volume 1 Appendix 1 sets out the various criminal offences.

³ Explanatory Notes, *Child Protection Bill 1998*.

The Government has also introduced the *Commission for Children and Young People Bill 2000* which broadens the role of the Children's Commission to advocate on behalf of children and young people. The legislation also includes additional provisions for screening employees in child-related employment. A number of these changes implement recommendations of the Children's Commission and the Commission of Inquiry into the Abuse of Children in Queensland Institutions (Forde Inquiry).

Importantly, the Child Protection Council (CPC) has been created to improve government responses to child protection issues in this State.

The Child Protection Council

The Council was established by the Minister for Families, Youth and Community Care in March 1999 to provide leadership and policy advice to the Minister on child protection matters. The Council comprises 22 members representing a variety of professions, cultural groups, organisations and educational backgrounds. In particular, a number of government and non-government agencies are represented on the Council. The Council is supported by a secretariat based in Families, Youth and Community Care Queensland (FYCCQ).

The Council aims to provide the Minister for Families, Youth and Community Care with advice on a wide range of matters relevant to child protection, including:

- initiating and coordinating cross-sector planning;
- identifying gaps in services;
- overseeing standards for provision of services across government and non-government sectors;
- providing an auspice for research inquiries and reports on matters of interest.

The CPC envisages that its work will facilitate broader community participation in child protection issues, and provide a forum for increased cooperation across government and community sectors.

Sources of information used for Volume 2

For this volume of the report, Project Axis has drawn particularly on the following sources:⁴

- public submissions from a number of individuals and organisations;
- consultations with a range of individuals and agencies about practices, policies, and the day-to-day work of child protection and the investigation and prosecution of child sex offending;

⁴ See Volume 1 pp. 6–9 for a comprehensive list of information used for Project Axis.

- information from government agencies about programs in place to deal with child sexual abuse and child protection generally;
- statistical information from the QPS and Department of Justice and Attorney-General showing the progress of cases through the criminal justice system;
- information from independent schools, community groups and churches on their policies and procedures for responding to allegations of child sexual abuse.

The remainder of this report

The remaining chapters of this report address current responses to child sexual abuse in Queensland, including:

- the framework for reporting suspected child sexual abuse;
- the interface between the child protection and criminal justice responses;
- the detection and investigation of child sexual abuse by law enforcement agencies;
- the progress of child sexual abuse cases through the court system;
- the court system's response to child sexual abuse;
- the sentencing, treatment and supervision of convicted child sex offenders;
- mechanisms for assessing the suitability of people to work with children;
- handling complaints of child sexual abuse involving employees;
- the provision of services to victims of child sexual abuse;
- the importance of policies and programs aimed at preventing child sexual abuse.

Chapter two

Reporting suspected child sexual abuse to child protection agencies

Volume 1 of the Project Axis report identified that the incidence of child sexual abuse was critically underreported, both by children who are the victims of the abuse, and by those to whom children disclose abuse. There are a number of reasons for the low rate of disclosure and reporting of child sex offences, including:

- failure to recognise the activity as abnormal or abusive;
- feeling fearful, embarrassed or ashamed;
- lack of skills to communicate the abuse;
- fear by victims that they will not be believed.

The Smallbone and Wortley study, published with Volume 1, found that offenders generally involve themselves at an emotional level with their victims and, as a consequence, many victims may be reluctant to disclose the abuse because of this emotional entanglement. This reluctance is often exacerbated by the offender's attempts to convey to the child a sense of partial responsibility for any serious negative consequences that would follow disclosure (Smallbone & Wortley 2000).

Improving official reporting of child sexual abuse was recognised in Volume 1 as a key requirement for agencies to provide better targeted and more effective responses to the problem in Queensland.

Incidents of child sexual abuse may come to official attention either when a child purposely tells someone about the abuse, or when someone close to the child suspects that sexual abuse has occurred because of the child's behaviour (QCC & QPS 2000).

Who reports child sexual abuse?

Anyone may notify the QPS or FYCCQ⁵ that they suspect a child has been sexually abused, or may be at risk of sexual abuse. Notifications of child sexual abuse come from a wide range of sources. According to the most recent data available from FYCCQ,⁶ apart from police,⁷ parents, guardians, relatives and school personnel are the most likely to notify FYCCQ that they suspect child sexual abuse. Figure 1 shows

⁵ The role of the QPS and FYCCQ in responding to child sexual abuse is outlined in Chapter 3.

⁶ Comparative data from QPS is not available.

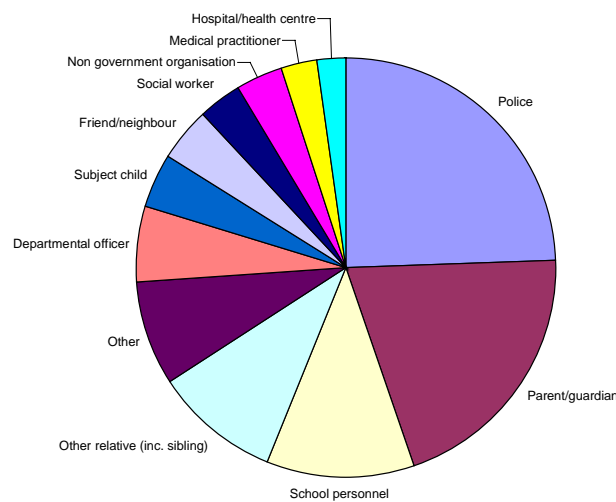
⁷ Police receive notifications from a range of sources and are required to report these to FYCCQ.

that, together, these groups made nearly half of all substantiated notifications⁸ to FYCCQ during 1998–99.

Fewer substantiated notifications of child sexual abuse are made to FYCCQ by non-government organisations, medical practitioners and other hospital or health centre staff.

This pattern probably reflects the fact that the people who have the most extended contact with individual children in their day-to-day lives are best placed to witness the effects of sexual abuse or to be the recipient of a disclosure of abuse.

Figure 1: Sources of substantiated notifications of child sexual abuse — 1998–99



Source: FYCCQ, unpublished data.

Legislative obligations to report suspicions or disclosures of child sexual abuse

The only people required by legislation to report suspected or alleged child sexual abuse to police or FYCCQ in Queensland are:

- Medical practitioners who are required under the *Health Act 1937* to report reasonable suspicions of maltreatment or neglect of children within 24 hours of forming the suspicion. The medical practitioner must report to a specified medical practitioner, a police officer or an officer of FYCCQ, and also to the chief health officer within seven days.
- The Children’s Commissioner who must, under the *Children’s Commissioner and Children’s Service Appeals Tribunals Act 1996*, refer any complaint of an alleged sexual offence involving a child to the Commissioner of Police.

⁸ A matter constitutes a substantiated notification when a child has suffered harm, or is at risk of harm due to the action or inaction of a parent, care provider or person living in the child’s home. The substantiation process is an internal process by FYCCQ officers. A matter which is the subject of a substantiated notification has not necessarily been dealt with by the courts.

- Family Court personnel, including court counsellors, mediators, welfare officers and registrars who are required under the *Family Law Act 1975* to report suspicions of child abuse to FYCCQ.
- Employees of licensed residential care services and FYCCQ officers, who are required under the *Child Protection Act 1999* to report to the Chief Executive of FYCCQ any suspected harm suffered by children in residential care.⁹ This legislative requirement was introduced as the result of a recommendation made by the Forde Inquiry.

To address low reporting rates of child sexual abuse by professionals, most jurisdictions in Australia have introduced a framework of mandatory reporting for specific professional groups. For example, in South Australia, a wide range of professionals including medical practitioners, nurses, dentists, psychologists, police, probation officers, social workers and teachers are required to report suspected child abuse under child protection legislation.

Much of the literature about mandatory reporting suggests that the factor that most influences professionals in their decision to report abuse is not whether they are obliged under legislation, but rather, their degree of confidence that reporting will achieve a positive response for the child and family. A national United States survey found that 40 per cent of all professionals mandated to report suspected abuse failed to do so. This reflected, to some degree, their concern that “the legal consequences of such reporting frequently are more harmful than helpful to victims and their families” (Thompson-Cooper, Fugere & Cormier 1993 as cited in McConaghy 1998, p. 261).

A study conducted in Queensland of the reporting behaviour of a sample of paediatric registrars and general practitioners found that 43 per cent of practitioners had suspected but not reported cases of child abuse or neglect (Van Haeringen, Dadds & Armstrong 1998).

Practitioners may be influenced in their decision not to report by a number of factors, including:

- uncertainty about whether an incident is serious enough to report (Zellman 1990);
- belief that reporting will disrupt the individual or the family (Zellman 1990);
- concern about the quality of child protection services and a belief that the professional themselves can provide better services to victims and families (Zellman 1990);
- uncertainty about whether the abuse has actually occurred (Holland 1999); and
- confusion about the definitions of abuse and when to report it (Holland 1999).

These studies suggest that, despite being statutorily obliged to report suspected abuse, many professionals still exercise considerable discretion in their reporting behaviour.

⁹ Section 148 *Child Protection Act 1999*.

Furthermore, mandatory reporting can result in other unintended consequences which have been documented in the literature. For example:

- ‘overreporting’ of abuse will require the use of already stretched resources in the investigation of reports that result in unsubstantiated outcomes; (Swain 1998);
- mandatory reporting can detract from prevention and other supportive measures for families in need; (Swain 1998);
- the potential that a professional will breach the confidentiality of the client relationship may discourage older children from disclosing to a professional and seeking their help, and may also discourage families and non-offending parents from voluntarily seeking advice from agencies and services; (Swain 1998);
- the outcomes of mandatory reporting may lead to a child being placed in substitute care, sometimes for prolonged periods, the effects of which may be even more damaging for children than the original harm suffered (Community Law Reform Committee of the Australian Capital Territory 1993).

The value of mandatory reporting schemes has not been proven. A recent United States evaluation of treatment and prevention programs for family violence stated that “no existing evaluation studies can demonstrate the value of mandatory reporting systems compared with voluntary reporting procedures in addressing child maltreatment or domestic violence” (Chalk & King 1998, p. 5).

The issue of mandatory reporting was considered at length during the development of the *Child Protection Act 1999*. For many of the reasons described above, the Government decided to maintain a largely voluntary reporting framework for professionals who suspect the occurrence of child sexual abuse. The remainder of this chapter describes existing policies for reporting and identifies gaps in the reporting framework.

Requirements in agencies’ policies to report suspected child sexual abuse

Aside from requirements in law, several agencies have developed internal policies to direct employees to report suspicions or allegations of child sexual abuse. These are described below. Policies governing suspected abuse involving employees of agencies or institutions are examined in Chapter 9.

Schools

Apart from parents and family members, teachers have perhaps the most contact with children in their day-to-day lives. As trusted and important members of a child’s social network, it is possible that a child will disclose sexual abuse to a teacher, and this is borne out through FYCCQ statistics which show that school personnel are a significant source of substantiated notifications (refer to Figure 1).

It is therefore reasonable to expect schools to have developed mechanisms to assist teachers and other school personnel¹⁰ in handling disclosures or suspicions of child sexual abuse.

Government schools

While there is no legislative requirement that teachers in government schools report suspected child sexual abuse, the child protection policy of Education Queensland requires employees to report matters to the principal "...where it is reasonable to believe a student may require protection from harm" (Education Queensland 1998, p. 6). The policy defines harm as any detrimental effect of a significant nature on the child's physical, psychological or emotional well-being. It is immaterial how the harm is caused. Harm can be caused by: (a) physical, psychological or emotional abuse or neglect; (b) sexual abuse or exploitation; or (c) domestic or family violence (Education Queensland 2000 update).

Under the child protection policy, school principals on receiving advice from an employee who suspects a student is in need of protection from sexual abuse, are required to contact either the Child and Sexual Assault Investigation Unit (CSAIU) at the QPS, or FYCCQ. Suspected Child Abuse and Neglect (SCAN) team procedures¹¹ should ensure that these agencies notify each other about reports from school principals. School principals are directed not to inform the parents or caregivers that such a report has been made (Education Queensland 1998).

Education Queensland employees are advised to discuss with the school principal any concerns or observations about a particular child, or any situation where the employee is unsure how to proceed. Staff are also advised that they may contact FYCCQ directly to discuss concerns without having to identify any of the individuals involved.

The CJC is currently finalising its report on inappropriate relationships of a sexual nature by Education Queensland employees towards students. In that report the CJC will be commenting on the reporting obligations of Education Queensland employees in the context of the department's Code of Conduct. The Code of Conduct covers suspected misconduct of Education Queensland employees towards students within the school environment as well as the reporting of suspected child abuse outside the school.

Non-government schools

Policies of Education Queensland only cover 76 per cent of schools in Queensland. In fact, a quarter of all schools in Queensland do not fall within the jurisdiction of Education Queensland but operate as independent schools (ABS 1998).

¹⁰ Other than teachers, a number of other support staff also come into contact with school-age children including counsellors, specialist teachers who work with students who have disabilities, behaviour management advisers, physiotherapists, occupational therapists, guidance officers and youth health nurses.

¹¹ See Chapter 3 for a description of SCAN team procedures.

There is currently no legislation requiring non-government schools to report allegations or suspicions of child sexual abuse to child protection agencies in Queensland, and there is no consistent policy applied across these schools. Non-government schools develop their own policies and procedures with regard to the operation and administration of their activities. The policies in place in a particular school may be determined by their religious affiliation, modeled on those adopted by Education Queensland or may be completely independent.

Project Axis sought information from 66 non-government schools about their policies for dealing with suspected child sexual abuse. Nearly half of the 66 schools consulted indicated they had no guidelines in place for dealing with suspected sexual abuse of children occurring outside the school environment.¹² About a third of the schools indicated that relevant guidelines had been established by their affiliated religion, which they would follow if necessary. Only six schools indicated they had specific policies in place for dealing with suspected child sexual abuse occurring outside the school environment.

Other community groups

Many children engage in a range of sporting or recreational activities that bring them into contact with adults. Such contact between adults and children may provide the potential for staff or volunteers to form a suspicion that a child may be the victim of sexual abuse.

Project Axis sought information from 51 community groups who were likely to be in contact with children in recreational settings. Community groups who provided information about their reporting policies and procedures included:

- youth groups and clubs, including scouting groups;
- juvenile sporting groups; and
- child minding services.

Only three of these community groups had established any policy for handling suspicions or disclosures of child sexual abuse.

Gaps in the reporting framework

In Queensland, there are several key areas that would benefit from the development of clear guidelines for staff in reporting child protection concerns, as follows:

- Medical practitioners are mandated to report abuse. In addition, the SCAN team manual states that all cases of abuse suspected by Queensland Health employees should be referred to the Queensland Health representative on the SCAN team.

¹² As explained earlier, Chapter 9 describes the policies governing suspected abuse occurring within the school environment and involving employees.

However, there appears to be no clear policies or procedures currently in place for other health professionals to follow in relation to suspicions or disclosures of abuse.

- While Education Queensland employees are directed to report suspicions or disclosures to their school principal, who is then required to report to FYCCQ or the QPS, most non-government schools do not provide their employees with any guidance in relation to child protection concerns.
- Although several individual community groups have developed policies for employees who suspect abuse, most have not.

Several studies indicate that some key professional groups who have contact with children do not have an adequate knowledge about child sexual abuse, or about child protection legislation. One Victorian study (Holland 1999) of doctors' understanding of mandatory reporting legislation found:

- only a quarter of the sample correctly defined child abuse;
- a third of the sample incorrectly named the agency to which they should report abuse;
- most of the sample was unable to indicate what type of abuse they were obliged to report; and
- most of the sample was unable to name the other professional groups mandated to report abuse.

Some agencies are conscious of the need for appropriate education and training. For example:

- Queensland Health is currently developing a child abuse and neglect policy that will include strategies to address early detection, community education, treatment and training.
- In conjunction with the universities and professional bodies, staff of Queensland Health help provide training to undergraduate and postgraduate medical practitioners, as well as to members of appropriate specialist medical colleges (for example, paediatrics and psychiatry). Similar input is available to nursing and allied health professional training.
- Specific training in child abuse and neglect has been included in the package of inservice training and 'up-skilling' provided to Government Medical Officers over the past two years.

However, much more work is needed before the community can be satisfied that all agencies working with children have appropriate policies in place to respond to the signs of child sexual abuse.

An adequate policy framework

The essential components of any policy framework should include a clear set of guidelines for people who are engaged in providing services for children to assist them in deciding how to respond to a suspicion or disclosure of child sexual abuse, including policies on reporting suspected child sexual abuse. This should be accompanied by regular education for people about the indicators of child sexual abuse, their legislative and other responsibilities, the options available to them, and the likely outcomes for the child and family.

Guidelines for dealing with suspicions of child sexual abuse and associated education strategies should provide:

- information about what constitutes child sexual abuse, and what the signs and indications are that child sexual abuse may be occurring;
- information about the obligations of workers who suspect child sexual abuse;
- information about the possible outcomes of making a report of suspected child sexual abuse;
- contact officers in relevant agencies with whom a worker can informally discuss any child protection concerns; and
- a clear set of instructions to follow when a worker has decided to make a report of suspected child sexual abuse.

Conclusion

There is a need for a more comprehensive education program about child sexual abuse that could also be provided to non-government agencies such as schools and community groups. Ideally, guidelines for agencies that assist in identifying and dealing with suspicions of child sexual abuse, and training and education programs, should be standardised across all agencies. Agencies such as FYCCQ and the Children's Commission are best placed to develop guidelines and education programs which could be accessed by non-government organisations and adapted to meet their needs.

Importantly, there should be some onus placed on non-government agencies, particularly schools, to adopt appropriate standards in dealing with child sexual abuse.

Recommendations

Project Axis recommends:

1. That FYCCQ, in conjunction with the Children's Commission, and following consultation with client groups:

- develop a comprehensive training and education program to assist those in government and non-government agencies to identify indicators of child sexual abuse; and
 - develop a set of guidelines to assist agencies who work with children to decide how best to respond to suspicions or disclosures of child sexual abuse.
2. That a working party be established comprising Education Queensland, the Board of Teacher Registration, the Association of Independent Schools Queensland (AISQ), the Queensland Catholic Education Commission and the Children's Commission Queensland to develop appropriate policies for responding to suspicions or disclosures of child sexual abuse in non-government schools. This should be undertaken in consultation with FYCCQ and the QPS (see also Recommendations 11 and 15).
 3. That the Government consider including, as a requirement of their accreditation, that non-government schools have in place adequate policies for responding to suspicions or disclosures of child sexual abuse (see also Recommendations 12 and 16).

Chapter three

The interface between the child protection and criminal justice systems

The need for a coordinated approach to child sexual abuse was recognised in Queensland as early as 1978, at which time the Coordinating Committee on Child Abuse (CCOCA) was established to provide a formal mechanism for the joint activities of government departments. The operation in Queensland of a formal interface between key agencies involved in responding to child abuse is a considerable advantage. Whereas many jurisdictions have only recently acknowledged the need to foster collaborative partnerships for addressing the problem of child sexual abuse, Queensland is well experienced in the operation of multi-disciplinary responses to notifications.

Complaints and notifications of child sexual abuse are reported to two key agencies, which have distinctly different roles in responding. These agencies are:

- FYCCQ, whose primary focus is the protection of children and the provision of services to child victims and their families; and
- QPS, whose primary focus is the detection, investigation and prosecution of complaints of child sexual abuse.

This chapter outlines the responsibilities of these agencies in responding to allegations of child sexual abuse. The chapter will also describe the interface between the child protection and criminal justice systems by describing COCA, the SCAN team process and the process of collaborative interviewing of child victims.

FYCCQ

FYCCQ is the lead government agency in the area of child welfare. It has statutory responsibility for the protection of children from abuse and neglect, and the provision of alternative care in a safe and supportive family environment when parents are unable to protect or adequately care for their children (FYCCQ 1998).

As a child protection agency, FYCCQ receives notifications of suspected abuse of children, including sexual abuse, from a range of sources. In many cases, it will be in receipt of the first notification of actual or suspected abuse.

When a notification is received, FYCCQ officers will conduct a preliminary investigation and make an assessment to determine whether the matter warrants a child protection response. In the case of child sexual abuse, a child will be found to be in need of protection if the child has suffered, is suffering, or is at unacceptable

risk of suffering, sexual abuse and does not have a parent able and willing to protect the child from such abuse. This means that, in virtually all cases of intra-familial abuse, FYCCQ will have a role to play. However, in cases involving extra-familial sexual abuse, FYCCQ will only intervene where there are indications that:

- the relationship between the parent and the alleged offender may negatively affect the parent's ability to protect the child;
- the parent refuses to take action to ensure the future safety of the child; and
- it is suspected that negligence on the part of the parent has directly contributed to the circumstances of the abuse, and there is reason to suspect that negligence may recur.

In the absence of any of the above factors in a case of extra-familial abuse, any notification of such abuse will be referred by FYCCQ to the QPS for investigation.

In cases where there is intra-familial abuse, or where extra-familial abuse includes one of the above factors, FYCCQ and the QPS will jointly investigate and assess the report. In most cases this will include a joint interview with the child. The SCAN team process facilitates this multi-disciplinary approach to initial interviews with child victims. The operation of SCAN teams, and the process of conducting joint interviews, are described later in this chapter.

In addition to referring matters to the QPS, FYCCQ may take other protective action. Such protective intervention by FYCCQ is at the minimum level necessary to meet the child's protective needs. Protective options available include community support, such as referral to a community agency or private practitioner for appropriate services, or further departmental intervention. If departmental intervention is considered necessary, a decision is made about whether this should occur voluntarily — that is, based on agreement with the family — or based on a child protection order. In the latter case, an FYCCQ officer may make an application to the Children's Court for a child protection order.

A range of child protection orders¹³ can be made by the court, including:

- orders directing a parent to do, or to refrain from doing, something relating to the protection of the child, or directing a parent not to have contact, or to have supervised contact, with a child;
- supervision by the Chief Executive of the protective needs of the child, which provides for the court-mandated involvement of FYCCQ to provide services to the child or family. This arrangement allows parents to retain guardianship and custody of the child;
- short term placement of the child in the custody of a suitable person (not the parents) who is a member of the child's family, or to the Chief Executive. For a period of up to two years, the child may be placed with members of the child's

¹³ These protection orders are listed in section 61 of the *Child Protection Act 1999*, and in the Child Protection Procedures Manual (FYCCQ 2000, 14.6(ii)).

family, a licensed care service, or an approved foster carer. The parents of the child retain guardianship of the child, however the determination of where the child lives and decision-making relating to the child's daily care are the responsibility of the person with custody;

- short term guardianship of the child to the Chief Executive. For a period of up to two years, the Chief Executive becomes the child's legal guardian;¹⁴ and
- long term guardianship of the child to a suitable person (not the parents) who is a member of the child's family, to another suitable person, or to the Chief Executive. Long term guardianship of a child is considered only when parents are unable to provide safe care of a child in the long term.

The Children's Court may make more than one of these orders simultaneously.

Where ongoing intervention by FYCCQ is required, by initiating either a child protection follow-up case or an application for a child protection order, the parents are informed of this outcome and management of the case begins.

QPS

Police officers are also at the 'front line' of receiving complaints of child sexual abuse. Some complaints are received directly from a child or parent, others from FYCCQ, school teachers, or others.¹⁵

Police have primary responsibility for the investigation of complaints of child sexual abuse, and for gathering evidence for prosecution. However police officers also have certain statutory responsibilities under the *Child Protection Act 1999* to take action to protect children. For example, police have power to take children into protective custody and to apply for certain protective orders.

Officers who receive a complaint of child sexual abuse must initiate a Crime Reporting Information System for Police (CRISP) report and notify the shift supervisor of the complaint.¹⁶ The shift supervisor must ensure that an officer of a Juvenile Aid Bureau (JAB), where a JAB operates, or an officer of a Criminal Investigation Branch (CIB) is contacted immediately to undertake an investigation. The following officers must also be notified:

- the nearest Area Office Manager of FYCCQ ;
- a member of the nearest SCAN team or JAB¹⁷;and

¹⁴ The Chief Executive is then recognised in law as having the duties, powers, responsibilities and authority that parents have in relation to their child.

¹⁵ Chapter 2 describes the reporting requirements of some agencies in relation to child sexual abuse.

¹⁶ Policies and procedures for dealing with complaints of child sexual abuse are documented in section 7.6 of the Operational Procedures Manual.

¹⁷ The member of the SCAN team or JAB is authorised to check the Child Protection Information System to identify details of any previous notifications.

- the CSAIU where appropriate.

Specialist units such as the CSAIU or the JAB are involved in matters where these units can be accessed locally. The CSAIU operates almost exclusively within the south-eastern corner, and there are 32 JABs throughout Queensland. Chapter 4 will describe in more detail the allocation process of matters for QPS investigation.

The officer receiving the complaint is advised to inform the person making the complaint to refrain from discussing the allegation with the child until the arrival of the investigating officer.

Decisions relating to matters of child abuse must be made only after liaison with a SCAN team, although where a child is in immediate danger of continuing abuse, a 'unilateral' decision to proceed against an offender may be made. Other than in a situation requiring immediate action, investigating officers are required to assess the urgency of the need to investigate the complaint based principally on the immediate risk to the child, or the risk of losing evidence.

Where an allegation is referred to a SCAN team, and the SCAN team recommends that QPS not proceed against the offender, the investigating officer must complete a supplementary CRISP report indicating that the offence has been 'solved' and including the details of the SCAN team meeting, its recommendation and the subsequent QPS decision.

The interface between the QPS and FYCCQ

Responding to a complaint of child sexual abuse requires close liaison between the QPS and FYCCQ. However, working together to resolve complaints of child sexual abuse can be difficult for individual officers. The fundamentally different roles of the two agencies can cause tension between officers who are accustomed to pursuing quite separate objectives. While the aim of general policing is primarily to apprehend and charge offenders, FYCCQ officers endeavour to maintain family relationships as far as possible.¹⁸ As a large proportion of child sexual abuse allegations involve offenders who are family members, the objectives of the two agencies can sometimes conflict. This section will describe the key mechanisms that have been established to facilitate collaboration between the two agencies.

CCOCA and the SCAN team process

The Coordinating Committee on Child Abuse (CCOCA) comprises representatives from the QPS, Queensland Health, FYCCQ, Education Queensland, and the Department of Justice and Attorney-General. In 1980, CCOCA initiated a system of statewide SCAN teams to ensure an effective and coordinated response to notifications of child abuse. Since establishing the SCAN team system, CCOCA has continued to guide and maintain the activities of SCAN teams. CCOCA reports annually to the Minister for Families, Youth and Community Care on the operation of SCAN teams.

¹⁸ Section 5(e) *Child Protection Act 1999*.

The QPS, FYCCQ and Queensland Health are the three agencies with core membership of SCAN teams throughout the State.¹⁹ In addition, where appropriate, others may be requested to participate in SCAN team meetings as 'co-opted' members. Co-opted members can include representatives from Education Queensland, community welfare agencies, Aboriginal and Torres Strait Islander childcare agencies, and any other persons who might assist in the discussion of a particular case.

All core SCAN team members must refer a matter to the SCAN team when it becomes clear that the case meets the referral criteria. The QPS and FYCCQ are required to refer all allegations of child sexual abuse to a SCAN team, and Queensland Health is instructed to refer all suspicions of child sexual abuse, including all mandatory notifications made in accordance with the *Health Act 1937*.

Upon receipt of notifications or allegations of child sexual abuse, the core member contacts the SCAN team coordinator,²⁰ who includes the cases in the list for discussion at the next SCAN team meeting. The coordinator may call an emergency meeting if necessary. The department making the referral is responsible for notifying parents that a matter involving their child has been referred to the SCAN team.

While SCAN teams do not have a distinct authority for making decisions about individual cases, they recommend responses based on the consensus of the core members. Individual agencies preserve responsibility for their actions. In formulating recommendations for action, the SCAN team considers:

- all available information from team members;
- whether any additional co-opted members are required to assist discussion;
- the risk to the child;
- the resources available to the child and the parents; and
- all courses of action available to respond to the child's protective needs.

In situations where there is dissent among members about the appropriate response in an individual case, each core member must seek further advice from the manager within their agency, and convene a second meeting to agree on action to be taken. SCAN team members are required not to act unilaterally unless there are exceptional circumstances. Where a SCAN team member is considering unilateral action, the case is discussed with other SCAN team members by telephone where practicable.

¹⁹ As at August 1998 there were 39 SCAN teams throughout Queensland.

²⁰ The SCAN team coordinator is a role undertaken by one of the core members on the team. All roles in the SCAN team — the coordinator, the Chairperson and the minute-taker — are decided by the core members of each individual team and are often rotated.

Each case is reviewed by the SCAN team as often as necessary until a “stable case management plan is in place” (CCOCA 1998, p. 31). When there is no longer any need for a multi-disciplinary approach to an individual case, the matter is withdrawn from the SCAN team, although individual government agencies may continue involvement.

