ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE

Public Hearing - Case Study 29
(Day 152)

Level 17, Governor Macquarie Tower
Farrer Place, Sydney

On Tuesday, 4 August 2015 at 10am

Before
The Chair: Justice Peter McClellan AM
Commissioner: Professor Helen Milroy

Counsel Assisting: Mr Angus Stewart SC

Transcript produced by DTI

MR STEWART: As your Honour pleases, the next witness is Mr Allan Pencheff. His witness statement should be at tab 6 of the statements bundle and I believe that is Mr Pencheff, appearing from Brisbane on video.

MR PENCHEFF: Yes.

THE CHAIR: Mr Pencheff, can you hear me?

MR PENCHEFF: Yes.

THE CHAIR: It will be necessary for you to be sworn. Do you have a Bible there?

MR PENCHEFF: I do, yes.

<ALLAN CHRISTOPHER PENCHEFF, sworn: [10.05am]

<EXAMINATION BY MR STEWART:

MR STEWART: Q. Mr Pencheff, would you state your full name, please?
A. Allan Christopher Pencheff.

Q. Do you have a copy of your statement for the Royal Commission dated 10 July 2015 available to you?
A. I do, yes.

Q. Are there any corrections you wish to make to that statement?
A. In terms of corrections, I - having read over the documents you have provided, it has brought back to my mind some information that I hadn't recalled, but not in terms of corrections, no.

Q. So the point is, you would say more, now, than what you said, but not say it differently; is that it?
A. Yeah, as I said, that information reminded me of what happened 12 years ago, whereas, it had been in my memory, quite dull at the time of the statement.

Q. Thank you for that. Perhaps some of that detail will emerge in the things I am to ask you about. Do you, then, confirm your statement as true and correct?
A. Yes.

MR STEWART: I tender the statement, your Honour.

THE CHAIR: That will be exhibit 29-018.

EXHIBIT #29-018 STATEMENT OF ALLAN CHRISTOPHER PENCHEFF DATED 10/07/2015

MR STEWART: Q. You have been a Jehovah's Witness for the past 41 years, as I understand it; is that right?
A. That's correct.

Q. How did you come to be a Jehovah's Witness?
A. I was contacted when I was 19 in the door-to-door ministry that the Witnesses conduct and started Bible study. I then studied the Bible with them for a period of time, was convinced of what I was being taught and, in turn, became a baptised, dedicated Witness.

Q. When were you first appointed an elder, Mr Pencheff?
A. I don't remember the exact date, but I would say it would be around 35 years ago. I was baptised in 1973, so I'm thinking it was about six years later.

Q. So about 1979 or so?
A. In that time frame, yes.

Q. Have you served continuously as an elder since then?
A. Yes.

Q. What is your current congregation, Mr Pencheff?
A. Manly, Queensland.

Q. For how long have you served as an elder in that congregation?
A. Seven years.

Q. How big is that congregation?
A. Approximately 100 publishers.

Q. Do you recall the dates on which you were an elder in the Loganholme congregation?
A. I was there for 14 years. I left in 2005. So I guess that takes it, what, back to around 1991 through to 2005.

Q. How big was that congregation when you served there?
A. I think around - between 120 to 150.

Q. Thank you. In your statement, Mr Pencheff, at

paragraph 4.1, you say that, to the best of your recollection, you have only dealt with a couple of cases of child sexual abuse within the church in your time, "as they are a very rare event amongst Jehovah's Witnesses". Now, you will have heard that it has been presented in these proceedings that there were 1,006 alleged perpetrators of child sexual abuse within the Jehovah's Witness Church in 65 years - did you hear that?
A. Yes, I did see that.

Q. And in respect of a substantial number of those alleged perpetrators, there may be several allegations; do you accept that?
A. Sorry, can you repeat that, sorry?

Q. In respect of substantial numbers, or at least some of those alleged perpetrators, there may be several allegations, in other words, more than one case.
A. So more than one person accusing the perpetrator; is that what you are saying?

Q. Yes.
A. I guess so. I wouldn't know.

Q. But even on the figure of 1,006, that amounts to 15 perpetrators per year, on average, which is more than one a month. On that basis, would you still say that it's an extremely rare event amongst Jehovah's Witnesses?
A. Considering the number of congregations and the number of cases, yes.

Q. If we look specifically at [BCG]'s case, as I understand it, you were an elder at the Loganholme congregation when [BCH] - that's [BCG]'s father - joined that congregation; is that right?
A. That's correct.

Q. He came to you from St George, after he had been reinstated by Mareeba; is that right?
A. I believe so, yes.

Q. As I understand it, you then came to chair a judicial committee at Loganholme looking into the possible disfellowshipping of [BCH] once again; is that right?
A. Yes.

Q. I would like you to have a look at tab 40?

A. Yes.

Q. If yours is the same as mine, that would be a letter dated 1 November 2002 from Watchtower Australia to the presiding overseer at Loganholme; is that the one you have?
A. It is, yes.

Q. That was in the period that you were an elder at Loganholme. This particular letter is addressed to "Dear Brother Harrop". Was he the presiding overseer at that time?
A. Yes, he was.

Q. Did you become aware of this letter?
A. Yes.

Q. You will see on the second page the branch - sorry, before you go to the second page, just looking at the first page, who do you understand this letter to be coming from at the branch?
A. In terms of individual or persons, there's no person's name attached. It usually would come from the service department.

Q. Do you see it says "LLC", the reference that is given at the top, next to the date?
A. Yes.

Q. Do you know what that reflects?
A. No.

Q. But you would expect that it would come from the service department?
A. Yeah, the service department in the branch.

Q. You will see that the branch says:

We are writing to you in connection with Brother [BCH] who we understand associates with the Loganholme Congregation. [He] was disfellowshipped in the Mareeba Congregation in 1989 and reinstated in 1992 ...

And then it goes on in the second paragraph to mention that he "has recently been prosecuted for sexually interfering with two of his daughters some years ago". Then various

aspects of the history are set out. But now, if you look at the second page and the third-last paragraph, the one that begins "Two elders" - do you see that?
A. Yes.

Q. So it says:

> *Two elders should be appointed to approach Brother [BCH] and inform him that they are aware that he has been charged by two of his daughters ... of sexually molesting them. The elders should also inform him that they are aware it is a matter of public record ...*

And so it goes on. Were you then one of the two elders who was appointed to look into this matter?
A. I was.

Q. Was that the cause of a judicial committee then being established?
A. Yes.

Q. That's a judicial committee you served on?
A. That's correct.

Q. If you would then look at tab 41, on the face of it, it is a memorandum from Legal, V Toole, to the service department, 23 January 2003. I take it this didn't come to your attention at that time, back when you were dealing with the matter?
A. No, that was a branch memorandum; it wasn't sent to the congregation.

Q. If one looks at the last paragraph on page 3, the legal department is saying, as I understand it - and I want to know what your understanding was at the time - that the charge against [BCH] for your judicial committee was one of lying; is that right? Do you see the last sentence says:

> *The primary issue before present committee is the charge of lying.*

A. Yeah, that's correct. The initial allegations by [BCG] had already been established, so we were dealing with whether he was continuing to tell the truth.

Q. I will come back to what had been established and what hadn't in a moment. Would you take a look at tab 42. This is the form, being the formal record of his now second disfellowshipping - that's [BCH]'s - on 11 March 2003; is that correct?
A. Yes, it is.

Q. I take it that that is your signature at the foot of the page?
A. It is, yes.

Q. You were chairman of that judicial committee?
A. That's correct.

Q. In the middle of the page it sets out the reasons for the disfellowshipping?
A. Yes.

Q. The previous disfellowshipping - that's the one in 1989 - was, amongst other things, in respect of child sexual abuse against one of his daughters, [BCG]; is that right?
A. I wasn't - I have - I believe so based on what I've read, yes.

Q. And you disfellowshipped him now for lying; is that right?
A. Yes. Yes, lying in relation to the allegations his daughter was making.

Q. So in your reasons you say he denies the child abuse allegations of his three daughters and lies about it; is that right?
A. Yes.

Q. So you, as I understood it, accepted that the child abuse allegations in respect of the other daughters were true?
A. Well, in this instance, there were three individuals making the same claim, so on the basis of that, we were forced to believe that it was true, yes.

Q. So you accepted the evidence that was presented to you in relation to that and accepted that he had abused daughters in addition to [BCG]?
A. Based on their three testimonies, yes, but we - the courts would later establish that legally.

Q. Are you able to explain why the allegations by the other daughters were not considered for the disfellowshipping - in other words, why was he not disfellowshipped the second time for, as it would be put, I understand, porneia, in relation to his other two daughters, rather than for lying?
A. In the letter from the branch it asked us just to leave the other allegations from the other daughter until the legal case had been finalised. We were mainly to look at his current honesty with regard to what had happened and, as a result, when we questioned him, we felt we didn't have to wait to disfellowship him after it had been legally established; we could take action now on the basis of him lying about it.

Q. Then, if we have a look at tab 43, which is a document dated 23 March 2002, and it has three names across the bottom, including two signatures. I see there is not a signature adjacent to your name. Was this, nevertheless, the recorded decision of your judicial committee?
A. Yes, that's an expanded explanation.

Q. Notwithstanding your signature is not there, are we to understand that you engaged in and supported the reasons that are set out in this document?
A. Absolutely.

Q. Are you aware whether you signed another copy of the document?
A. No, I am surprised I haven't signed this one and I can't - I wouldn't - it must have just been an oversight.

Q. Did you, as chair of that committee, actually write the document?
A. I believe so, yes.

Q. So there is no respect in which you disagree with it?
A. No, no, I fully agree with it.

THE CHAIR: Q. Mr Pencheff, a moment ago you said that you were forced to the conclusion that he was lying, and in this document you see towards the end of it you say, if you look at it with me:

> *... we had no choice but to disfellowship him.*

What are you meaning? Are you saying that it was difficult to come to that conclusion, or what?
A. No, not at all. As you know, we use the Bible principle of there being two or three witnesses to an allegation. In this case, there were three, so that drew us to what was a logical conclusion that something had happened, and we then decided that rather than wait any longer, we could remove him from the congregation to protect him and any other potential victims - or protect the congregation, rather, or any other potential victims. So we were - we weren't hesitant; we were just looking for the right grounds based on the direction we had been given at the time.

MR STEWART: Q. Mr Pencheff, just in relation to what you said a few minutes ago about why your judicial committee did not investigate the complaints of abuse of the other daughters, and your answer was that you had been instructed by the branch to leave those alone because they were the subject of the criminal trial - at least that's as I understood you; is that right?
A. Yes. If you go back to the document, the first letter that you read or you commented on --

Q. That's at tab 40.
A. Tab 40, yes.

Q. The letter of 1 November 2002.
A. That's correct. Yes.

Q. Yes. And what are you referring to in that letter?
A. I will just go through. At the top of the page, the first paragraph, it said:

> *We do not want you to follow-up on the matter involving [BCG] since it has already been handled to the extent possible at this stage. We simply provide it as background information to assist you to be aware of the kind of actions that Brother [BCH] has exhibited in connection with past wrongdoing.*

And then it says:

> *As mentioned already, Brother [BCH] has*

pleaded guilty to sexually abusing another of his daughters, [BCL]. We understand that the incident occurred in 1988 when ... was approximately 6 years of age.

Et cetera. Then:

This is the first we have heard of this accusation --

A little further down --

which, we understand, has never been handled. We therefore want the elders in your congregation to handle the matter and we suggest that you proceed in the following manner.

Two elders should be appointed to approach Brother [BCH] and inform him that they are aware that he has been charged by two of his daughters ... of sexually molesting them. The elders should also inform him that they are aware that it is a matter of public record that he has entered a plea of guilty to three charges of sexual assault ... and to one charge of sexually interfering with [one of his daughters] when she was 6 years of age. He should be asked to explain his actions. We would like to think that he would be forthcoming with sufficient information to enable the matter to be handled judicially. If he is not prepared to cooperate and provide the elders with an admission of his wrongdoing, even though he has already done so on public record, he should be told that when he is sentenced on January 24, 2003, without any further contact with the elders, he will likely be disfellowshipped ...

Once the two brothers have met ... we would like them to contact the legal department before proceeding any further ... If you have any questions ... please do not hesitate to contact us.

I think a bit earlier there were some comments, too.

Q. Mr Pencheff, the bits that you've read, including the bit that you cut short at the end of the last sentence you read, which said "he will likely be disfellowshipped for sexually abusing [BCL]", in other words, another daughter as a child, as well as for being dishonest, seems to suggest that the branch was telling you that you should now handle the matter that had not previously been handled, in other words, the abuse of [BCL] - in other words --
A. I will just read back a little further, because I didn't highlight the point, but I felt in that letter the direction was clear. Just give me a moment. I think I was - had reference to that - the first paragraph that I read, that we weren't to follow up on the matter regarding [BCG]:

> *We provide this as background to assist you to be aware of the kind of action that he has exhibited.*

The second daughter was not involved with Jehovah's Witnesses at the time and the matter was before the courts, so based on that, it wasn't - we were to leave it to when the court took action, to make that final decision. So we were more looking at his honesty in this particular instance as opposed to dealing with the second allegation.

Q. It certainly suggests, Mr Pencheff, doesn't it, that in the view that your judicial committee took of matters, a charge of dishonesty is more serious and pressing to be investigated and resolved than a charge of sexual abuse of a daughter?
A. No, the two go hand in hand. We were looking at his honesty in regard to the sexual abuse of the daughter. We weren't looking at whether he stole something from the corner shop; we were talking about some serious allegations to which he had already confessed and now was denying, so we were very serious about that matter. But we were leaving the legal side of it, or the legal system to establish it legally. We couldn't establish it by talking to his second daughter, because she wasn't one of Jehovah's Witnesses at the time, so we had to go by what the legal system would come up with and what the gentleman involved here was prepared to say about it. But the two were extricably *[sic]* linked. We weren't divorcing one from the

other.

Q. I have to say that your professed seriousness with regard to how you dealt with the question of the abuse of [BCL] is not supported by the reasons that you gave.
A. In what way?

Q. It put the dishonesty front and centre and not the sexual abuse.
A. But can't you see that the two are the same, it's dishonesty in regard to that, and we left the matter to the legal system to establish it legally?

Q. Perhaps we will leave that, Mr Pencheff, as a matter for submissions in due course. Can I ask you to have a look at tab 46. This is a letter that came from the branch in May of 2006 to the judicial committee at Loganholme, but on the basis of what you told us earlier, am I to understand that you had left Loganholme by that time?
A. Yes, I left in 2005, so I never saw this correspondence.

Q. There is further correspondence with regard to the Camira congregation, and then subsequently the Kalamunda congregation, from where [BCH] was seeking reinstatement. I take it you were not involved in any of that?
A. No. After 2005, that would have been all handled by the then Body of Elders in Loganholme.

Q. Do you nevertheless know what the ultimate outcome has been? In other words, has [BCH] been reinstated, or not?
A. To my understanding, no.

MR STEWART: Thank you, your Honour. Those are my questions.

THE CHAIR: Does anyone else have any questions?

MS DAVID: No, your Honour.

MR COYNE: Yes, your Honour.

<EXAMINATION BY MR COYNE:

MR COYNE: Q. For the record, my name is Coyne. I represent Mr Pencheff and others. Could we bring up

tab 46, please. You have a copy of that, do you?
A. I do, yes.

Q. That was the letter that you were just directed to?
A. Yes.

Q. Your committee disfellowshipped [BCH] in 2003; is that right?
A. Yes.

Q. So if you look at that letter, if you go to the second-last paragraph of the first page, that is what is stated there at the beginning of that paragraph:

[BCH] was disfellowshipped again in 2003.

A. That's correct, yes.

Q. If you then go to the following paragraph, it says:

After corresponding with the branch office, the judicial committee decided to disfellowship him on the charge of lying. The S-77 report stated that he "has continued to change his story depending on what he thinks is the most expedient at the time" and that on 3 separate occasions he denied the charges but later confessed. They wrote ...

When they say "they wrote", that's talking about your committee; is that correct?
A. Yes, that's a quotation from those earlier documents.

Q. And you have said:

... he "has 3 daughters claiming he molested them and he continues to deny their claims and lies about it to the judicial committee and law courts to suit his own ends". Although the judicial committee were aware of further allegations of sexual abuse being raised by two other daughters, it appears that they did not make any statements to the elders at the time. Apparently, they received legal advice not to disclose this information as

it may have prejudiced the legal case against their father.

Correct?
A. Yes, that's what it reads, yes.

Q. Is that your understanding of the advice received by the committee when you were dealing with this matter?
A. Yes.

Q. At the next paragraph, it says:

In summary, it is our understanding that the allegations of sexual abuse made against Mr [BCH] have been clearly substantiated.

A. Right, yes.

Q. That's your understanding of the view of the committee?
A. Yes, definitely.

MR COYNE: Thank you. Nothing further, your Honour.

THE CHAIR: Thank you, Mr Pencheff. That concludes your evidence and you are excused.

THE WITNESS: Thank you.

<THE WITNESS WITHDREW

MR STEWART: Your Honour, the next witness will be Mr Rodney Spinks.

THE CHAIR: Mr Spinks, it will be necessary to have you sworn to tell the truth. I see you have a Bible with you; is that right.

MR SPINKS: Yes

<RODNEY PETER SPINKS, sworn: [10.35am]

<EXAMINATION BY MR STEWART:

MR STEWART: Q. Mr Spinks, would you state your full name, please?

A. Rodney Peter Spinks.

Q. Do you have a copy of your statement for the Royal Commission dated 10 July 2015?
A. Yes.

Q. Are there any amendments you wish to make to the statement?
A. No.

Q. Do you confirm the statement to be true and correct?
A. Yes.

MR STEWART: I tender the statement, your Honour.

THE CHAIR: That will be exhibit 29-019.

EXHIBIT #29-019 STATEMENT OF RODNEY PETER SPINKS DATED 10/07/2015

MR STEWART: Q. What is your current occupation, Mr Spinks?
A. I'm a full-time volunteer minister at the headquarters of Jehovah's Witnesses here in Sydney.

Q. In particular, what position or role do you occupy at those headquarters?
A. In the service department, caring for service desk responsibilities as a senior service desk member.

Q. Are you the senior service desk member?
A. We explain it that way so everyone can understand it. I'm the longest serving, consulted by other service desks. I have no different title but, yes, the senior service desk.

Q. That's a full-time responsibility, is it?
A. Correct.

Q. Is that an employed position?
A. No, no salary. I'm provided with accommodation, basic necessities. No salary.

Q. Is that through being a member, or are you a member of the worldwide Order of Special Full-Time Servants of Jehovah's Witnesses?
A. That's correct.

Q. That's an organisation that provides for people in full-time positions such as yourself; is that right?
A. That's correct.

Q. So do you live at the branch office premises?
A. Yes, my wife and I have a room there.

Q. Is there some sort of stipend attached to that?
A. Around $10 per day, yes, for - to cover incidental personal hygiene expenses, et cetera.

Q. As I understand it, you have been at the branch office since 2007; is that right?
A. That's correct.

Q. And you have been associated with the Jehovah's Witnesses since 1965?
A. Yes, that's when my parents first became Jehovah's Witnesses.

Q. And you were baptised as a member of the Jehovah's Witnesses more than 40 years ago?
A. Yes.

Q. Would it be fair to say that membership of the Jehovah's Witnesses has been a defining feature of your whole life?
A. Absolutely.

