



ROYAL COMMISSION PUBLIC ROUNDTABLE DISCUSSION: CRIMINAL JUSTICE ISSUES

20 April 2016

The Royal Commission into Institutional Responses to Child Sex Abuse is conducting a series of public roundtable discussions in Sydney on a range of criminal justice issues with invited participants.

The Council attended the second of three discussions, on 20 April. The roundtable was called to discuss criminal offences for failing to report child sexual abuse. It also considered the issue of 'blind' reporting, where the alleged victim's name and identifying details are not given to the police.

Attendees included representatives of the New South Wales and Victoria police forces and of the Department of Justice in both those States, various legal and advocacy groups, the NSW Deputy Ombudsman, Steve Kinmond, and David Shoebridge MLC. The only two institutions at the table were Berry Street (an out of home care provider) and the Truth Justice and Healing Council (representing the Catholic Church).

The presiding Commissioners were Justices McClellan and Coate and Commissioner Atkinson.

The first part of the discussions were concerned with the legal requirement in NSW under s 316 of the Crimes Act for persons in the community who know or believe that a serious offence has been committed and who have information that might be of assistance to the police in securing a conviction to bring the information to the attention of the police.

That provision is controversial. Prosecutions under the section are not unusual but the section has rarely been successfully used to prosecute failures to report suspected child sexual abuse offences.

The July 2015 report of the NSW Police Integrity Commission raised doubts about whether the practice of the NSW Professional Standards Office (PSO) of making blind reports to the police when a child sexual abuse complainant did not want to take the matter to the police, breached s 316. The PSO stopped the practice of blind reporting as a result and now provides the names and contact details of all apparent victims of sexual abuse.

Nonetheless some would argue that a facility for blind reporting can serve to encourage the reporting of abuse in some circumstances. The Roundtable discussed whether under any reporting regimes which the Commission might recommend there should be any scope for blind reporting.

The second part of the discussions examined the elements of s 316 and the new reporting provision in Victoria, s 327 of the Crimes Act. Some of the roundtable participants criticised aspects of the Victorian provision.

The Royal Commission will issue a consultation paper in criminal justice matters concerning child sexual abuse and will conduct a public hearing on those matters in November this year.