Collaborative interviewing

Officers of the QPS and FYCCQ often jointly conduct initial interviews with child victims.²¹ Officers who conduct interviews with children should have undertaken an Interviewing Children and Recording Evidence (ICARE) training course, which instructs interviewers about the most effective and sensitive means of questioning children. The course was established in 1990 in response to a demand from those working in the field for a training program specifically about interviewing children where sexual abuse is suspected. Each ICARE course is jointly conducted by the QPS and FYCCQ, and accommodates 40 officers.

ICARE training is an important introduction for QPS and FYCCQ officers to the collaborative approach taken in child sexual abuse matters. Comments by QPS officers suggest that ICARE training is central to good networking between the QPS and FYCCQ, and that the training course assists the process of “breaking down the ‘us and them’ barriers between FYCCQ and QPS. It becomes a real joint effort”.²²

Interviewing protocols and legislative requirements ensure that, when a child is interviewed in the absence of his or her parent, the interviewing officer must notify the child’s parent that the interview has taken place. Officers are encouraged to conduct interviews with child victims in the presence of an independent person, although the number of adults present should not be more than three.

Sometimes interviews may be conducted at school. A provision of the *Child Protection Act 1999* allows QPS and FYCCQ officers to interview a child at school or child care in specific circumstances. This clarifies the position for the Principal or Director of the school or child care service, although the legislation does not override the right of the Principal or Director to determine who enters the school or child care premises. Interviews with children under the age of 12 years are generally video and audio recorded.

Where a parent has not been present for an interview with a child victim, the officers should return the child to the parent where there is no risk that the child will be further victimised. If the child’s safety cannot be assured at the child’s home, the officer should liaise with FYCCQ to ensure adequate protective intervention is provided in the child’s best interests.

Conclusion

²¹ Policies and procedures for conducting interviews with child victims are documented in section 7.7 of the QPS Operational Procedures Manual, and Chapter 8 of the FYCCQ Child Protection Procedures Manual.

²² Meeting with JAB officers, 3 July 2000.

The multi-disciplinary approach to child protection in Queensland is clearly an advantage, and one that other states in Australia have also adopted. Joint initial investigation processes, and the SCAN team framework, have enabled the two lead agencies in the area of child protection in Queensland to collaborate closely in responding to allegations of child sexual abuse. SCAN teams have also facilitated the involvement of a range of other key agencies.

In addition to CCOCA and SCAN teams, the CPC has a broader mandate to provide policy advice to the Minister for Families, Youth and Community Care and to monitor key areas such as service provision. Together, these mechanisms should provide an effective means of achieving inter-agency cooperation on child protection in Queensland.

The SCAN team process has now been in operation in Queensland for 20 years with many positive results. However, consultations with several agencies have suggested that some SCAN teams may be deficient in the following areas:

- SCAN teams should routinely involve a wider range of agencies, particularly indigenous agencies, in their operation;
- while SCAN teams in metropolitan Brisbane reportedly work quite well, the adequacy of the operation of regional SCAN teams is not well known;
- the rotation of members does not allow for adequate continuity — it has been commented that SCAN team members need to be more experienced and to stay for longer periods; and
- there are sometimes lengthy delays in police investigations — delays can sometimes be up to 6 or 12 months — and thus in referrals to SCAN.

An evaluation of SCAN teams was undertaken in the late 1980s. Since that time there has been an update of the SCAN team manual, and an increase in training for SCAN team members. However, problems identified through consultations suggest a need for a further evaluation of the operation of SCAN teams.

Recommendations

Project Axis recommends:

4. That appropriate funding be provided to the Children's Commission to undertake a formal evaluation of CCOCA and SCAN.
5. That an increase in ICARE training, and commensurate funding, be provided to ensure QPS and FYCCQ officers are appropriately trained for the task of conducting initial interviews with child victims.

Chapter four

The detection and investigation of child sex offences

The QPS is the lead agency for the investigation of child sex offences in Queensland. Since 1998, the QCC has also had jurisdiction to investigate criminal paedophilia. The QPS, and to a lesser extent, the QCC are responsible for initiating criminal prosecutions against child sex offenders at the 'front end' of the criminal justice system response to child sexual abuse.

This chapter describes the processes in place in the QPS and QCC to respond to child sexual abuse, and discusses those key issues that impact on the detection and investigation of child sexual abuse. The chapter concludes by proposing the future direction for law enforcement in this area.

Reporting child sex offences to the QPS

Detection of child sex offenders is dependent upon complaints being made to the police. As Chapter 2 of this report has noted, child sexual abuse is greatly underreported. Chapter 2 also describes the various reasons why victims may be reluctant to report an offence. Some victims do not report an offence because of fear of the legal process and concern that contacting the police will inevitably result in the matter going to court. In fact, contacting the police does not automatically lead to a formal complaint or initiation of the legal process.

The ultimate decision about making a formal complaint always lies with the victim themselves (or the families of very young victims). Victims and their families may wish to discuss the investigative and prosecution process and the associated difficulties with police prior to making a formal complaint. During this process, police can also check QPS records for other complaints against the particular suspect. Even if a prosecution is not commenced, information obtained from the victim can be used for intelligence purposes.

It is important that police officers taking complaints of child sexual abuse understand the complex factors surrounding the abuse and the factors that may make disclosure difficult, so as to enable them to respond appropriately.

Once a report is made to police, the responsibility for investigating offences of child sexual abuse rests with a number of units, depending upon:

- the type of offender — that is, intra-familial, extra-familial or a serial offender;
- where the offences were committed — in the metropolitan Brisbane area, in one of the regions, or across a number of regions.

In Brisbane, there are two specialist units:

- Child and Sexual Assault Investigation Unit (CSAIU);
- Task Force Argos, a specialist unit with statewide responsibility for investigating extra-familial child sexual abuse, including organised and serial child exploitation.

In addition to the specialist units, JABs located in the regions respond to reports of child sex offences. In areas where there is no JAB, the CIB, or occasionally, the uniform police, will be responsible for investigating the offences and can draw upon the assistance of the CSAIU or Task Force Argos as necessary.

Task Force Argos becomes involved:

- if the offences suggest organised paedophile activity and serial paedophile offences;
- in historical child sex offences, where there is evidence of multiple victims and offences;
- where complaints of child sex offences cross over regional boundaries.

Task Force Argos is responsible for developing and maintaining a comprehensive intelligence system in relation to organised and serial child sexual assault and the exploitation of children outside the family unit. Task Force Argos also develops and maintains links with interstate and international police units dealing with child exploitation and works with other Queensland statutory authorities in relation to child pornography.

Difficulties associated with the investigation and prosecution of child sex offences

Even when a child has disclosed an offence, police face unique challenges in responding to allegations of child sexual abuse. As noted in Volume 1, the process of disclosure by children is not usually straightforward. Often a child who discloses abuse will do so tentatively, and may follow up with a denial. It is difficult for investigators to know whether this denial or recantation is the result of pressure being put on the child from the family or from others, whether it reflects the fact that the initial allegation was untrue, or whether it is simply a normal part of the disclosure process.

Interviewing young complainants presents special challenges to investigators. Particular care must be taken to ensure that the child is not asked leading or inappropriately worded questions. Furthermore, it is often difficult to elicit details of the circumstances surrounding the offence from children, yet such details are a necessary part of the case against an alleged offender.

Investigation of intra-familial abuse will usually involve a joint interview with the child, where QPS and FYCCQ officers work together to ensure the child is suitably protected and that any evidence is appropriately gathered to initiate a prosecution. This approach is recognised by the QPS as the most appropriate and effective means of dealing with these matters. However, difficulties sometimes arise between agency officers due to the unavoidable tension caused by the, at times, incompatible objectives of protecting the child and prosecuting the offender. These problems again highlight the importance of effective joint agency training, such as the ICARE course, to reduce conflict through better understanding of each agency's perspective and expertise.

When information is received that child sexual abuse may have occurred within the home, QPS and FYCCQ officers are often required to interview the child at school. Obtaining disclosures of abuse in these circumstances is extremely difficult, as the child is rarely comfortable discussing the matter, particularly in a situation where they are interviewed in front of a video or audio recorder with Education Department, QPS and FYCCQ representatives present.

Another concern for investigators is that the child's evidence will be contaminated by the intervention of parents or untrained interviewers. It is often important for the child to talk about the abuse with counsellors or school guidance officers who can provide support to the child. The difficulty lies in trying to address the needs of the child while ensuring that the child's evidence is still capable of holding up in court, in the event that the alleged offender is prosecuted.

If investigators fail to obtain sufficient information from a child who has been abused, the consequences are great. Not only will they have insufficient evidence to prosecute the offender, but more importantly, they may have insufficient evidence to justify instituting effective interventions such as removing the child from the abusive situation. The availability of appropriately trained and experienced investigators is therefore critical both to successful prosecution and to the protection of the child.

Delays in reporting child sexual abuse may also hinder the success of any potential prosecution. The Project Axis survey of adult survivors of sexual abuse found that only two per cent of victims reported sexual abuse to police within one week of the commission of the offence. Analysis of QPS statistics revealed, similarly, that less than five per cent of child sex offences were reported within one week (see QCC & QPS 2000, p.80-81). The effect of even minimal delay is often the loss of valuable DNA and other forensic evidence which could be obtained through medical examination or forensic testing of items, including clothing, seized from either the victim or the suspect soon after the commission of the offence.

There has also been an increase in the number of offences reported many years after the incident occurred. While this means that the complainant is no longer a child, such cases have other attendant difficulties. The delay in reporting, which is commonly more than 20 years,²³ makes it very difficult for investigators to gather corroborating evidence, including any medical evidence, and witnesses. Such delayed disclosures

²³ According to CJC analysis of QPS unpublished data from 1994-98, 8.5 per cent of reported child sex offences were reported more than 20 years after the offences allegedly occurred (see Vol. 1, p. 81).

often make it extremely difficult for the victim to provide sufficient detail about the circumstances of the offence, to ensure successful prosecution.

Accounts by child sex offenders show that each abusive episode takes only a short time, occurs only in the presence of the offender and the victim and often does not result in physical damage to the child.²⁴ These features of child sex offences mean that corroborating evidence is rarely available, making these cases more difficult to detect and investigate as well as to prove in court.

In turn, the lack of corroborating evidence means offenders are more likely to emphatically deny an allegation of abuse. Where there is such a denial and no corroborating evidence it is difficult for police to take the issue any further. Some child sex offenders, knowing that the only evidence against them is the word of a child, are less likely than other offenders to admit their offences.

As with the investigation of other serious crime, the outcome depends on the skills and experience of the investigator. Skilful interviewing of child witnesses and suspects, as well as effective management of the investigation are critical to the outcome. For example, obtaining a confession from a suspect will often lead to an early plea of guilty, thus sparing the child the necessity of giving evidence in court. Skilful management of the case by the investigator can also lessen the anguish and trauma for the child who, in intra-familial abuse, often faces a disbelieving or non-supportive family. For these reasons, it is critical that complaints of child sexual abuse are investigated by appropriately trained and specialist investigators.

Review of the QPS response to child sexual abuse

In May 1996 the QPS, in conjunction with the Criminal Justice Commission (CJC), commenced Project Horizon – a review of the response of the QPS to child sexual abuse. Project Horizon examined the effectiveness and accountability of QPS child sex offence investigative practices and techniques for gathering criminal intelligence. The project entailed extensive consultation with a number of key stakeholders including operational and administrative police officers, community groups and government agencies. The review was completed in November 1997.

This section discusses the findings of Project Horizon and describes the QPS response to the problems identified during the review.

Coordinated and consistent response

Project Horizon found that because the responsibility for investigating child sexual abuse rested with a number of areas within the QPS, the organisation's response depended greatly upon the geographic location and circumstances of the offence. According to Project Horizon, the QPS commitment to providing a coordinated and

²⁴ See Volume 1, pp. 27–28 for a description of the nature of child sex offences.

predictable response to child abuse investigation, both proactively and reactively, appeared to have declined from previous years.

The main reason appeared to be the change from the centralised JAB decision-making structure of the early 1990s to a regional structure. Following the change, State Crime Operations Command retained responsibility for intra-familial abuse in the Brisbane Metropolitan area (the CSAIU) and organised or serial extra-familial abuse statewide (Task Force Argos). However, responsibility for coordination of statewide JABs, training, policy development and interagency collaboration was no longer so well defined. To respond to this problem the QPS appointed a Detective Superintendent to the role of State JAB Coordinator. However, limited improvements have been made as this officer has many other responsibilities within the State Crime Operations Command.

The QPS recognises that some modification to its structure and supporting systems may be necessary to improve the operation of JABs and the child abuse response statewide. To address these and other issues a working group has been formed to progress the implementation of changes needed to improve service delivery throughout the State.

Training

The selection and retention of specialist staff in areas responsible for investigating child sexual abuse was recognised as vital, but Project Horizon found that it was difficult to achieve. In particular, the Project found that the training of investigators in this area had fallen below an acceptable level and there was a need for a coordinated central training system that would include ICARE²⁵ training.

Since Project Horizon was completed, demand for inservice training within the QPS has been continuously high due to:

- major legislative change in areas including police powers and criminal law; and
- a move toward more problem-oriented and partnership policing.

These extraordinary training needs, coupled with embargoes on police leave for critical periods including New Year 2000 and the Olympics, have made it difficult to increase training as recommended by Project Horizon.

The QPS plans to conduct two JAB courses for 50 officers and two joint QPS/FYCCQ ICARE courses for a further 40 officers during 2000.

Recruitment and rotation policies

Project Horizon found that the QPS undervalued the type of duty carried out by officers in the child sexual abuse area and, more generally, within the JABs. The policies for staff rotation within the QPS meant that many officers were at times

²⁵ See Chapter 3 for a description of ICARE.

assigned to this area when they had no interest in conducting the work. Conversely, officers who were interested in pursuing a career in child protection were rotated out of these positions. Often, the time spent by officers in the area was insufficient for them to undertake the appropriate training, including participating in ICARE courses.

Within the regions, officers are now appointed to the JAB for a minimum three-year tenure following personal application and selection based on merit. Staff within State Crime Operations Command are still rotated through a number of specialist squads, including Task Force Argos and the CSAIU. However, management of the Command is mindful of the value of retaining experienced officers in this field and the time necessary to gain such experience. Officers are not rotated through Task Force Argos or the CSAIU if they are considered unsuitable or if they express a strong desire not to work in these areas.

The QPS has also implemented a program, which allows exchange of investigators between some regions and State Crime Operations Command. This scheme can allow investigators within Task Force Argos or the CSAIU to gain general JAB skills, while regional investigators gain experience within the specialist areas of State Crime Operations Command.

Retention of investigators

In recent times the value of the child abuse investigator has been increasingly recognised within the QPS. The Detectives Appointment Board, for example, now acknowledges the investigative skills and abilities of child abuse investigators when considering whether an officer is sufficiently qualified to be appointed as a detective. Discussions with a group of operational JAB officers during Project Axis disclosed that the general view of police officers towards JABs and child sexual abuse work has improved since Project Horizon, with more officers willing to work in the area and appreciating its value.

There is, however, a need to constantly maintain a supply of capable officers willing to work in the fields of child abuse investigation and the JAB generally. The QPS acknowledges the value of these specialist investigators and, through public recognition and internal marketing, aims to promote the satisfaction, skill development and experience which can be gained while working in these areas.

Project Horizon recognised that working in the field of child abuse can be extremely stressful for investigators. To ensure the welfare of its officers, the QPS is presently conducting a review of the maximum tenure for officers working in high-stress areas such as child abuse investigation.

Inter-agency collaboration

Project Horizon found that all these factors had contributed a lack of stability and consistency in police representation in some SCAN teams. The difficulties were most often identified in non-metropolitan regions. The Metropolitan SCAN teams were found to be operating well due to the involvement of the specialist CSAIU in Brisbane.

Standards of investigation

During Project Horizon the Director of Public Prosecutions (DPP) identified some instances of deficiencies in the QPS investigation of child sexual abuse, including areas such as insufficient police training in child interviewing techniques and inadequate police briefs (QPS 1996). To establish the extent of these deficiencies, the CJC conducted a review of a sample of DPP child sexual assault files where a *nolle prosequi*²⁶ had been entered. The results of that review were provided to Project Horizon.²⁷

There was insufficient information recorded on a significant number of DPP files, so it was not possible to assess, in most cases, the extent to which police officers contributed to any failure to prosecute matters successfully. In some cases where a *nolle prosequi* was entered, such as where the child's parents decided not to proceed, the reason was clearly not related to the police investigation. However, it was clear that police performance could have been improved in other cases, particularly in relation to taking statements from key witnesses.

Since Project Horizon, the QPS has appointed Brief Managers throughout the State who are responsible for checking and maintaining the standards of police briefs of evidence submitted prior to court. Failed Prosecution Committees have also been formed to review all failed prosecutions within the Magistrates Court. Results from these committees statewide are now centrally collated. It has been proposed that a database be developed within the Brisbane Police Prosecutions Corps to record information received from the Failed Prosecution Committees. The feasibility of a higher court data collection system of a similar nature is also being examined.

Intelligence and information systems

Project Horizon found that an important component of an effective investigative response to child sex offending, particularly the proactive investigation of offenders, is a well maintained information and intelligence system. The Project examined the effectiveness and accountability of techniques for gathering criminal intelligence on child sex offenders.

As noted in Volume 1, the management of data relating to child sexual abuse is critical if managers and operational investigations are to gain an appreciation of the nature and extent of child victimisation. The QPS CRISP system was identified by Project Horizon as having the capability to provide data, but at that stage was not providing relevant information.

Changes have now been made to the CRISP reporting procedures, including mandatory recording of certain data. Further improvements, such as more expansive victim/offender categorisation and more appropriate investigation outcome classifications are presently being considered. It should be recognised, however, that

²⁶ A *nolle prosequi* is a term which signifies that the Crown will not proceed further on that indictment. It does not preclude the Crown from proceeding with the same charges, although such a course is rarely taken by the Crown.

²⁷ The CJC study is described in more detail at pp. 39–40 of this report.

CRISP is not an advanced statistical database, but rather an operational tool, which must record information for a diverse range of offences and purposes.

Project Horizon identified the importance of recording all intelligence on child sexual abuse in one central database and found that a number of systems were being utilised. Currently, however, only the national criminal intelligence database, ACID (Australian Criminal Intelligence Database), is used by the QPS for recording child sexual abuse intelligence.

Project Horizon also found that many intelligence officers were not using the large volume of criminal intelligence available to them. The Project identified the need for specific child sexual abuse intelligence to be proactively collected and managed within the QPS. Whilst there remains room for improvement, the success of Task Force Argos working in collaboration with the QCC indicates that current intelligence processes are now more effective.

The QPS and QCC proactive detection of child sex offenders

Police investigations commenced in response to a complaint of an offence are 'reactive' investigations. In contrast, 'proactive' investigations involve the police seeking out offenders without a formal complaint. Such techniques are increasingly used in policing and there is increasing recognition of the role of proactive investigations in detecting child sex offenders.

Historically, the QPS response to child sexual abuse has been predominantly reactive due primarily to demands placed upon it by increasing complaints of child sexual abuse and the difficulties associated with proactively policing this type of offence. In the past few years however, the balance has shifted to a more proactive focus. Whilst maintaining its traditional function of responding to complaints received, the QPS works closely with the QCC to conduct proactive investigations directed specifically at organised or networked child sex offenders.

The value of this partnership lies in the increased effectiveness of each organisation, gained by combining expertise and legislative powers to overcome individual weaknesses. Specialist and experienced investigators, intelligence officers, computer experts and surveillance staff are provided by the QPS with the QCC contributing the benefits of its special powers, legal advice and strategic or tactical intelligence. The QCC also has a broader jurisdiction than the QPS in some respects. For example, the QCC's charter extends to conducting investigations in relation to child sex offences where the offender, or the victim, is ordinarily resident in Queensland, regardless of where the offences actually take place.

There are a number of proactive methods for investigating child sex offences, but not all cases are amenable to this approach. Smallbone and Wortley (2000) have pointed out the difficulties in detecting early warning signs of child sexual abuse as many of the grooming tactics employed by child sex offenders closely resemble normal parenting behaviour or other positive adult-child relationships. In addition, much of the offending behaviour occurs in homes and other places considered safe for children.

It is therefore very difficult for police to engage in proactive investigations of these offences because the community is unlikely to approve police intruding into the sanctity of the family home.

However, the activities of some child sex offenders are more amenable to proactive investigative techniques. Those serial offenders who network with other child sex offenders can be effectively investigated through the use of proactive techniques. While these offenders constitute a relatively small part of the offender group, they are responsible for a large number of victims (see Volume 1, Chapter 4). Both the 1997 Royal Commission into the New South Wales Police Service (the Wood Royal Commission) and the National Crime Authority Report (1997, In-Confidence) recognised the importance of having a specialist investigative unit to concentrate on extra-familial abuse using proactive investigation techniques. Some examples of the successful use of proactive techniques by the QPS and QCC are presented below.

Use of publicly available information

There is a vast range of publicly available information which may be of use to police in investigating child sex offending, including:

- newspaper and magazine articles;
- TV news and current affairs features;
- newspaper and magazine classified advertisements; and
- material on the Internet.

A recent investigation demonstrates the value of using such information in the investigation of child sex offending.

Advertising for children

Investigators monitoring the contents of the classified advertisements in a popular magazine came across a suspicious advertisement for a “Male child, slim build” to be employed as a truck driver’s offsider. Inquiries revealed the identity of the person who placed the advertisement, and a complainant who had accompanied the man on interstate trucking trips where the truck driver sexually assaulted him. The truck driver was charged and convicted and is currently serving 11 years imprisonment for the offences.

Identifying other children with whom an offender has had contact

In one of its simplest forms, more in-depth police investigations following receipt of an initial report of child sexual abuse may reveal more victims and, sometimes, additional offenders. The QPS and QCC have recently engaged in the proactive search for complainants with some success. Interviewing children without a complaint, however, must be undertaken with great care and sensitivity since the

child may not in fact be a victim of child sexual abuse. Where this is the case, such interviews have the potential to cause more harm than good. This possibility underlines the need for investigators to ensure there is sufficient reason to believe that the child may have been a victim of abuse, before conducting such interviews.

Operation Watt

In May 1999, the QCC received information from a person alleging that a former lighthouse keeper was a child sex offender. However, the informant was not able to provide the names of any possible complainants. Inquiries revealed that the offender had been the subject of police interest in 1986 but, in the absence of any complainants or sufficient evidence against the offender, an investigation could not proceed.

Inquiries linked the lighthouse keeper to an unsolved report made in 1997 of an offence alleged to have been committed in 1986 at a lighthouse. The complainant was unable to confirm the identity of the offender at the time of making the report. Further inquiries with the complainant confirmed that the offender was the former lighthouse keeper who appeared to have recruited victims through his position as lighthouse keeper at various locations throughout Queensland.

Analysis of visitor log books from the Australian Maritime Safety Authority enabled the QCC to locate a number of individuals who would have been children at the time they visited the lighthouse. The QCC approached these individuals, four of whom made formal complaints against the lighthouse keeper.

The offender pleaded guilty to 25 child sex offences against five victims and was sentenced to four years imprisonment.

Surveillance and undercover operatives

The usefulness of covert investigative techniques is limited in cases involving allegations of child sex offences. Unlike other offences such as drug offences, it is impossible for the police to conduct surveillance or send in undercover operatives and await the commission of an offence before closing in and arresting the offender. In child sex offence cases where such techniques are used, it is imperative for the police to act before an offence occurs. In most cases, this will mean there is insufficient evidence to launch a prosecution against the potential offender.

While surveillance is unlikely to gather evidence of actual offences, monitoring of known or suspected child sex offenders may be of some benefit in identifying other people with similar interests, or in identifying children with whom suspected offenders may have contact. Further investigation may reveal that these children have been the victims of an offender.

The use of undercover operatives in child sex offence cases also presents difficulties. Many investigators are sceptical of the success that could be achieved by undercover operatives infiltrating networks of offenders. In the first place, it is very difficult to infiltrate networks of child sex offenders who are generally particularly secretive about their activities. Even if an undercover operative could successfully infiltrate a group, there are concerns about the expectations that would be placed on the operative in such a situation.

While covert operatives would obviously not be permitted to offend against a child, they may be expected to take part in conversations about child sex offending and to view child pornography. This type of work, although relatively safe, is both

distasteful and emotionally draining for covert operatives and few undercover police officers are willing to work in this area.

Despite the difficulties, both the QPS and QCC have had some success in the use of covert operatives to gather intelligence on networks of suspected offenders. More importantly, the use of covert operatives in detecting child pornography offences, particularly on the Internet, is proving valuable.

Internet Investigation Unit and Project Coffee

In 1996, the QPS established the Task Force Argos Internet team to investigate child sex offending activity on the Internet, following a successful investigation launched by the QPS.²⁸

The team is supported in its work by the Forensic Computer Examination Unit of the QPS, which manages the examination of computers once they have been seized. The forensic examination of a suspect's computer is one of the most significant aspects of any computer investigation. The continuing rapid expansion of the hard drive storage capacity of the average domestic computer makes this process even more time-consuming and resource intensive.

Since resources are limited, QPS investigations into the activity of child sex offenders on the Internet are primarily reactive. That is, investigations are conducted on the basis of information received from external sources.

Law enforcement agencies are increasingly recognising the benefits of proactive investigations to monitor child sex offender networking via the Internet, to identify the consumers and producers of child pornography and victims involved in its production, and to create a hostile environment to deter offenders from using the Internet for illicit purposes.

For this reason, the QCC commenced Project Coffee. The Project involves the establishment of a covert Internet capability to proactively identify, locate and prosecute active child sex offenders and their networks who are using the Internet to commit, organise or aid in the commission of child sex offences.

To date, Project Coffee, in conjunction with other agencies, has been responsible for charging five offenders in relation to child pornography. There are numerous other cases awaiting outcomes.

The Internet is a global jurisdiction where the physical location of the user is largely irrelevant. Therefore cooperation between law enforcement agencies at a national

²⁸ In July 1995, the QPS became aware of a computer bulletin board (BBS) known as the Blue Room, operating from Queensland. The BBS contained pornographic images of child abuse, incest, bestiality and bondage, as well as text detailing fantasies of the abduction, murder and torture of adults and children for sexual gratification. Investigating officers conducted raids on 17 targets who frequently accessed the BBS, including two known child sex offenders, and seized a significant quantity of computer equipment. As a result of the operation, six offenders were convicted and fined and a number of offenders were required to forfeit their computer equipment. One of the offenders charged was later found to have taken a number of photographs of three young girls he was sexually abusing, and was charged with over 200 sexual offences, including rape.

and international level is essential. For example, the QCC and QPS have cooperated with the Federal Bureau of Investigation and United States Customs in Project Dovetail (see Volume 1, p. 102) and Project Coffee has established an informal partnership with the German State Criminal Bureau.

Law enforcement agencies in Australia are currently working on the development of a joint approach to computer-based crime, including child sex offences and child pornography. The QCC and QPS are participating in this process.

QCC investigative hearings

As noted in Volume 1, the QCC has the power to conduct investigative hearings enabling it to obtain information from unwilling sources in cases where the receipt of information is justified by the balance of public interest considerations.²⁹

Investigative hearings have been used to advance investigations into suspected child sex offenders and, in this sense, they form part of a reactive response. However, the QCC has also used its investigative hearing powers proactively to obtain information about how child sex offenders operate and to assist investigative, research and intelligence activities.

The QCC privately questioned a number of convicted child sex offenders to gain a better insight into offender behaviour such as recruitment and grooming of victims, methods of identifying and gaining access to vulnerable children, and attitudes to victims. In addition, hearings assisted to identify another suspected child sex offender who has since been charged with child sex offences.

Operation Gecko

Operation Gecko was launched by the QPS in September 1996, following receipt of a complaint of child sexual abuse. The operation ran for two years and resulted in the arrest and conviction of five child sex offenders. Two of the offenders had been involved in the scouting movement and had sexually assaulted boys with whom they came into contact in their capacity as Assistant Scout Masters. The other offenders had similarly been involved in youth-oriented sporting groups and associations.

The principal offender was a single male aged in his early 50s with previous convictions for offences against children, who selected his victims from the area where he resided. After the offender had located his first victim, he also offended against friends of the victim. He was ultimately convicted of thirty-four offences involving nine victims who ranged in age from 10 to 14 years.

The principal offender socialised with other child sex offenders, whom the victims also came to know socially. There was no evidence that the children were 'shared' among the offenders, although some victims had been offended against by up to five

²⁹ Self-incriminatory answers provided under compulsion are not admissible in later legal proceedings and, therefore, answers are not compelled unless there is no alternative. The QCC regards seriously any decision to use its coercive powers. Resort to the hearing power is reserved for those cases where less intrusive or less coercive means have not been, or are unlikely to be, effective. It is important to note that any use of the QCC's coercive powers is subject to monitoring and review by the QCC Management Committee.

offenders. Two of the victims became sex workers for the principal offender, offering sexual acts to strangers in public toilet blocks.