Q. You served as a ministerial servant from the early 1980s; is that right?
A. Yes.

Q. And as a congregation elder since 1987?
A. Yes.

Q. In your statement, you say you were a member of the Beenleigh East congregation from 1978 to 1990. When were you an elder there, at Beenleigh East?
A. I was first appointed as an elder in Beenleigh.

Q. And when was that?
A. I think from recollection it was 1987.

Q. Do you recall when it was in 1990 that you left Beenleigh?

A. Yes. September/October 1990 I moved to North Queensland.

Q. You have mentioned there is a service desk at the branch office. How many people work at the service desk?
A. In the eight and a half, nine years I have been there, it has varied according to workload. Recently, five members specifically service desk. It has been more, but currently five.

Q. How many people work at the branch office in total?
A. Again, it varies. They are all volunteers. Between 350 to 400 at any time.

Q. How many are actually accommodated there?
A. Most of those. We have a few commuters, but the majority of those would be accommodated there.

Q. So since 10 July and now, 4 August, has the number of people at the service desk changed considerably?
A. No, not "considerably". I think one older member has gone to other duties, but it has been a similar number in the time that I've been there - maybe one or two more at various times.

Q. Perhaps you can clarify for me, is there a distinction between the service department and the service desk?
A. A small distinction. The service department is the entire group that effectively interface with the congregations. So the duties all relate to what we would call the service or ministry. So the five I have spoken of specifically deal with congregation spiritual-type matters, but we have a desk, an assistant caring for conventions, for the formation of new congregations, for maintenance of the jw.org website, et cetera.

Q. And the legal department, is that separate from the service department?
A. It's located separately within the branch office there, with its own staff.

Q. So what other departments are there beside service and legal?
A. So there is - we have a large printery, so there is a significant number of the volunteers that are engaged with our large printing presses. We have a large shipping department, where - trucks coming and going and literature

coming in and out. In addition, we obviously have a graphics department for the preparation of materials. A number of support services - large housekeeping contingency, we have a large kitchen and dining room that are all well staffed. We have volunteer engineering, gardening, et cetera, and we also have a large design/build office for construction of Kingdom Halls and branch offices in the regions. So they are all - that's just a few of the departments. There are others, too.

Q. The 350 to 400 volunteers who reside at the branch headquarters, if I might refer to it as that, are they separately members of congregations, or is there a congregation there? What do they do for their ordinary weekly worship?
A. They are all members of different congregations, I guess from Sydney City to Penrith to - down to Wollongong. So a few in each congregation within travelling distance.

Q. Can you explain, what is the responsibility of the service department as a whole and, in particular, distinguishing it from the legal department?
A. So how we would define it, internally, and I'm happy to expand on that, but the service department deals with the theocratic or spiritual aspects, particularly of the work. The primary role of the legal department is obviously there are corporations, there are property issues, et cetera, and also advice in relation to legal matters that the service department might deal with. So there is certainly an integration between the legal department and the service department on some matters.

Q. Perhaps you can help me, because in some of the correspondence it's not clear - to me at least - who it has come from, who has generated it. So a number of the documents or correspondence have the initials "SD". What are we to understand that to refer to?
A. That certainly comes out of the service department.

Q. But not necessarily the service desk?
A. No.

Q. And in others, sometimes in combination with "SD", there are the initials "SSA". How are we to understand that?
A. So work flow related, so depending on what work flow

an individual is working on, it's all electronic now, the work flow comes in electronically and out electronically, so it's what I would refer to as a work flow assignment method for distributing the work around the department.

Q. This particular initial "SSA" goes back a long time, I imagine long before it was all digitally or electronically done, but perhaps I'm wrong. Can you just explain that, because there is "SSA", I've seen "SSD", "SSG", "SSB". Are those particular individuals given that cypher, or how does it work?
A. It would certainly be a particular individual on a day or a week, perhaps a month. The work flow, for example, that I've generated in the time that I've been there has been with four or five different desk symbols, depending on which particular work. But it's true to say that on a particular day the department would know who is handling the SSA work flow.

Q. So if there was a particular letter on a particular date which said "SD:SSA", you would be able to go back and know who was responsible for that letter?
A. I would know who did it now, and probably in recent history. It would be extremely difficult to work out which individual - one, whether they are still there, and, two, which individual it was that was using that desk symbol at the time, but that would be possible.

Q. Some of the documents have the letters "CA" on them. What does that represent?
A. I believe it relates to correspondence. It's not one I've commonly seen, but I believe that that is a general correspondence desk, meaning when general inquiries come in.

Q. Would you take a look at tab 26. You will see that this is a disfellowshipping or disassociation S-77 form in relation to [BCH] recording the date that he was disfellowshipped and later reinstated. It has in the top right-hand corner "CA 18 Jan 1993". What are we to make of that stamp?
A. That's the elder that opened the mail on the day. Each letter that came in physically would be opened by the elder at the correspondence desk, and he has date stamped it. So that would be whoever was opening correspondence on 18 January 1993.

Q. But the "CA" representing that it was the correspondence desk, or representing that it was a particular elder?
A. To my knowledge - sorry.

Q. Carry on.
A. To my knowledge, there has only ever been, certainly in my time - it's not a large task - one elder opening the mail, so whoever it was at that time, that's certainly way before my time, but it would have been the elder who was opening the mail that day.

Q. So that's really to be taken as a receipt stamp for when the particular document arrived at, or at least was opened at the branch office?
A. Yes, primarily as a date stamp to say that's the date we received it.

Q. Now, "SSB", I take it is another work flow designation, as with "SSA"; is that right?
A. That's correct.

Q. And "LLC"?
A. "LLC" would generally be from the legal department, if it starts with an L.

Q. And then "LLB" similarly, I assume?
A. Yes.

Q. And "LLF"?
A. Yes.

Q. What about "SF"?
A. That would be out of the service department.

Q. On the same basis as "SSB" or "SSA", or designating something different?
A. Just - I'm not sure why the different designation there. Sometimes, the additional symbol related to an elder who was a secretary. That has not been constant. But "SF" is definitely a service department desk symbol that has been used.

Q. I would like to take you to paragraph 26 of your statement. You will see you say there:

If congregation elders become aware of

a child abuse allegation, they are instructed to contact the Legal Department in relation to reporting requirements and then the call is transferred to the Service Department.

So just to understand that, does that mean that if the authorities are to be informed, that is a matter for the legal department to advise on, and not the service department; is that right?
A. That's correct.

Q. So the service department does not involve itself in giving advice with regard to informing authorities?
A. Correct.

Q. So would there be any circumstances, in your experience, in which the service desk would be involved in advising elders in a congregation to report an allegation to the authorities?
A. The legal department advises in relation to mandatory reporting, because they would be fully aware of which States and what the requirements are. It wouldn't be correct to say that the service department doesn't advise elders on that at a spiritual level, because invariably the opening discussion with elders, once they come through to the service department, is, if we're dealing with a current allegation or abuse that is alleged to be currently taking place, the first part of the conversation is in relation to where is the victim, what has been done to protect the victim. So certainly at a theocratic level and out of concern for the family, that is certainly part of our discussion, but not the mandatory reporting requirements.

Q. I just want to understand that, then. You say the first issue to be addressed is where is the victim in relation to a current allegation. How does that then relate or transform itself into a reporting issue? How do you deal with that with regard to reporting to authorities?
A. Right. It relates simply to what needs to be done to ensure that a child, a minor, is not left in a position where they could be exposed to further abuse - not from a legal perspective or requirement, but from the fact that the guardian/parent, the elders and each of us are primarily concerned about what is being done to protect the child. This abuse that has been reported - is the child currently in a situation where that could continue?

Q. And advice that is given by the service desk to the elders when they make a call, on this first-call basis, is that advice then put in writing to them or confirmed in writing?
A. I would say no, because we go through the same process each time, simply referring the elders to the printed advice that has been given in that regard, and so we just simply go through that same process. Generally, correspondence starts when we give that generic advice to the elders, remembering that often when the elders call in they have very little, if any, information; they may be passing on a second- or third-hand - or some rumour, some allegation. So in that first instance, we don't always even have names or details. So we provide the same advice each time from the published material, then ask the elders to provide us with, in writing, the details that we can assist them with.

Q. Let me just understand that. This generic advice you supply on each occasion, what is it? What is the substance of that advice?
A. If I can, I would read from the Elders' Handbook the bit that - by rote - I read each time.

Q. By all means, please refer us to it. So that would be at tab 120 - I take it that's Shepherd the Flock of God that you are referring to?
A. Yes. Because I've been permitted to use the hard copy - excuse me on the Ringtail reference, but it is page 131.

Q. Yes.
A. So we refer the elders - they've already obviously called in, and then obviously the sentence at the end of paragraph 18 says:

> *The branch office will then give direction based on the circumstances involved in each situation.*

So we ask the elders at that point just to give us what basic information or detailed information that they have. Then, reading the following portion, have the elders have their handbook and follow along, where it says "Child abuse is a crime":

Never suggest to anyone that they should not report an allegation of child abuse to the police or other authorities.

And myself and the other service desk elders, we always go and get a second elder, so that we can both assist, so these calls are taken with two elders from the congregation, two elders in the service department. We then say, I think as I've mentioned in my statement, and I say with absolute conviction, that I'm a father, I'm a grandfather of two little children, and you brothers, if there is any concern that a child, a minor, remains in a situation where they are in threat of harm - to go back to the guardian/parent and assist them to do all they can, including going to the authorities, if that's what the parent - the guardian/parent is willing to do, including going to the authorities, and remind them that they - the individual, that they will have the full support of the elders in doing that.

Then we read on:

If you are asked, make it clear that whether to report the matter to the authorities or not is a personal decision for each individual to make and that there are no congregation sanctions for either decision. Elders will not criticise anyone who reports such an allegation to the authorities. If the victim wishes to make a report, it is his or her absolute right to do so.

So in reality, in the vast majority of phone calls that we get, they would relate to historical events or events where the guardian/parent has already extracted the child from the situation. But we repeat the advice in every case: do whatever it takes to make sure that the child is not in a situation where they can come to harm. And I quite passionately express that to the elders, because I know what I would do if that was my grandchild, and I know from the elders that we've heard from over the last few days, that that's what they would do.

Q. Mr Spinks, that's the generic advice that you give, and then it is over to the elders as to what they do. Is that how we are to understand it?

A. That's correct, although they would ring us back if they needed further discussion.

Q. So you don't give specific advice in a particular situation and say "You should do this or that"; you put it at the level of generic advice, as you have explained to us?
A. Yes, I think we've consistently said, and we appreciate that that is a matter under discussion, but we're not claiming to have said that we have instructed elders to go to the authorities, and I'm certainly not stating that that's the case now.

THE CHAIR: Q. The material we have, as you know, indicates more than 1,000 allegations, not one of which has been reported to the authorities. I assume you know that in different States there will be varying responsibilities to report under the civil law when you know or believe that someone has committed a serious offence. Can you help us to understand why it should be that none have ever been reported to the authorities?
A. Again, your Honour, we are not going to at any point suggest that we have telephoned the authorities or have instructed elders to do that, but as the Commission would be aware, almost 400 of those 1,000 cases, over 65 years, have had the intervention of the authorities, and we are not taking the high ground there and saying that we have telephoned the authorities, but realistically, almost 400 of those have been dealt with by the authorities, of which less than half have resulted in convictions. If I can, with respect, I don't want to in any way diminish the number, because I hate it as much as you do in saying it. Those 1,000 cases over 65 years - and I took great respect at your observation the other day that this is not a competition, so I'm loath to say anything that would - none of us want to go there. This is about making sure that organisations, Jehovah's Witnesses especially, do all we can, and more than we've done, to make sure that we are addressing this, and we welcome the opportunity. Those 1,000 cases, as the Commission is aware, 199 of those relate to individuals - and I don't want to diminish the number, I'm just presenting the facts - 199 of those relate to individuals that were either not Jehovah's Witnesses or likely may not have been Jehovah's Witnesses at the time. More than half of the allegations - well over half of the allegations - are familial, and in the context with no comparison, where we're looking at ministers, clergy, those

allegations include everyone who has ever walked into a Kingdom Hall of Jehovah's Witnesses; every individual who has ever studied the Bible with us in prison; every person out of the community that associates with us where we've become aware that there is a child abuse allegation, we have followed it up, recorded it and that's the reason there are those numbers. In the last - and I take no pride in this number; it disappoints me and it is why we want to cooperate fully - in the last 10 years, according to the statistics - that we've not done with the accuracy that the Commission has done, and so that is a lesson for us, too - in the figures that the Commission has provided, in the last 10 years, two elders have committed child abuse offences - in 10 years, two elders. And both were dealt with by the police. In the last 10 years, four ministerial servants have been involved in child abuse offences, and three of them have been dealt with by the police. And that includes child pornography - not just sexual assault, but child pornography.

Now, I only say those to put some context to it. We agree totally, we're not trying to disguise the figure. We have willingly handed over - perhaps one of the only organisations that has kept extensive records on visitors and parishioners, and we just look at it in that context, your Honour.

Q. Well, I don't want to get into a complex discussion with you about this, but you do understand that the way your church is structured means that you have an internal process which looks at allegations of abuse and, for that reason, the collection of your files will capture abusers, whoever they might be - you understand that?
A. Yes, I do.

Q. And the fact that you have an internal process of adjudication means that within your church you are establishing a true belief in the guilt of someone of a criminal offence; do you understand that?
A. Yes, I do.

Q. And you understand that carries with it obligations. Irrespective of whether a matter otherwise goes to the police or other authorities, it carries with it an obligation upon those who make the decision that an offence has been committed to tell the authorities that they have come to that belief. Do you understand that?

A. I've been made aware of that since the Commission started, your Honour.

Q. Because at the end of the day, whatever might be the church processes and consequences, the State has an interest in ensuring that the criminal law is enforced.
A. Absolutely.

Q. And that hasn't been the case in the past, I assume?
A. I think we've acknowledged the fact that, as an organisation, while we've cooperated with the authorities and certainly in mandatory reporting, but I think we've acknowledged the fact that we have not had a practice, against the wishes of the victim or otherwise to directly report to the police. I acknowledge that.

Q. Even when you know that an offence has been committed?
A. We've acknowledged the fact that we've not taken away from the family, and while we are happy to accept whatever recommendations come - and I think your Honour would be aware that we have no issue with mandatory reporting. That doesn't excuse anything, it's not suggesting that we're transferring the responsibility. But our challenge as it has been for religious organisations, and I read it - as I have waited over the last number of days, I read it in the publication that is given to victims here at the Commission from NSW Health, that says, "The victim should be given the right to determine whether it is to go to the authorities or not", and that booklet that is handed to the victims says, "And their wish in that matter should be respected." Now, that's religiously the approach that we have taken for the reasons that have only been sort of briefly described, but what we recognise is once there is mandatory reporting, regardless of our strongly held religious belief that individuals should have the right to determine what is done with that information, that's how we feel, it's based on scripture, but we accept, when the State says, "You are required to mandatorily report that offence", that Jehovah's Witnesses will do it, and if and when there are mandatory reporting requirements with some sort of uniformity across this country, we will willingly and happily comply. In the meantime, we've got that ethical challenge of respecting the individual's right, as the New South Wales brochure says, and as the scriptures say.

Q. There is a subtlety in the proposition I put to you

that may have escaped you. You see, what is happening within your church is you are actually determining whether or not you believe an allegation to be true. Do you understand?
A. Yes.

Q. And if you determine that it is true, the state of knowledge of your elder ceases to be knowledge of an allegation but becomes knowledge or belief that something has actually happened by way of a criminal offence. Do you understand?
A. Yes, I do.

Q. I know that you may have some idea of mandatory reporting, but what I was seeking to direct your attention to was that, in those circumstances, there will be some State laws - they won't be uniform across the country; they will differ from State to State - which will impose a criminal sanction on a person who knows and does not report; do you understand?
A. It's been very well explained to me in recent weeks, your Honour. So, yes, I do.

Q. But you won't get, at the moment, anyway, a national response to this; it will vary from State to State. Do you understand?
A. Yes, I think I've come to that conclusion, too.

Q. What that means is that people like you and others in the church need to have a very good look, maybe with the help of your lawyers, at what the law actually provides.
A. Yes.

Q. What you are doing is, in many respects, different to what other churches might be doing, because you are actually taking allegations and resolving, as you see it, the truth of the allegation by reason of your process.
A. Yes, I understand.

Q. You understand?
A. Yes, I do.

MR STEWART: Q. Mr Spinks, you will understand that your service desk, located in New South Wales, if it receives information from elders in a congregation also in New South Wales, then there may be, under compulsion of the criminal law, section 316, an obligation on the service desk to

report to authorities, never mind the elders. Do you understand that?
A. As I mentioned to his Honour, that has been recently brought to my attention, yes.

Q. So prior to that having been brought to your attention, I take it there may be cases where the elders at the service desk have received information from elders at a congregation which, under threat of criminal sanction, should have been reported, but wasn't?
A. Well, I'm not qualified to answer, but if I understand your question, if you are suggesting that when a victim reports perhaps to a guardian or an associate and that is reported to an elder who reports to another elder, who contacts the legal department, is transferred through to the service department, and that each step of the way there are legal sanctions that could result in criminal prosecution - if that's what you are saying, yes, I do understand what you are saying.

THE CHAIR: Q. It doesn't quite work like that. You will need to have - and everyone needs to have - a good look at it. The section in New South Wales speaks in terms of knowledge or belief.
A. Mmm-hmm.

Q. Now, that is a state of mind.
A. Mmm-hmm.

Q. Not created by hearing of an allegation - do you understand?

THE CHAIR: But I think maybe, Mr Stewart, we need to put this into the ultimate report. I'm not sure we're going to get very far.

MR STEWART: Yes, your Honour.

Q. I just have one further question in relation to clarify what it is that I am meaning, Mr Spinks.
A scenario, for example, of someone against whom allegations are made then confesses to the elders in his congregation, who then report that confession to you, or one of your colleagues at the service desk, and on the basis of that, you would have the belief that the allegation was true - not so?

THE CHAIR: You would have the knowledge.

MR STEWART: Q. You would have the knowledge that the man had confessed?
A. Can I ask you to repeat? I apologise. Could you just repeat that again?

THE CHAIR: Q. What is being put to you is that there may be an allegation.
A. Yes.

Q. But when the allegation is confirmed by the alleged abuser confessing --
A. Yes.

Q. -- admitting that he did the act --
A. Yes.

Q. -- then it ceases to be an allegation, but it becomes an offence of which the person receiving an understanding of the confession has knowledge.
A. I understand that.

Q. And the Act will then operate.
A. Yes. And, your Honour, with respect, does that apply just to ministers, or would that apply to every person --

Q. It applies to anyone.
A. To every person in the State of New South Wales.

Q. Yes, who has the relevant knowledge.
A. Thank you. Thank you.

MR STEWART: Q. Just getting back to the generic advice you offer, you will appreciate that - and particularly in relation to the right, as you put it, of the victim to report to the police - there may be a distinction, on the one hand, between a situation where a child has been a victim and is still a child, in other words, a recent allegation, and they are still a child; and, on the other hand, an adult reporting with regard to some allegation some time back when he or she was a child; do you see that distinction?
A. I do.

Q. Dealing, then, with the first scenario, as I understand it, you would see that as being up to the

parent of the child to exercise that right, or not, to report to the authorities; would that be right?
A. Scripturally, that would be our position.