In August–September 1999 the QCC conducted a five day hearing with the offenders convicted as a result of the QPS investigations. The rationale for holding the hearing was that this group of offenders was one of only a few recognised groups of networked child sex offenders who had committed offences against a number of the same children over the same period.

The purpose of the hearing was to identify any common characteristics in the backgrounds of these offenders and to determine the nature, extent and purpose of their contact with each other. Information of a tactical nature was also sought to identify other members or associates of the group who may have escaped detection and prosecution.

During the course of the hearing, it was discovered that the members of the group had met each other while incarcerated in Queensland correctional centres. The offenders maintained their association upon their release from custody. Each of these offenders considered that they had maintained their association, at least partly in response to the community's inability to accept them. Most acknowledged that they were wary of each other as they were aware that it would be easy for one of them to report their activities to the police.

While members of this network did not share victims, boys did 'migrate' from one offender to another after the first offender had a disagreement with the boy concerned. Most of the offenders stated that it was taboo to poach a boy from another offender in the group, however this sometimes happened.

Valuable tactical information was also obtained during the course of the hearings, resulting in another man being charged with more than 200 child sex offences.

Future directions for the QCC and QPS

The investigation of child sex offending is highly resource intensive. Accordingly, decisions have to be made about the appropriate allocation of resources between the primarily reactive response of the QPS, and proactive policing by the QCC of suspected organised or networked child sex offenders.

The QPS has always been responsible for the investigation of child sex offenders in Queensland. Since 1998, the QCC has also had responsibility for investigating child sex offending in Queensland. The QCC's jurisdiction is very broad and there is the potential for overlap with the QPS. However, to date the QPS and QCC have worked closely to ensure they do not duplicate each other's efforts. More importantly, the two agencies collaborate to ensure that matters do not 'fall through the cracks'. For example, cases are managed through a Supervisory Committee, and joint executive meetings are held on a fortnightly basis to determine those matters that require QCC involvement and to monitor the progress of QCC investigations.

Experience to date has shown that the QCC, with its more extensive powers, can be most effective in targeting organised and networked child sex offending (see, for

example, Operation Gecko discussed earlier). Accordingly, the QCC Management Committee recently endorsed a formal policy defining the terms of the QCC's involvement in the investigation of criminal paedophilia to reflect this:

QCC will normally investigate only those criminal paedophilia matters which other agencies, including the Police Service, and other State entities cannot efficiently or effectively investigate or where there is significant public interest in the matter to be examined. QCC will not ordinarily receive or react to complaints but will adopt a proactive research-based and intelligence driven approach to identify and target paedophiles who represent a high order threat, for example, compulsive, serial, organised (or networked) extra-familial offenders.

Volume 1 of this report described the QCC and QPS efforts to date in the investigation of networking among child sex offenders. Key findings included:

- that networks of child sex offenders do exist, but there is no evidence of organised offending; and
- that the Internet is increasingly used by child sex offenders to facilitate networking, mainly for the purpose of the distribution and exchange of child pornography.

QCC and QPS investigations have revealed useful information about the way child sex offenders communicate with each other. For example, investigative hearings in Operation Gecko gathered evidence indicating extensive use of the telephone services of the offenders, both to communicate with each other and to recruit potential victims.

Existing investigative techniques can provide some evidence and intelligence about the extent, if any, of networking by offenders, for example:

- analysis of call charge records can reveal people with whom suspected offenders are in contact by telephone. However, these records do not enable law enforcement agencies to know the substance of the conversations among suspected offenders; and
- listening devices installed in a suspected offender's premises will only record half of any telephone conversation, which leaves the conversation open to a number of interpretations.

The availability of telecommunications interception powers would improve the QCC and QPS investigation of networked offenders by addressing the above difficulties. Knowledge of the content of conversations between suspected child sex offenders is the only way in which law enforcement can definitively establish whether networks of offenders are engaged in organised offending.

Furthermore, telecommunications interception powers would improve the effectiveness of investigations into Internet activities by suspected child sex offenders, especially with respect to child pornography. Such powers would enable exchange of child pornography on the Internet to be intercepted and would be a far less resource-intensive way of gathering evidence than is currently available.

The QCC and QPS acknowledge that telecommunications interception powers will not solve the problem of child sex offending in Queensland. In fact, the use of such

powers would be limited to only a small part of the overall problem, namely organised child sex offending. However, it is an area in which law enforcement can make a difference, and the community expects law enforcement agencies to do their utmost to protect them from such offenders.

Conclusion

The QPS provides the front line response to complaints of child sexual abuse in Queensland. The adequacy of its response to the problem of child sexual abuse has been examined many times over the past 20 years,³⁰ the most recent being Project Horizon which identified some areas of concern in policing practices.

The QPS has acknowledged the need to address these issues and is committed to implementing the reforms described in this chapter. The QCC has been actively working with the QPS to identify and develop more effective proactive approaches to child sex offending, particularly in relation to the networking activities of child sex offenders.

The QPS and QCC will continue to work with other child protection agencies and with the community to improve the detection and investigation of child sex offenders in Queensland.

³⁰ See, for example, the Sturgess Report (Sturgess 1985), the Fitzgerald Report (Commission of Inquiry into Possible Illegal Activity Association with Police Misconduct 1989), the Bingham Review (QPS 1996), the Kimmins Report (CJC 1998).

Chapter five

The progress of cases through the criminal justice system

Criminal investigation and prosecution are seen by many as both the most common and most appropriate responses to child sexual offences. The community considers child sexual abuse so reprehensible that in the majority of cases, if not all, prosecution is warranted. In reality, prosecution occurs in only a minority of allegations of child sexual abuse, primarily because of the significant problem of non-disclosure and underreporting (discussed in Volume 1 Chapter 6 of this report).

It is a widely held view that the difficulties inherent in child sex offences lead to lower rates of success in investigation and prosecution than for other offences.³¹ To test the validity of this assumption, this chapter examines the progress of cases through the court system, using available data.³² It must be remembered that the data used here do not, and cannot, track individual cases through the criminal justice system from start to finish. Rather, the data provide a broad overview of the progress of cases.

Child sex offence cases at the QPS

Even when a formal complaint is made to FYCCQ or police, not all offences will result in the initiation of a prosecution. Many matters will not proceed to prosecution despite the best investigative efforts of police because of the particular difficulties described in Chapter 4. For example, while police may be satisfied of the occurrence of an offence, the child victim may be unable to accurately detail particular offences or may be too young to give evidence. Where there is no chance of a successful prosecution, some offences may not even be recorded as a reported offence. QPS data on reported offences of indecent assault on children³⁶ show that most offences reported to QPS were 'solved' by police, and that almost all solved offences resulted in the initiation of a prosecution.

³¹ See Chapter 4 for further discussion of these difficulties.

³² A more detailed presentation of data is contained in Appendix 2. Grid of this.

³⁴ See Chapter 4 for further discussion of these difficulties.

³⁵ A more detailed presentation of data is contained in Appendix 2.

³⁶ The category 'indecent assault on children' includes: carnal knowledge by anal intercourse of any person not an adult; permit a male person not an adult to have carnal knowledge of him or her by anal intercourse; defile by threats, fraud, drugs (including alcohol); without legitimate reason, wilfully expose a child under the age of 16 to any indecent object or indecent film, videotape, audiotape, picture, photograph or printed or written matter; wilfully expose a child to pornography; without legitimate reason, take any indecent photograph or record, by any means of any device, any indecent visual image of a child; indecent treatment of children under 16. Data presented in Volume 1 shows that about three quarters of child sex offences fall into the indecent assault category. There is no reason to believe that the progress of these cases through the system would differ markedly from the progress of other child sex offence cases.

The QPS collects data on ‘offences’ reported. In contrast, court data count ‘appearances’ — that is, alleged offenders. This makes it impossible to present more than a broad overview of the progress of these cases from police through to the court system.

Child sex offence cases in the Magistrates Court

Once a person has been charged by police, a criminal matter is initiated in the Magistrates Court. The Court has jurisdiction to hear and determine some of the less serious offences in a summary hearing — that is, by a Magistrate and without a jury. The Magistrates Court has a very limited jurisdiction to hear indecent dealing³⁷ matters summarily. In particular, the Magistrates Court can only deal summarily with indecent dealing matters where the accused has pleaded guilty.³⁸ In addition, the Court must be satisfied that the complainant was 14 years or older at the time of the offence, the offence did not involve a circumstance of aggravation and the accused does not object to the charge being dealt with summarily (see section 552B(1)(h) and (5) of the *Criminal Code*).

For most child sex offences, the Magistrates Court conducts a preliminary hearing known as a committal hearing. The purpose of the committal hearing is to determine whether there is sufficient evidence to justify committing the matter to a higher court for sentence or trial. It therefore plays an important filtering role in ensuring that only those cases where there is sufficient evidence upon which an accused could be convicted proceed to trial. The outcome of most indecent dealing matters is committal for trial or sentence to the District Court (79%).

In other cases, the matter may be withdrawn from the Magistrates Court prior to committal. There may be a range of reasons for discontinuing a prosecution prior to the committal, including the fact that there is insufficient evidence to reach the relevant standard of proof; a key witness may not be available; or the complainant may not wish to proceed with the matter. Withdrawal of indecent dealing charges occurs in less than five per cent of cases.

Those cases that do not result in a committal or withdrawal are discharged by the Magistrates Court due to insufficient evidence (17%).

Project Axis compared the progress of indecent dealing matters through the criminal justice system with that of other cases to determine whether there were significant differences in the disposition of child sex offences in the criminal courts and to test, as far as possible, whether some common perceptions about these cases hold true.

³⁷ The offence ‘indecent dealing with a child under 16 years’ comprises the majority of child sex offence matters that come before the Queensland courts. This category includes: procuring a child to commit an indecent act; permitting oneself to be indecently dealt with by a child; exposing a child to an indecent act by the offender or someone else; exposing a child to indecent material without legitimate reason; taking indecent photos or videos of a child without legitimate reason.

³⁸ Only one per cent of indecent dealing cases are dealt with as pleas of guilty in the Magistrates Court.

The comparison revealed there were two notable differences in the way the matters were dealt with in the Magistrates Court:

- Slightly more indecent dealing matters than non-sexual assault matters³⁹ were withdrawn in the Magistrates Court prior to committal.
- Indecent dealing matters are much more likely to be discharged from the Magistrates Court due to lack of evidence compared to all other cases in the Magistrates Court⁴⁰ (refer to Appendix 2 for more discussion of this issue).

Child sex offence cases in the District Court

The District Court has jurisdiction to hear child sex offence matters which have been committed by the Magistrates Court for sentence or trial. It also hears matters which have proceeded directly to the District Court without a committal by way of an 'ex officio' indictment. Some matters committed to the District Court for trial are withdrawn either prior to or during the trial. In such cases, a nolle prosequi is entered (see below for further discussion).

Of the indecent dealing matters which are finalised by the District Court (that is, not withdrawn), most result in a finding of guilt. In many of these cases the offender pleads guilty, thus avoiding the need for a trial.

Matters committed for sentence, and nearly all of the ex officio matters, enter the District Court as a plea of guilty⁴¹ and these pleas are indicated early in the process. Importantly, ex officio pleas of guilty enable the prosecution to be finalised without the need for the complainant to give evidence at either a committal hearing or a trial.

The timing of a plea of guilty is an important issue because the earlier a potential witness knows that he or she will not be required to give evidence at a trial, the better for the witness. This is especially so for child witnesses in sex offence cases for whom the prospect of giving evidence may be particularly traumatic.

Indecent dealing cases have a slightly higher proportion of early pleas (committals for sentence and ex officio matters) than do non-sexual assault cases (see Appendix 2).

As was the case in the Magistrates Court, indecent dealing matters are much more likely to be withdrawn in the District Court than non-sexual assault matters. While the data cannot explain why this is the case, a 1996 CJC study⁴² examined a sample of DPP child sexual assault files where a nolle prosequi had been entered to determine

³⁹ See Appendix 2 for a discussion of why non-sexual assault offences were chosen as the most appropriate comparison offence.

⁴⁰ Comparison of indecent dealing matters with non-sexual assault matters with regard to the proportion discharged is not possible due to limitations of the data provided. However, a study conducted by the CJC provides information on the discharge rates of Magistrates Court matters generally (CJC 1996).

⁴¹ In less than two per cent of ex officio appearances, a plea of not guilty was recorded. It should be noted that there was some missing data.

⁴² Conducted by the CJC as part of Project Horizon.

the reason for withdrawing the matters. In 30 out of the 54 matters in the sample, a nolle prosequi was entered on all of the charges and the matter was withdrawn.⁴³

The main reason given for the withdrawal was either because the complainant refused to proceed,⁴⁴ or it had been determined by the prosecutor or the parents of the child that it was not in the child's interests to continue (12 out of the 30 matters). Most of those matters were withdrawn before trial. However, two complainants⁴⁵ decided during cross-examination that they did not wish to proceed. In one case, the trial transcript clearly showed the level of the complainant's distress, to the point that she had to leave the courtroom and refused to return.

In the other 18 matters withdrawn, various reasons were recorded:

- In five cases there was a hung jury⁴⁶ or mistrial (in one matter there was a hung jury in two trials before the matter was withdrawn).
- Four matters were withdrawn following a failure to convict in a related trial either of a co-defendant or of the same defendant on charges concerning another complainant.
- In two matters the evidence was considered by the prosecutor to be insufficient to proceed (those matters did not disclose any inadequacy in the police investigation, but reflected the fact that some details of the complainants' accounts were vague and there was no corroboration).
- Various reasons were given for the remaining seven matters. In one matter, the court had granted a permanent stay of proceedings because of serious delay since the alleged incidents occurred. In three other matters, the reason for withdrawal was not apparent from the file (for example, in one matter the reason recorded for the decision was "based on certain information provided by the complainant to police").

Anecdotal information from practitioners raised the possibility that the high level of withdrawals in the higher court could be the result of magistrates being more inclined to commit child sex cases than other types of offences. It is impossible to test

⁴³ Staff from the Research and Prevention Division of the CJC, with the assistance of the Violence Against Women Unit within the DPP selected 37 files from a list of DPP files concerning sexual offences committed against children under the age of 17 years, where it was recorded that a nolle prosequi had been entered. The database maintained by the Violence Against Women Unit listed (as at 25 November 1996) 133 such matters where charges had been entered since 1 February 1994, arranged in order of the complainant's age when the offence was committed. The chosen method was to select every third file on the list, but some were excluded because the outcome had been recorded as 'trial' or 'sentence' rather than nolle, and some files had been listed more than once (although this did not seem to be consistent in relation to the number of charges against a defendant). The 37 files involved 51 complainants and 40 defendants. Because some files involved more than one complainant and hence more than one trial, the outcome of each defendant/complainant matter was separately considered. This comprised a total of 54 matters — in over half of these matters (30 out of 54), a nolle prosequi was entered on all charges.

⁴⁴ In one of these matters, the complainant (15 years old at the time of the alleged offences) had resumed her relationship with the defendant and had a child with him. In another case, the trial had been adjourned pending the birth of the complainant's child, and she had subsequently decided she wished to forget about the matters. In a third case, the complainant reported pressure from her family and said also that she had a fiancé who did not know about the incidents which had occurred some considerable time before.

⁴⁵ One of these matters involved two defendants, thus accounting for three of the twelve outcomes.

⁴⁶ On at least two of those files it was noted on the file that there was no fresh complaint or corroborating evidence.

this theory as the Magistrates Court data are not sufficiently detailed to allow a comparison of child sex cases with other offence types. However, the findings of the CJC study do not accord with the theory. Insufficient evidence was the reason for only two of the thirty matters in which a nolle prosequi was entered on all charges.

Conclusion

The examination of the progress of child sex offence cases through the court system and comparison with the progress of other offences, shows a considerably higher rate of indecent dealing cases dropping out in the Magistrates and District Courts.

It is important not to over-emphasise the difference between indecent dealing matters and other matters in the withdrawal and discharge rates. There is no ideal rate. Rather than pointing to deficiencies in police or prosecutions practices, the difference may simply reflect the inherent difficulties in prosecuting child sex offenders. For example, the reasons for withdrawal noted earlier, such as insufficient evidence, are likely to be more prevalent in cases of indecent dealing. As Chapter 4 described, there is rarely any corroborating evidence in indecent dealing cases. Further, complainants in indecent dealing cases may be more likely than others to not want to proceed to court.

However, without case by case information on the reasons for withdrawals and discharges, it is impossible to draw any definitive conclusions about the explanation for the difference. Further research would need to examine this issue more closely.

Unfortunately, the available data are insufficient to enable a clearer understanding of the progress of child sex offence matters through the criminal justice system. Informed policy decisions about improvements to the court system's treatment of child sexual abuse cases are also hampered by lack of appropriate data collection problems with the quality of the data collected.

Earlier chapters of this report noted that several Queensland agencies have responsibility for addressing child sexual abuse in Queensland — the QPS, FYCCQ, the Department of Justice and Attorney-General, and others. Many of these agencies collect their own data about the operation of their functions. However, the lack of comparability in data collection means there is a fragmentation and loss of information at each stage of the processing of child sexual abuse cases from initial reporting, through the charges presented to the courts, the committal process, determinations by the DPP and the trial and finalisation of the matter (Harcourt 1999).

Volume 1 pointed out the limitations in using the QPS CRISP system, for research and statistical purposes. Appendix 2 points out some further limitations of the offence-based data collection, especially in child sexual abuse cases where one case may involve many offences.

Routine court statistics enable some broad trend analysis, providing information on charges and outcomes on sentencing. However, they do not provide information on the effect of changes to legislation or changes in court practice (Cashmore 1995), such as:

- whether any children gave evidence in a particular case;

- if so, how their competency was determined;
- how vigorously the child was cross-examined; and
- what special arrangements were used, such as support people, screens or closed circuit television.

The answers to these questions are essential to informing policy decisions about changes to the law and practice. The only way to obtain this detailed information is by specifically designed research studies such as that conducted by Cashmore (1995) in New South Wales or Hood and Boltje (1998) in South Australia.

Cashmore's study involved a survey of 254 cases in the lower courts and 263 cases in the higher courts which aimed to examine the likely effects of reforms in the way child witnesses and their evidence are dealt with in court. The study drew on earlier research conducted by the New South Wales Bureau of Crime Statistics and Research (Cashmore & Horsky 1988; Goodwin 1989) to enable a comparison of pre-reform and post-reform data.

The Hood and Boltje study followed the progress of 500 referrals from the child welfare system through the intervention process to criminal prosecution. The study allowed an assessment of the reasons for the drop-out of cases through the system.

The implementation of reform must be accompanied by improvements to the quality of current data collection to provide a system that facilitates the integration of criminal justice data. The need for such a system has long been recognised. The Courts Modernisation Project⁴⁷ and the Criminal Justice Information Integration Strategy⁴⁸ will improve existing data collection.

The Children's Commission has recently begun planning a project to track a sample of complaints of child sexual abuse through the criminal justice system. Project Axis supports the project, and suggests that additional funding be granted to expand the project to include more detailed information on each case. The Cashmore study (1995) provides a useful model for discussion and the CJC and QLRC might assist in developing an appropriate research design.

Recommendations

Project Axis recommends:

6. That the Children's Commission be granted sufficient funding to expand its trial data tracking project to examine the progress of individual cases of child sexual abuse through the criminal justice system with a view to:

⁴⁷ The Courts Modernisation Project was established in 1998 to enable information about criminal court cases to be readily available across the State. The program will electronically manage information about all criminal cases in the Magistrates, Children's and District Courts, and the Trial Divisions of the Supreme Court.

⁴⁸ The Criminal Justice Information Integration Strategy was initiated in 1994 to provide a framework which will assist in the timely exchange of criminal justice information between the databases already developed in criminal justice agencies such as the Department of Justice and Attorney-General, the DCS, the QPS, and FYCCQ.

- gaining a comprehensive understanding of why child sex offence matters are withdrawn and discontinued at a higher rate than other offence types; and
- providing information about the effect of changes to legislation and court practices.

This research should be commenced as soon as possible to enable information to be collected against which the effectiveness of any reforms can be measured.

Chapter six

Improving the court system's response to child sexual abuse cases

Sex crimes and crime wherein children are used as witnesses are notoriously difficult to prosecute. Put the two together and they become doubly tough (Bennett & Gates 1991, p. 44).

Initiating a legal response to allegations of child sexual abuse raises difficult issues. While on the one hand there is considerable community and media pressure to prosecute and convict more offenders, on the other hand the legal system itself is often the focus of criticism and accused of adding to the trauma and abuse of victims. The question then is whether, and in what circumstances, a legal response – that is, prosecution – is the most appropriate response. And where prosecution is appropriate, how this can be best achieved while balancing competing public and private interests.

Once a child sexual abuse allegation is framed as a *legal* problem, that is, once a criminal prosecution is initiated, only a legal solution can be provided, (that is, conviction and sentence, discontinuance or acquittal). The issue becomes one centred on proof of very specific allegations. Other aspects of the overall context of the offending behaviour — prevention, rehabilitation, the welfare of the child, family dynamics and the integrity of the family for example, are not the primary concerns of the legal process. This is principally a consequence of the legal system's focus on 'justice' rather than welfare or protection, as well as its adversarial nature.

Entry into the formal legal system has a number of other inevitable consequences:

- The child is not the central focus of the legal process.
- The rules of evidence and court procedures determine the order and the way in which the 'story' is told, and the parts of the story that may be told.
- A criminal offence is, legally, a crime against the state and the victim becomes a witness for the prosecuting authority – and to that extent he or she is no longer a direct participant in the proceedings. The prosecuting authority does not act on behalf of the victim and does not have a lawyer/client relationship with the complainant.
- The legal system must not assume the truth of the allegations – the accused is entitled to be presumed innocent until proven guilty. As a consequence of this, however, genuine victims may not receive the validation they need.
- The legal system assumes a level of equality between the complainant and the accused – after all, the testimony of the complainant alone is sufficient to convict the accused of a serious offence and may lead to a lengthy prison sentence.

For all of these reasons the legal system can be very alien to children. It is a unique system with its own rules and practices. It is concerned with justice and not welfare, it is designed to deal with conflicts between adults and has difficulty accommodating the very particular needs of children. It is hardly surprising, therefore, that research indicates that children who are victims of sexual abuse find participation in the legal system traumatic.

Difficulties associated with the prosecution of child sex offences

Child sexual abuse matters can present more difficulties for the legal system than other criminal matters because the allegations may involve:

- a pattern of repeat offending over prolonged periods of time;
- a relative or family friend, or someone known to the child (approximately 80% of cases);
- conflicting emotions in the victim towards the perpetrator;
- complex family dynamics or contested family law applications;
- more than one offender or more than one victim;
- little or no corroborative evidence;
- vague particulars – especially where the allegations involve a young child who may not be able to specify details of when and where the offences took place, or where the allegations arise many years after the abuse is said to have occurred;
- children across a wide range of ages and developmental stages — very young children will have a vastly different understanding of both the alleged behaviour and the legal process itself than teenage children and adults.

Improvements to the system

The recognised difficulties of prosecuting child sexual abuse cases have prompted calls from some for a move away from the adversarial legal system to address the needs of children. Project Axis has some sympathy with the view that a non-adversarial process that is multi-disciplinary in nature could better serve the interests of children. Nonetheless, in the absence of adequate research to identify precisely what is not working in the current system, it is difficult to frame an alternative model that can appropriately respond to competing public and private interests.

Further, it is difficult to argue that persons accused of a particular type of offence should be treated fundamentally differently from other accused. The presumption of innocence, the right to confront an accuser, and proof beyond reasonable doubt are now cornerstones of our legal system and shape the form of the legal process itself. A

fundamental shift away from the adversarial system would require abandonment of these principles and loss of the procedural safeguards built into the system.

Consultation by Project Axis confirms research and experience from other jurisdictions that there are changes to the existing legal system that can nonetheless make a significant difference to the child's experience of the court process:

- From the child's perspective there should be certainty in the court process as far as possible. This means the child should know beforehand how their evidence will be given, where the trial is to take place, that the trial will proceed on a certain date, and who will be in the courtroom. The child should be familiar with the courtroom and the technology to be used.
- Active judicial case management should ensure that cases involving children are identified at an early stage and their progress accelerated, that court dates are met and delays avoided, and that children are not kept waiting unnecessarily.
- During the trial, the judicial officer must ensure that the child understands the proceedings, that cross-examination is conducted appropriately and questions are framed in simple, unambiguous language, that appropriate explanations are given and that the child's needs are taken into account.
- The child should be given control, as far as possible, of certain aspects of the court process, for example how they give evidence — whether it is by closed circuit television or in court, with or without the use of screens.
- Courthouses and courtrooms must be designed to accommodate the needs of children, for example by ensuring that the child is not required to meet with the accused and his or her supporters.
- There should be continuity of legal representation as far as possible, through both the committal and trial process. This not only ensures that the child is more confident and comfortable with the process, but minimises the number of times she or he is required to tell their story.
- There needs to be appropriate and independent support for child witnesses. This should include: ensuring the child is given appropriate information and advice to understand what is going to happen, the roles of different personnel and their own role; that the child is kept informed of case progress; that the child is given appropriate therapeutic referrals; and that the child has a support person in court if they wish.
- There needs to be greater awareness by the judiciary and the legal profession of the developmental needs, behaviour and capacities of children generally.
- To accommodate the needs of each particular child the court also needs to have better access to information about the particular developmental needs, capacity and circumstances of each child prior to the trial so that appropriate accommodations can be made.

- Reforms must take into account the spread of ages that can be involved in child sex offences. What is necessary for a young child to participate meaningfully in the legal process may not be appropriate for an older child.

The changes described above do not necessarily involve legislative change or major structural reform and many may not even require additional resources. Their success, however, does depend on the commitment of the various justice system agencies and their personnel to improve a child's experience of the court process.

The Queensland Law Reform Commission review

The Queensland Law Reform Commission (QLRC) is currently reviewing the capacity of the judicial system, both in its criminal and civil aspects, to properly receive the evidence of children. The primary focus of the QLRC review is the examination of issues associated with children giving evidence as complainants in criminal proceedings (QLRC 1998).

The QLRC produced a comprehensive discussion paper in 1998 (QLRC 1998), covering issues such as:

- the law governing receipt of children's evidence;
- the competency of child witnesses;
- communicating with a child witness;
- the use of expert evidence;
- the court environment;
- professional education and awareness;
- delays in court proceedings;
- treatment before committal or trial;
- out of court statements;
- closed circuit television and screens;
- the committal process; and
- pre-trial hearings.

The QLRC has recently published Part 1 of its report *The Receipt of Evidence by Queensland Courts: The Evidence of Children* (QLRC 2000). That report recommends the amendment of the *Evidence Act 1977* to specifically empower a court to disallow improper questioning of a child witness if it is misleading or confusing; phrased in inappropriate language; or unduly annoying, harassing, intimidating, offensive, oppressive or repetitive.

The QLRC has also made recommendations about:

- the test of competency for a child witness;
- limiting the right of an unrepresented accused to cross-examine a complainant ; and
- a new offence of persistent sexual abuse of a child to replace the current offence of maintaining a sexual relationship with a child.

Project Axis has not attempted to duplicate the excellent work of the QLRC, which has put substantial time and effort into examining these issues over the past two years. Project Axis has liaised with the QLRC to ensure, as far as practicable, that the two reports complement each other. Project Axis awaits with interest the QLRC's recommendations on these issues.

Other responses within the criminal justice framework

Project Axis research and consultation reveal a need to investigate other options for responding to child sex offences.

In submissions to Project Axis, both the former Queensland Director of Public Prosecutions, Mr Royce Miller QC, and the DCS supported the consideration of alternative means for dealing with cases involving child sexual abuse within the family. Support for pre-trial diversion in limited circumstances also arose in consultation with the Child Protection Council and with lawyers consulted by Project Axis, though only if properly integrated into the criminal justice system. Each of the representatives from these agencies saw a role for pre-trial diversion as an additional response to child sex offending for some intra-familial offenders and which may minimise the trauma to child victims.

Pre-trial diversion, in this context, refers to the diversion of offenders from the conviction and sentencing process into a carefully designed program that involves treatment for the offender, victim and other family members. Offenders who may be diverted are usually first-time offenders who have admitted their guilt.

This form of diversion may serve a number of functions including:

- reducing the trauma to the child of giving evidence in relation to the offence;
- increasing the likelihood of the perpetrator admitting guilt, thus acknowledging that the child is telling the truth;
- increasing the reporting of child sexual abuse;
- making counselling available to all family members affected by the offence;
- allowing the possibility of reuniting the family;

- enabling children to remain in the family home; and
- avoiding the financial consequences for the family of losing the main wage-earner (Hawker & Egger 1985; Goodwin 1989).