Q. In circumstances where, let's say, for example, the allegation of abuse is against the father, and the mother doesn't want to report, for whatever reasons, but one can imagine easily there may be reasons that she doesn't want her husband to go to gaol, and so on, but the child remains vulnerable as a consequence, as I understand it, you, at the service desk, would not advise the elders to report to the authorities?
A. Again, we have been transparent in what we are saying: we have not instructed elders to say, at arm's length in the office, "You must go and tell the authorities." The language that we have used, as I've explained - and we ask them repeatedly to do it, if that's the situation, "Could you go back to the guardian/parent and reinforce with them that if the child remains in a dangerous position that we need to do all we can to make sure that the child is protected." Now, I could make a statement now to the effect that, well, we know that that has always happened and that no child has been harmed further - I would love to say that. But I can say that, to my knowledge - and certainly in the time that I've been there - we have not allowed a situation to go unaddressed if the elders had that as a concern, and it has been my knowledge only - and again, I'm not suggesting evidence to this effect or listing off names - I'm saying to my knowledge the care of the guardian/parent would have already extricated the child from that situation, and repeatedly in situations over the years, that's with the assistance of the elders, the assistance of the congregation elders. But the short answer to your question: have we instructed elders to go to the authorities? We've transparently said we have not done that.

Q. And, Mr Spinks, have you followed the evidence of this case study over the last week and a bit?
A. I have.

Q. So you would have heard one elder after another - that's a congregational-level elder - saying that they depend on advice and direction from the service desk?
A. Yes.

Q. You accept that that is, in reality, what happens -

they do depend on advice and direction from the service desk?
A. I do.

Q. Is there not a gap then created between the generic advice you give and their expectation of being advised and directed where it leaves, from your side, them with discretion as to how to handle it, but from their side leaves them with an expectation of direction with regard to how to handle it?
A. If I understand the point there correctly, I do agree that we have said clearly that we haven't given that instruction to the elders, so for me to say that there is an expectation that the elders would have received that as an instruction and acted on it would be inconsistent. So the point you make is correct.

Q. Just taking this point a little bit further, if we take a look at your paragraph 30, you are dealing here - perhaps we can scroll down a bit so we can see the heading of this section, "Branch Office response: Victim Safety and Support" You say there that you ask the current circumstances, as you explained previously - that's in paragraph 28. Then if we go down to paragraph 30, you say:

> *I explain that, as a father and a grandfather, if this was my child or grandchild, I would do everything necessary to ensure that the child is safe. For the elders, that may involve supporting the parent/guardian in contacting the authorities or personally contacting the authorities.*

Then you cite an August 28, 2002 letter, and you extract a quote from that letter. Do you see that?
A. Yes.

Q. That letter is at tab 105, if we could take a look at that. Do you see that is a letter from the branch "To All Congregations in Australia". Do we understand that to be to the elders of all congregations, or would it go to all the publishers?
A. When it is not addressed to the Body of Elders, when it is addressed to All Congregations, it goes to all publishers as a letter read out at the congregation and posted on the noticeboard.

Q. On the second page, page 2, is the quote that you have extracted, which says:

> *We have long instructed elders to report allegations of child abuse to the authorities where required by law to do so, even where there is only one witness. ... In any case, the elders know that if the victim wishes to make a report, it is his or her absolute right to do so ...*

Of course, what that doesn't say is that the elders should themselves contact the authorities in any particular circumstances?
A. Correct.

Q. Do you accept that, indeed, it implies the contrary - in other words, it implies that it is really up to the victim or, in certain circumstances, the victim's parents, but really, it's not saying anything to the elders about the elders reporting?
A. Yes. You are right. I don't know that I'm saying that. I believe that the sentence in paragraph 30 is not a letter to the congregation but me explaining to the Commission what I do. As I've written there, I explain that as a father and grandfather, not the Watchtower Bible & Tract Society writing - as a father and grandfather I know what I would do, and I'm explaining that for the elders that may involve supporting the parent/guardian, or personally contacting the authorities, because in the same way that, as an organisation, as a faith, we are respecting the rights of the individual, we also respect the individual consciences of the elders who, as we've seen, they are all family men, children, grandchildren, whatever - we respect their conscience. We don't dictate, in that sense, what the elders can --

Q. But if the elders are to have reference to the material, as opposed to what you have said to them on the phone, you would accept that, certainly in relation to this letter, there is nothing that would encourage them under any particular circumstances to report, themselves, to the authorities?
A. I think we've said very clearly, in several questions you have asked now, we've not claimed to have instructed the elders to go to the authorities, and we acknowledge

that. It's somewhat different to, as we've said, when the elders call in, encouraging them to do all that they can with the parent/guardian, their own conscience, et cetera, to do what needs to be done to protect the child. I can see the clear difference that you are making and I accept it fully.

Q. Just understanding where this letter fits in, is it current? It is a 2002 letter. What significance are we to give it? The reason why I ask that is: is it not the case that the current position is governed by Organised to Do Jehovah's Will of 2005 - that's the baptismal handbook for all publishers; am I right?
A. Correct.

Q. And then, also, Shepherd the Flock of God, 2010, which is the handbook for elders; is that right?
A. Correct.

Q. And then the letter of 1 October 2012. Do those documents not supplant this 2002 letter, or is there an expectation that this 2002 letter still has some currency?
A. That's pretty subjective to say. I mean, the letter wouldn't be on notice boards now, but I don't see anything in that sentence there that is any different to what we would do now. But I'm not sure of the point you are making.

Q. I am just seeking to understand why you draw on a 2002 letter in support of the point or part of the point you are making in paragraph 30, when, as I would understand it - but I'm giving you the opportunity to show me where I've gone wrong - that letter is in the relatively distant past and has no currency?
A. I think that was an expectation on our part that you wanted us to establish that what we are now clearly saying in the publications is what we said in 2002, and we have long instructed elders - so elders have been contacting the legal department for beyond the last couple of decades. So I think we've simply tried to say, as we have with the other documents we've provided, that we've tried to establish a pattern of these principles over a period of time. But what you say is true: we could have easily put a more recent reference there.

Q. If we can go back to your statement, this time at paragraph 32, you will see that you say there:

Spiritual comfort provided by elders to a victim is not viewed as a substitute for professional therapy.

You will have heard me ask some questions of Dr Applewhite about this. It is still the case, though, that there are restrictions imposed by the Jehovah's Witness Church on its members with regard to the types of therapy that they can, at least with the blessing of the church, engage in?
A. I disagree with that completely. If I can show my reason for saying it, and that's in chapter 4 of the Elders' Handbook.

Q. That's tab 120.
A. Yes. Page 55.

Q. That's at Ringtail 56.
A. So when this point was previously brought up, with respect, I thought to myself when I read that paragraph, I would like to write it for a publication that was to be presented for the general public, so I acknowledge the fact that this is written in the language of and written for elders, but it says there are times, paragraph 25 - the section is on helping child abuse victims, by the way:

There are times when an emotionally distressed Christian may seek professional help. Whether a Christian or his family pursues treatment from psychiatrists, psychologists or therapists is a personal decision. An elder should not assume the responsibility of recommending a specific practitioner or facility. He may draw attention to or discuss material in the publications that provides cautions regarding therapies that may conflict with Bible principles.

So he draws attention to some references. It continues:

While participating in group therapy by a professional therapist is a matter for personal decision ...

And then there is a caution, again:

There could be a revealing of confidential facts about other members of the Christian congregation during such sessions if a Christian does not exercise discretion.

So there are some comments to the elders to say, "Those are personal decisions." As you are probably aware, there are a good number of psychiatrists, psychologists, therapists, welfare workers, that are Jehovah's Witnesses and have good knowledge. There are, on occasion, a professional that has no respect for an individual's faith in or belief in Bible principles, and we absolutely respect their right to make that decision. Whether that's, in that individual case, the best person to help a devout Christian who wants psychiatric help, wants therapy, but doesn't want their faith mocked or undermined - that's the balancing comment in there. But we have no objection to professional treatment and I would say that a good number of those that have been affected by past child abuse have sought and received help - the ones that I'm aware of.

Q. Mr Spinks, let's break this down a little bit. In the latter aspect, the bit about:

While participating in group therapy by a professional therapist is a matter for personal decision, there could be a revealing of confidential facts about other members of the Christian congregation during such sessions ...

Is this not to be understood as a caution to members that if they are to participate in group therapy, they must not reveal confidential facts?
A. I'm not sure where you are reading that. To me, the word "discretion", or "a matter for personal decision" - I see the point that you are trying to make and where you are trying to lead, but what I read is "a matter for personal decision" and "a matter for discretion". It says "there could be a revealing of confidential facts" - I don't see the "don't", or "can't", or whatever. I see "discretion", and I see "a matter for personal decision". But I agree, the sentence could be better written to be read in this context.

Q. Let's look at it. The first half of the sentence says, in essence, whether or not to participate in group

therapy by a professional therapist is a matter for personal decision by the publisher in question - that's what the first part says, not so?
A. Correct.

Q. So that's what the personal decision is about - it's whether or not to participate; do you agree?
A. Yes.

Q. And then it says - the reference to "discretion" at the end of the sentence is not a discretion in the sense of it is a matter for their discretion as to what they reveal or not. It says that if they do not exercise discretion, they will reveal these things which they must not reveal - discretion in the sense of caution, not authority.
A. I understand exactly the point you are making. I don't question it. I don't read it that way, but I'm happy for you to read it that way.

Q. Is it not the case that the expectation is that elders would read it in the way in which I have put it, rather than in the way in which you have put it?
A. That has not been my experience at all.

Q. Okay. Let's look at the other part of it. It says:

He may draw attention to or discuss material in the publications that provides cautions regarding therapies that may conflict with Bible principles.

So I take it there are therapies that conflict with Bible principles?
A. Yes.

Q. What are those?
A. I would have to take the references out, again, to be accurate, but there are certainly some therapies, by their nature or religious practice, that may involve what the Bible would refer to as spiritistic-type practices. Mainstream therapy, normal psychiatric, psychological therapy, that's not what is being referred to. It is making a reference to publications that have highlighted perhaps some of the more extreme and radical therapies that have been done, and says "he could draw their attention to it".

MR STEWART: Would this be a convenient time, your Honour?

THE CHAIR: We will have the morning adjournment.

SHORT ADJOURNMENT

MR STEWART: Your Honour, just prior to resuming the examination of Mr Spinks, I might take the opportunity to say something about Mr Geoffrey Jackson. He is a member of the Governing Body and he is currently in Australia --

THE CHAIR: That is the Governing Body in New York?

MR STEWART: That's right. Some weeks ago it came to the attention of the Royal Commission that Mr Jackson, a member of the Governing Body of Jehovah's Witnesses in New York, was in Australia. We wrote to the lawyers acting for Jehovah's Witnesses in Australia and asked if their client would procure a statement from Mr Jackson and make him available as a witness. The reply that was received was that Mr Jackson was in Australia for private, compassionate reasons and, also, that since the Governing Body was not involved in the implementation and administration of policies and procedures in relation to child sexual abuse, he would not be able to give relevant evidence.

The Royal Commission then left the matter at that point, but subsequently came to the view that Mr Jackson's evidence would likely be useful for this hearing, particularly in relation to the formulation of policies and procedures by the Governing Body and the possibility for change of policies and procedures in the future. We therefore wrote last week asking whether the lawyers for the Jehovah's Witnesses in Australia would accept service of a summons on Mr Jackson. The reply that was received reiterated that for reasons of compassion related to why Mr Jackson was in the country, it would, as it was put, be unconscionable for him to be required to prepare to give evidence and to give evidence.

Taking that into account, Mr Jackson has not been summonsed to give evidence. We would, however, welcome evidence from him, or another member of the Governing Body, particularly with regard to the setting of policies and procedures and the possibilities for change of those policies and procedures, and the door is open for the Jehovah's Witnesses in Australia or the Watchtower Bible &

Tract Society of Australia to present such evidence for this hearing, including by video conference.

THE CHAIR: Gentlemen, I don't know which of you two should respond to that. Could I make it plain, if it is not plain already, that the Commissioner and I have concern about the process of investigation and determination of allegations within the Jehovah's Witnesses and whether it is a safe and effective process for the determination of an allegation by a person that they have been sexually abused by someone within the church.

Now, I understand the theocratic foundation for the present position - at least, I think I do. But at the moment, we do not have a witness, as I understand it, who can tell us what the way forward might be to enable the church to bring its processes to the point where, rather than run the risk of increasing the trauma on those who have been abused, the processes can assist in alleviating the trauma. It is of fundamental importance to people who have been abused that when they go to the relevant authorities - and in this case, it is the church, because the church demands a complaint be brought to the church - their story is accepted and they have the opportunity to tell the whole of their story to a forum which they can have trust in, and which will enable them, then, to pass, as it were, some of the burden to that institution, which requires, in this case, that it report, or that person report.

Now, these are very significant issues. They are not small issues, they are significant issues. At the moment, we are, as I say, facing the situation where we can see a problem, but we do need assistance from the church in what is the solution. We rather thought that Mr Jackson might be able to assist us in that respect.

I understand the reason for compassion being extended to him. I have no difficulty with that. And for that reason, I have not issued a summons requiring him to attend. But at the moment we face a serious issue with which only the church can help us.

Whether that needs a response now, I don't know, but we would like you to reflect upon that situation.

MR TOKLEY: Your Honour, may I respond on behalf of the

persons I represent. Your Honour's points are being taken on board, are being addressed, and are being given the most earnest consideration by the authorities. Mr Jackson would probably not have been of any assistance in any event, because his role and his responsibility is in relation to the translation of matters; it's not in relation to these sorts of matters.

However, Mr O'Brien, who will give evidence before your Honour, is able to assist your Honour in regard to some of the matters your Honour has raised. I can assure your Honour that to the extent to which Mr O'Brien is unable to assist your Honour, we will do everything that we can to ensure that the Commission is given the assistance that is required from us and to help the Commission.

THE CHAIR: The assumption I make at the moment is that if there is to be change, it's change that has to be ultimately sanctioned, if not directed, by New York. Am I right?

MR TOKLEY: Your Honour, ultimately it is a matter for submission. We understand your Honour's point and we understand your Honour's particular concern about the environment in which these matters are reported. So that has not been lost upon us at all. The question, I think, at the end of the day, is the adaptability of the present structure to the individual circumstances of any particular person and whether that present structure is inappropriate, so it must be done away with, or whether the appropriate structure can be modelled for the purposes of an individual person's case. I think that's probably one of the more difficult questions that the Commission will have to deal with at the end of the day.

THE CHAIR: It is. But if there is to be change, again, I had assumed that change has to be either directed or sanctioned in New York.

MR TOKLEY: Your Honour, it may be the case - it depends upon what change is contemplated. My instructions are, my understanding is, that the local branch has significant flexibility in adapting the judicial committee procedure to the individual case. As your Honour I think has heard, and will hear, the Elders' Handbook is for elders worldwide, but the autonomy of the branches enables the branches to tailor these matters for individual cases. That's part of

what Mr Spinks's evidence is about today, so that it may be --

THE CHAIR: I'm still at a loss, because, as I understand it, the ultimate framework comes from New York.

MR TOKLEY: No, your Honour, the ultimate framework comes from the scriptures, in the sense --

THE CHAIR: All right. But as interpreted by New York.

MR TOKLEY: Perhaps as interpreted, but also, we would say, as set down in the scriptures, so that the structure may not be changeable, but --

THE CHAIR: You see, that's a serious issue. If the way the scriptures are being interpreted and applied is creating additional trauma for people who are sexually abused by members of the church, that is a serious problem.

MR TOKLEY: Understood, your Honour. I think again, ultimately, it is a matter for submissions. I think our submission at the end of the day will be that the structure itself doesn't create or exacerbate the trauma that has been suffered. What is required is for the structure to be adapted to the individual person so as to ensure --

THE CHAIR: That may be your submission, but I should put you on notice that that is not a submission which, at the moment, I think is going to deal with the problem we have.

MR TOKLEY: I understand, your Honour. Perhaps at the end of all of the witnesses that are to come, if I could put it this way, your Honour's concerns will be hopefully addressed, but certainly, to the extent to which they are not, I can assure your Honour that the Jehovah's Witnesses will cooperate in addressing such matters.

THE CHAIR: Let me, I suppose, illustrate it in a direct way. We have now conducted more than 3,800 private sessions as part of the Royal Commission's work, which are people who have been abused coming and telling us their story, with the expectation that their story will be accepted. We have a variety of requests from people as to the person, Commissioner person, who actually receives their story, and there are some who will say, "I only want to talk to a woman."

MR TOKLEY: Yes, your Honour.

THE CHAIR: There are others who say "I only want to talk to a man."

MR TOKLEY: Yes, your Honour.

THE CHAIR: If you are in the process of receiving these sorts of allegations, one needs to be able to say that we can meet a request like that in order not to impose trauma on the person when they come to tell their story.

MR TOKLEY: Understood, your Honour. The very point your Honour makes is, to a certain extent, covered in the Elders' Handbook - to a certain extent. I don't say completely, but to a certain extent, in paragraph 24 of the Elders' Handbook, where a sister within the faith may go to another sister within the faith to disclose matters.

THE CHAIR: Yes, but that's not what I'm talking about. I'm talking about the process - and I think you know I'm talking about the whole process.

There is a second step in this, and that is the need to have the survivor confront the abuser.

MR TOKLEY: Yes, your Honour.

THE CHAIR: All of our learning in the civil courts tells us that that process is likely to create, for some people, extraordinary trauma.

MR TOKLEY: Yes, your Honour.

THE CHAIR: We need to look at that process as well.

MR TOKLEY: Yes, your Honour. I do not for one second cavil with your Honour. Accepting what your Honour has said, it is our understanding that the more sensitive the response at every step along the way, the less the chance of inflicting or imposing further trauma or exacerbating the situation for the survivor. So that our response is that at every step along the way it needs to be sensitive to the individual needs of that person, bearing in mind both our understanding of secular rights - that is, the right for the individual to report the matter - and, at the

same time, to respect the individual's desire for scriptural counselling, or for the matter to be dealt with within the faith. So those considerations need to be balanced in dealing with the matter.

THE CHAIR: That doesn't answer the problem we have, because the starting point for the discussion is an adherent is required to report. So it is not a question of seeking to have their allegation determined by the church; the obligation, as we understand it, falls upon them to bring that allegation to the church, and then the church imposes its structure.

This is a discussion that we will need to have further down the track.

MR TOKLEY: Yes, your Honour.

THE CHAIR: But I just want to make it plain that these are really significant issues. We had thought that perhaps Mr Jackson might be able to help us with them, but if he can't --

MR TOKLEY: He can't, your Honour, no.

THE CHAIR: -- then so be it. We had Dr Applewhite, last Friday, and you realise where her evidence ended up --

MR TOKLEY: Yes, I do, your Honour.

THE CHAIR: -- in terms of the church's process. Although she came to say that they were good, the ultimate position, as we understand what she said, they are flawed. Those flaws are the things that I'm talking to you about now.

MR TOKLEY: Yes, I understand, your Honour. We do understand. Obviously, these matters have to be addressed and have to be addressed to assist the Commission. I don't wish to take up more of your Honour's time now and I am conscious of the --

THE CHAIR: Anyway, if Mr Jackson can't help.

MR TOKLEY: He can't, your Honour.

THE CHAIR: Then, there we are.

MR TOKLEY: But Mr O'Brien will be of assistance, and Mr Spinks will be of assistance, your Honour. Thank you.