Diversion at an early stage in the process also has the benefit of allowing families, especially child victims, to enter counselling programs immediately:

Research shows that even 48 hours after disclosure, the family is beginning to use denial to close its ranks, protect its stability, and maintain the status quo. If counselling is to be an effective method of therapy ... then immediate, intensive, and urgent counselling must be instituted. For this to occur, perpetrators must acknowledge total responsibility for their actions. Thus a confession of guilt is essential to establish rapid supportive counselling within 48 hours (Deller 1985, p. 155).

Diversion of child sex offenders has been criticised by some for allowing offenders to escape public recognition of their behaviour (Scutt 1990), although others argue that diversionary options should not necessarily be regarded as a “weak solution” (Nicholson 1997, p. 48).

Obviously, not every offender is suitable for pre-trial diversion. There are some cases that cannot be appropriately dealt with in any other way than through the criminal courts. In such cases social cohesion demands public exposure and denunciation followed by a proportionate and punitive response.

However, there may well be cases of intra-familial offending where pre-trial diversion may be more successful over the longer term in resolving the underlying causes leading to child sexual abuse. Pre-trial diversion may also benefit adolescent offenders and may act as a means of early intervention capable of preventing a lifetime of offending.

Pre-trial diversion programs have been operating in the United States for some time. Australia’s only pre-trial diversion scheme for child sex offenders operates in New South Wales.

Pre-trial diversion in New South Wales

The Cedar Cottage pre-trial diversion program has been operating in New South Wales since 1989 under the *Pre-Trial Diversion of Offenders Act 1985*. It applies to a person charged with a child sex offence committed against that person’s child, or the child of that person’s spouse or defacto partner. The broad goals of the program are to protect children, prevent further child sexual abuse within the family, and to increase the responsible thinking and behaviour of offenders. Family reunification is not a goal of the program.

Immediately a person is charged with a defined child sex offence, the police are responsible for giving the offender a brochure explaining the program. The offender must then nominate whether he or she wishes to apply to participate in the program. If they wish to participate, the offender must indicate this in the Local Court (equivalent to the Queensland Magistrates Court) prior to entering a plea. An

adjournment is granted for a period not exceeding four weeks, in which time the DPP conducts an assessment of eligibility.

Only first-time intra-familial adult offenders who have not used violence in the perpetration of the offence are eligible to be assessed for entry to the program. If the DPP considers the offender eligible, they are referred for a clinical assessment of their suitability for the program. An adjournment is made in the Local Court for this purpose for a period not exceeding eight weeks.

The assessment conducted by the Director of the program involves considering a number of issues, including whether:

- participation in the program by the offender and their spouse or defacto partner and the child concerned is in the best interests of the child;
- the offender accepts responsibility for his or her behaviour;
- the offender demonstrates some understanding of the impact of his or her behaviour on the victim and other family members;
- the offender's spouse or defacto partner is prepared to participate as required in the program;
- the offender and his or her spouse or defacto partner have sufficient interactive skills to participate in the program; or
- the offender and his or her spouse or defacto partner agree to participate in all aspects of the treatment program (Cedar Cottage 1996).

If the offender is considered suitable to participate in the program, he or she is asked to formally enter a plea of guilty in the Local Court. Once this is done, treatment may commence. The matter is adjourned to the District Court where the offender is convicted of each of the offences and enters into a Treatment Agreement setting out the conditions to be adhered to. Typical conditions include requirements that:

- the offender move out of the family residence and not return unless or until the Director of the treatment program approves;
- the offender not visit the residence of the children concerned without the written permission of the Director;
- the offender not live where there are children under 16 years of age and the offender agrees to accept visits to his or her place of residence by supervisory staff employed by the treatment program;
- the offender not act violently towards, or threaten or harass his or her children, spouse or defacto partner or treatment program staff;
- the offender attend all therapy sessions that are scheduled and not attend under the influence of any illegal drugs or alcohol;

- the offender not contact (including by telephone, mail, messages via third parties or gifts) the children named or other children under the age of 16 without the written permission of the Director;
- the offender not commit further sexual offences while participating in the program. (such behaviour resulting in immediate suspension from the program);
- the offender keep confidential the names of other offenders and their families in the treatment program; and
- the offender agrees to observe any other reasonable conditions or directions imposed by the Director (Cedar Cottage 1996).

The offender is suspended from the treatment program if, in the assessment of the Director, adequate progress is not being made.

Successful completion of the program for the duration set by the court results in criminal proceedings being terminated and no further action being taken. Breach of the treatment regime results in a notification by the Director of the program to the District Court. A hearing is then convened to determine if the breach has been established. Once the breach has been proven in the District Court, the offender is excluded from the program and proceeds to sentencing for the original offence. The proceedings of the breach hearing and any information concerning the offender's participation in the program is not considered relevant at sentencing. The New South Wales Court of Criminal Appeal has held that time spent in the program prior to the breach may not to be taken into account when sentencing the offender (*R v PWH* unreported, New South Wales, Court of Criminal Appeal, 20 February 1992, per Carruthers, Smart and Loveday JJ).

There have been two evaluations of the Cedar Cottage program. The first involved a series of interviews with offenders, victims and offenders' partners. The evaluation commented that "without exception and regardless of their reasons for being part of it, all of the participants praise the program and say they have benefited in significant ways from it" (Vinson 1992, p. 25). The evaluation concluded that "a combination of professional skill, strict legal accountability and personal determination can often bring about remarkable changes in the lives of sex offenders and their families that serve the interests of the people concerned as well as the wider community" (Vinson 1992, p.1).

Using a similar methodology, a second evaluation aimed to assess the success of the program in achieving the program's goal of changing the power balance in the family. The research found evidence that the offender's power within the family had reduced, although the author speculated this may have been more superficial than actual change (Laing 1999).

An evaluation of a similar British program has reported a 75 per cent treatment effect⁴⁹ for low deviancy offenders (compared with a 64% treatment effect for those completing the prison-based program), and a 23 per cent overall treatment effect with high-deviancy offenders (compared with a 10% effect for those completing the prison-based program) (Beech et al. 1999). This result indicates that a program of this nature may have an impact on recidivism rates for offenders who complete the program.

Unfortunately, neither of the evaluations of the Cedar Cottage program included an examination of re-offending. Without knowing whether the offender-participants in the program engaged in further child sex offending it is impossible to say whether the program has fully realised its objective to protect children. Before the program can be wholeheartedly recommended for Queensland, therefore, it would be wise to await an evaluation of the effects of the program on re-offending behaviour. It would be ideal if such an evaluation could compare the treatment group with a 'control' group who do not receive the treatment program to assess the success of the program more systematically.

Project Axis recommends that a feasibility study be conducted to assess the appropriateness for Queensland of a pre-trial diversion program for first-time, intra-familial child sex offenders. The study should be conducted with the involvement of three key agencies:

- the Child Protection Council, which has the capacity to conduct research inquiries and to assess the proposal within the context of Queensland's child protection framework;
- the Department of Justice and Attorney-General, which is responsible for administering the court system and which would ultimately be responsible for facilitating any legislation required to introduce the program; and
- the Department of Corrective Services, which provides treatment programs to sentenced child sex offenders and would be ideally placed to advise about the development of appropriate treatment for a diversion program.

The study should consider the effectiveness of a pre-trial diversion program in terms of offender recidivism, the protection of children, and its compatibility with existing sanctions.

Conclusion

The difficulties involved in prosecuting child sex offences are well documented and reform in this area has been underway for more than a decade. Nonetheless, there is much that remains to be done to improve the court experience for child witnesses. This chapter highlights some of the reforms needed and touches on some of the constraints that make such reform difficult. Project Axis looks forward to the

⁴⁹ Offenders underwent a series of tests to determine whether the treatment resulted in any change to their denial or admission of sexual offences, their pre-offending attitudes, their personality and their knowledge about relapse prevention. The 'treatment effect' is a measure of this change.

forthcoming report of the QLRC for a comprehensive discussion of these issues and recommendations for further reform.

The preceding discussion has also highlighted the need for more innovative approaches to child sex offenders. Accordingly, Project Axis urges the Government to broaden the range of responses available for dealing with child sex offending, including consideration of the option of pre-trial diversion.

Reform in this area is critical, although it must be properly informed by comprehensive research about the inadequacies of the existing system. If reform is to be effective, it requires the identification of appropriate and workable solutions as well as commitment from government and justice system personnel.

Recommendations

Project Axis recommends:

7. That the Government examine the possibility of introducing a pre-trial diversion scheme for first-time intra-familial child sex offenders in Queensland.

Chapter seven

Sentencing, treating and monitoring offenders

The community views child sex offences seriously and this is reflected in the maximum penalties available for these offences⁵⁰ and in the actual sentences imposed by the judiciary. Although there is a range of sanctions for dealing with child sex offenders, in Queensland most child sex offenders are sentenced to a term of imprisonment.

Imprisonment of itself, however, does little to address the causes of offending, and serves only a short-term community protection function — that is, only for the duration of the incarceration. There is some evidence that the completion of a treatment program can lower rates of re-offending in child sex offenders, although it may be that not all offenders are amenable to treatment.⁵¹ Unfortunately for many convicted offenders there is little opportunity to participate in treatment programs while in prison. Those who deny their offence are ineligible to participate in the treatment programs available. After serving their sentence, many offenders are therefore released into the community without treatment, with no ongoing supervision, and having spent most of their time in prison in the company of other child sex offenders. This situation raises serious concerns about the prospect of offender rehabilitation, the likelihood of re-offending and ultimately the risks these offenders pose to the community.

This chapter examines the issues of sentencing, treatment and monitoring of offenders in the community, addressing:

- current sentencing practices of the Queensland courts with regard to child sex offenders;
- the availability of treatment for convicted offenders; and
- mechanisms for monitoring offenders post-release from prison.

The purposes of sentencing

In determining what penalty to apply in any particular case, a court must consider a number of factors, including the various purposes of sentencing. The purposes for which an offender may be sentenced include:⁵²

⁵⁰ For example, indecent dealing has a maximum penalty of 14 years imprisonment; unlawful carnal knowledge of a child under 12 has a maximum penalty of life imprisonment.

⁵¹ Smallbone and Wortley (2000) have described child sex offenders as a heterogeneous group, some of whom display more chronic and committed behaviour. These more serious offenders may not respond well to treatment.

⁵² See s.9(1) *Penalties and Sentences Act 1992*.

- to punish the offender to an extent or in a way that is just in all the circumstances;
- to provide conditions in the court's order that the court considers will help the offender to be rehabilitated;
- to deter the offender or others from committing the same or a similar offence;
- to make it clear that the community, acting through the court, denounces the sort of conduct in which the offender was involved; and
- to protect the Queensland community from the offender.

Despite the guidance in the legislation, sentencing is not a straightforward process. The High Court described the difficulty in the following terms:

....(S)entencing is not a purely logical exercise, and the troublesome nature of the sentencing discretion arises in large measure from unavoidable difficulty in giving weight to each of the purposes of punishment. The purposes of criminal punishment are various; protection of society, deterrence of the offender and of others who might be tempted to offend, retribution and reform. The purposes overlap and none of them can be considered in isolation from the others when determining what is an appropriate sentence in a particular case. They are guideposts to the appropriate sentence, but sometimes they point in different directions (*Veen v. The Queen [No 2]* (1988) 164 CLR 465 per Mason CJ, Brennan, Dawson and Toohey JJ at p. 476).

The Queensland Court of Appeal has acknowledged the relevance of community views toward child sex offenders:

There is currently a high level of community outrage against persons who commit this kind of offence. It is proper that the court be aware of this and take it into account in framing sentences, at the same time standing firm against any lynch mentality or vigilante attitude that would have the respondent treated as less than a human being. There must be punishment at a level that will deter others but rehabilitation will not be overlooked (*R v. H* (1993) 66 ACrimR 505).

Community debate should be informed by an understanding of the complexity of the sentencing process and objective information about the sentencing practices of Queensland courts.

Sentencing child sex offenders

In determining an appropriate sentence, the Court has a number of available options ranging from imprisonment, through community-based orders such as probation or community service, to fines and compensation. Table 1 shows the sentences imposed upon convicted indecent dealing offenders in the District Court over the period 1994–95 to 1998–99. Indecent dealing offences are not the most serious child sex offences, but they are the most common offences.⁵³

⁵³ The offence 'indecent dealing with a child under 16 years' comprises the majority of child sex offence matters that come before the Queensland courts. This category includes: procuring a child to commit an indecent act; permitting oneself to be indecently dealt with by a child; exposing a child to an indecent act by the offender or

Table 1: Appearances in the higher courts, indecent dealing with a child under 16 years, convicted by penalty — 1994–95 to 1998–99

Penalty	Per cent of total convicted					Total (n=883)
	1994–95 (n=183)	1995–96 (n=175)	1996–97 (n=147)	1997–98 (n=183)	1998–99 (n=195)	
Imprisonment	49.2	60.6	64.0	68.3	63.1	60.9
Suspended sentence	22.9	16.6	16.3	19.7	19.0	19.0
Probation	14.8	10.9	9.5	3.8	8.7	9.5
Community service order	9.3	6.9	6.1	4.9	5.6	6.6
Good behaviour bond/recognisance	2.8	4.6	3.4	2.2	2.6	3.1
Fine	1.1	–	0.7	–	0.5	0.5
Compensation	–	0.6	–	0.6	–	0.2
Convicted, not punished	–	–	–	0.6	0.5	0.2
TOTAL	100.1	100.2	100.0	100.1	100.0	100.0

Source: Department of Justice and Attorney-General, unpublished data

Offenders in prison

Most convicted child sex offenders are sentenced to imprisonment. Table 1 shows that the proportion of indecent dealing offenders imprisoned increased from 49 per cent to 63 per cent over the five year period. The average period to which indecent dealing offenders are sentenced is just under two years.⁵⁴ Average sentence lengths over the period 1994–95 to 1998–99 ranged from 1.68 years to 2.05 years.

Prison-based treatment programs

Currently, Moreton Correctional Centre in Queensland, like many interstate correctional facilities,⁵⁵ offers intensive sex offender treatment programs for incarcerated offenders. There are two programs available for sentenced offenders — the Sex Offenders Treatment Program (SOTP) and the Sex Offenders Intervention Program (SOIP) — which prompt offenders to recognise the harm they have caused, identify the factors that underlie offending, and teach avoidance behaviour. Relapse prevention involves the offender identifying his ‘offence chain’ or pattern of behaviour, emotions and cognitions leading to the commission of the offence. The

someone else; exposing a child to indecent material without legitimate reason; taking indecent photos or videos of a child without legitimate reason.

⁵⁴ The average sentence length for offenders convicted of indecent dealing with a child under 16 years between 1994–95 and 1998–99 was 1.84 years.

⁵⁵ Long Bay Correctional Centre in New South Wales, Casuarina and Bunbury Correctional Centres in Western Australia and Ararat Correctional Centre in Victoria also offer sex offender treatment programs for incarcerated offenders.

offender is then assisted to develop strategies to address each risk factor identified in that chain — such as how to avoid, cope with and interrupt these offending patterns of behaviour (Pithers 1990, as cited in Marshall 1996).

A treatment program for indigenous sex offenders is currently being developed and will be located in the north of the state at Townsville Correctional Centre.

There is increasing evidence that treatment programs can produce lasting effects on the behaviour of some child sex offenders (Hall 1995; Marshall & Pithers 1994; Marshall et al. 1991, cited in Smallbone & Wortley 2000). In particular, it appears that programs which include relapse prevention training, and the provision of extended after-care, may reduce the risk of re-offending. The Department of Corrective Services (DCS) is currently evaluating its prison-based treatment programs to assess the effect of completing a program on re-offending.⁵⁶

While DCS is to be commended for establishing these programs, there are problems with their availability. Places on the SOTP and SOIP programs are currently not available for all eligible inmates. Many child sex offenders are placed on long waiting lists and may never actually enter a program during the period of their imprisonment.

When an inmate has not undertaken a treatment program, the chances of gaining parole are significantly reduced. As a consequence, these offenders will spend a greater proportion of their sentence in prison.

Volume 1 noted that child sex offenders are housed together within prisons to protect them from other inmates. The potential for child sex offenders to establish relationships with other incarcerated offenders during the time of their imprisonment increases with the length of time they spend inside without treatment.

Post-release from prison

Another more important consequence of the lack of available places in treatment programs and subsequent denial of parole, is that these offenders are released directly into the community without any further supervision.

Community based programs are particularly important for offenders who are released from prison. Following participation in a treatment program in a correctional setting, ongoing contact and follow-up is integral to ensure that the skills acquired by the offender during the program are being effectively put to use, and that the likelihood of re-offending decreases. Research has shown that supervision reduces the rate of recidivism of sex offenders. The UK Chief Inspector of Probation has reported:

93% of offenders in the supervision samples and 96% in the hostel sample showed no evidence of being reconvicted for sexual or other violent offences during the course of supervision or residence (Her Majesty's Chief Inspector of Probation 1998).

Marshall, Laws and Barbaree (1990) note three approaches to post-custodial treatment:

⁵⁶ DCS is preparing a public report of the evaluation results which it expects to release in early 2001.

- reliance on offenders to self-regulate their behaviour through use of relapse prevention techniques;
- the offering of 'booster' sessions over several years after formal treatment has ended; and
- direct supervision of the ex-client over an extended post-treatment period.

In Queensland, offenders who have served a term of imprisonment and completed the SOTP while in custody, and who are then released into the community on parole, are encouraged to access the Community Corrections Sex Offenders' Program (described below), which involves six fortnightly sessions. However, as noted below, the availability of these community-based programs is limited. Furthermore, many offenders are not on parole when released and have no access to programs.

The offender in the community

As Table 1 shows, not all child sex offenders are sentenced to imprisonment. A number of them may receive community based sentences, such as probation (around 10% of indecent dealing offenders). Offenders on community based orders may be required to participate in treatment programs as a condition of their sentence.

The Community Corrections Sex Offenders' Program

The Community Corrections Sex Offenders' Program, operated by DCS, targets the 'less serious' category of adult sex offenders sentenced to a community based order.

The purpose of the Program is to reduce the likelihood of re-offending through the development of offenders' understanding of their offending and pre-offending behaviour, awareness of the impact of offending upon victims and the community, and the development of self-control skills to prevent sex offending behaviour.

The Community Corrections Sex Offenders' Program has two components:

- an intervention component which consists of 14 weekly sessions; and
- a maintenance component of 6 fortnightly sessions.

The Program takes 6 months to complete and is available twice a year in Brisbane and once a year in the central region surrounding Rockhampton. The Program usually accommodates up to 12 offenders. Offenders are placed on a waiting list until numbers are sufficient to start a program.

As is the case with prison-based sex offender treatment programs, there is clearly a need for a review of the current suitability and outcomes of the Community Corrections Sex Offenders' Program and DCS will be undertaking such a review within the next two years. However, there remains a need for re-assessment of funding requirements to provide adequate treatment for child sex offenders.

Gaps in the treatment, supervision and monitoring of child sex offenders

When they were established, prison-based sex offender treatment programs were intended to form an integrated custodial/community development/transition program, designed to establish behavioural change in prison which would be reinforced in the community setting on release. However, limited availability of treatment in prison, and the consequent lack of access to parole supervision on release, means that many offenders receive neither treatment nor follow-up supervision in the community. A further, sizeable proportion of sentenced child sex offenders, those subject to suspended sentences, appear to altogether escape any sort of treatment or supervision.

Supervision of offenders on their release from prison is the responsibility of the DCS. The DCS has acknowledged, in its submission to Project Axis,⁵⁷ the need for better support of child sex offenders on their release back into the community and a need for the development of more community-based treatment programs. The DCS has also highlighted the lack of support for professionals based in the community who deal with released child sex offenders. To address these needs, DCS has acknowledged the need for increased funding.

Intensive supervision and parole management plans require more resources than are currently available to the community corrections system. These are critical if child sexual abuse repeat offending is to be reduced. Ultimately, reducing recidivism leads to a reduction in imprisonment of these offenders, which will also reduce the level of their interaction with other child sex offenders.

Monitoring released child sex offenders in Queensland is fairly ad hoc. DCS monitors parolees, and offenders on community-based orders such as probation, but the monitoring is only for a limited time. Furthermore, parolees and offenders on community-based orders comprise only a small proportion of convicted child sex offenders in the community.

The QPS, through its intelligence network, monitors the activities of some child sex offenders on their release from prison. QPS intelligence mechanisms include liaison with DCS to obtain information about the release of child sex offenders. This information assists local QPS intelligence officers and investigators to identify potential suspects for child sexual abuse complaints, and to facilitate proactive targeting.

A number of JAB offices in Queensland maintain databases of local sex offenders. The intelligence section in one police region is in the process of developing a more comprehensive computer database of known and suspected child sex offenders in the area, incorporating regular updates of released child sex offenders.

However, these intelligence approaches are not comprehensive, and the quality and currency of the information cannot be assured. Knowing that an offender has been

⁵⁷ The Department of Corrective Services was formerly the Queensland Corrective Services Commission (QCSC). The submission received by Project Axis was prepared by the QCSC.

released does not mean that police know where the offender lives, for example. Further, where police do know where an offender resides, this does not enable police to take any proactive action.

In an attempt to provide a more certain approach to monitoring child sex offenders on their release from prison, a provision of the *Criminal Law Amendment Act* (the Act) was introduced in 1989.⁵⁸ The provision, contained in section 19 of the Act, enables a court to impose specific reporting obligations on offenders who are convicted of an offence of a sexual nature against a child under 16 and who are considered to be most likely to re-offend.

Under section 19, a court may order that an offender report his or her name and address to the local police within 48 hours of release from custody, and that the offender notify the police of any changes in the information for a specified period following release. Before such an order can be made, however, the court must be satisfied there is 'a substantial risk' that the person will re-offend. The court may make the order during sentencing, or an application for such an order may be brought to the court by the DPP⁵⁹ at a later stage, but prior to the release of the offender.⁶⁰

The section 19 provision was not used at all between 1989 and 1997 and has not been used extensively since then. Between April 1999 (when the DPP established its register) and 30 July 2000, 22 applications were made, 19 of which were successful. Prior to this, approximately 13 applications were made but there is no record of the number of unsuccessful applications. The increasing public awareness of the need for monitoring child sex offenders may result in more applications under section 19 in the future.

Given the ad hoc nature of current offender monitoring strategies in Queensland, it is not surprising that, over the past decade, there has been sporadic community interest⁶¹ in the establishment of a broader offender registration scheme. This interest has arisen mainly as a result of the widespread adoption of such schemes in the United States, and more recently in the United Kingdom.

A 'registration scheme' generally applies to all convicted child sex offenders and requires them to register with a state agency, such as the police, within a short time after their release from prison. Registration schemes often require offenders to notify the agency of any changes of address, and may also require offenders to submit to a verification process and to provide additional information such as employment details, car registration and even fingerprints, DNA profile or photographs. Registration schemes are a mechanism for law enforcement agencies to monitor

⁵⁸ Section 19 of the *Criminal Law Amendment Act* was introduced following the recommendations of the 1985 Inquiry into Sexual Offences Involving Children and Related Matters (the Sturgess Inquiry).

⁵⁹ When making applications under section 19, prosecutors are instructed to consider the nature of the offences for which the offender is convicted and his or her past criminal history to determine whether the court will be satisfied that the substantial risk exists (DPP guidelines no.4 of 1997). Accordingly it appears that prosecutors, in making applications under section 19, make a subjective assessment as to whether the offender poses a substantial risk of re-offending.

⁶⁰ For example, in 1999 the DPP began making some retrospective applications in relation to offenders convicted since 1989.

⁶¹ In Queensland the issue attracted some attention in 1997 following the introduction of a private member's bill, the *Criminal Law (Sex Offenders Reporting) Bill 1997*. The private member's bill failed to capture public attention or to generate the public response anticipated, and it ultimately lapsed.

convicted sex offenders in the community, and facilitate information sharing across agencies involved in law enforcement.

There are several key arguments against the establishment of such a scheme in Queensland, particularly:

- There are high costs involved in maintaining a registration system and in policing compliance with the system.
- There is nothing to prevent registered child sex offenders from travelling outside the area of registration to commit offences. It may be that registration schemes do not reduce the overall number of incidents of child sexual abuse, but only serve to change their location.
- A system of registration may lead to a false sense of security in the community about the risk of child sex offending after the introduction of such a scheme — only convicted child sex offenders, who constitute a very small proportion of offenders, are required to register. The majority of actual and potential offenders will not be subject to such schemes. In addition, many of these schemes have reported a low level of compliance, even among convicted offenders.
- There is inadequate evidence to establish whether such schemes are effective. There is limited knowledge about the risks of re-offending, about which categories of offenders are most likely to re-offend and about the impact of a registration scheme on rates of re-offending.
- The effectiveness of a registration system in the absence of a uniform, national scheme is questionable. There is a proposal under consideration by CrimTrac⁶² to develop a National Child Sex Offender System, although its establishment is not imminent.
- The QPS has commented that the introduction of any broad registration scheme would require police officers to be responsible for maintaining the register, effectively compelling officers to play the role of parole officer to convicted child sex offenders.⁶³ This is a situation, which the QPS would find unworkable.

There is strong community concern about the extent to which child sex offenders are monitored in their day-to-day lives. Given the likely impact of treatment and supervision on recidivism, it is clearly important to impose some form of treatment and supervision on convicted offenders in the community. However, the difficulty lies in determining which offenders, what sort of monitoring or supervision is required, for how long, and who should be responsible for conducting the monitoring. The answers to these questions are beyond the scope of this report. However, these are important issues that must be addressed.

⁶² CrimTrac is a Commonwealth Government initiative designed to provide a new and more effective criminal investigation database accessible by all Australian law enforcement agencies.

⁶³ QPS correspondence, January 1998.

Accordingly, Project Axis proposes that the Government establish a working party to develop a coordinated response to the treatment, monitoring and supervision of child sex offenders in the community that would ideally include the DCS, the QPS, FYCCQ and other relevant government and community agencies.

There are a number of mechanisms in place in other jurisdictions that could be considered by the working party for introduction to Queensland to meet the needs of sex offenders, their victims, and the wider community. For example, the United Kingdom has recently introduced:

- Extended post-release supervision⁶⁴ — This new provision enables sentencing courts to order additional post-release supervision for a specified period not exceeding 10 years, although there may be grounds to make special provision to extend the period of supervision for child sex offenders.
- Civil measures — another measure to help manage offenders in the community is legislation allowing for the imposition of a ‘sex offender order’, as it is known in the United Kingdom. Police may apply for a civil order under the *Crime and Disorder Act 1998* against a sex offender whose behaviour gives them reasonable cause to believe that such an order is necessary to protect the public from serious harm.

These initiatives have only been in operation in the United Kingdom for a short time, and it may be too early to determine the effect these strategies have had. The working party would need to examine the effectiveness of alternative models before recommending their introduction to Queensland.

Ultimately, a commitment to extend periods of supervision for child sex offenders or to increase the availability of supervision and treatment would depend on the support of the community to provide significant additional resources.

Conclusion

Recent community debate has focused on sentencing of child sex offenders, and particularly their release into the community. This is an issue in which the community has a legitimate interest.

There has been an increase in the proportion of child sex offenders sentenced to imprisonment in recent years which reflects, to some extent, growing community outrage at child sex offending.

However, the availability of treatment programs for child sex offenders both within prison and in the community is not sufficient to meet the growing demand.

As a consequence, increasing numbers of convicted child sex offenders are released into the community without treatment. Furthermore, the framework for monitoring released child sex offenders is inadequate.

⁶⁴ Section 58 of the *Crime and Disorder Act 1998* (UK).

To address the deficiencies identified in this chapter will require the injection of considerable resources into the treatment and monitoring of child sex offenders and can only occur if the Government has the support of the community to allocating resources in this way.

Recommendations

Project Axis recommends:

8. That the Queensland Government commit greater resources to custody- based treatment programs for child sex offenders to enable all eligible inmates to participate in the program.
9. That the Queensland Government increase funding for the Community Corrections Sex Offenders' program so that it will:
 - be more widely available as an option for courts to include as part of a community-based sentence in appropriate cases; and
 - provide more comprehensive treatment for offenders released from prison.
10. That the Government establish a working party including representatives from the DCS, the QPS, FYCCQ and other relevant government and community agencies, to develop a coordinated response to the treatment, monitoring and supervision of child sex offenders in the community.

Chapter eight

Employment screening

Research, media reports and recent public inquiries⁶⁵ have shown show that a significant amount of child sex offending occurs in settings of child-related employment such as schools, childcare centres and residential care facilities. History has shown that people with a propensity towards child sex offending sometimes seek out employment opportunities that give them access to children, but also that the association with children in these settings creates 'situational' opportunities for offenders who may not otherwise offend against children.

It is not possible to screen out all employees likely to offend against children, particularly those 'situational' offenders who have not previously displayed any inappropriate behaviour. Nonetheless, employment screening can assist in identifying people with a known history of child sex offending and prevent their employment in areas where they are likely to be involved with children. In this way, effective employment screening mechanisms can help reduce the incidence of child sex offending in these environments.

There are many aspects to effective screening of prospective employees. These can include:

- effective interviewing,
- referee checks and checks with past employers;
- psychological testing ; and
- criminal history checks.

There is a diversity of recruitment and screening practices employed by agencies that provide services for children. Non-government practices vary widely and are often ad hoc and informal. On the other hand, government departments are regulated by sector-wide policies and practices, and may be subject to specific legislation.⁶⁶ In addition, most government departments have their own documented policies and procedures.

Employment screening, however, is only one part of an effective prevention strategy. Ongoing monitoring, training and supervision of employees who have access to children is critical to minimising the incidence of child sexual abuse. Effective screening should also be accompanied by a policy for potential employees that is explicit about the culture of the organisation and its attitude to child sexual abuse

⁶⁵ For example, see the report of the Forde Inquiry.

⁶⁶ For example, *Public Service Act 1986*; Office of Public Service Commissioner Directives.

and children's rights⁶⁷ and should be part of a broader preventative strategy, which includes educating children about child sexual abuse and sexuality (see Chapter 11). In most cases, the employment process in areas of child-related employment involve, at a minimum, submission of a written application, an interview and referee checks. However, in some cases, especially in government departments, legislation requires that potential employees undergo criminal history checks.

The purpose of this chapter is to examine the policies, practices and procedures of schools, churches and community organisations in relation to recruitment and employment screening.

Criminal history checks for employment screening

Legislation requires Queensland Government employees in child-related employment to undergo mandatory criminal history checks prior to employment.⁶⁸ Generally, these criminal history checks include information about convictions and, sometimes, charges. Section 9A of the *Criminal Law (Rehabilitation of Offenders) Act 1986* allows a person to not disclose convictions for certain offences after the lapse of a specified period of time. However, most government agencies with legislative authority to require criminal history checks are able to access the full criminal history of prospective employees because of specific legislative exemptions to the provisions of that Act.

The legislative requirements for criminal history checks also extend to many people engaged in child-related employment in non-government agencies that receive government funding, or are administered by government. This includes workers in childcare centres or family daycare schemes. Foster carers engaged by FYCCQ are also required to undertake a criminal history check. Legislation enables FYCCQ to obtain extensive criminal history information in relation to employees, childcare workers and foster carers, including information about police investigations.⁶⁹

In the absence of specific legislative authority, police are prohibited from disclosing a person's criminal history without that person's consent. However, a member of the public can obtain a copy of their own criminal history by completing the appropriate application form and submitting it with proof of identification to the QPS Police Information Centre.

Accordingly, potential employers can request a person to provide details of his or her criminal history. However, such details will only include convictions and not:

- charges laid, of which the person was not convicted;

⁶⁷ For instance, see ECPAT 1999.

⁶⁸ *Public Service Act 1986; Family Services Act 1987 and Family Services Amendment Act 1999; Child Care Act 1991 and Child Protection Act 1999; Education (Teacher Registration) Act 1988.*

⁶⁹ Section 26 *Family Services Amendment Act 1999.*

- convictions which may have expired under the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

Schools

Schools are one of the most significant areas of child-related employment, if not the most significant. All Queensland school-age children spend approximately 35 hours per week at school, and many spend even more time there through sporting and after-school activities.

In 1998, there were 1,258 State schools operating in Queensland, and 419 non-government schools (ABS 1998). Together these schools provide education for more than half a million students.

Unlike most other States, Queensland has a registration system which has responsibility for initial screening of teachers. To obtain employment as a teacher in a government or non-government school it is necessary to be registered with the Board of Teacher Registration (the Board). It is an offence for a school to employ a teacher who is not registered unless authorised by the Board (section 43(1)). The Board will authorise the employment of non-registered teachers only in circumstances of proven need (for example, where no registered teacher is available in a particular subject area).

Since November 1997, when the *Education (Teacher Registration) Act 1988* was amended, all applicants for registration must submit to a criminal history check. These include all new graduates, those seeking restoration of registration and teachers who have transferred from interstate or overseas. The Board has no authority to conduct a criminal history check with respect to an unregistered person.

The criminal history check will reveal all charges, non-recorded convictions and convictions in Queensland, and whether criminal history information is held interstate.⁷⁰ The criminal history check is conducted by the Board as part of the process of ensuring that the “applicant is of good character”.

The 1997 amendments to the *Education (Teacher Registration) Act 1988* are not retrospective and do not provide for criminal history checks of teachers renewing registration (as they are required to do on an annual basis). Of the 77,000 teachers currently registered in Queensland, criminal history checks have been conducted by the Board only in relation to 12,205. In 306 cases the criminal history checks revealed charges or convictions. As a result of the criminal history checks at least four persons have been unable to satisfy the Board as to their good character. Another withdrew their application when further clarification was sought, and 15 others withdrew prior to clarification being sought.⁷¹

⁷⁰ The provisions of the *Criminal Law (Rehabilitation of Offenders) Act 1986* in respect of certain offences (including offences of a sexual nature) do not apply to a teacher applying for registration to the Board (see s.9A) or to Education Queensland employees. This means that an employee of Education Queensland, including teachers and teacher aides, would be required to disclose certain offences which, in other circumstances, they would be permitted to not disclose.

⁷¹ Personal communication between Project Axis and Assistant Director of the Board, 9 August 2000.

Although the introduction of criminal history checks by the Board in 1997 is a welcome reform, sole reliance on the Board to exercise its legislative responsibilities is not sufficient to provide an effective and comprehensive screening framework. Further, the Board has responsibility only for teachers and not other school employees.

Other screening processes in government schools

Current legislation allows Education Queensland to insist upon the disclosure by registered teachers, and applicants for employment as teachers, of criminal history of a character that suggests that the person is unsuitable for a school-based position involving student contact (for example, serious drug offences or sexual offences). It also allows for such disclosure by other departmental officers employed at government schools such as teacher aides, administrative or ground staff.

Education Queensland conducts criminal history checks on all new appointees to school-based positions other than teaching positions and is also responsible for conducting criminal history checks on teachers seeking readmission to the department who have maintained their teacher registration (submission from Education Queensland 1999).

The employment process for school-based positions will usually involve, at a minimum, submission of a written application, an interview and referee checks.

Other screening processes in non-government schools

Non-government schools are not governed by Education Queensland policy; however, some non-government schools model their screening policies on those of Education Queensland. The policies of other schools are determined by the religious affiliation or are developed at the individual school level.

Many of the non-government schools consulted by Project Axis advised that their recruitment and screening process involved conducting referee checks and contacting past employers. A minority of schools had no documented recruitment and screening process for teachers. Many non-government schools reported that they relied on the Board to conduct criminal history checks for all new teachers appointed. As noted above, the Board only conducts criminal history checks at initial registration, interstate transfers and registration after a lapse of registration; it also has a role in monitoring the criminal conduct of currently registered teachers (See Chapter 9). Nonetheless, reliance by non-government schools on the Board exclusively to conduct criminal history checks is not appropriate, particularly where the school has no other employment screening policy in place.

Some of the comments made by the non-government schools consulted, in relation to employment screening and the lack of criminal history checks, include:

No additional checks performed. Not considered necessary up to now.

Difficult to gather such information.

Wary of legal and legislative restrictions and personal reactions of applicants about a matter which is not yet accepted practice.

Under impression the Board of Teacher Registration carried out (criminal checks).

No additional checks. The main reason would be the expectation that people 'with a record' would not be applying for a position in a school like ours.

Would want legal protection to be able to do it.
(Applicants) usually from local schools or from schools where I know the Head.

Approximately half of the 66 non-government schools consulted by the QCC advised they had no formal screening procedures in place for employees other than teachers. The majority of those with screening mechanisms in place relied solely on referee checks.

Many of the schools consulted advised that the questions raised by Project Axis had highlighted for them the need for better screening procedures. Some of their comments include:

We would like to see examples of best practice from schools with established policies.

It would help non-government schools if they could run criminal history checks on prospective employees and volunteers through police in a straightforward manner.

There is a great need for a comprehensive program of resource materials, information and legislative guidelines available for schools as exists in New South Wales.

With all wisdom and prudence, innocence ought to be presumed after the usual selection process is followed. There is an awareness in the community and confidence of teachers and youth workers is already quite harmed. Impertinent prying is to be avoided and respect given, surely.

Transfers between schools

As noted previously, criminal history checks by the Board of Teacher Registration will detect only criminal convictions and charges, and only at initial registration. The vast majority of incidents of child sexual abuse will not result in charges or convictions and may occur after registration. It will always be difficult, therefore, to effectively screen employees where allegations have not resulted in formal charges.

At any point the Board may conduct an inquiry into the suitability of a person to continue as a teacher provided there are reasonable grounds to believe, for example, that the person is no longer of sufficiently good character or has been convicted of an indictable offence. However, before such an inquiry can be conducted, information about the person's conduct must be brought to the attention of the Board.

Education Queensland child protection policies and investigation procedures mean that sexual misconduct is more likely to come to the attention of the authorities than in private schools, thus making movement between government schools prior to resolution of an allegation difficult.

Non-government schools, on the other hand, have diverse policies and procedures. As a result, it may be possible for a teacher to resign and transfer to another school without allegations being investigated. In the absence of self-disclosure, the new employer will generally have no way of detecting the allegations.

Screening is only as good as the reporting framework that accompanies it. This issue is discussed in more detail in the following chapter in the context of reporting obligations when handling complaints against employees.

Churches

Non-government employers, including private schools and church organisations, have generally been self-regulating with respect to employment screening. As a number of non-government schools base their policies on those of their affiliated religion, it is important to examine the churches' policies.

Information received by the QCC on screening mechanisms utilised by churches has highlighted some deficiencies in recruitment and screening practices. Although most churches had at least minimal screening mechanisms in place for prospective ministers, screening for other child-related employment was inconsistent and sometimes inadequate.

There was considerable diversity among the general employment screening mechanisms that are in place, with some limited to the conduct of interviews and referee checks and others more comprehensive, including psychological testing or a lengthy novitiate process.

Some of the churches indicated that criminal history checks would be conducted on at least some occasions. None of the churches conducted criminal history checks as standard practice. Requests by community groups and private organisations to see a person's criminal history or police certificate, however, do not necessarily disclose the full history of offending since they are subject to the provisions of the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

Church organisations that form part of the Catholic Church are governed by the policies and procedures set out in *Towards Healing* (Australian Catholic Bishops' Conference and the Australian Conference of Leaders of Religious Institutions 1996). That document instructs "church bodies, especially those involved in providing care for children, to have in place procedures, ...for obtaining police checks, for checking references and verifying the suitability of persons for employment or for participation as volunteers". Additionally it instructs church bodies to be "honest and frank in references" so as not to enable offenders to be employed in situations where children might be at risk.

Despite improved awareness about the advantages of better screening practices, there continues to be a need for more comprehensive, better informed and consistent employment screening policies and practices.

Some of the factors that appeared to discourage more thorough employment screening generally, and the conduct of criminal history checks in particular, included:

- the cost of conducting criminal history checks;
- some churches did not perceive the need for more thorough screening ;
- lack of knowledge about how to conduct a criminal history check;
- screening for volunteers and non-ministers was generally left to the local church; and

- the difficulty in getting volunteers to undertake work with children.

Community groups

There are close to a million children in Queensland,⁷² many of whom participate in recreational activities outside the home. There are large numbers of volunteers and employees involved in these groups, many of whom have not been subject to adequate screening. Recent media reports of child sexual abuse occurring within recreational youth groups have highlighted the potential for abuse of children in these settings.

In the course of research for Project Axis, the QCC sought information from community-based and youth-oriented groups to determine their policies and practices in relation to employment screening. In particular, information was sought from:

- sporting groups;
- scouting groups;
- youth groups; and
- child-minding services (private nanny and au pair services only).

Less than one third of sporting, scouting and youth groups consulted screened employees and volunteers. All of those with screening mechanisms in place screened people only once, at the commencement of employment.

The QCC was able to obtain information from only a small number of private child-minding services. Approximately two-thirds of the child-minding services had some employment screening in place but all of these also conducted screening only at the commencement of employment. Not all of those with screening in place conducted criminal history checks. Two services indicated that they asked applicants whether they were prepared to undergo a criminal history check but did not actually conduct them.

In total, only about one fifth of the organisations conducted criminal history checks on employees and volunteers.

Organisations gave a number of reasons for not conducting criminal history checks. These included:

- they did not know how to;
- there was no legal requirement to;
- they did not know that the law permitted them to do it;
- it takes too long;
- they do not believe anyone involved in their organisation would do such a thing;

⁷² In 1998, there were 848,325 children under 16 years in Queensland (ABS 1999).

- they only appoint persons already known to the organisation.

Proposed screening by the Commission for Children and Young People

Project Axis research has confirmed the inadequacy of employment screening processes, particularly in the private and community sectors. It has also highlighted the need for broader education, training, advice and support for employment screening.

Since this project began the issue has been under consideration by the Children's Commission (soon to become the Commission for Children and Young People). It has attempted to address this issue in part, by introducing a mandatory requirement for criminal history checks for a number of agencies engaged in child-related employment under the *Commission for Children and Young People Bill 2000*.

The Bill is not intended to cover all fields but is designed to fill the gap in existing legislative employment screening provisions. That is, it is not intended to apply to those categories of child-related employment already covered by existing legislation and policies, including government teachers, QPS and FYCCQ officers. Specifically, the areas of child-related employment that will come under the new scheme are:

- residential facilities providing accommodation for children;
- schools and school boarding facilities (for employees other than teachers);
- churches, clubs and associations involving children;
- child counselling and support services; and
- private teaching, coaching or tutoring on a commercial basis.

The legislation covers paid employees and volunteers in each category, subject to limited exceptions. For example, a parent volunteer at a school is exempt from the provisions. It also covers self employed persons engaged in child counselling, private teaching, coaching and tutoring. To come within the provisions of the Bill, however, the person must be employed on a regular and systematic basis for at least one month.

The provisions of the Bill apply only to future employees subject to one exception. If an employer "knows or reasonably suspects" that an existing employee has a criminal history that may make him or her unsuitable for child-related employment, the employer may apply to the Commission for a suitability notice.

For employers required to comply with the scheme, the process of conducting criminal history checks will be simplified:

- The process of obtaining a limited criminal history check will be more straightforward through an application form to the Commission.

- The Commission will access criminal history information through the QPS on behalf of the employer and employee.
- The cost of the application will be \$40 for paid employees but free for voluntary employees.⁷³

The *Commission for Children and Young People Bill 2000* is expected to come into effect early in 2001. It imposes obligations on both employers and potential employees. It will be an offence for an employer to employ a person in child-related employment without making application to the Commission for a suitability certificate for that person. The application must also be signed by the prospective employee who thereby gives consent to a criminal history check. In addition, a person declared unsuitable for child-related employment is guilty of an offence if they apply for, start or continue in such employment.

The Commission will conduct a criminal history check and issue a certificate stating whether the person is suitable for child-related employment. The Commission will have access to information about all criminal charges and convictions for offences committed in Queensland and elsewhere in Australia. In determining whether to issue a suitability certificate the Commission can take into account the nature and seriousness of any offences or charges discovered, the time these were alleged to have occurred, and their relevance to child-related employment. Where a person has been convicted of a serious offence, the Commissioner must declare the person to be unsuitable unless exceptional circumstances exist.

The suitability certificate issued by the Commission will be valid for a period of two years and is transferable between employers.

In undertaking an assessment of a person's suitability to work with children, the Commission will be concerned only with preventing the risk of child sexual abuse. It will not be undertaking a broader character assessment of the proposed employee. So, for example, a person convicted of minor drug offences or some offences involving dishonesty would not necessarily be considered unsuitable for child-related employment.⁷⁴

Clearly, it would not be appropriate for the Commission to take a broader role in this regard, however it is important that the limits of the Commission's role be clearly spelled out in publicly disseminated information. It may be that some employers would still require a police certificate or criminal history check so they could assess broader issues about employee suitability.

The *Commission for Children and Young People Bill* attempts to achieve a balance between the rights of adults to employment and the safety rights of children. In this regard, a number of safeguards have been entrenched to ensure privacy and fair treatment. These include:

⁷³ The national name check through the QPS usually costs \$34.00; the national name and fingerprint check through the QPS usually costs \$120.00. Exemptions may be made in the case of benevolent organisations on a case-by-case basis.

⁷⁴ Although the list of 'serious offences' which would exclude a person from suitability for child-related employment is not limited to child sex offences or offences of a sexual nature.

- the right of appeal by a prospective employee against the issue of an unsuitability notice;
- the right of a person to make a confidential submission to the Commission as to why the person should not be declared unsuitable;
- the right of the preferred applicant to withdraw their consent to the issue of a notice; and
- confidentiality provisions to ensure Commission staff do not disclose information.

Screening for paid employees will come into effect first, while screening for volunteers and self employed persons will be implemented within 12 months.

Gaps in the framework

The provisions of the Bill will address some of the inadequacies in employment screening. However, a number of gaps remain.

The new legislation does not apply to all child-related employment. In particular, two significant areas not covered by the framework are:

- teachers; and
- private childcare providers.

Teachers

Self-regulation by non-government schools has led to inadequate and inconsistent employment screening. One obvious anomaly under the new screening scheme is that volunteers and employees of schools and community organisations in child-related employment will be subject to more onerous initial employment screening than teachers in non-government schools. However, under the Education (Teacher Registration) Act teachers are subject to ongoing monitoring for criminal offences.

The non-government sector, whose major peak bodies are the Association of Independent Schools Queensland (AISQ) and the Queensland Catholic Education Commission, in conjunction with the State Government are currently considering issues related to the regulation of non-government schools, following recommendations of a review of accreditation and accountability arrangements for non-government schools. The review proposed a set of standards as the basis for schools' accreditation and these relate to a range of matters, including comprehensive policies for managing student safety, care, health and welfare and arrangements for ensuring that staff and student practices are guided by them.⁷⁵

⁷⁵ Project Axis acknowledges that Education Queensland, the Association for Independent Schools and the Queensland Catholic Education Commission have been participating in the National Strategy in schooling to prevent paedophilia, endorsed by the Ministerial Council on Education, Employment, Training and Youth Affairs. The National Strategy addresses a range of child protection issues including curriculum content, training and development, inter-agency coordination, information sharing and complaints handling.

Project Axis understands that the Government is considering a range of issues related to non-government school accreditation. Project Axis urges the Government to consider the issue of appropriate policies on employment screening for non-government schools as part of that process. The Board of Teacher Registration, AISQ, Queensland Catholic Education Commission and the Children's Commission should be consulted in relation to this.

The QCC also notes that the CJC will be making recommendations in relation to employment screening mechanisms for both teachers and applicants for non-teaching positions within Education Queensland, in its forthcoming report on inappropriate relationships of a sexual nature by Education Queensland Employees towards students.

Childcare providers

Childcare providers will not be covered by the new legislation. As noted earlier, criminal history checks are conducted on workers in government administrated childcare schemes but this does not apply to private childcare services, such as nanny services. Project Axis is advised by the Children's Commission that the issue is being addressed by FYCCQ as part of its review of the *Child Care Act 1991*.

The operation of the screening legislation is due to be reviewed in 12 months time. Project Axis considers that this issue should be re-examined as part of the review of the screening legislation to ensure that childcare providers are adequately covered within the framework.

Other gaps

In addition, there is a range of other employment categories which, although not within the definition of child-related employment, may involve extended contact with children. In such cases an employer may consider it appropriate to have a suitability check conducted on the potential employee. The Children's Commission screening process will not be available to the employer.

The employer may request a potential employee to consent to a criminal history check through the QPS. However, the procedure is more cumbersome and will not provide information on charges, or on convictions which have expired under the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

Project Axis suggests that the Children's Commission should, as part of the 12 month review, give consideration to allowing employers in child-related employment to make voluntary application to the Commission for a suitability notice, with the consent of prospective employees.

The Queensland legislation does not enable the Children's Commission to access information in relation to disciplinary proceedings (unlike its New South Wales counterpart). Project Axis suggests that the issue of access to information about disciplinary proceedings should form part of the 12 month review of the legislation.

Conclusion

Criminal history checks, while necessary, are far from sufficient. Reliance on criminal history checks alone is not only inadequate, it may well be dangerous. It may give employers undue confidence that all offenders have been detected, whereas only a small percentage of offenders are likely to be charged with, or convicted of, an offence. The new and existing legislation focuses primarily on ensuring agencies conduct criminal history checks, but to be effective this needs to be integrated into a more comprehensive approach to employment screening, including education and training.

This education and training should focus on developing effective recruitment and workplace practices and procedures, including promoting and fostering workplace cultures that are open and protective of children's rights. It should address such issues as risk assessment, recruitment processes, pre-employment checks, induction and training, staff support and management, and complaints handling as well as criminal history checks.⁷⁶

Research by Project Axis has shown that community organisations, schools and the like would welcome guidance and model employment screening policies. The Children's Commission, in partnership with government departments, community organisations and churches, is ideally placed to develop and deliver comprehensive employment screening and child sexual abuse prevention training programs for community organisations.

The Children's Commission advises that it plans to conduct an extensive marketing and education program with the introduction of the new Act, and that it has established a working party to undertake this. The working party includes representatives from community groups. The program will be aimed at informing the public about the new provisions and the need for agencies to adopt comprehensive employment screening policies and practices. Resource material, including sample guidelines and codes of conduct, will be available on the Commission's website.

In the absence of additional resources, however, Project Axis is concerned that it is inevitable that the capacity of the Children's Commission to undertake education and training will be limited and short-lived. Project Axis suggests that funds should be specifically allocated to the Children's Commission to enable it to undertake more comprehensive education and training as well as provide an ongoing advisory service to organisations involved in child-related employment.

⁷⁶ There is considerable experience from other jurisdictions to draw upon. Both Canada and the United States have developed very useful models and resource materials (see for example, the comprehensive education program developed and delivered by Volunteer Canada as part of the Canadian Government's National Screening Initiative). In Australia, both the National Association for the Prevention of Child Abuse and Neglect and ECPAT have developed guidelines for recruitment and screening procedures for community organisations. The Federal Government recently announced joint funding by the federal and Victorian governments of \$62,500 to the *Choose with Care* pilot program to help organisations develop effective recruitment and screening techniques. The program was developed by ECPAT and MacKillop Family Services, a Victorian non-government welfare organisation.

Recommendations

Project Axis recommends:

11. That the working party referred to in Recommendation 2 also develops appropriate employment screening policies for non-government schools, taking into account the legislative requirements for other child-related employers under the proposed *Commission for Children and Young People Act* (see Recommendation 15).
12. That the Government consider including, as a requirement of accreditation, that non-government schools have in place adequate policies for employment screening (see also Recommendations 3 and 16).
13. That the 12 month review of the proposed *Commission for Children and Young People Act* consider the following issues:
 - whether adequate screening has been applied to private childcare providers;
 - whether the legislation should enable voluntary applications for suitability notices for areas of child-related employment not covered by existing provisions; and
 - whether information in relation to disciplinary proceedings should be maintained by the Commission and taken into account in issuing suitability notices.
14. That the Children's Commission be given responsibility, and commensurate funding, to develop and provide comprehensive education and training for community groups and organisations involved in child-related employment as well as an ongoing advisory service in relation to all aspects of effective employment screening, complaint handling and child protection issues generally. This should include the development of educational resources, model policies and advice on issues such as risk assessment, selection process, developing position descriptions, conducting interviews, pre-employment checks, induction training and supervision, staff support and complaints handling. This task should be undertaken in consultation with FYCCQ, the CPC, Sport and Recreation Queensland, peak education bodies and community organisations.

Chapter nine

Handling complaints of child sexual abuse involving employees

Effective recruitment and employment screening practices will do much to restrict the opportunities of those people with a history of child sex offending from working in child-related employment. Nonetheless, only a small proportion of offenders are ever charged with, or convicted of, child sex offending. It is vital that organisations involving contact with children have clear policies and procedures in place for handling allegations against employees, and for bringing them to the notice of appropriate authorities. This will ensure allegations are taken seriously and may also operate as a deterrent to offenders.

This chapter examines the policies and procedures in place for handling complaints of child sexual abuse within:

- schools;
- churches; and
- community groups.

Schools

Policies for handling complaints involving school employees are determined by Education Queensland in the case of the government sector and by individual schools in the case of the non-government sector. In either case the Board of Teacher Registration has a role to play where the allegation involves a registered teacher.

As described in Chapter 8, the Board is responsible for determining the continued registration of teachers where issues of 'good character' are brought to its attention. However, until recently there was no legal requirement for schools to report allegations of child sexual abuse to the Board.

In 1997, the *Education (Teacher Registration) Act 1988* was amended to require all schools to report allegations of child sexual abuse involving registered teachers in certain circumstances. Section 44A provides that the employing authority must notify the Board if a teacher either resigns, or has his or her employment terminated, within 6 months of being given a written notice that, following an investigation into allegations of a sexual nature against the teacher, the school is dissatisfied with the teacher.

Since 1997, where a registered teacher is committed for trial for an indictable offence (which includes offences of a sexual nature against a child), the Commissioner of Police

or the DPP is obliged to notify the Board.⁷⁷ Registered teachers are also obliged to notify the Board of certain events including a conviction for an indictable offence (s. 44).

While the amendments provide many safeguards, there remain significant gaps. For example:

- Reporting under the Education (Teacher Registration) Act is only required if a teacher leaves within six months after receiving a written notice following an investigation. The Act is silent, however, on the circumstances in which the school authority must investigate an allegation or issue a “notice in writing”. Accordingly if the allegation is not investigated, or if the notice in writing is not given, there is no requirement that the school notify the Board.
- The Board must be notified if a teacher is committed for trial. If, however, charges are laid but later dropped before the committal proceedings, there is no obligation to notify the Board.
- If the court is not aware that the person is a teacher, the Board may not be advised.

In keeping with the spirit of the *Child Protection Act (1999)* Education Queensland policy requires all allegations of child sexual abuse to be reported. However it remains possible for a non-government school to handle an allegation involving one of its teachers “discreetly”, and terminate a teacher’s employment without investigation or notification. It is easy to imagine circumstances where a school, depending on its good reputation for enrolments, may prefer this course to investigation or reporting. This means it is possible for a teacher against whom there are unresolved complaints to move between schools as there is no way for a new employer to discover the allegations.

Government schools

Education Queensland has a detailed policy guiding government schools’ response to a complaint involving one of its employees. A school principal, on receiving an allegation of child sexual abuse involving an Education Queensland employee, must report through Education Queensland’s Liaison Officer to the CJC. The Liaison Officer determines the course of action to be taken, according to criteria established by the CJC. When an allegation involves a school principal, the allegation must be reported to the Manager, Education Services, who then refers the allegation through the Liaison Officer to the CJC.⁷⁸

The CJC examines the complaint to determine whether further investigation is required and who should conduct the investigation. After a preliminary assessment by the CJC to ensure there is some veracity to the allegation, the CJC will usually refer the complaint to:

⁷⁷ This does not however of itself have any effect on the teacher’s registration. The Board must consider whether to conduct a hearing at which the teacher’s ‘good character’ will be assessed.

⁷⁸ These policies are documented in Education Queensland’s child protection policy (Education Queensland 1998) and satisfy statutory requirements under the *Criminal Justice Act 1989*.

- Education Queensland, if the matter does not involve a criminal offence but may require disciplinary action. (Most investigations of this type will take place at the local level and be conducted by the principal of the school where the allegation occurred); or
- the QPS, if the matter involves a criminal offence. (In this case Education Queensland will consider removing the employee from contact with students while the investigation is carried out).

In certain cases, where the matter is more an issue of official misconduct than a disciplinary matter, and where it does not involve a criminal offence, the CJC may investigate the matter itself.

In any case, the complainant, a parent or a teacher may refer the matter directly to the QPS or CJC (where the allegation is against an Education Queensland employee) at any time. The QCC may become involved in particular investigations either on referral by the QPS or where the alleged activity involves networking or organised offending.

The CJC is currently preparing its report on inappropriate behaviour of a sexual nature by Education Queensland employees towards students. The report, which will have a strong prevention focus, will examine existing policies and procedures relating to the management of the behaviour of Education Queensland employees, the reporting and investigation of allegations of inappropriate behaviour and the screening of applicants for relevant positions within the department.

Non-government schools

Of the 66 non-government schools that provided information to the QCC about their policies and procedures for dealing with allegations involving a school employee, nearly half indicated they had no guidelines in place. About a third of the schools indicated they would follow relevant guidelines that had been established by their affiliated religion. For example, all 13 Catholic schools followed the policies established under *Towards Healing*.⁷⁹ In addition, regional Catholic Education Offices have established complementary procedures in consultation with local Catholic communities, schools, parents and the Queensland Centre for Prevention of Child Abuse.

Only nine other schools indicated they had developed policies for allegations of child sexual abuse by school employees.