THE CHAIR: Yes.

MR STEWART: As your Honour pleases.

Q. Mr Spinks, I want to address the mechanics a little more of the responding to reports and allegations process, and just understand it. Is it right that the procedure and principles are to be found in the following four documents: Organised to Do Jehovah's Will, 2005; Shepherd the Flock of God, 2010; the 1 October 2012 letter; and then the 2013 Guidelines for Branch Office Service Desks?
A. Those are certainly the documents, but just the component that is missing from that is that, as the October 1, 2012 letter says, the elders contact the branch office, and I think if that is poorly described - which it would seem that it is, by my statement; I apologise for that - but if I could, again, just --

Q. Just before you carry on, for now I'm just trying to seek to identify the documents that we have reference to. Is that the corpus of documents, the ones that I've identified? We'll look in a moment at what they say with regard to other discretionary factors or so on, but are those the documents where we are to find the applicable principles and procedure?
A. In addition to the Bible principles and the fact that - would I be permitted just to read the one sentence that I was going to refer to, if I could, please?

Q. Yes, of course. So that is at tab 124.
A. Yes. Page 131 of the Elders' Handbook.

Q. I beg your pardon. I thought you were referring to the October 2012 letter. Is it the handbook you are referring to?
A. Yes.

Q. Tab 120. Yes, which page?
A. Page 131.

Q. Yes, Ringtail 132.
A. Paragraph 18, which, as we read, starts with "immediately call the branch office", the last sentence of paragraph 18 says:

The branch office will then give direction based on the circumstances involved in each situation.

So yes, those are four current documents, based on the scriptures, but that is a pivotal sentence there, where the branch office will give direction based on the circumstances involved in each situation.

Q. I will come to that in a moment. As I explained, I'm trying to identify the documents and then we can go on to see how the documents are applied and what discretion there may be for the branch office, and so on. But those are the documents, are they - the ones I've identified? Organised, Shepherd, the October 2012 letter, the 2013 guidelines - those are the four documents and the scriptures you have identified. Are there any other documents you identify that one should have reference to to find the procedures and principles that are to be applied in responding to reports and allegations of child sexual abuse from the Jehovah's Witness Church?
A. I apologise for just not saying directly "Yes" to your question, "Are those the only four documents?", because we, or I, have identified that those are the current documents that have relation to child abuse, and I think we've made the point that we have published extensively with regard to child abuse - some of those articles are referenced in the handbook and the letter. Those articles are extensively used - right from the 1980s, 1990s, to current - those articles are used and specific quotes from those are used in addition to the various seminars and additional letters. So do those four letters represent the complete direction that is given to elders, the answer is no, but those are relevant documents and listed as the current ones that primarily deal with some of the key issues.

Q. Well, those articles and so on that you refer to are dealing with how parents should deal with child sexual abuse with their children, and so on. They are not sources for procedure and principles as to how the organisation responds to allegations of child sexual abuse, are they?
A. Yes, they are. For example - it is in the submission documents, I believe, and please forgive me if I misquote - the November 1, 1995 Watchtower introduced - and it may have been before that, but that's the one in my role over the last couple of decades that has stuck in my mind -

introduced using a letter for the victim or survivor to be able to document the allegation. So would it be better if all those - would it be better if all those quotes were listed one after the other in this book, the hundreds of thousands of these books to elders in every culture? I think it probably would be. So that's just one example of a reference. There are others.

Q. I understand that may have introduced something that is new, but is it not the case that that then is picked up in one of the four documents to which I referred?
A. If it is, that's just - my memory fails me, if that's the case. But if the November 1, 1995 Watchtower is in those letters, it's just gone from my memory, I'm sorry. But I'm certain it's in the submission documents.

Q. Doesn't this present a bit of a difficulty to an elder in a congregation somewhere who is faced with an allegation of child sexual abuse, if it is so difficult to determine where this material is, that is still current, on which he can rely?
A. Well, it would be if he didn't ring the branch office. But that's why his first instruction, on every occasion, is to contact the branch office, and these are the references - remembering, with respect, that most of these elders we've spoken to, family men, have dealt with one of their issues in their entire decades as elders. Some of them may never be confronted with it in their lifetime. So that instruction for elders to ring the branch office, where we assist with the myriad of references - I think Dr Applewhite acknowledged that we have flooded the website and our publications with references. So what you say is true. That's why they ring the branch office.

Q. What about a victim of child sexual abuse - do you accept that to such a person there should be a clear policy and procedure as to how the organisation will respond and how that victim is to raise an allegation?
A. I think that's an extremely valid point and one that, in our discussions over the last two weeks from hearing the Commissioner's comments, that for us to take these references from various places and have them consolidated into a much clearer format - I absolutely agree.

Q. Because you will accept that the current position is that a victim wanting to report an allegation would be left very uncertain as to how it all works?

A. Would they be able to turn to a document that steps out sequentially what is required? I would say not. Would they, in referencing currently on the jw.org website, and I know there are no absolutes, but I would be surprised if a single Jehovah's Witness in this country does not regularly access the jw.org website - type in "child abuse", and all the references are there, many of which encourage the benefits of confiding in somebody, talking to the elders. But is there a document? There is not.

THE CHAIR: Q. Mr Spinks, you have heard the discussion I had with Mr Tokley about this?
A. I did, yes.

Q. I understand what you say, that there are lots of references, but inherent in what Mr Tokley has said is that an individual would not know what confronts them, because, as he puts it, it is necessary to consult and mould process to the individual case?
A. Yes.

Q. So that taking them to documents, but with the expectation that each case will be treated differently, doesn't really help very much, does it?
A. Your Honour, I respectfully agree that what the Commission has clearly identified is that there is no shortage of references and research material, but does that need to be presented in a more user-friendly and appropriate - I totally agree.

Q. Well, it is more than that. You understand the concerns that the Commissioner and I have about your current accepted processes - and I stress again, I appreciate that they have been developed with an understanding of the Bible. But do you see the conflict that is emerging between what you are adhering to there and what we have learnt in more recent years about the process of verifying an allegation of sexual abuse?
A. I absolutely understand the point, your Honour.

Q. That's the one that needs to be addressed in a really significant way. I mean, is it appropriate to continue to require victims to confront their abuser in order for there to be a determination within the church? Or are you, in fact, running the risk of further traumatising people who are already traumatised by their abuse?
A. I totally agree, your Honour. If I could, with

respect, the last thing I want in any way is to appear defensive. That's not my intention. We have looked in this Commission at two situations that, as they have for others, have distressed me to hear it through step by step. Are there things that would be done differently today? As I watched that, I went back to the branch - because I know what I've done, I know what I'm aware of: have we asked or expected a victim to confront their abuser without them wanting to do that? I can't find a record of us having done that.

Q. That's not the point. That's not the point. Your whole teaching, of course, requires adherence from your members to your principles. Correct?
A. To Bible principles, yes.

Q. That's what is happening. I don't think you deal with the problem by saying, "No-one resisted confronting their abuser." You have heard evidence here about the trauma that it inflicted upon someone who was required to. And if the church has the expectation, and that's the only way the allegation can be dealt with, then you have a problem. It won't be answered by saying, "No-one in our files has said they don't want to confront their abuser." That won't happen.
A. I apologise for interrupting. I apologise if I've misrepresented that, your Honour, but from the mid-1990s, here in Australia, we have used the statement - I went back myself through the case files over the last number of years, and one after the other found where we have directed, and the elders have simply asked the survivor, the victim, to provide in writing their allegation, where we have not directed the victim to confront their abuser. I think some of the basis for that misunderstanding is that, one, we've been looking at cases from over 20 years ago - that's true; and, secondly, we've, since the mid-1990s, perhaps not as professionally as others or efficiently as others, but we've recognised that a victim or a survivor should not have to confront their abuser, and we do that --

Q. Well, that needs to be put in your documents.
A. Absolutely.

Q. It's not there at the moment.
A. Well, again, with respect, your Honour, that's exactly the question I asked myself, and I said if I had to say to

you, where is that clearly stated? And I found the document. But I have a concern about, at this stage of the Commission, presenting an outline that was presented to all the elders in Australia, that should have been in the documents, that is not, that says don't get the victim to confront the abuser. Now, I'm not suggesting that - if there's a process, if that could be just introduced into the documents for your consideration --

THE CHAIR: Yes, please. If there is any document that is going to help us, we would like to see it.

MR STEWART: I call for it.

THE WITNESS: Your Honour, how that came to be found was through my assistant - we had the note in our previous Elders' Handbook from 1991, but none of us had it until we found one of the older members of the department that had actually photocopied and reduced it and stuck it in his book. So I went and found it. It's called a 337A form - a 337A form printed May 1998.

THE CHAIR: Q. We would like to see it. But I get the impression it hasn't been widely known?
A. It's part of - we have - have we produced that to elders? No. They were taught it in 1998, and if it was written in the book here, that would be very helpful. But I'm happy to produce it.

Q. Please do. That's not the only issue, you know, that we have to confront.
A. I appreciate that.

MR STEWART: Q. Just in relation to what is printed, you see, the difficulty, it seems to me, with what is published over time and with you not committing to, or not being able to commit to, just what the corpus of documents is that is the source for these policies and procedures, is it's a bit like trying to put your finger on a ball of mercury: just when you think you have it, it pops up somewhere else. So just when one thinks one understands what is being said on a particular point, then an article from 1975 Awake! will be produced to say, "Oh, but look, we also say this". How is anyone to know just what the position is?
A. It is a very valid comment and I can only repeat again: has the Commission highlighted to us? In my discussions with our branch committee over the last two

weeks, we have looked and said, "Why don't we get these points into a document?" We see the point. I accept it and acknowledge it.

Q. That, of course, raises the next point. These documents that I have referred to, at least - excluding the scriptures that I assume can't be changed - but also the Awake! and Watchtower articles - those are determined and published from New York; is that right?
A. Correct.

Q. What scope do you, at the branch office, have to publish your own material which might set it all out nice and clearly?
A. As long as we don't stray from the scriptures, which is the primary role of the Governing Body worldwide - if we don't stray from the scriptures, the Australia branch has full authority to produce documents, to clearly set out for seminars, letters to elders, letters to publishers, what needs to be made clear locally. So the Australia branch committee certainly has that authority.

Q. Who will be the judge of whether your document meets that requirement of not transgressing the scriptures?
A. Well, I think anything I say is going to appear immodest, Mr Stewart, but I think the one thing Jehovah's Witnesses can do, whether others agree with it, is make application of the scriptures to the way - to our way of life. So if your point is: does that need approval from the Governing Body or from another source? I would say if we - whatever we do, if it is in harmony with scripture, it is a matter that can be dealt with by the local branch office.

Q. But if you are to publish something new which sets out how child sexual abuse allegations are to be dealt with within congregations in Australia, would you need to get the clearance or the go-ahead from the Governing Body that what you have set out is fine, because it is not in conflict with the scriptures?
A. I think the documents would show that we correspond openly with the Governing Body on matters of interpretation. I think my point is clear, that if recommendations from this Commission, and some things that we can obviously see ourselves - so, for example, if there is a legal requirement, whether it's because of mandatory reporting or because of a criminal law that is less

familiar to me than you, but if there are legal implications and we are working outside of those, you can be certain that an adjustment will be made here in Australia and a document produced relative to Australia, including collating those, as you see it - and correctly so - references from decades, that would be better into a single document tailored for the law, the culture, the expectation here in Australia. Absolutely.

Q. And you would only do that through engagement with the Governing Body?
A. That's - as many things could be done here in Australia, what I'm saying is we have such great respect for the Governing Body, we would have no issue at all with corresponding with them back and forward. I am confident there would be no issue, if we don't stray from the scriptures, that they are happy for each branch committee - remembering that those members of the Governing Body are simply, as well, unpaid members of the organisation that are selected from elders from different countries. So that's not the issue. The issue is: is it in harmony with the scriptures and is it appropriate here in Australia. And the Australia branch committee would have that.

Q. Just on the question of harmony with the scriptures, is it not the case that over time, within the Jehovah's Witness Church, there's been a development or change in understanding of certain scriptures?
A. Yes.

Q. So it's not the case, then, that the scriptures clearly have the same meaning to everyone; it may be that meanings and understandings change over time - is that right?
A. I think it is fair to say if we feel that we've got something wrong or have misapplied a scripture, we not only adjust it, but we publish it for all the world to see. So that's true.

Q. The point is that if the Australia branch, in consolidating and publishing a new procedure, regarded themselves to be in harmony with the scriptures, it may be that the Governing Body took a different view?
A. I couldn't say that wouldn't be the case, but I think the point clearly is that whether it's a branch committee as experienced as ours here in Australia, some of them perhaps with more years' experience than some of the

members of the Governing Body, I don't think that would be the issue. But if you are saying the need for open communication, that's exactly - that's there. But the Australia branch committee would have that responsibility.

Q. I'm taking it one step further. Practically, in effect, you would need the agreement of the Governing Body to any new process or procedure that you published, wouldn't you?
A. I don't think that's correct, because --

Q. Because if they disagreed, it would mean that you were not in harmony with the scriptures?
A. I think it's such a hypothetical, Mr Stewart, that if we did something that is in harmony with scripture - for example, if mandatory reporting was required here in Australia, we don't need the approval of the Governing Body, because the scriptures give us the approval to comply. So I would say, with respect, the only communication, other than the fact that we have got great respect and would communicate openly from the Governing Body, would be if we had clearly misapplied the scriptures somewhere.

Q. Let's take a different hypothetical. If you, in Australia, through your considerable experience and learning, came to the view that there had been a misunderstanding of the scripture that applies and requires the two-witness rule, and your conclusion was that it did not, before you could make that part of your process, you would have to get the go-ahead of the Governing Body, wouldn't you?
A. I don't think anyone in Jehovah's Witnesses in Australia is ever going to write to the Governing Body and suggest that we have misunderstood Jesus Christ's clearly recorded words in the gospel, but it is a difficult hypothetical, because no-one is going to write that letter.

Q. I am just understanding what "in harmony with the scriptures" means. I take it that the four documents that I have referred to which set out the procedure, those are in harmony with the scriptures?
A. I think we've done our best. If there's something that's not, please, if you brought it to our attention or anyone of Jehovah's Witnesses did, we're happy to look at it. But our understanding is that the material we prepare, we do our best to make it in harmony with the scriptures.

Q. In some respects, it sets out what the scriptural requirements are - such as, for example, the two-witness rule?
A. They are referred to in the letters, yes.

Q. And there are many other aspects where the scriptural requirement is actually identified and referenced - not so?
A. I think you can see that right through our documents.

Q. So is it the case that, as I would understand it, the Australia branch would not be able to adopt and publish a new procedure that was not in harmony with the four documents that I have mentioned?
A. I'm just trying to get my head around the hypothetical, but if there was something in the 2012 letter, for example, that was not applicable in Australia, that letter, while the spiritual concepts and essence of it have come from the Governing Body, that letter is produced in Australia and if there was something that was not applicable in Australia, the Australia branch committee is obligated to adjust it.

Q. Well, the letter is produced in Australia, but it's done on the basis of almost word-for-word what was produced to you from the Governing Body in the United States - not so?
A. And that's because that letter is based on scriptural principles, so I didn't - I certainly, personally, didn't see anything in that letter that needs adjusting for Australia.

Q. Well, let's take something, for example, that presumably - you can correct me if I am wrong - is not based on scriptural principle. In tab 120, the Shepherd the Flock document, at page 131, which is what you were looking at previously, paragraph 18, it says in the case of child abuse:

You --

that's the elder --

should immediately call the branch office for direction.

That's a very clear direction. If, in Australia, you took

the view that that's not the best way and that the elder should immediately do something else and only thereafter call the branch office, would you be free to adopt and publish a procedure which differed with that direction?
A. Mr Stewart, it's a pretty vague hypothetical, because - but I follow your example. I would struggle to understand why, as, for all the reasons that you have spent a week demonstrating, when a congregation elder, perhaps once in his life, has to deal with an allegation of child abuse, why we would use an example - would we change that in Australia? Like, the clear - that's going to be applicable around the country.

If I can, this - as I said, there are hundreds of thousands of elders that have this publication - in the Highlands of New Guinea, in Eastern Europe, Asia, whatever. There are things that are specific to the countries - sensitivities, cultural issues, legal implications. For an elder that, once in his lifetime, deals with an allegation of child abuse, we're always going to say, "Why don't you ring the branch office?" But I appreciate you using it as an example, and if there was an applicable example, we would have the authority to adjust that for Australia.

Q. Well, that's the point I'm getting at, Mr Spinks, because by saying my hypothetical is unrealistic doesn't answer the question. You understand that the substance of the question is to try to determine what are the bounds of the Australia branch's authority to determine something different from what is set out in these documents that have come down from New York. That's what I am trying to understand from you.
A. Yes, I appreciate it, and I apologise if I misunderstood that in any way. But I can only restate, again, that the Australia branch does have that authority. So, for example, in the United States, they have a much stronger ecclesiastical privilege - lawyer/client privilege, perhaps - even than we do here in Australia.

Q. Sorry, just to clarify, that's in the law, you are talking about; not in the church?
A. Yes, I'm talking about in the law. No, no, in the law. So, by its very nature, that means that the Australia branch committee is responsible for ensuring that the scriptural policies are followed in harmony with Australian law. Now, in the United States there are all different mandatory reporting requirements. That branch office would

have to do the same. There are very few requirements in some of the Eastern European countries or the Pacific Islands, so those branches have to do their best.

Q. The reason for that is because the scriptures say, as I understand it, that you must obey the law. So if the law requires you to do something different in one country from another, then that is in accordance with the scriptures and you will do it differently - not so?
A. Primarily, certainly that's the case, to make sure that --

Q. But I'm addressing a different question, which is as to, in your wisdom, deciding that something should be done differently - the scope that you have to actually adopt that. So I will take a different example. In the same document at page 90, so Shepherd the Flock, tab 120, page 90, paragraph 3, this is now within the judicial hearing procedure, and it says:

> *Hear only those witnesses who have relevant testimony ...*

and so on, and it says:

> *Observers should not be present for moral support.*

If, in Australia, you decided that a person complaining of sexual abuse is entitled to have a support person present and, therefore, an observer, would you have scope to do that?
A. We already do it, Mr Stewart. We already do it. That paragraph, if I can, is not talking - and I think this is where some of the confusion comes in, again. That chapter 7 is the judicial hearing procedure for all manner of - this is not a child abuse manual and it wasn't intended to be presented that way. This is a shepherding manual. It deals from --

Q. Yes, we understand that.
A. Okay. So that context is not child abuse and, in fact, where it makes direct reference to child abuse, it's generally inserted.

That paragraph is talking about a general judicial process, and --

Q. We understand that, Mr Spinks. Can we get to the point here --
A. Could I just make the point: that paragraph is talking about the accused. It's talking about the accused. It says "Hear only those --"

Q. I understand it talks about the accused, but it would seem to go further. It says:

> *In the hearing, observers should not be present.*

A. I think I've already made the point that we wouldn't have - in this day and age and for a long time, we would not have a victim or a survivor of child abuse in a judicial hearing. This is talking about the accused. This is talking about --

THE CHAIR: Q. Mr Spinks, I am sorry to interrupt you, but I can't see how this paragraph is talking about the accused. It is talking about witnesses who have relevant testimony regarding the alleged wrongdoing. Now, that is people who are bringing evidence against the accused. How is it a paragraph about the accused?
A. I apologise, your Honour. The middle sentence - I appreciate it is about witnesses, it says:

> *Those who intend to testify only about the character of the accused ...*

That is our point. I appreciate again --

Q. That's character evidence, and that might be good or bad for the accused. But that is the second sentence. Then the third sentence is a general statement about witnesses not hearing the details of the testimony of other witnesses - that's a general proposition. And then:

> *Observers should not be present for moral support.*

How is this a statement directed to the accused?
A. I apologise again, your Honour, if that sentence is poorly written, and I can see --

Q. It is not the sentence. The whole paragraph is

talking about witnesses to the wrongdoing.
A. And again, your Honour, we would not expect a victim or survivor of child abuse to be in the judicial setting in this day and age. Did that happen in those incidents 24, 25 years ago? Yes. Is that clearly set out, other than in the document that we have asked to tender, the 1995 Watchtower? Could this paragraph be better written to say this is all about the accused? I agree totally. Our application of it, in practice, in the service department, has always been for the accused, who is trying to defend himself against allegations, to not have observers there for moral support, other than the specific witnesses. We don't want the survivor there as a witness at that judicial hearing.

Q. Mr Spinks, the document itself, you understand, is very confusing, to say the least?
A. I do. I do.

MR STEWART: Q. Just to go back to something you said, Mr Spinks, this particular document - I'm looking on the reverse of the title page, at Ringtail 0004 - is published in 2010 by the Watchtower Bible & Tract Society of Pennsylvania, published in New York, and this particular one that I have before me is a 2012 printing of it. This applies or was issued to elders throughout the world; is that right?
A. Correct.

Q. So this document, or its equivalent, does not change from country to country?
A. It's in multiple languages, but it would be basically the same.

Q. Uniform?
A. Yes.

Q. I notice you use the word "lands" rather than "countries". Can you explain that?
A. I should know my geography better. How many lands are there in the world, Mr Stewart? How many countries? I've got an idea --

Q. I'm not here to answer your questions, particularly such difficult ones.
A. I apologise. You have asked me the question. I'm not certain how many countries there are in the world and how

many lands, but it's simply - yes, I can't answer the question, but --

Q. What is a land? When you say there are Jehovah's Witness congregations in X number of lands, what do you mean? Do you not mean countries?
A. It would include islands, so I think that is probably - it is probably not a significant point, but it would be 239 different islands or countries. I didn't write it. I'm not certain what it means.

Q. So you don't know why the language of "lands" is adopted by the Jehovah's Witnesses rather than "countries"?
A. Well, I don't think we refer - we use "islands", so whether there's some --

Q. Indonesia, for example - is Indonesia one land or however many it is, a thousand, lands, however many islands there are in Indonesia.
A. No, you've got me, Mr Stewart. I couldn't explain. I don't know the reason.

Q. All right. That was just by the way. Can we look at paragraph 35 of your statement. This is now dealing with the investigation stage, as I understand it, responding to reports and allegations. You say that two elders, with the consent of a parent/guardian, would talk to the victim with the parent/guardian present. Now, firstly, is it necessary that two elders undertake this role?
A. No, but I think what we have presented there is what would normally happen. But could there be a situation - I reread that 1998 document and it said one of the elders and a parent or a witness, so - generally, two elders investigate matters, but could it be a mother, a sister in the congregation, a close friend and one of the elders, yes.

Q. So the generic advice and direction is that two elders must investigate, but you are saying that need not be followed?
A. Absolutely.

THE CHAIR: Q. Mr Spinks, one of the concerns that has been expressed to us - and I'm sure you are aware of this - is that - and I assume this is true of most of your churches - the elder is likely to know, or know well, an alleged abuser, if it is a male.

A. That's true.

Q. How do you think it is for a young person having to go to talk about intimate details of their abuse to a person who they know is a person well known to the abuser?
A. Extremely challenging; perhaps - I just want to take your point on board, your Honour. Perhaps lessened a little by the fact that these same elders - we're not talking about in a church confessional with robes or whatever; we're also talking about men that have been family friends to the young ones, they've had meals in each other's homes, so the challenge is also - in other ways facilitates that level of friendship and trust that exists. But I acknowledge the challenge that you are raising, certainly.

Q. What do we do about it?
A. I think the point that we have made - and I'm not suggesting that I have got answers to these deep questions that the Commission is raising, but I think one of the points that we've made is that whether it's a male or a female or a male and female together - a man and a woman together - at that stage, whoever it is needs to have the genuine concern of the victim, to be kindly, sensitive, compassionate. That same would apply whether that is a man or a woman, but --

Q. That's undoubtedly true of anyone in this role, but that's not addressing the issue. The issue is that the person who is being asked to accept and believe the allegation is known to be a close or good friend of the alleged abuser, and that's, as we discussed, inherent in the process, isn't it?
A. Yes, your Honour, and I imagine that's going to be the same in any community where the individuals - in a faith-based organisation where the individuals know and care for one another, that's a challenge that I understand, that you are raising.

Q. I'm not sure that it is in all, by any means, but, again, I stress: your adherents are required to bring their allegations to the church, aren't they?
A. In a broad sense I'm happy to say yes, because we know that's the case. I think the one thing that has got lost a little in some of the assertions that have been made is that I don't see published anywhere, and I know to be the case, that - we don't demand or scripturally enforce

a victim of rape, a victim of child abuse - it's actually a misapplication. There have been a few scriptures misapplied, but that's a clear misapplication of Leviticus chapter 5 verse 1, as an open reading of it would show, but we don't require a victim to come forward if they choose not to, and that's why we have, in some cases - helping victims who are not yet ready to reveal who the perpetrator is.

THE CHAIR: Yes.

MR STEWART: Q. Does it have to be an elder who undertakes the investigation? Let me put that differently: does it have to be an elder to whom an allegation of child sexual abuse is made? In other words, you have said it might be an elder with someone else, perhaps a sister from the congregation or whomever, but does it have to be an elder at all?
A. I think, again, if you re-read the case studies, you will find numerous examples of where the parents or guardians have provided the statement without intervention from the elders, so that the clear answer to that is, no, that doesn't have to --

Q. Well, they have provided it to the elder?
A. So, if you are saying, then, at some point are the elders involved in the investigation process, the answer is yes.

THE CHAIR: Q. Why is it necessary to have elders from that particular church carry out this function, as opposed to going outside, to people who aren't known?
A. I think it's a very - I think it is an excellent suggestion and one that has been discussed at length by us over the last couple of weeks when that has been raised. I think we've taken one step towards it. We've got a lot of other steps to take, as you have highlighted, but one step is, at least when it gets to the judicial stage, to make sure that that has outside involvement. But I think, again, it's a very good point, your Honour.

Q. Is there any possibility of having women join in the decision-making process?
A. Scripturally - I appreciate that's the pivotal question and that comes to the question of is it likely that women will take on the role of elders in the congregation, and, scripturally, that's not the

arrangement.

Q. Your answer to my question is: there is no possibility of women being involved in the decision-making process; is that right?
A. I'm happy to say a clear yes. Will Jehovah's Witnesses find a way to adjust the scriptural process of the elders being men in the congregation, and my answer to that is no.

Q. You understand the Bible, I assume, in its social and political context, when it was written?
A. I do.

Q. And social and political contexts change over time, don't they?
A. They do.

Q. Does the approach of Jehovahs to the application of the Bible, as a consequence, change as society changes?
A. If you are referring to Jehovah's Witnesses, I - we won't change what is a clear scriptural arrangement. So are there things that we would all do - that we do differently now that are based on Bible principles? I think your Honour has highlighted a very clear one, in that do Jehovah's Witnesses apply the Mosaic law from an ancient civilisation that dealt with the theocratic, the civil and the criminal all as one code? No, we don't, because, as Mr de Rooy said, Christ ended the law. A clear distinction between theocratic and the law. So have things changed over the time? Yes. Will some of those clear instructions in the scriptures change from the Christian era? I don't believe they will for Jehovah's Witnesses, because of the application of the arrangements in the Bible.

And so I have reasoned through this myself, your Honour, that - will Jehovah's Witnesses adjust what we see as clear instructions in the scriptures? Will Muslim people change what they believe in the Koran? Will Aboriginal people change what they believe is in their culture? I think there are just some things that are so deeply a part of their faith and belief system, that what we need to do is make sure that we conform with the law, that we do our best to harmonise with the culture. But do some of those things fit neatly into 21st Century Australia - I understand the point that you are making.

Q. I take it that if it was the case that there was a conflict between what science might tell us about human behaviour and the way these things should be dealt with and your understanding of the Bible, then the Bible would still prevail?
A. All scripture is inspired of God. We - like many Christians, we are not fanatically trying to find references to make life difficult; we are applying scripture as we read it, in the best way we can, to sensitively integrate with modern society.

Q. But you understand the point: there may well be areas, and we're in one such area, where science has taught us a lot in recent years about sexual abuse and how to appropriately respond to it, but if that science was in conflict with your understanding of the Bible, then the Bible would prevail; is that correct?
A. Absolutely the Bible will prevail. And if I could, your Honour, that's why hundreds of Jehovah's Witnesses are in prison in South Korea; in Taganrog, Russia; Azerbaijan; Eritrea, because they won't budge on a clear Bible principle that will endure forever.

Q. So if the law of the country was to prescribe a mode of behaviour which was in conflict with your understanding of the Bible, what would happen then?
A. We would apply the words in the book of Acts, 5:29, to obey God as ruler rather than man, and as we did here during the Second World War, as thousands of Jehovah's Witnesses did when they refused to come under the Nazi regime. The fact that the government at the time makes a law, Jehovah's Witnesses will always obey scripture, and that's why we have 28 successful outcomes in the European Court of Human Rights, because we won't budge where there is a clear Bible principle that happens to be in conflict with a government of the day.

THE CHAIR: We might take lunch.

MR STEWART: Your Honour, with your leave, just before we do, I might ask Mr Spinks to think about something at lunch, because he may be able to help us after lunch.

Q. Mr Spinks, taking this procedure and the principles that govern the procedure, what I would like to ask you to identify is what elements of it are based on the

scriptures, such that they could not be changed. So one that springs to mind is the two-witness rule, for example - maybe I am mistaken on that, you can explain to me later. But what elements are there that are required by the scriptures, so that we understand the constraints within which you work in developing a proper system.
A. Okay.

THE CHAIR: Yes. We will take lunch.

LUNCHEON ADJOURNMENT

MR STEWART: Q. Mr Spinks just before we get to the question I asked you before lunch, perhaps we can deal with the document you mentioned earlier. I hand you a copy of a document. Is this the document you were referring to, Mr Spinks, when you said there was a 1998 document that you were able to find?
A. That's correct.

Q. On the third page, in the second paragraph numbered 2, in other words, beneath the heading "Before Forming a Judicial Committee", is that the paragraph you had in mind?
A. That's correct.

Q. So it asks the question:

When is it not advisable for the witness to confront the accused alone? What should the elders do?

Then the answer is given:

When he is a party to the wrongdoing, is a victim, or is extremely timid. Children who are victims of molestation should not be required to confront the accused. In some cases two elders or an elder and the witness can confront the accused.

This document you found in the circumstances you explained earlier; is that right?
A. Correct.

MR STEWART: I tender the document, your Honour.

THE CHAIR: What is the document? What do I call it?

MR STEWART: I'll ask the witness, your Honour.

Q. How should we properly title this document, Mr Spinks?
A. We know it as an S-337 form, which is the six-monthly outline that the circuit overseer, the travelling overseer, meets with all the elders in his circuit to discuss, so it's the circuit overseer's outline for the elders' meeting, S-337.

THE CHAIR: We'll make the document 29-020.

EXHIBIT #29-020 CIRCUIT OVERSEER'S OUTLINE FOR THE ELDERS' MEETING, FORM S-337

THE CHAIR: What is the paragraph you just took us to?

MR STEWART: The third page, the second paragraph numbered 2. In other words, beneath the heading "Before Forming a Judicial Committee (4 minutes)" and there is a paragraph numbered 2.

THE CHAIR: I'm not sure I've got the right document. I see, the second "2".

MR STEWART: Yes, your Honour.

THE CHAIR: Very well.

MR STEWART: Q. Are we to understand, Mr Spinks, that this applied in the six-month period, September 1998 through to February 1999?
A. The circuit overseer would have met with each Body of Elders successively through that six-month period.

Q. That paragraph doesn't appear, I take it, in subsequent S-337 forms?
A. No, each one is completely different.

THE CHAIR: Q. So I understand the paragraph, the question is - this contemplates one of your members asking a question, "When is it not advisable for a witness to confront the accused alone?"; is that right? Now, "What should the elders do?" "When he is a party to the wrongdoing, is a victim or is extremely timid" - I'm not sure I'm understanding - "Children who are victims should not be required to confront the accused". Can you help me

to understand the English of this?
A. Certainly. So just the format, if I could briefly, is a question and answer discussion. So the circuit overseer would present the question, open it up for responses, is the usual format for these meetings, and then the bracketed section is for him to either redirect or help the elders to see that this is the correct response. So in that it says - so we're now talking about the witness, victim, whichever. It says:

> *When [that person] is a party to the wrongdoing ...*

in one instance, so perhaps a shared sin, if that were the case. That wouldn't be appropriate. Secondly --

Q. Sorry, what wouldn't be appropriate?
A. Well, for example, we wouldn't be suggesting that the party to adultery, for example, would be required to confront the accused in that setting. That's one scenario, that where the witness is actually a party to the wrongdoing, involved in the wrongdoing, that wouldn't be an expectation. And then "or is a victim", so - "or is extremely timid". They are just some examples of settings where it wouldn't be appropriate.

Q. "Children" - what about women who were abused as children? In other words, adults who come forward with an allegation that they were abused when they were a child?
A. Then, they'd be a victim in that first sentence.

Q. Now, in some cases, it is said, two elders or an elder and the witness can confront the accused.
A. Mmm-hmm.

Q. So does that mean that if an elder does it, they would do it with the witness - is that the way that works?
A. It's difficult for me to go back and interpret it fully, but how we would read that and read it at the time is that either two elders could confront the accused or one elder and someone who is a witness to a particular type of wrongdoing.

Q. And the elders, again, would be men?
A. The elders are men.

Q. So in the scenario we contemplate, the child, or adult

abused as a child, has to put their story in the hands of two men; is that right?
A. I think we've given examples through all the recent case studies that that's not an expectation that we have. Each of the cases that I reviewed, back from recent times back, show that either the parents, caring guardian, a friend, whoever it is, can work with the victim to have that put in writing. We don't see that there's a situation where the victim, unless they choose to do so - perhaps in the case of a mature minor, or a survivor, might choose to do that, be happy to do it, but, otherwise, a statement - a written statement, either provided by the victim or the survivor, or recorded by a witness and an elder, or two witnesses, would be sufficient.

MR STEWART: Q. That is under the heading "Before Forming a Judicial Committee", so that applies during that stage - is that right - the investigative stage?
A. That's what that's referring to there, yes.

Q. The next heading is "Judicial Committee Hearing Procedure". You'll see in paragraph 2 that the instruction is to explain what is to be done if the accused does not admit guilt, and then in parentheses it says: "The alleged wrongdoer has right to face his accusers." Are we to understand that in the judicial committee process, if the accused does not admit guilt, then the victim must make the allegation to the abuser?
A. No, that's not correct. That's covered in questions that you've raised previously, in the process of the judicial committee, where it says if, for some other reason - the letter presented to the accused is sufficient to face the abuser. So we wouldn't expect that a victim or a survivor would have to face the abuser, except in some instances where they wished to do that, and I'm aware where that's happened on occasion, although it would be exception.

Q. Would it be the case that one would expect circuit overseers, who were presenting this discussion with elders in the particular six-month period, to have conveyed to the elders that the alleged wrongdoer has the right to face his accusers in the judicial committee procedure?
A. I think I understand. Could you just repeat that for me again, please?

Q. The people to whom this was presented - I understand

this is an outline for a discussion, a led discussion by circuit overseers. The persons to whom this was presented, the elders at that time, would, from this, I take it, have understood that the alleged wrongdoer has a right to face his accusers in the judicial committee hearing procedure?
A. I think by default - this was in 1998, so the previous Elders' Handbook, the KS91, would have spelt out that procedure, and that may have already been mentioned through the course of the Commission. This statement here and the comment I referred to from the 1995 Watchtower is clearly our realisation, or the beginning of our realisation, that there are situations that are exceptional, and no more exceptional than a child abuse situation or a survivor or a victim. So this is actually stating that there need to be exceptions to that usual judicial process.

Q. Well, it's only stating it in respect of the pre judicial hearing component. You agreed with that earlier?
A. That's the sub-heading there, yes.

Q. Getting back to the question I asked you just before the adjournment, have you been able to identify those components to the procedure that are scripture-based in such a way that it would not be open to you to divert from them?
A. I took the question away with me. I'm happy to comment on it. It's a reasonably wide question. I think you used specifically what you called the "two-witness" --

Q. I used that as what occurred to me to be an example of such a scriptural principle that can't be departed from.
A. That's correct. So if the question is are Jehovah's Witnesses likely or open to changing what we see as a scriptural requirement, repeated by Christ Jesus himself, that before you could take judicial action, in the absence of other evidence or confession, that that aspect of the process would need to be held in abeyance. Do I think there is flexibility to change that? I don't see how, because it's a clear scriptural injunction.

Is it right to say that because of that one-witness rule nothing can be done and nothing is done - that's certainly not the case, and the 2012 letter spells that out as well.

Q. Perhaps we can come to those aspects in a minute. I'm

just asking you to identify those aspects of the process which are scripturally based such that you are not in a position to change them even if you wanted to. So you've identified the two-witness rule as one component. Are there others?
A. I'm probably struggling - if you have a suggestion, I'm happy to listen to which component, but it seems to me that scripturally the two things that have been raised by his Honour and yourself - the process of having women involved in the judicial process as elders, as it were, or the requirement, within our rules of evidence in handling a matter, in the absence of a confession or circumstantial evidence or other indicators, would we act judicially on one witness as the courts would do, the answer would be no, and I don't see that changing, in harmony with the scriptures.

Q. Mr Spinks, we've already identified that. I'm now trying to see whether there is anything in addition to that. For example, I take it that it's a requirement of the scriptures that it is the elders who act judicially and not anyone else?
A. That's correct.

Q. I take it that it's a requirement of the scriptures that elders must be men, and can't be women?
A. That's correct.

Q. Are there other components of the process that the scriptures require - for example, that the accused has a right to face his or her accuser?
A. I think we've discussed that. We have no expectation of a victim or a survivor having to face their - and there's nothing unscriptural about that. They could do that in the form of a letter, as we've explained, or a statement or other witnesses. The investigation, the judicial process, would gladly accept that.

Q. So your understanding of the scriptures is that that is not a requirement of the scriptures, that the accuser makes the accusation to the accused?
A. I think, clearly, as with any rules of evidence, the accuser has that opportunity - whether that's via a letter, a statement being presented with the facts. That conforms perfectly with the scriptural requirement.

Q. What about in respect of outcomes, is there a

scriptural requirement with regard to what are the possible outcomes from a judicial process?
A. I think the scriptures are clear, that 1 Timothy 5 - sorry, 1 Corinthians chapter 5, where it talks about "removing the wicked person" - so will Jehovah's Witnesses continue with the practice of excommunication, despite the fact that it's a rare arrangement in 21st Century Australia? Yes, we will, because it's scriptural. Will we continue with the scriptural practice of reproving of individuals who have shown themselves sufficiently repenting, or reinstating into the congregation individuals who are sufficiently repentant? That's all clearly set out in the scriptures.