Of those schools that indicated policies existed, three did not in fact have written guidelines but described a process that was understood to be the policy, based on what had happened when a complaint had previously been made. Four of the nine schools with policies had received one or more complaints involving an employee

⁷⁹ *Towards Healing* (Australian Catholic Bishops' Conference and the Australian Conference of Leaders of Religious Institutes 1996) sets out the principles for responding to complaints of sexual abuse against personnel of the Catholic Church in Australia.

since 1994. Only two of the remaining schools covered by church guidelines had received complaints since 1994.

In most cases, the 'policy' typically involved:

- advising the principal;
- documenting the complaint, or obtaining a written statement from the complainant;
- interviewing parties — although some policies, including those applicable to the Catholic schools, make clear that parties should not be interviewed at this stage; and
- if appropriate, investigating the complaint.

In addition, if considered necessary, policies also involved:

- seeking legal advice;
- referring the matter to the School's Board; or
- referring the matter to external authorities.

Clearly schools may prefer to handle such allegations internally in order to avoid scandal and protect their reputation. Some allegations are minor and may not amount to criminal conduct and, of course, not all allegations are necessarily true. It is not always appropriate, however, for schools to conduct their own investigation. Where the matter involves allegations of criminal conduct it should normally be referred to the QPS.

In relation to government schools, the CJC provides an effective filter for complaints involving alleged criminal offences by ensuring there is at least a minimum standard of veracity before forwarding the matter to the QPS. There is no equivalent process for non-government schools.

Most of the schools' policies were unclear about whether and when the QPS or FYCCQ should be notified. None of the policies included specific reference to the school's obligation to report allegations of sexual misconduct under Section 44A *Education (Teacher Registration) Act 1988* to the Board. Most did not deal with the issue of whether the employee should be suspended pending investigation or at what stage that might occur (the procedures applicable to Catholic schools, however, did make most of these issues clear).

Some policies included clearly inappropriate action. For example, one school's policy was to obtain a written statement from the complainant and present it to the accused. In the case of very minor allegations this may not be problematic but in the case of serious allegations amounting to criminal conduct it could affect the criminal prosecution. Another school's policy included the suggestion that the child/complainant could be moved to another class.

Apart from those schools that follow church-based protocols such as *Towards Healing*, only one school had a comprehensive written policy that:

- included a definition of child sexual abuse;
- advised when to notify authorities;
- described the roles of various welfare and justice agencies;
- clarified the role of the employee to whom allegations are reported and made clear that it was not their role to investigate the allegation; and
- advised about confidentiality, when to notify the person accused and what to tell parents.

Interestingly, this particular school had developed this policy even though it had received no complaints of child sexual abuse involving employees since 1994 (schools were not asked about complaints prior to 1994). While it is not possible to attribute the lack of complaints to having these policies in place, the policies may reflect a higher level of awareness of child sexual abuse issues generally which would normally act as a deterrent to child sex offenders.

A number of schools had general sexual harassment policies that applied whether or not the allegation involved another student or an employee. Another school used a written policy prepared by lawyers for the Association for Independent Schools Queensland (AISQ). It included advice to schools not to interview the child/complainant under any circumstances. In addition AISQ publishes a document *Legislation and Information Folder* which is revised every two years, most recently in July 2000. That document includes advice to non-government schools on key legal issues and the implications for schools.

The Project Axis survey of schools succeeded in raising awareness of the need for more comprehensive child protection policies. It is apparent that there is a need for more information, advice and guidance for schools in developing policies for responding to allegations of child sexual abuse — an issue recognised by many of the schools. Some of the comments made by schools in relation to this include:

This document has drawn to our attention some deficiencies in our school policies which we intend to address.

Greater information is needed by school communities.

We recognise that this is an area of policy and procedure to be strengthened and welcome advice and support.

It was also acknowledged that it is not enough to have documented policies and procedures but that the broader school culture needs to be addressed.

While formal complaint structures and procedures are likely to be needed in the current social climate, (this school) believes that a lot can be achieved by fostering

open communication between parents, teachers and children and providing a variety of avenues for expressing concerns.

Employment screening and complaints handling by schools are integrally linked. In our discussion of both issues, Project Axis has highlighted deficiencies in the self-regulation system.

The forthcoming report of the CJC, though concerned only with government schools, may provide some useful commentary on the appropriateness of the complaints handling policies and procedures for all schools.

Churches

Many non-government schools have adopted child protection policies that have been established by their religious affiliation. In addition to the direction that churches provide to their affiliated schools, they are also involved in providing services to children through youth groups and other recreational activities. It has been suggested that churches may be the largest organised provider of activities for children outside school hours (Parkinson 1999, p.60). The response of some churches to allegations of child sexual abuse by clergy or other workers has attracted significant publicity and criticism. A number of clergy members and religious workers have been convicted of child sexual abuse in Australia and overseas in recent years.

In January 1999 Project Axis contacted 14 of the major church institutions in Queensland to invite them to provide information about these policies. All but two responses from church institutions indicated that policies have been, or are in the process of being, implemented to deal with allegations of child sexual abuse within the institution. In all cases, these policies have been introduced very recently, between 1995 and the present.

There is considerable variation in the policies of the church institutions. For example, only two churches automatically refer an allegation involving church workers to police, although in one case this action was only taken against lay staff or voluntary workers. In a further four church institutions, complainants are advised of their right to involve police, while another four churches actively encourage either complainants or perpetrators to contact police.

Many church institutions conduct their own 'investigations' or 'assessments' of the allegation before deciding what course of action to take. If a complaint is substantiated through a hearing process, outcomes for the respondent in a complaint can include:

- warnings to the respondent;
- verbal or written apologies to the complainant;
- mandatory counselling for the respondent; and
- resignation or withdrawal from ministry, dismissal from employment, or prohibition from further involvement in activities associated with the Church.

The outcome of an investigation is most often determined by a senior church leader based on the recommendations of a panel convened to conduct the hearing. While this investigation process may be appropriate for minor matters, Project Axis is concerned that allegations of criminal conduct are being 'tried' by the church rather than being referred to the police. The hearing process may prejudice criminal investigations and consequent prosecutions.

Many church organisations are aware of the need for clear and comprehensive guidelines in this area. For example, the Catholic Church has been attempting to address this issue for some years. The *Towards Healing* document establishes policies and procedures for handling complaints of a sexual nature involving church employees. The document includes guidelines for:

- investigation;
- mediation and dispute resolution;
- support for complainants;
- referral to external agencies; and
- when to suspend employees.

Similarly, the Anglican Church has developed guidelines (for example, the Diocese of Brisbane Protocol) for use when complaints of sexual abuse are made against church officials.

It is now acknowledged by most denominations that the way in which churches responded to allegations of child sexual abuse in the past has left much to be desired. Typical responses in the past have been to deny the abuse, to deal with it within the confines of the church rather than through the criminal justice system and to relocate an offender to another area.⁸⁰

While much has changed in recent years, the policies and procedures adopted by churches vary in their focus and content, and in their sensitivity to the needs of victims. Furthermore, some churches still refuse to acknowledge the problem and have no policies, or inappropriate policies, in place to deal with allegations.

There is still room for improvement in the churches' awareness of, and response to child sexual abuse within their institutions. Importantly, a mechanism to oversee the response of church institutions to allegations involving church employees would improve consistency among churches. Church policies are only as good as their implementation. Having policies in place does not ensure faithful adherence to their requirements. As there is currently no external, ongoing evaluation or monitoring of the enforcement of internal church policies, there is no way of knowing whether the policy has been applied appropriately, or whether it has been effective.⁸¹

⁸⁰ For a more detailed analysis of the churches' response to child sexual abuse, see Parkinson 1999.

⁸¹ Project Axis has been advised by the Queensland Catholic Education Commission that the *Towards Healing* process has undergone external evaluation and that in the various Arch/Diocesan jurisdictions the policy has been

A more serious situation arises for those institutions without any policies in place. While there is no requirement for a church to establish a policy for handling allegations against employees, it is important to encourage church institutions to actively develop a response should the need occur. Ultimately, as many churches now realise, it is in the interests of the institution itself to acknowledge the potential for child sexual abuse, to formulate a child protection policy and to actively promote intolerance for abusive activities.

There is an urgent need for the development of a consistent policy framework across the non-government sector, especially in private and religious-based schools, church communities and community groups to ensure that minimum standards in identifying, reporting, and responding to, suspected or reported child sexual abuse are met.

Project Axis recommends that the Children's Commission, in its role of fostering a community culture that focuses on the interests, needs and rights of children:

- consider the question of the accountability of church institutions when faced with allegations of child sexual abuse, and whether the introduction of official external oversight mechanisms might improve the actual response of churches;
- assist churches without policies to develop appropriate responses to allegations; and
- advise those churches with policies in place as to the appropriateness and adequacy of their policies and procedures.

Community groups

The contact that employees and volunteers of sporting organisations, youth groups or child-minding agencies have with children has been shown to present opportunities for staff or volunteers to become the subject of an allegation of child sexual abuse. Of the 51 community groups that provided information to the QCC about relevant policies and procedures, only three had any formal policies for reporting allegations of child sexual abuse involving employees or volunteers of the organisation. However, just under half of the community groups said they would involve the police or FYCCQ if an allegation involved a criminal offence such as child sexual abuse.

This is the area where perhaps there is the greatest deficiency in procedures or guidelines. Project Axis research has highlighted these problems and identified the need for better information, advice and guidance for community organisations in developing appropriate policies. Comments from some community organisations reflect their awareness of this:

implemented. A Special Issues Resource Group has also been established which has some responsibility to oversight implementation and to be convened at "arms length" from the employing authorities.

We would be grateful for any information and suggestions to formulate policies to screen and deal with prospective offenders of this nature.

Issue a standard policy to cover all sporting bodies.

Sport and Recreation Queensland has provided support and advice to sporting and recreation groups on a range of issues and help all to improve their accessibility and management. In considering issues relating to child protection and risk management, Sport and Recreation Queensland has encouraged sport and recreation organisations to seek legal advice, contact their governing bodies for direction and develop policies and procedures which are specific to their environments and activities. Sport and Recreation Queensland has indicated that it is awaiting the introduction of the Commission for Children and Young People Bill before developing any specific material on child protection policies for sporting and recreation organisations. It is envisaged that this will occur in partnership with the Children's Commission and FYCCQ.

Clearly, the Children's Commission should have an explicit role to play in providing community groups with education, advice and model policies in relation to child protection issues generally, and complaints handling in particular. This would greatly assist organisations that provide services for children when developing their own child protection policies. Chapter 8 includes a recommendation to this effect (see recommendation 14).

The Children's Commission should also explore mechanisms for improving accountability of childcare centres and other youth recreation and adventure groups to ensure that complaints handling policies are in place and enforced, and that allegations of child sexual abuse are brought to the attention of the appropriate authorities. Existing accountability mechanisms, such as government accreditation schemes for childcare centres, may provide the most appropriate means to achieve this.

Conclusion

Project Axis research has highlighted the deficiencies in the policies and practices of non-government schools, churches and community groups for handling complaints of child sexual abuse against employees. While some agencies are actively taking steps to rectify the problem, this is far from universal.

It is not possible to mandate that every agency likely to have contact with children put in place such policies. However, greater community awareness, in conjunction with support, information and guidance for agencies in developing better policies and procedures, will greatly enhance agency responses to allegations of child sexual abuse.

Recommendations

Project Axis recommends:

15. That the working party referred to in Recommendations 2 and 11 also develop appropriate complaints handling procedures for non-government schools and that in developing these policies, the working party have regard to Education Queensland policy and to any recommendations for changes to those policies in the forthcoming CJC report *Inappropriate Behaviour of a Sexual Nature by Education Queensland Employees Towards Students*.
16. That the Government consider including, as a requirement of accreditation for non-government schools, that they have in place adequate policies for handling complaints of child sexual abuse involving employees (see also Recommendations 3 and 12).
17. That the Children's Commission consider the question of the accountability of church institutions when an allegation of child sexual abuse has been made involving a church employee, and consider whether the introduction of any official oversight mechanism might improve the response of churches.
18. That Sport and Recreation Queensland, in conjunction with the Children's Commission and FYCCQ encourage sport and recreation organisations to develop child protection policies for addressing complaints against staff or volunteers.
19. That the Children's Commission explore mechanisms for improving accountability of childcare centres and other youth recreation and adventure groups to ensure that complaints handling policies are in place and enforced, and that allegations of child sexual abuse are brought to the attention of the appropriate authorities.

Chapter ten

Services for victims of child sexual abuse

Child sexual abuse is associated with a range of serious physical, social and mental health consequences (QCC & QPS 2000). Volume 1 of this report identified that child sexual abuse is a fundamentally important predictor of poor health and poor social well-being. It is clear that child sexual abuse can have devastating effects for victims and their families, and that the cost to the wider community is substantial. The provision of protective intervention, support and counselling services is a critical step in reducing or preventing the effects of sexual abuse.

A range of factors affects how well victims and their families cope with, and recover from, episodes of child sexual abuse. As documented by Professor Barry Nurcombe (1997), these include:

- the quality of family functioning prior to the abuse;
- earlier experiences of neglect, violence, maltreatment, parental separation, or parental abandonment;
- the child's individual coping strategies;
- the level of development which the child has reached;
- the age and sex of the child, and the relationship between the child and the perpetrator;
- the type of abuse, its duration and frequency;
- the use of coercion or threats during the abuse; and
- events subsequent to the abuse, such as parental separation and family dysfunction, out-of-home placement of the child, and medico-legal investigation of the abuse.

Sexual abuse involves a wide range of behaviour, and is interpreted by victims in a variety of ways. In fact, children may not display any adverse effects at the time of the abuse (Kendall-Tackett et al. 1993), although some children may develop problems later in life (Gomes-Schwartz et al. 1990). For those children who are adversely affected by sexual abuse, the effects can vary greatly (Kendall-Tackett et al. 1993).

For these reasons, there is no single treatment that will be effective for all child victims (Nurcombe 1997). While improvements in mental health have been found for victims engaging in some form of therapeutic intervention, experimental evaluations have not succeeded in identifying a particular intervention with greater benefits than

any other (Chalk & King 1998). The duration and frequency of treatment required are also not apparent (Nurcombe 1997).

Not all victims of child sexual abuse seek services specifically for their experience as a victim of abuse. When victims reach adulthood, they may seek services to assist them address other life issues that may have resulted from the sexual abuse, that may not seem to be related to their experience of child sexual abuse, or that may have been precursors to child sexual abuse. Services that victims of child sexual abuse may access include:

- advocacy or peer support groups comprising individuals who themselves have been victims of child sexual abuse;
- anonymous telephone counselling services such as Lifeline or Kids Help Line;
- individual counselling with a private practitioner;
- treatment programs for behavioural or mental health problems such as depression and suicidal behaviour, alcohol or drug addiction, anger or stress management needs and sexual dysfunction; and
- counselling services designed specifically for victims of child sexual abuse.

It is beyond the scope of this report to provide an evaluation of all services provided to victims of child sexual abuse. This chapter documents only those services provided by government and non-government agencies that have been designed specifically for victims of child sexual abuse and their families. It concludes by describing some gaps in services currently existing in Queensland.

FYCCQ

As described earlier, FYCCQ is Queensland's main child protection agency. FYCCQ undertakes statutory intervention with families where child sexual abuse has occurred, or is at risk of occurring, and the child is deemed to be in need of protection. This intervention may occur with the voluntary agreement of the child's family or with the authority of a court order. Departmental intervention may occur while the child remains in the care of parent/s or the child may be placed in alternative care. FYCCQ provides counselling services for child victims and their families, and in addition, administers a significant community grants program for a wide range of non-government service providers throughout Queensland. FYCCQ refers victims and their families to a number of other community agencies that can assist families with support and counselling services.

Alternative care for children in need of protection

FYCCQ provides alternative care for children in its custody who are unable to live with their own families for safety reasons. Alternative care is not a 'service' for victims of child sexual abuse but it is a central facet of the State's response to children who disclose intra-familial abuse. In essence, alternative care is an action that a

government agency can take to protect a child from further harm. In this sense, alternative care can be classed as a 'protective service'.

There are two main forms of alternative care:

- Foster care is family-based care provided by approved care providers in their own homes, to children with protective needs who are unable to live with their parents. Foster carers must be certified, and may be required to provide their criminal history, domestic violence history, and traffic history before approval is granted.⁸² FYCCQ, or a community agency funded by FYCCQ, is responsible for providing training and ongoing support to foster carers. Foster care meets the majority of placement needs in Queensland.
- Residential care provides approximately five per cent of placements in Queensland. There are two forms of residential care: Family Group Homes, which employ live-in houseparents, and residential care facilities which have staff rostered to work 24 hours per day.

Very little research has been conducted to assess whether or not alternative residential care for children represents either harm or benefit for their general development and longer term outcomes. The research that has been conducted has reached somewhat conflicting conclusions about the effect of alternative residential care:

- Two evaluations found that abused children in alternative care were no worse off than those remaining with their families on key developmental and adjustment-related indicators. (Runyan & Gould 1985; Wald et al. 1988, as cited in Chalk & King 1998).
- A review of 27 studies found a range of poor outcomes for adults who had been in foster care. (McDonald et al. 1993, as cited in Chalk & King 1998).
- Several longitudinal studies of children in foster care did not find evidence of social maladjustment among the subjects of the research. (Chalk & King 1998).

Children in alternative care are also at risk of further abuse in their new residential environment. A recent British article reported that children in both foster care and residential care have reported abuse to police perpetrated by social workers and foster parents (Gallagher 1999). In Queensland, the Forde Inquiry has documented the physical, emotional and sexual abuse and neglect suffered by children living in institutional care from 1911 to the present day, although the Inquiry found fewer incidents of abuse in contemporary institutions than in the past (Forde Inquiry 1999). Out-of-home placement, therefore, does not necessarily protect children from further abuse.

There are no clear answers to the question of the effectiveness of alternative care for children, although children who are placed in residential care appear to be at risk of further abuse. Some have argued that sexually abused children are at particular risk of further sexual victimisation while in public care due to their sexualised or provocative behaviour (Forde Inquiry 1999).

⁸² *Child Protection Act 1999.*

Despite these problems with alternative care, it is indisputable that child protection agencies must have the capacity to remove children from their home to ensure their protection. The dilemma facing child protection agencies is whether to leave a child in an abusive situation that is not life threatening, or to place them in alternative care, where there are no guarantees that further abuse will not occur, and where the child may suffer adverse outcomes in the long term. As noted earlier in Chapter 3, FYCCQ only considers longer term guardianship for children whose parents are clearly unable to provide them with safe care. FYCCQ staff have commented that children are sometimes left in their families under carefully monitored circumstances⁸³ in preference to placing them in alternative care.

FYCCQ is aware of the problems associated with residential care for abused children. A number of mechanisms have been established to overcome these problems, for example:

- The *Child Protection Act 1999* clearly enunciates the standards of care required for children in alternative care, which include the physical, social, emotional and cultural aspects of the child's well-being.
- Residential care services and foster carers must be regularly licensed to provide care for children, and applications for licenses or certificates may require disclosure of the applicant's criminal history, domestic violence history and traffic history.⁸⁴
- FYCCQ officers and employees of residential care services are required by legislation to report suspicions that harm has been caused to a child in residential care.⁸⁵

The Forde Inquiry report also made a number of important recommendations to improve the systems of oversight and accountability to prevent abuse in care. The Queensland Government has advised the following recommendations:

- that FYCCQ regularly inspect and monitor care and detention facilities;
- that the powers of the Children's Commissioner be enhanced to act as an independent inspector of care facilities and to conduct inquiries;
- that the official visitor program be maintained and extended;
- that FYCCQ develop policies to ensure there is an accessible and confidential complaints mechanism for children and a rapid response to complaints;
- that an advice and counselling 'one stop shop' be funded by the Government and religious authorities for victims of abuse; and

⁸³ For example, by providing intensive counselling, or by requiring the family to ensure the offender is not left alone with the child.

⁸⁴ *Child Protection Act 1999*.

⁸⁵ Section 148 of the *Child Protection Act 1999*.

- that FYCCQ develop transitional programs to prepare young people moving out of care.

The implementation of these recommendations will greatly enhance the safety of children in residential care.

The Sexual Abuse Counselling Service

The Sexual Abuse Counselling Service (SACS) was established in 1993 to provide a service to members of families who are subject to interventions by FYCCQ (this includes the families of child sexual abuse victims and young offenders). It also provides a limited service to members of families where adolescent children have sexually offended and who are subject to child protection or juvenile justice interventions by the department. In cases where clients are unable to secure access to SACS, FYCCQ officers can consult with SACS workers on case management and therapeutic issues for family members. The service is situated in Brisbane and is staffed by five counsellors.

SACS provides:

- Counselling: during 1997–98, SACS provided 945 individual face-to-face counselling sessions, 87 telephone counselling sessions, 99 family counselling sessions, 145 group counselling sessions, and 13 days of residential programs.
- Consultation on case management and therapeutic issues with a range of professionals, including hospital social workers, doctors, psychiatrists, counsellors and therapists, teachers, and community agencies: in 1997–98, 94 case consultations were provided by SACS staff.
- Training in response to requests from within FYCCQ, from other government departments and from community agencies: in 1997–98, 33 training sessions were provided to more than 700 participants.

The goal of counselling is to help family members identify and resolve issues related to their experience of sexual abuse. Issues dealt with include immediate child protection concerns; the effects of sexual abuse on family members; and long-term child protection concerns such as protective behaviour and the possibility that the offender might re-offend.

The provision of counselling to intra-familial sex offenders is based on the philosophy that people are capable of initiating and maintaining change. As in general treatment approaches to child sex offenders, it is accepted that while the behaviour of the perpetrator cannot be ‘cured’, it may be effectively controlled if offenders acknowledge and identify the steps leading to the abuse and put into practice methods of managing their behaviour.

Therapeutic interventions at SACS are conducted primarily through group work. This is supplemented by individual, relationship or family counselling where appropriate.

Group work is the preferred intervention both for its therapeutic benefits, and because it is cost-effective. Clients may participate in one or more of the following groups:

- adult male offenders;
- women's self-help;
- non-offender parent support (mothers group);
- adolescent female victims/survivors;
- young women victims/survivors;
- adolescent male offenders and/or; and
- adolescent male victims/survivors.

SACS is the only publicly funded, specialist child sexual abuse treatment program in Queensland. SACS does not provide access to specialist sexual abuse counselling for children outside Brisbane, and is able to provide intensive individual counselling to only a limited number of clients.⁸⁶ The Children's Commission has recommended that SACS be expanded, through appropriate non-government organisations where necessary, to cater for more young people both within Brisbane and in regional areas of the state.

Queensland Health

Queensland Health currently does not provide services specifically for child victims of sexual abuse, although it is fostering a partnership with FYCCQ to clarify the roles of the two organisations with respect to child protection. Queensland Health has established the Sexual Assault Support and Prevention Program for the specific purpose of addressing the problem of adult sexual assault, the Sexual Assault Help Line, and Child and Youth Mental Health Services.

The Sexual Assault Support and Prevention Program

Queensland Health operates the Sexual Assault Support and Prevention Program for the provision of health related services to women aged 15 years and older who have experienced sexual assault and rape.

Services funded include community based non-government counselling services, a 1800 Help Line and several acute based specialist sexual assault services such as the Royal Women's Hospital Sexual Assault Service.

Queensland Health funds 31 organisations to provide acute and community services. Counselling, support and information programs are the most common services available through community services with medical and forensic services being

⁸⁶ Most clients requiring individual counselling are referred to another agency or private therapist. Referred clients may still participate in group work conducted by SACS if their counsellor considers this beneficial.

available at the sexual assault services (such as at the Royal Women's Hospital) and through Queensland Health public health facilities and Government Medical Offices.

Sexual Assault Help Line

The 1800 Sexual Assault Help Line operates from 9am to 1am each day and provides direct access to counselling, information and referral to women in crisis in relation to rape and sexual assault. The Help Line was piloted in 1998-99 during which time the service responded to over 13000 telephone calls. Whilst the service is designed to reach women over 15 years of age, it is expected that young people under 15 years may have accessed the telephone crisis service from time to time. The Help Line telephone number is 1800 101 120.

Child and Youth Mental Health Services

Child and Youth Mental Health Services are targeted at children and young people known to be at high risk of developing severe mental health problems and disorders. Such high risk groups include children suffering abuse, neglect or other trauma. Eligible children receive counselling which will address sexual perpetration in relevant cases. However, services are clearly designed to meet the needs of children suffering more acute psychiatric disturbance or functional impairment. This level of dysfunction would probably only occur in a minority of child sexual abuse cases, and these services are therefore only available to a small group of child victims.

Services provided by non-government and community organisations

There are a number of non-government and community organisations in Queensland that provide counselling and support to victims/survivors of child sexual abuse and their families. An index compiled by SACS lists 162 agencies throughout Queensland that provide services to victims/survivors of child sexual abuse. The index also lists 66 professional counsellors whose services include sexual abuse counselling.

Some non-government agencies have become involved with schools on a limited basis to help provide information on child protection and preventive procedures. Teen Challenge for example, has presented sexual abuse seminars, by invitation, at some schools and these appear to have been very popular. It has also acted as a clearing house and referral service for any child who approaches it with a personal problem during school visits; however its resources are limited.

A number of community agencies provide services that victims/survivors and their families can access. These agencies include Zig Zag Young Women's Resource Centre, the Save the Children Fund, Protect All Children Today (PACT), Lifeline and agencies affiliated with the Child Adolescent and Family Welfare Association of Queensland. In recent times church-based organisations have emerged to provide support to victims/survivors in the community, including victims/survivors of abuse committed by members of the clergy. For example, The Esther Trust is a church based organisation operating in Brisbane that provides information and

support to people affected by physical, sexual or emotional abuse in the church, faith communities and institutions.

Some advocacy groups have also been developed through the initiatives of victims/survivors themselves, including the Victims of Crime Association, the Neerkol Action Support Group and the People's Alliance Against Child Sexual Abuse (PAACSA). These advocacy groups are active in encouraging survivors to disclose abuse committed against them to appropriate agencies, and in providing emotional support to members. For example, PAACSA offers free, by donation or low cost, group and individual counselling to survivors of child sexual abuse and telephone support.

The effectiveness of services provided to victims

To date, there has been no evaluation of the services provided to victims in Queensland. However, a research project is currently being conducted by the University of Queensland, in cooperation with PACT, to evaluate the impact of therapy on victims and their families. The project targets children aged 6 to 16 years who have been the subject of substantiated child sexual abuse. Children are referred to the project by QPS or SCAN teams by mental health clinicians, school guidance officers and families, and randomly allocated to one of two interventions: a family therapy program and a cognitive behaviour therapy program. The 18 week program is provided near where clients live by trained community clinicians throughout Queensland, and is provided free of charge.

By assessing the clients of the two programs at baseline, at 18 weeks, and at 12 months after the conclusion of the program, the project hopes to identify an effective treatment program that is adapted to individual needs. It is believed that successful treatment will result in improvements in parental support and promote more adaptive coping strategies.

The Queensland Child Sexual Abuse Treatment Study began in June 1999. It is anticipated that results from the project will be available in approximately June 2001. Further information about the project can be obtained by calling (07) 3835 1405.

Gaps in service provision

Consultation with several agencies has revealed key gaps in services for victims of child sexual abuse. There is a need:

- for services for male victims, both child victims and adult survivors;
- to improve services for adult survivors of child sexual abuse;
- to improve services for victims living outside the south-eastern area of Queensland; and
- to provide services to the families of children who have been sexually abused as well as to the children themselves.

A range of further issues raised by agencies and individuals are detailed below.

Lack of coordination among services

The Children's Commission has noted that community-based agencies providing services to victims of child sexual abuse operate in an ad hoc way with an apparent lack of coordination. Indeed, there is no central point from which victims of child sexual abuse can obtain information about available services, which could also act as a referral body.

The Children's Commission has suggested there is a need for greater collaboration between survivors and survivors' organisations (submission from Children's Commission 1999). In its submission to Project Axis, the Esther Trust also indicated a need to document existing intervention strategies by government, churches and community agencies. Such an exercise would ideally identify gaps in response to the problem of child sexual abuse in an attempt to improve the quality of intervention.

In its recent report, the Task Force on Women and the Criminal Code (2000) have noted similar problems with services for women in the criminal justice system (either as witnesses or defendants). The Task Force recommended that a feasibility study be conducted into the provision of a single, centralised telephone service that can refer women to appropriate services and directly transfer their calls to the service concerned. Such a telephone service would have important advantages for women in rural and remote areas of Queensland, and would be easy to advertise widely. A free, 24 hour counselling and referral service has clear application to the issue of child sexual abuse service provision. Project Axis suggests that the Children's Commission consider the feasibility of establishing a similar service for victims of child sexual abuse.