Q. Are there any other aspects of the judicial process you'd like to identify as being based on the scriptures such that you could not depart from it?
A. No, I can't think of a specific thing, but I'm happy to comment if there was something specific that you had in mind.

Q. Perhaps something will arise. Can I ask you to take a look at tab 126, which should come up on the screen before you. This is a letter from the World Headquarters to "All Branch Committees" and one would anticipate it to have gone to all branch committees throughout the world; is that right?
A. That's correct.

Q. It attaches - if we can look at the next page - Guidelines for Branch Office Service Desks, and this deals with, amongst other things, dealing with allegations of child sexual abuse; is that correct?
A. That's correct.

Q. So in your branch office service desk giving guidance to elders and congregations when they called, you, in turn, will be guided by these guidelines; is that right?
A. That's correct - most of it - yes, that's correct.

Q. If you'd take a look at page 9, which is the second-last one for Ringtail purposes, I think it is 84 and, in particular, question 14, if that can be scrolled down. This, as I understand it, sets out revised guidelines on interviewing a young child who is a victim of child abuse; is that right?
A. That's correct.

Q. And if you read 46, it says:

When the elders call the branch office regarding a child abuse matter, they may ask about the need to interview the victim. In such cases, help the elders to balance the need to investigate with the dangers of inadvertently further traumatising a young child abuse victim. For example, has the accused already confessed to the wrongdoing? Is there more than one accuser thereby already sufficient evidence to handle the matter judicially? ... In such cases, there is likely no need to interview the young child.

So, if there isn't the further evidence referred to then, if the investigation is to proceed to the next stage, there would have to be an interview with the child; is that right?
A. If that's what the parents - if that was the wish of the parents, that's what these guidelines afford. If the parents still wanted to pursue that matter, that's some suggestions there, that's correct.

Q. Equally, if the elders wanted to pursue it?
A. Well, the elders aren't authorised - I think that's made clear: the elders are never authorised to act with regard to a child without the consent or request of the parents.

Q. But isn't the result that in circumstances where the allegation is made, and maybe very credibly, if there isn't other evidence and to interview the child would be too traumatic for the child, so the elders are reluctant to do that, they would then be left not being able to act judicially; is that right?
A. That's correct.

Q. That's not a good place to end up, is it?
A. Absolutely.

Q. So what can, or should, be done about that?
A. I think we come back to the same question of, at that point, the parents would be made well aware that the elders are limited, with regard to judicial action, in some

circumstances, and they would be transparent with the parents with that. The parents would be reminded that it's their absolute right to take this to the authorities, and the elders will support them in it. That is repeatedly the advice given and, if I can add, in each of the calls that we've taken at the branch office in the time that I've been there and prior, we also have the elders - if the offender is known in the congregation, the elders also inform the offender that the parents have been told they will have the full support of the elders in taking the matter to the police.

Q. That suggests, in some sense, it's better if the child can't be interviewed, or shouldn't be interviewed, because then the matter is more likely to go to the authorities than otherwise?
A. We're always happy if the matter goes to the authorities. I think you - we never suggest that the spiritual handling of the matter within the congregation, in harmony with Bible principles, is ever a substitute for the matter being reported to the authorities. We never suggest that.

Q. If you look at paragraph 49, it says:

> *Conduct the interviewing in a loving manner.*

There is then a scriptural reference:

> *Although it is preferred to have only one elder conduct the interview, another elder should be present as an observer.*

As I understand it, it is the requirement that two elders are nevertheless present?
A. That's - generally that's the case. If the parents are happy with that arrangement, it would be - the reason I'm probably struggling a bit to do it, because we've never done it, Mr Stewart. I appreciate that that's here and it's an option. It's a worldwide document. We've never done this in Australia, but I still think they are reasonable suggestions, should that option be taken. So I'm not stepping away from what's there. It does say another elder as an observer. We've not pursued matters that way, but that's the suggestion that's being made there, certainly.

Q. You would accept that, for the most part, neither elder would have had any specialised training in interviewing children who have suffered trauma?
A. That's - that's quite probable.

Q. And you would accept that such a specialist from the authorities would know how to avoid the contamination of evidence, avoid being suggestive, or closing down evidence?
A. Yes.

Q. In the case of a child, then, shouldn't there automatically be a report to the child protection authorities, at a minimum?
A. That comes back to the same question which we've answered. I'm certainly happy with that arrangement. I have my own personal views and conscience on it. Have we as an organisation directed to elders to do it, or have we done that? I think the answer is clearly no. Despite the fact that there have been many instances of police involvement, we have not claimed to have done that as an organisation.

Q. Because, if that was the first step, then there would be no need for the elders to be interviewing the child, would there?
A. I think that's fair to say, correct, yes.

Q. Just on the question of sufficiency of evidence in order to act judicially, I understand that what's required is a clear and unambiguous confession, or two or three witnesses to the same event or to separate incidents of the same kind of wrongdoing?
A. That's correct.

Q. That remains the position today, as I understand what you've said?
A. That's the broad principles, yes.

Q. Of course, you accept that in the case of sexual abuse, more often than not, there will be no second witness?
A. To the assault, correct.

Q. Do you accept it's also the case that sex abuse allegations by children are almost always justified?
A. I've - I've certainly read that to be the case.

I have no reason to question that in most cases, yes.

Q. It is in The Watchtower's own publications. Is that what you're referring to?
A. It probably is, but I've certainly read it externally as well: I have no question over that. I agree with what you're saying there.

Q. I will refer you quickly to tab 80 - I have the wrong reference, but it's a Watchtower publication which I can come back to. As I understand you, you identified this sufficiency of evidence as being scripturally based and you can't depart from that; is that right?
A. For taking a specific action, judicial action, that requires, by our rules of evidence, those things that you refer to, yes.

Q. Insofar as a second witness is concerned, is that requirement covered by, for example, scientific evidence?
A. Certainly.

Q. So if there was some external forensic scientific or direct evidence which is not of an observer to the incident, but someone who observes some corroborative aspect to the incident, that would be sufficient, would it?
A. We go much further than that, Mr Stewart. The answer is yes. We've disfellowshipped people for being in an inappropriate setting with a child, where there is an allegation or they have been warned. So I think, if I can clarify, that while we've acknowledged the concern over the fact that two witnesses are required to say that a specific act took place with regard to sexual assault, and we completely understand the limitations there, but a witness to say that an individual came out of the child's room, where they weren't entitled to be - I recall one incident where an individual was knelt down with a child in the toy section of a department store, and it was dealt with because there was an allegation and he had been warned. So I think the thing to have real clarity on is that we're not so naive as to think there is going to be a second witness to a specific act of sexual assault, but we, as the case files will show, have disfellowshipped people for being in an inappropriate setting where there is some allegation. Two witnesses are not required to that specific act. But is there a limitation at times for proceeding further judicially in some regards? We acknowledge that.

Q. If I can take you to the Shepherd handbook at page 72, tab 120, at the foot of the page, paragraph 39 deals with if the accused denies the accusation. This is in the section dealing with the investigation, so prior to the judicial committee being formed. You'll see about five lines from the end it says:

> *If the accuser or the accused is unwilling to meet with the elders or if the accused continues to deny the accusation of a single witness and the wrongdoing is not established, the elders will leave matters in Jehovah's hands.*

So are we to understand that if there isn't a second witness or other evidence sufficient to satisfy that requirement as you've explained, and there isn't a confession, and the accused refuses to meet with the elders, then the matter is left?
A. That's not correct. I think as you're aware, that section is specifically dealing with judicial action where scripturally - I feel obliged, if I can, just one verse, just to show why I say that. If I can just flick it over, I think it's in - if I can, 1 Timothy, chapter 5 - should I continue?

Q. Go ahead?
A. After verse 19 talking about two or three witnesses, verse 24 says:

> *The sins of some men are publicly known, leading directly to judgment, but those of other men become evident later.*

Verse 25 says:

> *... those that are otherwise cannot be kept hidden.*

So the matter is not concluded --

Q. I am sorry to interrupt you, Mr Spinks. I should have clarified my question or put it more clearly. What I mean is insofar as judicial action is concerned, the matter is concluded; is that right?
A. If there's no second witness or evidence to a disfellowshipping offence - not necessarily the specific

sexual assault or act, but corroborating evidence, as I've mentioned, such as inappropriate contact with a child where an allegation exists, that would be considered as evidence - the individual may not be disfellowshipped for the specific sexual act that's being alleged, but, as has previously been described, they would be, or could be, disfellowshipped for brazen conduct, which, as described in the Elders' Handbook here, is conduct that is shocking to us in general, the community, and in violation of Bible principles. So even things like sexting a child, pornography, an inappropriate setting.

So to your specific question about two witnesses to a specific sexual assault, we know that that would be an exception, but there are often circumstances surrounding that - in fact, perhaps more often than not - that substantiate the claim of the victim.

Q. I want to deal with outcomes in relation to the judicial process. As I understand it, once a judicial committee is formed and deals with an allegation, the first outcome is guilt or innocence - in other words, is it established or isn't it; is that right?
A. Correct.

Q. The second outcome is, if guilt, there is an inquiry as to repentance?
A. Correct.

Q. If there is repentance, then there is reproval and not disfellowshipping; is that right?
A. That's correct.

Q. If there isn't repentance found to exist, or sufficiently, then there is disfellowshipping?
A. Correct.

Q. Insofar as repentance is concerned, those requirements are set out, are they, in the Shepherd handbook, so that's tab 120, page 91 and onwards through to page 94; is that right?
A. That's correct.

Q. As I understand it, it's not part of that assessment of repentance any assessment of risk of reoffending? Perhaps I can qualify that - other than a belief in what the offender says in that regard?

A. I think that would be the case in any judiciary, that, without having a crystal ball or being able to look back, any claims of regret, repentance, would have to be determined at the time, but what you say is correct.

Q. The difference in a civil court setting, for example, is that there are likely to be expert reports from psychologists and others as to the risk of reoffending. That wouldn't be part of your judicial process --
A. That's true.

Q. You would have heard Dr Applewhite give evidence that once somebody abuses, once their internal mechanisms of control have allowed them to cross that line once, she said, "I don't have confidence in those internal mechanisms of control for the future."

Is that view, which is supported by some of the writing, something which has been taken on board by the service desk?
A. I think even what's written - whether we understand that as well as the expert witness I think is a valid point, but do we understand that somebody who has abused a child can offend again? Yes, very clearly. Does that move us to say that we will never allow a child abuser to return to the congregation, that we do not believe, despite our Christian faith in the power of God's word and people's capacity to change, that someone could never be rehabilitated - I think if that was the case, no-one would be released from prison, there'd be no programs in place. So we are not naive as to the fact that a child abuser can reoffend, and that's written in our own publications. Are we going to stop rehabilitation when an individual, including [BCH], if that's what it was, when he was disfellowshipped from the congregation for a comparable period to which he was in prison - he still remains disfellowshipped, because he has never apologised to his daughters, he has not made restitution, he hasn't admitted it. But he was released from the prison and into the community, rehabilitated. His neighbours don't know who he is. My point is I understand the challenges of what you're saying, but unless we're going to say child abusers are never to be released into the community, never released from prison, then we, Jehovah's Witnesses, will keep doing our best, take on board what we've learnt through this process and beyond, and adjust our procedures, but it would be un-Christian of me to say that even though nobody else

that I'm aware of does it, we'll stop allowing a child abuser to return as a restricted attender at the meetings.

THE CHAIR: Q. Mr Spinks, I think you've missed Mr Stewart's point?
A. I apologise.

Q. What he's pointing out to you is that the civil authorities have available to them a number of mechanisms from the learning of science in relation to the evaluation of the risk and, also, as you probably know, there are processes of treatment.
A. Yes.

Q. Which may be controversial, but nevertheless they are used. What he was pointing out to you was that none of those mechanisms are available to the church; correct?
A. That's correct.

Q. So the decisions you're making are being made without the benefit of the learning that's accumulated now over a number of decades?
A. Yes, I take that point. Thank you.

Q. Well, it's a good point, isn't it?
A. Your Honour, I take it, and again I don't want to be disrespectful. From a personal point of view, I don't think our system has the authority or, as you say, rightly, the expertise. But for my personal dilemma, again as a father and grandfather, I'm struggling - I'm happy to see the deficiencies in our system and 100 per cent motivated to be a part of the solution, absolutely. Where I'm struggling is the fact that the individual was released back into the community without any constraints. The end result is that the only people that are refusing to let him be rehabilitated in our community are Jehovah's Witnesses. He is out there in the wider community, but I see the limitations of what we have.

Q. Mr Stewart is not pointing out the particular. He's asking you to consider the matter in general. Do you understand?
A. I do, and I agree.

Q. To say it again, what he's saying to you is that the processes that society has aren't used by the Jehovah's Witnesses to evaluate the risk that's involved.

A. And I agree, I accept that, your Honour.

MR STEWART: Q. Do the Jehovah's Witnesses engage at all in treatment for offenders? In other words, where someone is found to have offended, and perhaps faced up to it, confessed to having offended, do the Jehovah's Witnesses engage at all in assisting that person in getting treatment?
A. Professional treatment, medical, psychiatric - I think we've answered that. No, the role of elders in the congregation is a spiritual one and we don't claim to have that expertise.

Q. I think in some other churches, for example, they would say the same of their priests but they have, nevertheless, set up programs for offenders, and supported offenders through those programs. I'm just wondering whether the Jehovah's Witnesses have done anything like that?
A. No.

Q. I take it not?
A. No.

Q. The reference I missed earlier was tab 82, page 6, Ringtail 241, I think. You'll see it's the Awake! publication, October 1993. Under "Common Misconceptions" on the left-hand side, the second one:

> *Misconception: Children fantasise or lie about sexual abuse.*

And if we scroll down a bit further, it says:

> *Even the most skeptical of researchers agree that most claims of abuse are valid.*

Then various references are put there.
A. Yes.

Q. Mr Spinks, I'd like to deal with some of the figures that you raised earlier. In that regard, I have some documents to show you. I'll just explain what this bundle of documents is, and I'll tender it in due course. The first document is a "Summary of Watchtower Australia Case File Analysis"; in other words, this is the staff of the Royal Commission assisting me - it's their final version of

the summary after the correspondence, which then follows that, had passed between the Royal Commission and the lawyers representing Watchtower Australia. So this is the position we've landed up with on the figures. To deal with a couple of the figures you raised, you said, as I understood it - I'm reading from the transcript - page 15663 - you said earlier:

> *... almost 400 of those 1,000 cases, over 65 years, have had the intervention of the authorities ...*

Now, that, as I understand it, will be a reference - if you have a look - the first letter behind the summary is of 16 July 2015; do you see that?
A. Yes.

Q. Then the second letter is 20 July 2015; do you see that?
A. Yes.

Q. If you go to page 9 of that letter, so it's a letter from Milton Bray & Associates representing Jehovah's Witnesses in Australia to the Royal Commission, and in particular in paragraph 10. You'll see that it is said there:

> *My client is unable to provide any assurances as to the accuracy or completeness of the number (161) that you indicate have been convicted of a child sexual abuse offence. Nevertheless, by searching key words (ie police, child services, authorities, charge, court, welfare etc) in the Case Files and upon careful review of the information contained therein, my client was able to establish that 383 alleged perpetrators have been dealt with by either the police or secular authorities in the respective States or Territories in which they reside.*

Not that I'm quibbling about the difference of 17, but just so that I understand, is this the figure you're really referring to, the 383?
A. Yes. I don't know that I actually knew the exact figure. I think, as you're aware, I came from hospital to

be at the process. I haven't been involved in any of this correspondence, but the figure that was given to me was somewhat under 400, so I'm certain that would be the case.

Q. All right. I didn't know that you had not been involved in this correspondence or in looking at these figures. Perhaps it is the case that I should ask someone else about them; would that be right?
A. I want to be helpful. I unfortunately wasn't available. I understood - I was informed that these figures were presented a week or so before the commencement of the Royal Commission. I think as you're aware I was in hospital for the week, so I got a few informal figures that I can't verify, I don't know what they are based on, and so I can't really comment on that.

Q. Just in relation to the other figures you gave, though, you said that only two elders and four ministerial servants have committed child sexual abuse in the period in the last 10 years; is that right?
A. That's - that's what I was informed.

Q. So that is to say that there are reports of incidents in that period of 10 years amounting to two elders and four ministerial servants having committed child sexual abuse; is that right?
A. Again, what I'm reading, if you're pointing to table 3 on page 5 - what I'm reading is a heading that says, "Number of alleged incidents over the past 10 years", so beyond that, I'm not certain. That would seem to me to make reference to incidents of the past 10 years. Beyond that, I'm not certain.

Q. Yes, all right. That's fine. I just wanted to clarify that. So that's not the number of the reports. There have been 289 reports in the last 10 years. Of those, most of them relate to incidents that occurred in an earlier period - do you accept that?
A. We're not comparing the two elders - the 280, or whatever it was, that's total reports. I'm sure that's right. I'm not certain.

Q. I'm just clarifying what it is that you were saying. Your evidence was that 199 of the 1,006 cases related to individuals who were not Jehovah's Witnesses at the time. In fact, the position is that they were not Jehovah's Witnesses at the time of the first report, but they were

subsequently, and in many of those cases, there may have been subsequent reports of subsequent allegations?
A. I'm a certain that a good percentage of those, if those are people - again, I'm only being cooperative and helpful in saying this - I'm certain that a good percentage of those would have went on to be Jehovah's Witnesses. I think the issue was that they were people at the time who weren't Jehovah's Witnesses. What you say is probably true.

Q. At the time of the first report in relation to them?
A. I don't know the figures on it. But I have no reason to question what you're saying.

Q. Mr Spinks, you also furnished a second statement dated 24 July 2015. Do you have that statement?

THE CHAIR: I think we should mark these documents.

MR STEWART: I beg your pardon. I wish to tender that.

THE CHAIR: We'll make the documents together, the summary of case file analysis and those documents, together exhibit 29-021.

EXHIBIT #29-021 BUNDLE OF DOCUMENTS INCLUDING SUMMARY OF CASE FILE ANALYSIS AND CORRESPONDENCE

MR STEWART: I'm advised that redacted copies will be distributed and published. The copy that has been given to your Honour and my learned friends for now is, as yet, unredacted.

THE CHAIR: Very well.

MR STEWART: Q. Mr Spinks, do you have a second statement, 24 July 2015?
A. Yes, I do.

Q. Do you confirm that that's true and correct?
A. I do. I wonder if I could ask, with respect, if we could have a brief convenience break. Would that be possible?

MR STEWART: I'm about to end, unless you need it immediately.

THE WITNESS: No, thank you.

MR STEWART: Q. So you confirm this is true and correct?
A. Yes.

MR STEWART: I tender the statement, your Honour.

THE CHAIR: That will be exhibit 29-022.

EXHIBIT #29-022 STATEMENT OF RODNEY PETER SPINKS DATED 24/07/2015

MR STEWART: At the witness's request, might we have a short adjournment?

THE CHAIR: Yes. Let me know when we're ready.

SHORT ADJOURNMENT

MR STEWART: Q. Mr Spinks, I want to come back to one last aspect about reporting before I finish, and it's this: as I understand it, within your faith - and you, indeed, as a person - if you saw someone breaking into your neighbour's house and your neighbour was away, the first thing you would do is report it to the police, wouldn't you?
A. Yes, that's true.

Q. And if you received reliable information - and I understand this is hypothetical; you've never been in this position, but if you received reliable information that a murder was planned, the first thing you'd do is report it to the police?
A. That's true.

Q. But if you receive a report that a child has been abused within a family, for example, in your community, you don't report it to the police. Can you explain the distinction? Why would that be?
A. I would say, again, as I read from the New South Wales booklet, as I strongly believe myself, as the scriptural principles highlight, we respect the rights of the individuals - the family, the survivor in the case of an adult, as in the two cases that are being considered - to make that determination. We've not said that we've had a procedure or process of automatically reporting it to the authorities. The Commission has brought to our attention

that, in addition to mandatory reporting, there are other legal implications to having that information, but I understand your point. Our process has been to respect the rights of the individual, or the family, and I think, as has been previously quoted from 2 Corinthians 1:24, it says that we are not the "masters over your faith, but we are fellow workers for your joy", and Galatians 6:5 says that each of us shall carry our own load of responsibility. It has been mentioned that we control every aspect of family life. That's not the case. We respect the rights of families to make some of those decisions. But I do understand your point.

Q. Is it not the case, Mr Spinks, that it is because child sexual abuse is regarded as a sin within the Jehovah's Witness faith - a very serious sin, I'll grant you that, but it's regarded as a sin but hasn't been recognised to be a crime.
A. That's totally wrong. Not only is that printed, that we view child abuse as a sin and a crime, there is no worse sin and crime than child abuse. So I understand the basis for you expressing that, but that is totally the opposite to the truth with Jehovah's Witnesses.

MR STEWART: No further questions.

THE CHAIR: Q. Mr Spinks, help me to understand the role of women in the Jehovah's Witness Church. There are some fairly strict biblical New Testament injunctions about the role of women. Are they adhered to by your church?
A. I promise to give a short answer, your Honour. We have such respect for our wives and women. We see scripturally that the role of teaching in the congregation is for the elders, for the men. Who does the bulk of the preaching work and adds some momentum - my wife, the other wives.

We have a reputation for showing great respect for our wives. I understand what you're saying in 21st Century Australia for a religious or faith-based organisation to say that the men are going to be elders - I understand the challenge, but that's our scriptural stand.

Q. But are you saying to me that women can't be teachers in the church?
A. I think - when that was discussed previously, if we're saying as in a church situation, the priest at the pulpit

or whatever, we understand scripturally that's the role of the elders. Are the women involved in teaching, in the public preaching work, in the bulk of the ministry? Yes, they are. They do the bulk of that work. I'm not trying --

Q. Are they allowed to speak in the church?
A. I think anyone who has been to one of our congregation meetings would say a resounding "yes" to that.

Q. Corinthians says they can't?
A. No, the context there is the elder/minister/priest standing up and giving a Bible lecture to the congregation - that's the role of the elders. The women, as with all others, non-elders amongst the men, our children, they all participate, question and answer, commenting freely, and presentations off the platform.

Q. Look at 1 Corinthians, 14:34 and 35 for me. Have you departed from the scripture in your current practice?
A. Not at all, your Honour. I think --

Q. Would you read them out so everyone knows what we're talking about?
A. 34 and 35?

Q. Yes.
A. Very good.

Q. Well, you had better start at 33 I suppose?
A. Okay. It says:

> *For God is a God not of disorder but of peace.*
>
> *As in all the congregations of the holy ones, (34) let the women keep silent in the congregations, for it is not permitted for them to speak. Rather, let them be in subjection, as the Law also says. (35) If they want to learn something, let them ask their husbands at home, for it is disgraceful for a woman to speak in the congregation.*

Q. Do you follow that injunction or not?
A. If we read the whole chapter - I'm not suggesting that we do, but if we read the whole chapter - we'll see that

the reason it starts with "a God not of disorder but of peace", is that there was disruption in the congregation and the apostle Paul, who I might mention was a single lawyer, spoke in the language that we would certainly phrase a little differently today. His point was it was the role of the men to stand up and teach God's word from the pulpit, the platform. So do we try to over-literally interpret that? The gospels are full of the women doing the preaching and sharing in the work in the congregation. That's just a really strong statement addressing a particular situation.

THE CHAIR: Q. So you don't follow that one?
A. We - we do not have sisters, who are elders, teaching from the pulpit, but they are actively involved in speaking and discussions and question and answer.

Q. Asking questions. So the answer to my question is you don't follow that injunction?
A. Well, it's out of context, I am sorry, your Honour, because the context is the priest preaching from the pulpit.

MR STEWART: Q. Just on that, I think the [draft] transcript may have picked up the wrong reference, is it 1 Corinthians 14?
A. I think the verses were wrong - 34 and 35.

THE CHAIR: 33, 34 and 35.

MR STEWART: Chapter 14.

THE CHAIR: Chapter 14, yes, 33, 34 and 35;

Q. I mean, there are other references in a similar vein and you have probably travelled this territory many times, haven't you, because, as you know, many churches don't interpret and apply those injunctions in the literal way that your church does?
A. That's correct.

Q. You know that?
A. I do.

THE CHAIR: Does anyone else have any questions?

MR TOKLEY: I do, if I may.

<**EXAMINATION BY MS McGLINCHEY:**

MS McGLINCHEY: Q. Mr Spinks, my name is Ms McGlinchey, and I represent Monty Baker in these proceedings. Mr Spinks, does the Jehovah's Witness Church conduct children's activities, such as Sunday School or Bible classes for children - no, they don't?
A. No.

Q. They don't have any child activities?
A. No.

Q. Even creches?
A. No.

Q. Childcare centres, anything like that?
A. No.

Q. So there is no activity where children are supervised alone with a Jehovah's Witness volunteer?
A. That's correct.

Q. Thank you. Mr Spinks, could you look at your first statement, paragraph 66. I just want to ask you some questions about the role of the regular pioneers. As I understand it, from the viewpoint of a layperson, a regular pioneer preaches in the community in public; is that correct?
A. Yes, all of Jehovah's Witnesses preach publicly in the community. A regular pioneer is someone who says, "I want to expand my ministry", but what you say is correct, yes.

Q. So they, the regular pioneers, may preach in a public place, such as a shopping centre or something like that?
A. Yes.

Q. They also go door to door, knocking on people's doors?
A. Yes.

Q. Attempting to engage people in conversation and to communicate to them your understanding of the world; is that correct?
A. Yes.

Q. Or Jehovah's understanding of the world?
A. Yes.

Q. That may also involve going back on a number of occasions and taking part in family discussions and returning to the home and being invited into the home; is that correct?
A. Yes, Jehovah's Witnesses conduct Bible studies with people, yes.

Q. I'm talking now, in particular, about the role of the regular pioneer - not generally. Do you understand that?
A. Sure.

Q. As I understand it, the regular pioneer strategy, for want of a better word, has been quite successful in growing the flock around the world?
A. I don't know how to quantify that. I guess - I have no reason to question it. I guess a missionary, a special pioneer and a regular pioneer, by nature, is going to spend more time in the preaching work.

Q. There is an application to become a regular pioneer. You can't just decide yourself that you are a regular pioneer; you have to go through a process, is that correct?
A. Yes, I mean, anyone can expand their ministry, but as a regular pioneer, that's right, there is an application.

Q. That application form is attached to your first statement?
A. That's correct.

Q. Could we look at that, please. Do you have that in front of you?
A. I do.

Q. There are a number of questions that the applicant is asked, that would be considered in whether they are an appropriate person or not. In question 6(c) you ask:

Have you ever engaged in child sexual molestation?

A. Yes.

Q. The next one, (d):

If yes, when?

Correct?
A. Correct.

Q. So you would be expecting a person to disclose that to you and you would ask further questions such as "When"?
A. That's correct.

Q. And the next question is:

Are you now of good moral standing and habits?

Is that correct?
A. That's correct.

Q. Would I be right in assuming that a person who does declare that they have engaged in child sexual molestation, if they are now a person of good moral standing and habits, would not be necessarily prohibited from taking on the role of regular pioneer; is that correct?
A. I'm just trying to unravel the question there, but I think in question 6 there is a whole list of things, and the following question, in 7, "Are you now of good moral standing and habits?" - if your question is, if someone says, "Yes, I engaged in sexual molestation", that - a consideration would then be given as to whether they would be allowed to regular pioneer. That's if they honestly answer the question, of course.

Q. Of course. We're only dealing with if they say "Yes". So answering "Yes" to that question would not prohibit you from taking part in being a regular pioneer?
A. The short answer is, yes, it would. The longer answer is, depending on the circumstances, as we've openly provided information. So perhaps if it was decades ago - I don't want to say anything to minimise or compare the nature of offences, but we deal with situations where perhaps a very immature 22-year-old is involved with a mature 16-year-old, they might even end up marrying or whatever, but there are situations where, by definition, it's child sexual molestation. We don't want to condone a child abuser by allowing them to - as the Organised to Accomplish God's Will book says, they should be exemplary and known to be exemplary.

Q. If a person says "Yes", but they also say they are now of good moral standing and habits, what further inquiries

do you make?
A. The elders are instructed - there is a letter, by the way, it's in the submission or in the tender documents, I believe it's July 2014, thereabouts, that actually sets out the process. So the elders would then get all the details of that and write to the branch office. So it would be held up at that point. As soon as the - remembering that this is the document that's given to the applicant.

Q. Yes.
A. As soon as that person puts "Yes" to question (c), yes, the application is held up, and then we'd start that process of discussing with the branch office what details are known about that.

Q. Are there a set of guidelines that you would use in assessing that, or would it just be the judgment of the elders?
A. No, they'd contact the branch office. So the full details are provided to the branch office. The principles of the S-66 guidelines that have been just looked at before, and the Bible principles - the same is applied in this situation.

Q. Are there any external checks that you would undertake. By "external", I mean, for example, a police records check - would you seek one of those?
A. I think as our documents show, where - a Working With Children Check is required for Ministers; I think there are about 7,000 now. But for a regular pioneer, we have no requirement at this stage that that's the case.

Q. Can I just get you to address your mind to a situation which I'm suggesting of a person who has said "Yes" to that question that they have engaged in child sexual molestation; they are also saying that they are now of good moral standing and habits; and I understand that there is a process with head office. But would you, in that circumstance, seek any external tests for that, such as a criminal records history?
A. I think we've --

Q. Is the answer no?
A. The answer is no.

Q. All right. In that circumstance, would you require a

person to provide a Working With Children Check?
A. That has not been the case.

Q. So the answer is no?
A. Correct.

Q. Are there any criminal matters which, simply by having a record of that criminal matter, such as rape, that would, in every case, exclude you from being accredited as a regular pioneer?
A. Could you repeat that again, please?

Q. Are there any offences, such as rape, that would, in every case, exclude you from taking up a position as a regular pioneer?
A. I think for me to give a - you've asked an absolute question there.

Q. I have.
A. So my answer is, for the reasons I explained earlier, I don't think I could say absolutely that 20, 30, 40 years down the track, on some specific situation - the question is too absolute and hypothetical, so I can't answer in the positive.

Q. So the answer is either no, or you don't know?
A. I think the answer is I'm not suggesting - you asked the question and I've not answered in the affirmative. I think if we had specific circumstances - the short answer is, no, there is no absolute, if that's the answer you're looking for.

Q. All right. Does the church undergo any kind of risk assessment process where you look at the activities you're involved in and apply - a process by which you assess both the risk to your own people and the risk to the community that your own people may present to them, such as being present in their homes?
A. If you're asking about have we engaged or done an external risk assessment, I don't know.

Q. Do you recognise that it may, in some circumstances, be a risk to the public, sending out people into people's homes who may have previous criminal histories - for violent offences, say?
A. I think that's a valid question that applies across the community in every walk of life.

Q. Mr Spinks, I'm not asking you about across the community; I'm asking you about Jehovah's Witness practices?
A. Again, your question - your question is fairly sweeping and I think it does apply to the broad community. Are you saying is there a risk in any case of somebody who has committed a sin or a crime in their past being some risk to the public? I'd have to say absolutely, yes - with Jehovah's Witnesses or any other organisation or individual.

Q. All right. Could I ask you to look at paragraph 73 of your first statement, about elders. Mr Spinks, you set out in that statement a number of considerations and characteristics of a person - of a man - before they can become an elder. I think number 6 is "presiding over his own household in a fine manner". That comes from Timothy 3:2, but it's not a complete stating of what Timothy says on that point, is it?
A. Can I read it in context?

Q. Yes, of course.
A. So it's an open expression in the middle of a series of verses. What was your question?

Q. Timothy 2 says, in describing the characteristics of an overseer or an elder "a man presiding over his own household in a fine manner", as you've stated, and then there is a comma and it says:

> *... having his children in subjection with all seriousness.*

What does that mean to you?
A. What does having your children in subjection mean?

Q. To you?
A. I would suggest exactly as it says. I don't think any caring parent would see it otherwise - that children are subject to the care and authority of their parents. I wouldn't imagine than any of us, as kind, loving parents, would see it any other way.

Q. It doesn't say "kind, loving parents" - it says "having children under the subjection of the father". That's a very strong word?

A. I think it's out of context, because if you read on to verse 5, it makes the application of it, where it says - and don't miss the word in the middle of it

(for if any man does not know how to preside over his own household, how will he care for the congregation of God?)

The point is, if a man has unruly children who don't obey the parents' instructions, "Don't cross the road", "Don't take drugs", then if a man does not have the capacity to have his own family in a loving setting, then how can he - how can he do that for the congregation? So I personally would just be a little cautious about reading into that a manner or - that's just totally not in harmony with the scripture. For myself, I would say that.

Q. To me - and correct me if I'm wrong - the word "subjection" implies power and control, perhaps excessive power and control.
A. Well, I don't know what sort of family I think you're referring to there, but that's certainly not the case in my family. I like to think that my son has turned out to be a beautiful adult - he was subject to me when I told him "Don't take drugs and don't get mixed up in the wrong crowd." If that's subjection, I'll accept it and be happy to continue.

Q. Well, [BCG] has given evidence about being under the excessive control and power of her father, who was an elder.
A. Again, you probably need to be cautious to make sure that we stick with the facts. He wasn't an elder, so if you could be cautious with that.

Q. I'm sorry, if that's correct?
A. Apology accepted.

Q. He was a ministerial --
A. Thank you. In addition, if anybody in this Commission, or anybody of the thousands in Australia that are listening in and think that [BCG]'s father was anything but a tyrant, some horrific - some horrific recollections that she makes have nothing to do with all the kindly families in the broader community. He treated her in a diabolical manner, and - no excuse for what he did. I'm just grateful that he ultimately felt the consequences of

that, and what [BCG] says, she has every right to say, and we have no question over that.

Q. Would you agree - if this is within your knowledge - that the idea that children should be under the subjection of their fathers is, in the wider community, a very old-fashioned concept?
A. I'm shocked to hear you say it, is all I can say, and I apologise. I'm shocked to hear you say it, because I don't think there would be a parent - and I have two beautiful grandchildren who I would take the same approach with, and I love them to pieces - would expect that you're going to let your child run on the street because you don't have that measure of authority, until they become of an age where they can make good moral decisions. So if your suggestion is that parents should have no authority in relation to their children --

Q. I think you know I'm not making that suggestion.
A. I'm struggling with the word "subjection" being misapplied.

Q. You are biblical literalists, and that's what is in the Bible. It doesn't say "loving authority", it doesn't say "care". It says "subjection". The point that I'm trying to make - and I'll get to it a little bit quicker - is: do you think that by following biblical structures such as that, that perhaps children would not feel able to make complaints about their fathers if their father is the source of abuse, or to make complaints generally?
A. I think, with respect - please don't think I'm contending with you; you're expressing viewpoints and I'm expressing mine back.

Q. No, I'm asking you a question.
A. It's such a broad, sweeping, ill-informed comment. That what you're doing is taking a tyrant of a man, who has been to prison, that we won't let back into our congregation, who mistreated his daughter, and insinuating that loving --

THE CHAIR: Q. Mr Spinks, I think the question is being put to you generally, not specifically. We had this difficulty before. Can you answer it in the general, which is what was put to you, rightly or wrongly, is that by using the word "subjection" and creating a relationship of subjection there is a real risk that a child will feel

unable to complain about the actions of their father. I have to tell you that I can understand the proposition. Is there an answer to it?
A. Again, your Honour, I just invite anyone to visit our families. I can say no more than that - just meet the families, see Jehovah's Witnesses. That's not the way - was [BCG]'s father - are some fathers like that way in the community generally? Absolutely, and I loathe it. But Jehovah's Witnesses love their children, support them, care for them. I just - I understand the point, and if parents are authoritarian with their children, or subject their children to unloving conduct, then I reject that and I loathe it.

MS McGLINCHEY: Nothing further. Thank you.

THE CHAIR: Anyone else?

MS GALLAGHER: I have a few questions.

<**EXAMINATION BY MS GALLAGHER:**

MS GALLAGHER: Q. Mr Spinks, my name is Gallagher and I represent [BCB]. Are you aware of [BCB]'s experience with Jehovah's Witnesses?
A. Yes, I heard her testimony.

Q. You would know, wouldn't you, that she was involved in a situation where the abuser was brought to her home with two elders?
A. Mmm.

Q. Of course, that is something, are you saying now, would probably not occur?
A. I'm certain it wouldn't. The fact that she was 22 years of age is irrelevant. I think it was an inappropriate setting, yes.

Q. Did you watch her evidence, or listen to her evidence?
A. Yes, I listened to it.

Q. So you're aware that she and her husband, who was fairly young at the time, both handed themselves over to the elders, in the sense of trusting them with the process?
A. Yes, I understand that.

Q. And the process - and this is unsatisfactory, I think

you'd agree - was not explained to her or her husband?
A. I understand that. I have no reason to question what she said. I accept what she said.

Q. Of course, that's an unsatisfactory turn of events for them, in the sense that the process of the inquiry, the investigation wasn't explained?
A. If, certainly, that's her recollection, I have no reason to question it, and it wasn't a good setting.

Q. No. So you agree it's unsatisfactory?
A. That was at the time, absolutely.

Q. As it stands now, just as practicalities, if a young child comes forward, or there is complaint from a young child, of course they would not face their abuser - is that so?
A. That's correct.

Q. So there's a statement, or the allegation would be put in writing in some way; is that right?
A. That can be the case, yes.

Q. Would that allegation be taken by an elder?
A. It can be the parents. I think there are several examples of that in the case files that you may have read.

Q. No, I haven't.
A. Sorry, it's in the case files.

Q. So what if a parent were an alleged abuser, what would be the situation?
A. Well, then, it would need to be the guardian/parent, or who ever the child had come to, to seek support.

Q. So not an elder?
A. I think we've made it clear that the statement can be taken by two Witnesses. Elders are involved in the process, we've made that clear. Who actually is the best person - and, again, I think you'll find in the case files there are some examples where parents have provided that.

Q. I'm just envisaging a situation where a child may still be embarrassed in relaying detail about sexual assaults to them, and may minimise the abuse because of that embarrassment. That's a possibility, isn't it?
A. Yes, it is.

Q. It's the case, isn't it, as Mr Stewart was asking, that if one repents one's conduct if one is an abuser, then the punishment is reproved - is that correct?
A. That's extremely simplified, but if the individual was genuinely repentant - and my experience has been that that would generally relate to historical cases - it would be very difficult for anybody to conclude that somebody who had recently abused a child - it would take an enormous convincing that that person - that their repentance could be commensurate with the degree of deviation.