A pilot project at the Gold Coast has been initiated that provides something akin to the Task Force recommendation for victims of child sexual abuse. The Gold Coast Response to Child Sexual Abuse project has been coordinated by Griffith University to provide an integrated approach to service provision for victims of child sexual abuse in the region. The scheme proposes to document the services available in the local area, both government and non-government, and to provide links between agencies so that a person seeking counselling or support can be referred appropriately. While it is too early to know whether this project will be an effective collaboration of services, initiatives of this nature may provide some important lessons for delivery of a more integrated response to victims of child sexual abuse.

Funding

Helping families where child abuse or neglect has occurred is costly, time consuming and difficult. High-quality services that can address the complex and unique needs of families over a sufficiently long period to bring about real change are costly. In 1998-99, FYCCQ estimated that the cost of responding to a substantiated notification of child sexual abuse was \$575 per case, and the cost per child subject to intervention was \$5,950 (FYCCQ 1999).

Queensland has a history of low expenditure on all child welfare services (O'Connor 1998). The resources of FYCCQ are extremely stretched. Professional and competent

staff are under considerable stress to deal with high caseloads and there is significant staff turnover due to stress and 'burn-out'. As a result of recommendations of the Forde Inquiry, the Queensland Government recently increased funding to FYCCQ, and there are plans to provide further increases in the longer term. It was further recommended by the Forde Inquiry that additional resources be focused on the prevention of child abuse through supporting families at risk, and providing respite care, parenting programs and other early intervention and prevention programs for high-risk families.

Insufficient and poorly targeted prevention and family support services

It is clear that, to prevent children from being abused in institutions and out-of-home care, it is necessary to prevent them from coming into care in the first place (O'Connor 1998). FYCCQ has noted that:

- Many families might be diverted from statutory intervention if they could receive help earlier, but at present there is a limited range of services that can reach out to vulnerable families. FYCCQ reports that additional resources are required to help families with chronic problems. Case audits indicate that minimum standards for case management are frequently not met. There are few services available to work intensively with families and help them overcome deficiencies in parenting skills. This can result in inadequate protection for children, and in their remaining in care for extended periods without progress towards family reintegration or appropriate planning for their long-term care. Both FYCCQ and the community sector are involved in providing services to families who are the subject of serious concerns. High-level skills and experience are needed to engage with families and assess family strengths and risks on a continuing basis.
- There is no ongoing, comprehensive community education strategy to provide information to parents about available assistance.
- Under resourcing of prevention services leads to over reliance on child protection intervention services to help families in crisis.

The issue of prevention will be more extensively addressed in Chapter 11 of this report.

Alternative care

Locating and maintaining placements for children who need to be removed from parental care for protective reasons are among the major issues currently confronting the child protection system. Foster care currently provides placements for the bulk of children in care, but the system is under extreme pressure and the pool of care providers⁸⁷ is diminishing.

⁸⁷ Care providers are unpaid volunteers; they are reimbursed for some expenses, but payments are often insufficient to meet the particular needs of children placed with them.

FYCCQ is finding it increasingly difficult to recruit care providers for children and young people who may have severe emotional and behavioural problems. Family-based placements for children with physical, intellectual or psychiatric disabilities are even more difficult to locate and expensive to maintain, yet these children constitute about a quarter of all children in care.

Lack of funding to meet children's needs for services such as counselling, specialist medical or educational assistance contributes to placement breakdown, instability for the child, and pressure on staff to locate further placements. Lack of funds also impedes family contact and reintegration for children in care.

These factors affect the standard of care provided to children removed from their home for protective reasons. Children may have frequent placement moves or be placed inadequately because of the lack of other options.

Availability of specialist services

Many groups of clients, such as at-risk or homeless adolescents or children with disabilities, require specifically tailored services. Such services are often not available, particularly in rural or remote areas of Queensland. Parents who are drug or alcohol addicted, are mentally ill, are in relationships where there is domestic violence, have intellectual disabilities, or have psychological problems caused by their own history of abuse often need intensive, individualised counselling or treatment programs.

Conclusion

There is a clear need for better coordination between agencies that provide services to victims of child sexual abuse. While a range of different services are required to meet the various needs of children and their families, and adult survivors of sexual abuse, services available in Queensland need to be documented. Such a process will assist in identifying:

- the adequacy of current services;
- the deficiencies in services; and
- suggested improvements.

Recommendations

Project Axis recommends:

20. That the Children's Commission be adequately funded to enable it to document the services available for victims of child sexual abuse and identify any gaps in services provided.
21. That the Children's Commission consider the feasibility of establishing a centralised facility to advise children and their families of available services.

Chapter eleven

The prevention of child sexual abuse

Child sexual abuse is widespread in the community and can affect individuals and families from all cultures and backgrounds. As discussed in Chapter 10, child sexual abuse does long-term harm to the individuals, families and communities affected. The costs to the community of dealing with child sexual abuse are enormous. Preventing child sexual abuse, however, is not the responsibility of any one agency; it is the responsibility of everyone in the community. Better information and knowledge in the community about the risk factors and the indicators of abuse will assist in creating a culture that does not tolerate child sexual abuse. Individuals and community agencies can also contribute to child sexual abuse prevention through the establishment of clear protocols and policies for employment screening and responding to complaints (as discussed in earlier chapters).

Government, through various agencies, clearly plays a significant role in responding to child sexual abuse. Until recently, the focus of government child abuse policy has been on the protection of children — that is, responding to the welfare needs of a child once an allegation of abuse has arisen. It is only in recent times that consideration has been given to more sophisticated, longer-term preventative approaches.

In Queensland, the Government has taken steps to improve planning and coordination of child protection programs and services which can prevent rather than react to child abuse. These measures include: the establishment of the Forde Inquiry to investigate concerns of child abuse in state and private institutions (Forde Inquiry 1999); new child protection legislation (introduced in 1999); the expansion of the functions and powers of the Children's Commission; the establishment of the CPC; the establishment by FYCCQ of the Child Protection and Family Support Funding Program; and the expansion of new programs to improve parenting practices by Queensland Health under the Government's crime prevention initiative.

This chapter selectively examines prevention strategies and promising programs from Australia and overseas as well as interventions that have been established in Queensland, to assess whether there are other more effective ways of preventing child sexual abuse.

Child abuse prevention policy

The new emphasis on prevention of child abuse by policy-makers has followed extensive overseas and interstate research that has highlighted the links between child abuse of all types and family violence and disadvantage generally. In particular, links between child abuse and domestic violence, social isolation, mental illness and drug and alcohol abuse have been identified (Tomison 1997). Evidence also confirms that early childhood development programs that address family and

environmental issues can have a positive effect on the long-term health, well-being and behaviour of children and young people.

Prevention approaches focus on families, individuals and communities identified as being 'at risk' before abuse occurs (developmental prevention), as well as on understanding the importance of environmental factors in precipitating abusive behaviour (situational prevention).

Although many preventative programs aim to prevent individuals becoming offenders, most also have a positive impact on the protective responses of parents, families and the community and thereby reduce the likelihood of vulnerable children becoming victims.

Some prevention strategies targeted at those most likely to repeat offending were addressed in Chapters 7 and 8.

Characteristics of offenders and their victims

To be effective and appropriately targeted, prevention programs and policy must be informed by a knowledge of offender and victim characteristics.

Sexual deviance has traditionally been seen as the primary cause of sex offending, but more recent research of offender characteristics confirms there are a multitude of factors and conditions that can lead to offending. Volume 1 of this report analysed research on the characteristics of child sexual abuse victims and offenders. Relevant key findings included:

- There are many different types of offenders who offend in a variety of different settings. Child sex offenders are parents, relatives, neighbours, family friends, and people from all walks of life. Offences occur in the offender's or child's home (often the same), through organised activities, in the nearby neighbourhood.
- Offenders most often seek victims close to home. For intra-familial offenders, this clearly involves children (mostly girls) in their own home. About a third of all offenders are family members and less than 10 per cent are unknown to the victim. Extra-familial and mixed-type offenders seek victims among the children of friends, or other children with whom they already have some social relationship. Mixed-type offenders are more likely than other groups of offenders to seek children in public locations such as public toilets and parks.
- Studies show that a relatively high proportion of child sex offenders report having been sexually abused as children (Smallbone & Wortley 2000), although estimates vary widely, from 18 to 67 per cent, supporting the need for programs that target the families of child sexual abuse offenders.
- Another group that may be targeted are men with drinking problems. Research suggests that the rate of sexual abuse is probably higher among men who are problem drinkers (Finkelhor 1990).
- Both child sex offenders and victims often come from disruptive or dysfunctional family environments. Long-term risk factors in the family context of child abuse

and neglect include continuing stress, parental history of abuse, unfulfilled relationship needs, and lack of understanding of a child as a complex individual (Tolley & Tregeagle 1998). Research also points to inadequate parenting, attachment problems in the family and at school, erratic and harsh discipline, parental substance abuse, spousal violence, poverty, and unemployment as significant factors (Tomison 1996, National Crime Prevention 1999).

These characteristics or risk factors are not predictors of individual involvement in an offence. Rather, when they cluster together in an individual's background, then the likelihood of involvement as potential offender or immediate victim increases. Accordingly, the risk factors are most valuable in identifying the kinds of crime prevention programs that should be developed, who should be responsible for them, and where they should be focused.

Focusing on children and parents

Early intervention and social support strategies appear to be most effective at both reducing future offending and protecting children. This means implementing programs targeted at improving the quality of parenting, reducing economic and social stress on families, and providing educative and protective interventions for children.

Targeting 'at risk' families

Effective parenting involves caring for a child's basic needs for love, food, shelter and guidance. For a variety of reasons, some parents are unable to satisfy these needs. They require assistance from family, friends and the wider community.

A number of Scandinavian countries have a much lower rate of child abuse than Australia. The extensive parent education programs, maternal and child health services and universal day care for preschool children in these countries may be significant, both in preventing people from becoming abusers, and perhaps in improving parental protective responses. The high socio-economic status of these countries may also contribute to their lower levels of abuse. Nonetheless, the lower rates of abuse in these countries suggest the value of investment in early intervention programs to support individuals and families.

Extensive Queensland research suggests that programs that intervene early in life's pathways and the critical transition points that characterise those pathways are the most effective in preventing crime (National Crime Prevention 1999).

Interventions start by supporting the family as the primary place of nurturing at pre-birth and infancy, and move to other transition points — from home to preschool, preschool to primary, primary to secondary, adolescence to adulthood, school to work, and other special transitions, such as leaving care. The developmental model suggests that if people are prepared for, and supported in, these transitions then the risk factors can be reduced and the protective factors strengthened. Underlying these pathways are the characteristics of individuals, interaction between people and environmental factors. As the authors of *Pathways to Prevention* comment:

... a basic tenet of developmental theory is that acts of crime stem both from the characteristics of people ... *and* from the nature of the circumstances ... A developmental approach to prevention should therefore never be focused solely on the potential offender or even on his or her immediate family, but also on the critical elements of his or her relationships and social environment that interact with individual qualities in ways that produce negative outcomes. Individuals never exist in isolation (National Crime Prevention 1999, p. 18).

The aim of the developmental approach is to divert children and young people at different points in their lives from harmful pathways before antisocial behaviour is adopted or entrenched and to point them in the direction of positive and productive pathways by focusing on individuals and families most at risk.

Accordingly, developmental programs that target dysfunctional or disruptive families to reduce violence (domestic violence or abuse) or substance abuse, or improve parenting, family attachment or discipline have the potential to prevent later criminal activity, including abuse and neglect. However, they can also have an immediate impact on offending as well as reducing the factors that can lead to potential harmful behaviour.

Such programs include regular visits for emotional, informational and educational support for parents of preschool children, in-home domestic violence counselling, family therapy, and parenting education.

While there are some developmental programs aimed particularly at the family unit currently operating in Queensland to reduce and prevent child abuse, none explicitly target child sexual abuse. Research suggests that the prevention of child sexual abuse requires specific and targeted responses (Tomison & Wise 1999).

Home visitation

Home visitation schemes have been in place in Australia and overseas for many years. Most of these involve community nurses visiting new parents at their homes soon after the birth of a child to provide advice and support. Programs are designed to promote good parenting skills, promote healthy child development and prevent child abuse and neglect. They are founded on an understanding of the importance of a child's early years and the critical role of parents. In some places these programs focus on 'at risk' families, in others they are universal services.

Queensland Health operates home visiting nurse services in 30 locations around Queensland. This scheme is primarily a targeted service that offers one or two visits following birth.

In some European countries, however, home visitation by specialist nurses is compulsory for all families with newborn children.

A recent evaluation of home visiting services conducted in United States found that while several home visiting services produced benefits in the prevention of child abuse and neglect "on at least some measures", the results of the evaluation of the services varied widely and produced no consistent results (The David and Lucille Packard Foundation 2000). This research nonetheless supports the view that a

combination of nurse visitation and child developmental programs should be continued for families and young people, but that emphasis should be placed on the provision of sensible programs that are consistently implemented in accordance with the devised model. In short, this research suggests that any reasoned combination of programs that are consistent, focused and well managed are likely to have positive impacts on future offending.

Evaluation of the Prenatal and Infancy Home Visitation by Nurses (New York and Tennessee) found over a 20 year period that “the program helps reduce rates of childhood injuries and ingestions that may reflect child abuse and neglect ... Long-term follow-up of families in [New York] indicates that nurse-visited mothers were less likely to abuse or neglect their children ... [and] By the time their children were age 15, the children had fewer arrests and convictions, smoked and drank less, and had fewer sexual partners” (The David and Lucille Packard Foundation 2000).

Extension of a Queensland program to a universal service would entail a significant injection of resources. However, greater resourcing of visits to families identified as ‘at risk’ of child sexual abuse has obvious long-term benefits and is likely to be cost-effective in the long term.

Chalk and King (1998) recommend targeting first-time parents living in social settings with high rates of child maltreatment reports.

Positive parenting programs

There are several Australian positive parenting programs including the WA-based Positive Parenting Program and the Queensland-designed Triple P Program, and these are generally well regarded (National Crime Prevention 1999).

Funded by Queensland Health, Triple P is a voluntary parenting program that targets parents of children with behavioural problems. The program is available to all parents from 30 locations across Queensland, although particular levels of the program are specifically designed for ‘at risk’ families. Queensland Health is currently adapting Triple P materials to ensure the Program is sensitive to the issues and needs of Indigenous families.

One criticism of Australian parenting programs, however, is that many fail to address the needs of the male parent. This is despite evidence that men, particularly in the home, are the primary child sex offenders. The failure of practitioners and researchers to engage fathers in casework may be attributed to sexist cultural and legal assumptions that the mother is automatically accountable for a child’s behaviour (Tomison 1996).

Family centres

The 'family centre' concept takes an integrated and comprehensive approach to addressing the needs of families. The model is based on the view that child abuse can be prevented if families receive the right support at the right time, and that child abuse is dependent on the total family context rather than specific child or parental characteristics. Family centres have been established in many jurisdictions. In the United States they are known as Family Resource Centres and many are also linked to the school community.

In New South Wales four centres have been piloted to provide home visiting, transition to school programs, playgroups, parenting groups and numeracy and literacy programs. The New South Wales CPC has reported positively on the pilots, particularly that they link families to the broader neighbourhood. The pilot has successfully reduced social isolation, improved transition to school, enhanced socialisation and improved inter-agency cooperation (Tomison & Wise 1999).

Barnardos (New South Wales), which previously operated as children's homes, have now turned into children's family centres, offering holistic and integrated approaches to families at risk of domestic violence and child sexual abuse in disadvantaged communities. The centres provide childcare, home visiting, family support, planned periodic care, parent education, mutual help support groups, and specialist counselling (in child sexual assault and domestic violence) and crisis accommodation, among other services.

Although the family centres concept has not been explored in Queensland, it is similar to the concept of "integrated hubs" which act as the focal points for the delivery of child health, education and welfare services. An integrated hub for 0-6 year olds is currently being piloted in the Community Renewal location of Manoora, (suburb of Cairns). This shop front facility incorporates the services of a range of government agencies and non-government organisations, focusing on the physical, emotional and social needs of babies and young children in the targeted age group.

Queensland Health has also developed the Expanded Child Health Centres Pilot. This initiative operates in 12 locations around Queensland. They provide postnatal support for parents, infant care and parent support. Triple P operates in these centres and eight are involved in the Nurse Home Visiting program. However, they do not provide the holistic or integrated approach that is envisaged by the family centre concept.

In particular, despite research which shows clear links between domestic violence and child abuse (Tomison 1996), Queensland's domestic violence approach is largely reactive through funded community-based domestic violence services. Programs that seek to be proactive, such as men's anger counselling services, are voluntary and ad hoc.

A combined proactive policing and targeted treatment approach to prevent repeat victimisation in domestic violence cases has been trialed successfully in Killingbeck, West Yorkshire. In this program, repeated complaints of domestic violence are treated with different levels of intervention in increasing order of gravity (including compulsory counselling), where the complainant does not wish or there is insufficient evidence to prosecute. Such an approach is reliant on an effective police

recording system (as discussed in Chapter 3) and the availability of counselling and treatment services to deal with an increase in referrals.

Focusing on neighbourhoods

Programs that focus on the broader environment also have the potential to reduce levels of abuse.

Research confirms that there are distinct characteristics of neighbourhoods that are predictors of levels of child abuse and that crime is clustered (Vinson & Baldry 1999). In one study, neighbourhoods with similar levels of social disadvantage had child maltreatment rates of 8.1 per 1,000 in one neighbourhood and 53.0 per 1,000 in another. The factors associated with higher levels of abuse were lower neighbourhood cohesion, greater fear of victimisation, higher levels of mobility, more distrust within neighbourhoods and lower value placed on local friendships.

Such research affirms the importance of a multi-pronged approach to crime prevention generally, and child sexual abuse prevention in particular. In addition to programs that focus on 'at risk' individuals and families, there needs to be more research to identify 'at risk' communities in Queensland, as well as the implementation of programs aimed at improving social cohesion, stability and trust in these communities.

School-based interventions

The Forde Inquiry found that sexually abused children experience difficulties at school with academic performance and behaviour, and this may have negative influences on later educational and employment attainment.

The school is an important site for intervention, not just for identifying and supporting children who are being abused, but also for developmental interventions that head off later problems in life and assist the family in avoiding potential abuse. School-based developmental programs are likely to be more effective if they involve the whole family.

Programs aimed at improving children's social and emotional well-being, such as programs aimed at building children's self esteem and at developing children's interpersonal and conflict resolution skills, strengthening their peer relationships, and educating them about sexuality and abuse may reduce the risk of children becoming offenders and victims.

Behaviour Management

School performance and behaviour can also be affected by the dynamics of school life. Education Queensland recognises the significant role that schools play in the lives of children as they grow and develop. The Framework for Students at Educational Risk gives assurance that the staff of Education Queensland will take all reasonable steps to provide safe, harassment-free environments, and to strengthen

alliances and partnerships with other organisations to extend the school's capacity to provide for the social and academic needs of all students.

Education Queensland policies such as Management of Behaviour in a Supportive School Environment and Anti-Racism policies define staff accountabilities. All teachers (and other staff in regular contact with students) are required to attend training in Child Protection, which includes responses to bullying in the school. School nurses have been placed in a number of schools, and provide services to students at all year levels in those schools.

Programs and resources such as *Bullying No Way!*, *Enough's Enough!*, *Says Who?* And the *Savvy Schools Kit* are distributed to schools, which assist to develop individual management strategies in line with Education Queensland policies.

Information and education

Education about abuse and sexuality is undoubtedly critical to both increased reporting of abusive incidents as well as to preventing occurrences of abuse. Specific information on risks, offender characteristics and protective strategies can empower children to repel potential abusers. For example, assertiveness has been shown to be more effective than struggling when confronted with an abusive situation (Smallbone & Wortley 2000).

Although parents have primary responsibility for educating children about abuse and sexuality, leaving it up to parents alone is problematic. Parents may be reluctant to raise the issue of child sexual abuse for fear of instilling unnecessary alarm in the child. They may be more likely to warn their child about less likely events, such as abduction, than to warn the child about potential abuse (Finkelhor 1986). Further, some parents, and particularly fathers and stepfathers, may themselves be abusers. Parents may avoid warning their children about the potential of sexual abuse on account of their own anxiety about the subject due to, for instance, their own victimisation as a child. On the other hand, parents are more likely to be sensitive to their child's specific abilities and tailor delivery of information to their child (Miller-Perrin & Wurtele 1988, as cited in New South Wales CPC 1995).

Parents, schools and the community as a whole all must share in the responsibility for educating children about child abuse and sexuality.

There have been education programs in place in Australia for some time. Two popular initiatives are the personal safety and protective behaviours programs. Protective behaviours programs focus on teaching children how to identify and avoid a range of potentially unsafe situations, including child sexual abuse, and are therefore more general in focus. Personal safety programs are aimed specifically at educating both children and adults about sexual abuse (Tomison 1997). Such programs may include education of children about what sexual abuse is, who potential offenders are likely to be, and how to act if they find themselves in an unsafe situation (Finkelhor & Araji 1985, as cited in New South Wales CPC 1995). The involvement of parents is encouraged to raise awareness of sexual abuse and to teach parenting skills to assist parents to protect their children and detect possible

signs of abuse (Plummer 1993, as cited in Tomison & Wise 1999). Bagley (1997) recommends that:

Ideally such programmes should begin before adolescence, be given in conjunction with clear information on the anatomical facts of sexual relationships, and specific information on what adults may not do, sexually, to children. The child's rights to freedom from physical and sexual exploitation by peers or older people should be emphasized (p. 104).

Importantly, gender issues should form part of any school-based education programs. In particular, male sex role socialisation contributes significantly to an environment conducive to abuse. Alerting young people to warning signs of abusive relationships (abuse that can begin as verbal, emotional, controlling behaviour etc and often escalates to physical and sexual abuse) is an important part of a broad-based approach to sexual abuse.

Other commentators argue that inclusive education programs aimed at parents should encourage parents to be more open with their children, willing to listen to their concerns and to discuss fears and safety issues with them (Briggs & Hawkins 1993).

The Inala Early Intervention Project

Queensland Health, Education Queensland, FYCCQ, and the Department of the Premier and Cabinet are working collaboratively with Griffith University, the University of Queensland and Mission Australia to implement a holistic demonstration early intervention project at Inala, a western Brisbane suburb. This is a landmark developmental program that is school-based, but also focuses on the family and the neighbourhood and community settings.

The broad aim of the project is to build community capacity through the empowerment of children and their caregivers, enabling them to participate more effectively in schools and the wider society; while developing more inclusive, child-friendly schools, neighbourhoods, community services and social policies. The project also aims to reduce the parents' level of social isolation, enhance communication within the family, respond to underlying family dynamics that impact on the child, and increase school and community bonding.

The project's immediate focus will be upon enhancing children's readiness for school, a key risk factor in later development of childhood anti-social behaviours and crime. It aims to support parents and children in the transition from home to preschool/primary school. The project will target three to six year olds, their families, schools and communities in Inala.

Project Axis commends the Government on this innovative project and looks forward to publication of the outcomes of the project.

Community information and education

Education can play a vital role in changing attitudes and beliefs that allow child sexual abuse to occur. In addition to targeted school-based education and

information programs, media campaigns that target the broader community are also important in preventing child sexual abuse. Child sexual abuse awareness campaigns conducted in New South Wales, Victoria and New Zealand performed a significant role in placing this issue on the public and political agenda in those states.

Such a campaign can:

- reinforce messages provided to children in more targeted programs at schools of the danger posed by child sex offenders and of methods used by them to offend. As stated in Volume 1, the challenge is to provide sufficient information to parents and children to make them aware of the risks without encouraging a level of paranoia within the community;
- help to ensure that the general community (friends, colleagues, etc) does not tolerate abuse, and supports the victim when abuse is disclosed (see also Chapter 2);
- encourage the public to acknowledge the problem of child sexual abuse and to educate them about it (Tomison 1995);
- encourage men to play a greater role in anti-violence campaigns and programs and reinforce messages that masculinity can be expressed in other ways than through arbitrary power and violence;
- emphasise the impact of transition points on a child's development and help parents to support children through those transition points (National Crime Prevention 1999); and
- inform potential offenders of the risks associated with offending, although this should show the risk of apprehension rather than more severe penalties (National Crime Prevention 1999); and
- inform the community about the value of responses such as community-based treatment programs in reducing recidivism.

Prevention policy framework

Coordination of government and community prevention activity

In view of the enormous immediate and long-term harm caused to victims and the community by child sexual abuse, a structured and comprehensive approach to prevention by policy makers and service deliverers is critical. This involves coordination of all relevant agencies of the criminal justice, social welfare and educational systems, government and community and, where appropriate, the integration of services. It also demands the coordination of the activities of local, state, territory and Commonwealth governments to ensure that cross-jurisdictional issues are not exploited by offenders or do not impede prevention programs.

Interdepartmental coordination

While relevant departments embrace the need for coordination, and FYCCQ has consistently taken a lead on child abuse policy development, other government agencies — health, criminal justice and education — have a clear role in the prevention of child abuse. Crime prevention research recognises that a lead coordinating agency is necessary to ensure that policies, approaches and programs are compatible or at best complementary (Bright, unpub.).

CCOCA, comprised of representatives of FYCCQ, QPS, Health Queensland, Education Queensland and Department of Justice and Attorney-General, coordinates the activities of SCAN teams in responding to complaints of child abuse through a multi-disciplinary approach. However, coordination of ‘on the ground’ service provision in cases of abuse is different in degree and nature to coordination of prevention policies, approaches and new preventive programs. Crime prevention is a relatively new approach and involves new disciplines and philosophies and a longer-term perspective. To be effective, prevention activity must be appropriately resourced and supported.

The establishment of the CPC should break down some of the barriers to communication between agencies, but such a body would not have the capacity to effectively lead and coordinate other agencies. The CPC has only one staff member and has no formal coordinating authority.

Similarly, it is unlikely that one line department could effectively coordinate others without formal structural power. The only department with the authority and persuasion in administrative coordination is the Department of the Premier and Cabinet. As the central agency with the authority of the Premier, it is best positioned to ensure cooperation and collaboration between departments that have been traditionally competitive and defined by different policy philosophies and operational methods.

Task Force on Crime Prevention

The Premier’s Task Force on Crime Prevention, established in 1998, has a membership that includes representatives of both the public sector and non-government agencies. The Task Force developed a crime prevention strategy for the State and oversees the implementation of a wide range of crime prevention initiatives. The Task Force is supported by a crime prevention unit, Crime Prevention Queensland, located in the Department of Premier and Cabinet.

The Queensland Crime Prevention Strategy establishes a framework for managing and coordinating crime prevention programs in Queensland (Department of the Premier and Cabinet 1999).

The Strategy has five goals:

- strengthening communities;
- supporting families, children and young people;

- reducing violence;
- enhancing public safety; and
- dealing with offending.

The Project Axis recommendations fall squarely within the goals of the Strategy, particularly “supporting families, children and young people”. If this report is endorsed by the Government, it might be appropriate for an Interdepartmental Working Group, chaired by the Children’s Commission Queensland within the Department of Premier and Cabinet, be given responsibility for monitoring the implementation of its recommendations.

Community and government partnerships

The State and Federal Governments resource a number of non-government agencies to provide a range of protective and supportive services. Churches also provide both broad and specialised support services. However, most of these services are reactive and operate independently or work in narrow preventative fields such as community education. Efforts to coordinate government and community services can be better realised by operating in partnerships which provide different approaches and perspectives to the issue of prevention and address priorities and gaps in a comprehensive way.

The Inala Early Intervention Project (described earlier) may point the way in holistic cooperative prevention approaches. The Child Protection Week committee, which plans child protection week activities each year, also provides an example of a successful community and government partnership. That committee, which initiated the concept of child protection week in Australia, includes representatives from government and non-government agencies and has been effective in raising the profile of child protection issues in Queensland.

Another way that the community can participate in child sexual abuse prevention and detection is through providing information to the QPS through mechanisms such as Crime Stoppers.

Resourcing of government and community prevention programs

The Forde Inquiry recommended increased funding to focus on the prevention of child abuse through supporting 'at risk' families. Recommendation 4 provides:

That the Queensland Government increase the budget of the Department by \$103m to permit it to meet the national average per capita welfare spending for children, and agree to maintain the increase in line with the national average. The additional resources should focus on the prevention of child abuse through supporting 'at risk' families, respite care, parenting programs and other early intervention and preventative programs for high-risk families (Forde Inquiry 1999, p. xiii).

The Queensland Government has supported this recommendation (Queensland Government 1999) and has announced in the 2000–01 Budget additional funding of \$115m over the next three years. However, to date, new funds have primarily been provided to child protection services, rather than developmental prevention programs. Expanded protective services will have some preventative and immediate impacts. However, a substantial increase in targeted developmental prevention programs is needed to give real effect to the Forde recommendation and to achieve long-term change.

While Government has shown greater commitment to prevention policy of late, significantly more resources continue to be devoted to responding to offending, than to universal or targeted developmental prevention and treatment programs. In view of the effectiveness of developmental approaches in changing behaviour, their cost-

effectiveness and the importance of addressing repeat offending, preventative programs must be given priority in the allocation of resources. There needs to be a reassessment of the balance in resource allocation between responsive and preventative programs.

Another issue requiring attention is the need for the maximisation of resources and services. For example, both FYCCQ and Queensland Health have 'positive parenting' programs. FYCCQ operates the Positive Parenting Coordination Unit that is a resource and community education program. Queensland Health provides Triple P, a parent education program. In addition, some community organisations are funded to provide domestic violence education/counselling services. While there are differences in these programs, coordinating them may lead to more effective targeting and coverage with a focus on prevention.

Conclusion

Project Axis has been conscious of the need to make practical recommendations in several key areas to address the causes of child sexual abuse in the most effective way. At the same time, Project Axis is aware there is still much to be understood about the motivations of offenders and research remains to be done to improve our knowledge of the causes of child sexual abuse and positive strategies to prevent it.

Research has also begun to establish the connections between various social problems — poverty, violence, social isolation, drugs and alcohol abuse — and child sexual abuse. However, the links between these conditions and child sexual abuse are not yet fully established or understood. Accordingly, investment in targeted child sexual abuse prevention programs may have unexpected long-term benefits and possible cost-savings in other areas. For example, effective reduction of child sexual abuse may lead to a reduction in demand for illicit drugs or domestic violence, and therefore to resource demands on law enforcement. Conversely, investment in law enforcement areas may have a positive effect on levels of child sexual abuse.

International research demonstrates that well designed, focused and managed crime prevention strategies do work. Ultimately, the Government and the community must take a long-term view and give ongoing commitment to resolving the problems of child sexual abuse. The developmental programs discussed above can take many years to achieve results. Early intervention programs commenced when a child is born or at pre-school may not yield results for 10 to 15 years. Complex factors like inter-generational abuse, psychiatric illness, and family stress are all associated with child abuse, so the solutions will not be easy. An ongoing commitment to address this issue will require leadership that appreciates the complexities of the problems, is informed by research on what works and what does not, and is prepared to commit sufficient resources to ensure a safe future for our children.

Recommendations

Project Axis recommends:

22. That the Queensland Government broaden its commitment to crime prevention, and allocate appropriate resources, to include strategies and programs that are specifically focused on the prevention of child sexual abuse, or that may have the prevention of child sexual abuse as an outcome. These include:
- developing other innovative area-based government and community collaborative prevention programs, such as the Inala Early Intervention Project;
 - conducting appropriate research to better identify ‘at risk’ neighbourhoods and families with a view to targeting appropriate services and programs;
 - extending home visiting and positive parenting services to ‘at risk’ families and neighbourhoods; these should specifically address the needs and responsibilities of male parents;
 - continuing to examine and support more comprehensive, integrated approaches such as the ‘family centre’ and the “integrated hub” concepts to address the overall needs of families and children;
 - ensuring all schools provide appropriate child abuse and sex education programs that meet ‘best practice’ standards; and
 - undertaking a scan of programs and services operated by departments to ascertain if efficiencies can be gained through greater coordination of existing programs and services.
23. That the Child Protection Council coordinate a broad-based child sexual abuse prevention media campaign in Queensland and that the Queensland Government allocate new funds for this purpose to participating government departments.
24. That an Inter-departmental Working Group, chaired by the Children’s Commission Queensland, be established to take responsibility for coordinating government child abuse prevention activities. The Working Group should liaise with the Crime Prevention Task Force and the Child Protection Council and have responsibility for developing whole of government policies and programs and coordination of programs and service delivery to effectively prevent child abuse in general and child sexual abuse in particular.

Appendix 1

Key findings from Volume 1

Volume 1 of the Project Axis report, entitled *Child Sexual Abuse in Queensland: The Nature and Extent*, presented information from a range of sources on the problem of child sexual abuse in this State. The key findings from Volume 1 are presented below.

Reported and unreported child sexual abuse

Research has estimated that between 7 and 45 per cent of females and between 3 and 19 per cent of males have been victims of sexual abuse during their childhood.

Official data show that levels of reporting of child sex offences have increased in the years preceding 1998.

The majority of child sex offences reported to police are classified as indecent assaults on children. In prevalence studies, these activities are generally described as genital touching or exposure.

Victim characteristics

- Female children are particularly vulnerable to child sexual abuse, with 72 per cent of offences reported to QPS involving female children. However, the Smallbone and Wortley study suggests that male victimisation is under reported.
- Child sexual abuse mostly involves children aged 5 to 14 years, according to QPS and FYCCQ data.
- Family and social background characteristics have been identified as risk factors for sexual victimisation. These include:
 - living with a non-biologically related adult male;
 - living away from the mother;
 - being socially isolated from peers;
 - having a low family income;
 - growing up in a small town; and
 - having a poor relationship with parents.
- Child sexual abuse is a fundamental predictor of poor physical and mental health and social functioning.

Offender characteristics

- Nearly all child sex offenders are males and range in age from 14 years to older than 73 years.
- Child sex offenders are most likely to be known to their victims and to perpetrate abuse in their own or their victim's home.
- Offenders who abuse children within their families (intra-familial offenders) generally have a small average number of victims, although they abuse their victims over a longer period and perpetrate the highest number of abusive acts per child.
- Extra-familial offenders (who abuse children outside the family) report a higher average number of victims than intra-familial offenders, although they commit fewer abusive acts per child over a shorter period of time.
- Mixed-type offenders (who offend within and outside the family) were the smallest group in Smallbone and Wortley's study. However, they have the highest average number of victims combined with a high number of abusive acts and long periods of abuse.
- 'Specialisation' in sex offending is not as common as once thought. Many child sex offenders have previously been convicted for other criminal offences.
- Studies show that child sex offenders often come from disruptive or dysfunctional family environments, and studies show that some child sex offenders disproportionately report having been sexually abused as children.

Targeting children for sexual contact

- Offenders most often seek victims close to home. For intra-familial offenders this clearly involves their own children. Extra-familial and mixed-type offenders seek victims among the children of friends, or other children with whom they already have some social relationship. Mixed-type offenders were more likely than other offenders to seek children in public locations such as toilets and parks.
- While a fifth of offenders found victims within organisations with which they were involved, relatively few offenders reported they joined the organisation for the specific purpose of locating victims.
- The most commonly reported strategies for gaining time alone with a child revolve around domestic routine, emphasizing the close-to-home nature of child sexual abuse. Strategies reported by mixed-type offenders to get time alone with a child suggest that this group engage in a higher degree of planning for their offending, compared to intra-familial and extra-familial offenders.

The 'grooming' of children for sexual contact

- Offenders report that gaining the trust of a child is more commonly achieved through forming an emotional relationship with the child rather than buying the child's trust with gifts.
- Offenders engage in a gradual process of desensitising the child to sexual activity by progressively exposing them to sexual touching or by exposing the child to pornography. For offenders who abuse children outside their families, many report having known the child for more than six months before initiating sexual contact.

Disclosure of child sexual abuse

- Prevalence studies suggest that about half of the victims of child sexual abuse never report the abuse to another person, and that relatively few report abuse to an official agency such as police.
- Less than a fifth of those who report abuse to police do so within a month of the incident, according to QPS data. Many will not disclose until they reach adulthood.
- Data indicate that less serious offences, and offences committed by someone unknown to the child, are more likely to be disclosed at the time of the incident than others.
- QPS data indicate that male victims are less likely to report incidents within a year (34%) than females (46%).
- There are many reasons why children fail to disclose abuse, including: a failure to recognise the activity as abnormal or abusive; fear, embarrassment or shame; or a lack of skills to communicate the abuse. In addition, offenders often employ a range of strategies to prevent the child from disclosing.
- Most children who do disclose sexual abuse tell their mothers. However, relatively few complaints are made to an official agency such as police.

Associations among offenders

- The available evidence in Australia and elsewhere suggests that most child sex offenders offend in isolation and there is little, if any, identifiable organised offending.
- There is general acceptance that networks of child sex offenders, primarily social and informal in nature, do exist in Australia and in Queensland, but most networking does not generally lead to the commission of joint sex offences against children.

- Prisons provide an environment in which some child sex offenders establish contact with other offenders, and these friendships are often maintained after release from prison.
- Child sex promotion groups, which were a popular means of maintaining contact among offenders in the 1980s, no longer appear to operate in any formalised manner.
- The Internet is increasingly used by child sex offenders to facilitate networking, mainly for the distribution and exchange of child pornography.

Appendix 2

Analysis of the data on child sex offences

This appendix presents data on complaints of child sexual abuse as they are dealt with by police, and data on child sex matters in Queensland's criminal courts.

QPS data

Police offence data remain the only source of statistical information to describe the action taken by police in response to reported offences. Accordingly, Project Axis sought data from the QPS on the number of reported offences made to the QPS for the period 1994–95 to 1998–99 for the offence indecent assault on children.⁸⁸ The QPS provided the data broken down by the outcome of the investigation of each offence, in the following terms:

- Solved — An offence is considered solved when at least one offender is being proceeded against.
- Unsolved — An offence is unsolved if no action has been taken against an offender/suspect (includes where the offender has not been located or identified).
- Not substantiated — An offence is 'not substantiated' when an investigation has established that the alleged offence was not in fact committed. This includes a false report, a mistake in the facts as reported by the informant, or no breach of the law involved in the alleged offence.
- Withdrawn — this refers to cases where a crime report/complaint is withdrawn by a complainant or victim before court proceedings.

There are a number of limitations associated with this data. For example, the QPS record data on the number of offences solved rather than on the number of victim complaints solved or offenders charged. The effect of this method of counting offences is important for indecent assault offences. About one third of sexual offences coming to the attention of police are intra-familial, and by their nature tend to be multiple offences committed on a single victim. Furthermore, some extra-familial abuse investigations involve multiple offences committed by serial offenders, which result in hundreds of offences being solved by the apprehension of only one

⁸⁸ The category 'indecent assault on children' includes: carnal knowledge by anal intercourse of any person not an adult; permit a male person not an adult to have carnal knowledge of him or her by anal intercourse; defile by threats, fraud, drugs (including alcohol); without legitimate reason, wilfully expose a child under the age of 16 to any indecent object or indecent film, videotape, audiotape, picture, photograph or printed or written matter; wilfully expose a child to pornography; without legitimate reason, take any indecent photograph or record, by any means of any device, any indecent visual image of a child; indecent treatment of children under 16.

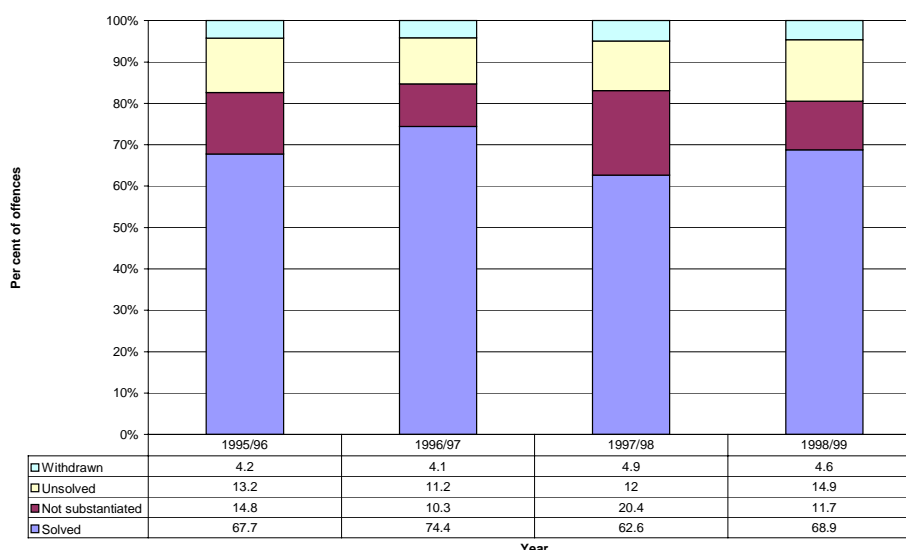
offender. For example, in 1996 the arrest of two serial offenders resulted in about 1,000 offences being solved.

Accordingly, in many child sex offences, when police ‘solve’ a single complaint, they can solve a vast number of offences, even though it is the complaint of only one victim. For most other offence types, solving a victim’s complaint means solving a single offence.

The unique nature of child sex offence investigation is particularly evident when examining offences classified as ‘not substantiated’. For most offence types, this category applies when there is no evidence of an offence having been committed. However, in child sex offences, an offence might be recorded as not substantiated when all inquiries have been exhausted and, despite a strong suspicion that an offence has been committed, a prosecution cannot be commenced. This may serve to explain the relatively high rate of child sex offences that are not substantiated.

QPS data on reported offences show that there were 14,712 reported offences of indecent assaults on children in the years 1995-96 to 1998-99.

Figure 1: Outcome of offences reported to police for indecent assault of children — 1995-96 to 1998-99



Source: QPS, unpublished data.

Figure 1 shows that the proportion of offences solved ranged from 63 per cent to 74 per cent over the period 1995-96 to 1998-99. Analysis of the data provided show that most of these solved offences (95%) resulted in the initiation of a prosecution.⁸⁹

It is difficult to compare the proportion of child sex offences ‘solved’ with any other offence type. There is no other offence in which a significant number of offenders commit multiple offences against the same victim. Child sex offences will consequently appear to have a higher solved rate than other offence types. For this reason, it is not possible to provide any useful comparison.

⁸⁹ Over the period 1995-96 to 1998-99, 95 per cent of ‘solved’ reported offences resulted in either arrest and charge, notice to attend, notice to appear, summons issued or served, warrant issued. A further 4 per cent resulted in a caution or community conference.

Key findings from QPS data

QPS data on reported offences of indecent assault on children for the period 1995-96 to 1998-99 show that:

- on average over the four year period, 68 per cent of offences reported to QPS were solved by police; and
- most solved offences resulted in the initiation of a prosecution (95%), with a further four per cent resulting in a caution or community conference.

Court data

QPS collect data on 'offences' reported. In contrast, court data count 'appearances' — that is, alleged offenders. This makes it impossible to present more than a broad overview of the progress of these cases from police through to the court system.

Project Axis requested court data from the Office of Economic and Statistical Research (OESR) for the offence of indecent dealing with a child under 16 years⁹⁰ for the period 1994-95 to 1998-99.⁹¹ The data obtained from OESR provide a breakdown of outcomes for all appearances in the Magistrates Court and, separately, for the higher courts. Outcomes for appearances in the higher courts also include the manner in which the case came into the higher court (e.g. came by committal or ex officio indictment), and the plea type (e.g. guilty or not guilty).

Court data were also provided for the offence of non-sexual assault over the same time period, to enable comparison. It was considered appropriate to compare indecent dealing with another offence against the person, rather than a property offence. Of the offences against the person, non-sexual assault is considered the most comparable, as the victim in both offence types is the key prosecution witness.⁹²

There are clearly some important differences between the two offence types, most importantly that indecent dealing offences exclusively involve children, whereas non-sexual assault offences will almost invariably involve adults. The other key factor that distinguishes the two offence groups is the sexual nature of indecent dealing offences, which often do not result in physical or corroborative evidence. In this respect, it could be argued that adult sexual assault offences would provide a more appropriate comparison. Comparing child sex offences with adult sex offences was not considered suitable, however, due to the question of consent which is a central issue to court proceedings in adult sexual assault matters. Since consent is not a relevant issue in child sex offence cases, the two offence types therefore do not proceed through court in the same way, nor would they result in the same outcomes.

⁹⁰ Data presented in Volume 1 shows that about three quarters of child sex offences fall into the indecent dealing category. There is no reason to believe that the progress of these cases through the system would differ markedly from the progress of other child sex offence cases.

⁹¹ The data do not enable the identification of all sex offences committed against children as some offenders may have been charged with an offence that is not child specific, for example, rape.

⁹² Other categories of personal offences are homicide, robbery and extortion, sexual assault, and abduction.

In non-sexual assault matters, the question of consent is rarely raised in court, and the comparison with child sex offences was therefore considered more potent.

Child sex offence cases in the Magistrates Court

The outcomes for indecent dealing appearances in the Magistrates Court are as follows:

- one per cent of indecent dealing appearances resulted in a conviction by the Magistrates Court over the five year period 1994–95 to 1998–99;
- four per cent of appearances resulted in the withdrawal of the matter;
- 17 per cent of appearances were ‘discharged’ due to insufficient evidence to commit the matter to the District Court; and
- 79 per cent of appearances resulted in a committal for sentence or trial.

In determining how many indecent dealing appearances are ‘filtered out’ through the court process, compared to non-sexual assaults, it would be most useful to compare:

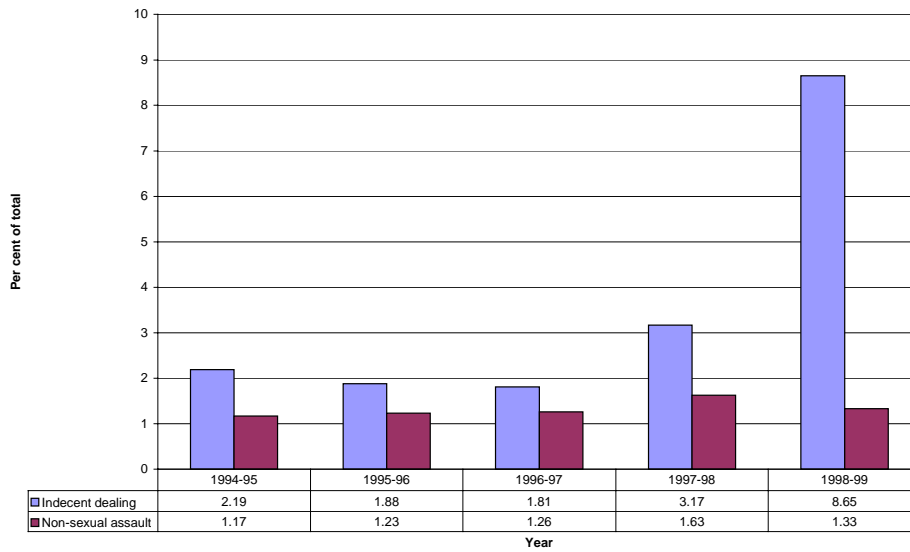
- the proportion of matters withdrawn in the Magistrates Court;
- the outcomes of the committal hearings, including the proportion of committal hearings where the court has found insufficient evidence to commit the defendant to the District Court.

These issues are discussed below.

The proportion of matters withdrawn in the Magistrates Court

Figure 2 (below) shows the proportion of indecent dealing appearances withdrawn compared with non-sexual assaults for the five-year period. For most of the period, the withdrawal rates hover between one and three per cent of appearances for both offence types. Withdrawal rates for indecent dealing appearances are only slightly higher than for non-sexual assaults until 1998–99 when indecent dealing withdrawals rise to nearly nine per cent.

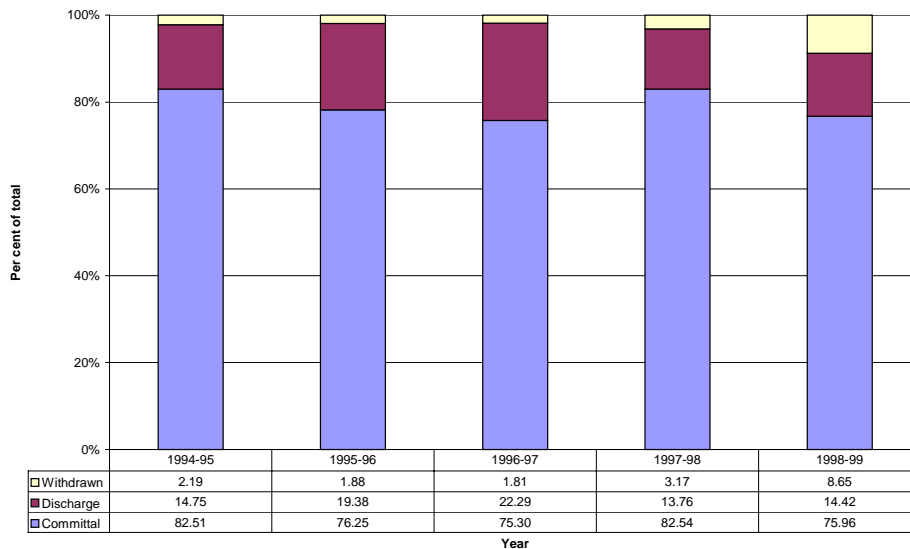
Figure 2: Proportion of all Magistrates Court appearances withdrawn for indecent dealing and non-sexual assault offences— 1994-95 to 1998-99



Source: Department of Justice and Attorney-General, unpublished data.

Further analysis of the data provided shows that the increase in withdrawals was not accompanied by any marked decrease in the number of committals (refer to figure 3). Rather, the increase in withdrawals may reflect a change in the mix of discharges and withdrawals.

Figure 3: Outcome of appearances in lower courts for indecent dealing with a child under 16 years— 1994-95 to 1998-99



Source: Department of Justice and Attorney-General, unpublished data

The proportion of matters discharged

The information and data obtained from OESR do not enable comparison between the two offence types of the outcomes of the committal hearing. There are two main reasons for this:

- In contrast to indecent dealing offences, the Magistrates Court has a wide jurisdiction to determine non-sexual assault offences summarily, including by summary trial where the defendant pleads not guilty. Nearly three quarters (74%) of the non-sexual assault appearances in the Magistrates Court resulted in a conviction by that court over the five-year period. Just over one per cent of appearances resulted in the matter being withdrawn and 9 per cent were discharged. Only 12 per cent of non-sexual assault appearances resulted in committal to the District Court.
- For non-sexual assault appearances, the 'discharged' category includes matters not committed due to insufficient evidence and matters in which the defendant is found not guilty by the Magistrates Court. The information and data do not allow for the isolation of those discharges which were the outcome of a committal hearing. As noted earlier, all of the indecent dealing discharges relate to the court finding insufficient evidence to commit the matter to the District Court. Therefore it would be inappropriate to compare the proportion of non-sexual assault appearances 'discharged' with indecent dealing appearances.

However, a study conducted by the CJC provides some useful data to enable comparison of the discharge rate for child sex offences with other offences. Information presented by the CJC for the period April 1995 to May 1996 show a relatively stable rate of discharges of between one and two per cent of all cases initially mentioned for committal in the Magistrates Court (CJC 1996). Discharges for indecent dealing offences for the period 1994–95 to 1998–99, at 17 per cent of all indecent dealing appearances, show that, as a group, these offences are much more likely than other offence types to result in a discharge due to lack of evidence.

Child sex offence cases in the District Court

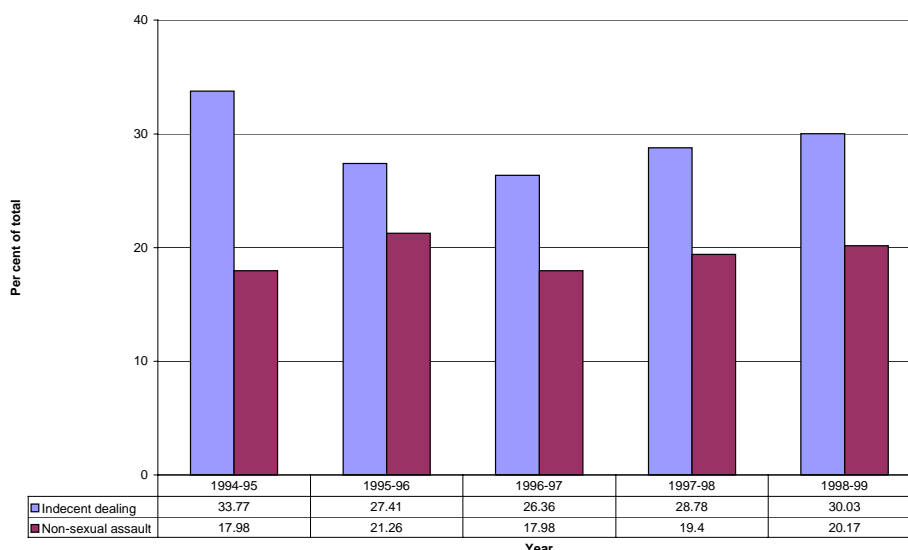
This section will describe child sex matters in the District Court, addressing three specific areas of interest:

- the proportion of matters discontinued in the District Court;
- conviction rates; and
- pleas of guilty.

Proportion of matters discontinued in the District Court

Figure 4 compares the two offence types in the proportion of matters discontinued.⁹³ It shows that on average about 30 per cent of appearances for indecent dealing offences are discontinued, compared to an average of only about 20 per cent of non-sexual assaults. These rates have remained fairly stable over the period.

Figure 4: Proportion of all higher courts appearances discontinued for indecent dealing and non-sexual assault matters — 1994-95 to 1998-99



Source: Department of Justice and Attorney-General, unpublished data.

Conviction Rates

Overall, about 66 per cent of indecent dealing appearances resulted in a finding of guilt in the District Court over the three year period,⁹⁴ compared to 77 per cent of non-sexual assaults. However, if the discontinued matters are excluded, the difference between the two offence categories is less marked — 92 per cent of the finalised indecent dealing appearances resulted in a finding of guilt, compared to 96 per cent of finalised non-sexual assaults. Given the complexities associated with child sexual assault cases, this would seem a reasonable outcome.

Pleas of guilty

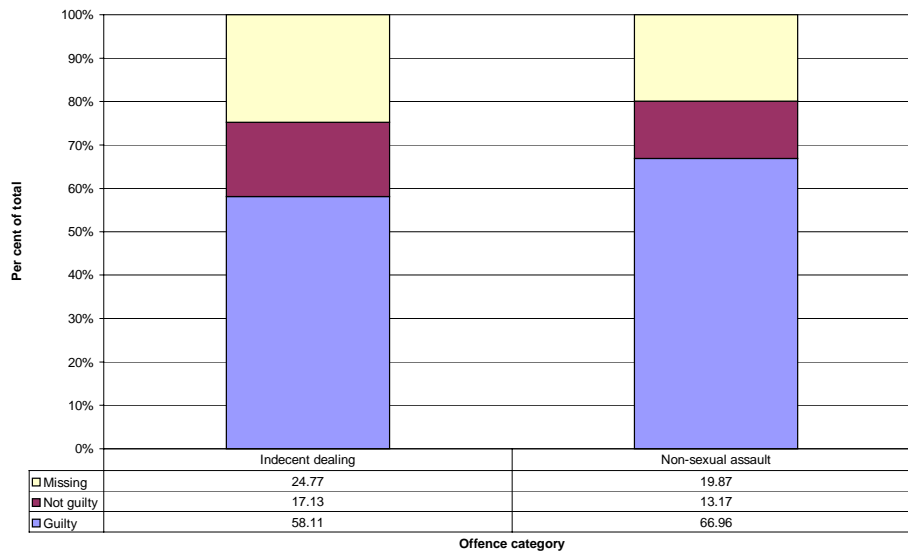
When an accused person pleads guilty, the matter is finalised without the need for witnesses to give evidence or be cross-examined. In order to determine whether child sex offence cases are more likely to require the complainant to give evidence and be cross-examined in the District Court, data on the defendant's plea are presented below.

⁹³ Withdrawals in the District Court include appearances resulting in no true bills and nolle prosequis.

⁹⁴ Most of the data presented in this chapter is an aggregate of the five years of data provided by OESR. However, for the years 1994-95 and 1995-96 there was a large amount of data that was not available for the higher courts. For this reason, these first two years of the five year period have been excluded for the purposes of some comparisons of higher court data.

Figure 5 shows the proportion of appearances by plea type for indecent dealing offences and for non-sexual assaults. The figure shows that the proportion of missing data for the two offence categories is not equivalent. This makes it difficult to draw firm conclusions about the plea rate. Based on the available data, however, it seems that appearances for non-sexual assaults are more likely to result in a plea of guilty (67%) than appearances for indecent dealing (59%). However, the difference in the proportion of not guilty pleas is less marked with 17 per cent of indecent dealing appearances listing a not guilty plea compared to 13 per cent of non-sexual assaults.

Figure 5: Appearances in higher courts for non-sexual assault and indecent dealing by plea type — 1994–95 to 1998–99



Source: Department of Justice and Attorney-General, unpublished data.

Over the five-year period, 17 per cent of indecent dealing appearances in the District Court were ex officio matters, compared to 14 per cent of non-sexual assaults.

Key findings from the court data

Magistrates Court data show that:

- indecent dealing matters are more likely to be withdrawn than non-sexual assault matters; and
- indecent dealing matters are more likely than other offence types to be discharged from the Magistrates Court due to lack of evidence.

District Court data show that:

- a higher proportion of indecent dealing matters are discontinued than non-sexual assault matters;
- when the discontinued matters are excluded from the data, conviction rates for indecent dealing offences (92%) are relatively similar to conviction rates for non-sexual assault (96%);

- defendants in non-sexual assault matters (67%) are more likely to plead guilty than defendants in indecent dealing matters (59%); and
- a higher proportion of indecent dealing appearances (17%) were ex officio matters than were non-sexual assault appearances (14%).

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