Q. Yes, but the current process lends itself, doesn't it, to the possibility of the abuse being minimised by the person who is alleging, because of the way the statement is taken - that's a possibility, isn't it?
A. Certainly that's a possibility.

Q. And that, because of the lesser punishment handed out for somebody who repents, then they may indeed confess to harm that they know to be inaccurately conveyed?
A. I think I followed you through there. Look, everything you're saying is just plain commonsense. I agree with it.

Q. Certainly, there is an inducement to confess to wrongdoing, isn't there, in the sense of the punishment is less; one isn't disfellowed?
A. Disfellowshipped.

Q. Disfellowshipped?
A. Again, each situation would be different, but can I suggest that we've seen situations where people don't tell the truth. It happens in all walks of life, and there's no question that that's happened amongst Jehovah's Witnesses. So if somebody doesn't tell the truth, if somebody deceives and covers up what they are, what you say is that that can impact on the outcome with Jehovah's Witnesses as it can with any judiciary.

Q. If you might address yourself to my question: the prospect of lesser punishment, if you like, acts as an inducement to confess to wrongdoing - do you agree that that's a possibility?
A. So you're suggesting that somebody could pretend to be confessing and repentant to try and not be disfellowshipped, is that a possibility? You'd have to say

yes.

Q. Just as to another practicality, if an allegation of wrongdoing - sexual misconduct in relation to a child were to come to your knowledge and the investigative procedure within the church wasn't embarked upon, but the police were called straight away --
A. Yes.

Q. -- the investigative procedure within the church would halt at that time; is that so?
A. Yes, and the documents would show that. Yes, that is the case.

Q. And the elder, if it is an elder, would be stood down, waiting for the outcome of the police inquiry; is that right?
A. He's deleted as an elder.

Q. Pending the outcome?
A. No, he's deleted as an elder. So what you're saying there is if we have an investigation where there's evidence or confession, or whatever, we hold up any further involvement with the individual, at the request of the police, we've had experience with that. We respect their role and we step back. But he would be automatically deleted and announced initially.

Q. But that's not a permanent deletion; is that so?
A. No, that's a permanent deletion.

Q. Is that the same as disfellowshipped?
A. No, no. So I think we're again - with total respect for everything that's happened, I think we call it deletion, the church may call it, if it happens, defrocking or laicising or whatever, but where an elder or ministerial servant is involved in child abuse offences, they are immediately defrocked, deleted. But the judicial process of disfellowshipping the person, expelling them, would hold up - we don't want to interfere with the police investigation.

Q. Mr Spinks, I'm talking about before the church has conducted any investigation. If the church did not conduct an investigation itself, and just immediately called the police, would that person still be deleted?
A. I think we'd need to - as you would appreciate, we'd

need to verify that there actually is an allegation. But I think that would be such a rare situation where the police are dealing with a child abuse allegation and we don't immediately delete the person. And the reasons are this: remember, we're not talking about the paid clergy and pensions and all those sorts of things; we're talking about a volunteer local minister, who should not be an elder until the whole matter is resolved and he can be irreprehensible again, if it is proved to be a false allegation, which would rarely be the case.

Q. Do you agree it would be best practice, where an allegation is made of child sexual abuse, for the phone to be picked up and the police called and the person deleted until the process has taken its course outside the church?
A. I think even the police or the authorities would have a little issue with what you're suggesting there - before an allegation is even established, that an announcement or a deletion is going to take place, but certainly, I think we're probably actually covering the same point from a different perspective. We're not going to leave an elder as an elder where there is a matter involving child abuse.

Q. Where you say the police would have difficulties in proceeding where an allegation hasn't been established, ultimately, of course, it might become a matter for a jury to determine whether a matter has been established.
A. Mmm.

Q. Do you understand that proposition?
A. The person would be immediately deleted. When the police have evidence - whether it fits in with our rules of evidence or otherwise, if an individual is dealt with by the police, he would be immediately deleted as an elder. I may have misunderstood where you're heading with that.

Q. So it would take, perhaps, the person being charged for the deletion to occur, or --
A. Well, again, I need to know the specifics. I don't know of a situation where the police have dealt with somebody for child abuse and we haven't deleted them as an elder.

Q. In relation to prevention within the church, I take it that every Jehovah's Witness would be aware and live by - certainly would be aware of the two-witness rule; is that a fair assumption?

A. I think anybody that reads the Bible or reads our publications associates with Jehovah's Witnesses would be aware - Jehovah's Witnesses know their Bibles pretty well, but whether every person that comes to a Kingdom Hall, I can't comment on that.

Q. Of course, you'd agree that sexual assaults, given the nature of the offending, would occur just with two people present; do you agree with that proposition?
A. I think we've been there. Absolutely.

Q. So that creates the perfect protection for an offender - do you agree with that proposition?
A. It's a broad, sweeping statement, but I think I covered that in saying that we don't have an expectation. It would be naive. We don't have an expectation that there are going to be two witnesses to a child abuse or sexual assault, and I think, as I've stepped out, we understand that the two-witness Bible requirement relates to just one specific step. I don't want to digress. The October 2012 letter sets it out in detail in paragraph 11 of the process. Even where the allegation is only one witness, the elders take precautions and there are warnings given so --

Q. Yes. I think it's noted:

> *However, even though the elders are not authorised to take congregation action where there is only one witness, the elders should remain vigilant with regard to the conduct and activity of the accused.*

But I'm talking about prevention, I'm talking about moving forward in the sense that the two-witness rule would effectively create a shield for an offender who is part of the church who knows, "I can do what I want, it's not going to be proved without two witnesses." Do you agree that that is something that might go on in the mind of an offender?
A. I can't speak for what goes on in the mind of an offender but --

Q. If you could take yourself there --
A. I'd rather not. But you're hypothesising, and I agree with the hypothesis.

Q. I think you indicate at page 15708 in answer to a question posed by counsel assisting at about line 16 - and this was just in regards to telling parents that they have an absolute right to go to authorities if they want to. You understand that in [BCB]'s case, don't you, that she wasn't told by the elders that she could go to the police - are you aware of that?
A. Well, I can't --

Q. Can I make you aware of that? Do you accept that that was her situation?
A. 23 years ago or whatever, I think that's been established that that was her testimony. I don't question that.

Q. The situation is now, is it, if you could clarify: are victims actually told that they have an absolute right, or do you just leave it to them to work out in accordance with Galatians? Forgive me if I am pronouncing it incorrectly.
A. I'm just not sure - again, I'm happy to answer the question again, but I think --

Q. I'll withdraw it, I'm sorry. Galatians says, doesn't it, that basically one must bear one's own load - is that correct?
A. Again, I explained that, that has nothing to do with not telling the individual that they have every right to go to the police. That has everything to do, as I've mentioned --

Q. What is church policy, if I might inquire?
A. Would I be permitted just to finish that sentence? If not --

Q. I don't want to waste your time, or indeed that of the Commission. If I might clarify my question. I just want to know what the church policy is now.
A. I'm happy to repeat it again.

Q. Right.
A. In every allegation of child abuse - I'd open it and read it again, but I think the Commissioner might get frustrated with me - but in every allegation of child abuse, the elders are informed, reminded, as they've got written there, to make sure that the survivor or victim, victim's family, are told that they have the absolute right

to deal with it with the authorities and that the elders will support them in that. So we have repeatedly said that.

Q. Certainly. And that's at a time when the elders may indeed have established, to their own satisfaction, that they believe the allegation?
A. Look, again, for the sake of the Commission, I'm sorry to repeat myself, but chapter 12 of the Elders' Handbook, if you recall, specifically says at the time they first hear of the allegation. So there may be no evidence, it may be hearsay. The first thing that they do is contact the branch office, and they are given that advice and the elders relay that advice.

Q. His Honour touched upon this, as to knowledge and/or belief as to whether or not a crime has been committed. Are you aware of the gravity of the criminal sanction if one has a knowledge or a belief about a crime having been committed and one doesn't go to the authorities? I'm talking about the elders.
A. I think the Commissioner - his Honour did an outstanding job of making it very clear to me, and I've acknowledged the fact that while that is a relatively new understanding to me, I don't claim to understand the law, what I've recognised and humbly accepted is that every individual in New South Wales - and that's something that's going to face elders and our branch office more than every individual - that there is a law there that has a bearing, and I understand that.

MS GALLAGHER: Thank you, your Honour.

THE CHAIR: Q. Did you hear the evidence of Mr Davies from Queensland?
A. I did, most of it, your Honour, yes.

Q. Did you hear his concerns about your processes and the risk to prosecution?
A. I did. I heard what he said. Yes.

Q. If someone is accused of a crime - it may be sexual abuse or indeed any other crime - which comes before the elders, that accusation comes before the elders, is the person accused required to answer to the elders?
A. The elders would never - I may have just missed the first part, but the elders would never - or the policy or

procedure is that they would always follow up an allegation.

Q. I understand that, but is the accused required to answer to the elders - answer their questions?
A. I would say in the congregation setting the answer is yes. Then, if the individual failed to do that, it would be difficult for me to understand how he would continue in the congregation, or that the parents or victim wouldn't be encouraged to deal with the matter through another course.

Q. So, in order to, as it were, protect him or herself within the setting of the church, the person would be required to answer the question of the elders; is that right?
A. I think the clear Proverbs 28 verse 13 says confess your sins. Is there a scriptural obligation for them to confess their sins? Could they refuse to do that? I guess the answer would be yes.

Q. What about not confessing your sins but articulating your defence; would you have to do that?
A. The accused?

Q. Yes.
A. Yes. If there was - if there was an allegation against an individual and he refused to answer that allegation, the individual would be disfellowshipped from the congregation ultimately, because again, as the charge of brazen loose conduct is an absolute disregard for the authority and standards, so he would be disfellowshipped if he refused.

Q. It's probably murky territory for you, but do you understand where we've stepped into now in terms of the conflict or potential conflict between your processes and the civil law?
A. Yes, I do understand the reasoning and I'm appreciative of it. I acknowledge what you're saying.

Q. What's the answer?
A. I - well, I'm looking - I think we're looking forward to the recommendations of the Commission. We're favourable to mandatory reporting and we're favourable to documenting and addressing our policies wherever we can. That's a pretty sweeping statement but, as I said, we are motivated to do what we can within the scriptures to make sure that

we make whatever changes are needed, your Honour.

THE CHAIR: You gentlemen will be able to help us on that question, too. Mr Tokley?

<**EXAMINATION BY MR TOKLEY:**

MR TOKLEY: Q. I have just one topic I wish to have some re-examination on. I'll only be a couple of minutes, I think. Mr Spinks, my name is Mr Tokley, as you know. I represent the Watchtower Bible & Tract Society of Australia as well of three other persons, including yourself, before this Commission. You gave some evidence earlier today about persons who are members of the Jehovah's Witness faith, including psychiatrists, psychologists, therapists and welfare workers. Do you remember that answer?
A. Yes.

Q. Are policemen and women also members of the Jehovah's Witness faith?
A. Yes, there are Jehovah's Witnesses in all - various aspects of the police force, yes.

Q. Do you, in the service department, deal with members of the police force as part of your work?
A. Yes. We have a good rapport with the police for matters in both directions. Without digressing, we've had extensive dealings with the police in regard to the murder of the High Court judges *[sic]* and the bombing of the Kingdom Hall. So up until 8 o'clock this morning, we have a good relationship with the police force. I had a meeting earlier this morning.

Q. I take it there is no policy or scriptural reference which requires that the service department or, indeed, any other Jehovah's Witness not cooperate with the police?
A. It's exactly the opposite. If I can just be permitted just for one moment to show - because I feel that it's not been clear - it's been referred to but --

MR TOKLEY: Does your Honour have any objection to Mr Spinks referring to the --

Q. I take it that it's the Bible you're referring to?
A. Yes, just a verse from the Bible.

THE CHAIR: Q. We're about to embark upon a complicated question, but go ahead.
A. I'll make it brief.

Q. You'll run into the problem of, if the law is a problem and the police are trying to enforce the law, it's a problem for Jehovah's Witnesses. That's the problem you will run into.
A. I think this says the opposite, your Honour, if I could be permitted to read it.

Q. You said what I just said before lunch, but anyway.
A. Romans, chapter 13, if I could just be indulged to read the verses, because this is our absolute conviction. It says:

> *Let every person be in subjection to the superior authorities, for there is no authority except by God; the existing authorities stand placed in their relative positions by God. Therefore, who ever opposes the authority has taken a stand against the arrangement of God; those who have taken a stand against it will bring judgment against themselves ...*

Verse 4 says:

> *... for it is God's minister to you for your good. But if you are doing what is bad, be in fear, for it is not without purpose that it bears the sword. It is God's minister, an avenger to express wrath against the one practising what is bad.*

So Jehovah's Witnesses have absolute regard for the law in these areas. We want to be law abiding. If, as has been raised, there are areas of our processes that are not in harmony with the law in this matter, we will change them. We will make the adjustment. We will continue to cooperate with the police. We love the police. We want to cooperate with the police and if there are laws that require us, we will change our arrangements to conform - to support the police.

THE CHAIR: Q. Mr Spinks, it's a complicated question. Before lunch you rightly pointed out that the Jehovah's

Witnesses did not comply with the Nazi obligations, and that has occurred or is occurring throughout the world. You can't literally apply that Bible passage to all circumstances, can you?
A. I read before Acts 5:29 that talks about obeying God as ruler rather than man. If a government, as the Nazis did or as South Korea does, says I have to go and kill people, then I'll default to God's law and I'll go to prison for the consequences.

When the Australian law says, "You report every case of child abuse, regardless of the wishes of the victim", Jehovah's Witnesses will fully comply with it. There is no question about us obeying the law.

Q. I understand that, but you have to make a judgment is the point, don't you? As a Jehovah's Witness you have to make a judgment?
A. Not with regard to the law in relation to things that don't conflict with Bible principles, because reporting a child abuse at any level does not conflict with Bible principles, and we would happily comply.

MR TOKLEY: Q. I take it from what you've said in answer to his Honour's questions that you draw the distinction between those legal requirements of a government, which are regarded as being in conflict with the scriptures, which you will not observe - and that's why you gave the examples of Nazi Germany and Korea; correct?
A. Yes, that's correct.

Q. And those legal requirements which are in harmony with the scriptures, which Jehovah's Witnesses will comply with?
A. Absolutely.

Q. And that's the distinction that you seek to draw?
A. That's correct.

MR TOKLEY: Thank you. Thank you, your Honour, I have no more questions.

MS DAVID: Your Honour, I did have a question, but I note the time.

THE CHAIR: No, you ask your question.

<**EXAMINATION BY MS DAVID:**

MS DAVID: I have three, but I'll try to limit it, given the time.

Q. For the record, my name is Ms David and I represent [BCG]. It's on this point of cooperation, and this is with the other - counsellors, psychologists and persons who would assist victims. I just want to be clear that it is not just in circumstances where the victim or the parents of a victim raise that they want to go to the authorities that you will advise them that it's their right to do so. Is it the case that you positively tell them that there are a variety of options and authorities that they may wish to speak to? Do you positively counsel them in that regard?
A. Again, I can't speak in the absolute, but my understanding would be that in every case we positively go to the parents and say, "If you choose to, you'll have our full support." Do we go and say, "You must go to the police"? We don't do that.

Q. I'm really asking you if there is somewhere in between there. It just concerns me, with respect, some of the language that you have used - that you will cooperate; you know, you respect their right if that's what they want to do. Do you tell them that that is an option that is available to them?
A. In every situation, to my knowledge, we do.

Q. And that is what you counsel the elders?
A. That's correct.

Q. And that is a new practice?
A. Why do you say that?

Q. I represent [BCG].
A. Oh so did the elders do that --

Q. No, in fact, she has made a statement that she was instructed to the contrary - when she raised it some years later with the elders, she was, in fact, advised that she would be disfellowshipped if she did, and other matters. I guess what I'm concerned with is that victims and their parents or guardians are aware not only that they have that right, but of persons who they might go to?
A. I think I've answered that question. Did that happen 24 years ago? I have no intention of disrespecting [BCG]'s

recollection.

Q. If I could seek the Commission's indulgence for a minute, just in relation to the issue of support - because what concerns me is that in your statement, and I'm not going to go to each paragraph, but on a number of occasions you have said that you take steps, you advise the elders to protect and support the victim. Again, I come back to [BCG]. It is plainly clear from her statement that she did not feel supported and she did not feel protected through that process. Do you agree with that, from having heard her evidence?
A. I do, I agree that that is what her evidence was, absolutely, I heard it, yes.

Q. And you heard from the elders that they believed that they gave her support?
A. I heard that, too.

Q. There is a clear disconnect there, isn't there?
A. There are two different recollections.

Q. No. What I want to suggest to you is that it's not a difference in recollection. There is a clear disconnect, because while a well-meaning elder might believe that he has provided support, what it really highlights is that they are completely inexperienced and unable to provide the sort of support that a victim of child abuse needs? Isn't that what that indicates?
A. I think that's the longest question I've heard all day.

Q. All right.
A. If I can, I think what you're saying is if I had the power to be able to go back 24, 25 years --

Q. No.

THE CHAIR: Q. No, no, Mr Spinks.
A. I'm sorry.

Q. What's being put to you is that this is not a question of recollection. It's the fact that the report from the survivor, as to the way she felt, which is her own truthful account --
A. Yes.

Q. -- is something which the elders obviously did not understand or appreciate, and that may be because of the limitations that old men, like me --
A. And me.

Q. -- might have in dealing with intimate allegations from a young woman about what has happened to them. Do you understand the point?
A. I do, and I accept that.

Q. Well, accepting it is one thing, but then what is built into your process, if you accept it, is the risk, in every case when we are talking about abuse of this nature, that the survivor will feel unsupported and, indeed, may well be traumatised by the process. You understand?
A. I do.

Q. And that's a very serious position for the Jehovah's Witnesses to be in, and a matter of concern to the Commission. Do you understand?
A. I do understand.

MS DAVID: Q. The case of [BCG] highlights that there are gross inadequacies in the way that the Jehovah's Witness congregation deals with these matters, notwithstanding their good intentions. I'm not suggesting that. I'm just saying that clearly, from [BCG]'s point of view as an example - I'm sure representing many other victims - change needs to occur to ensure that there is a comprehensive regime in place to look out for her, not that the elders don't have that capacity? Do you agree with that?
A. Again, it was such a long question. I understand - I understand the criticism and I think, again, I would say I do understand what you're saying.

Q. And that is an area that you need to look at seriously within your processes, to ensure that you can properly support and protect a victim such as [BCG]?
A. And continually do so - continually reevaluate and accept those observations.

Q. And to accept those observations - precisely.
A. Yes, I agree.

MS DAVID: Thank you.

MR STEWART: Your Honour, there is one matter I should put to Mr Spinks briefly.

<EXAMINATION BY MR STEWART:

MR STEWART: Q. Mr Spinks, it is just in relation to your evidence in the last short while. You said that elders are informed to make sure that the survivor or victim's family are told that they have the absolute right to deal with it with the authorities. If I can take you to your Shepherd the Flock handbook, tab 120, page 131, you explained earlier, looking at paragraphs 18 and 19, from here is what you explain, the generic advice you give, and it's based on what is written here. You'll see in paragraph 19, just below the bold, it says:

> *If you are asked, make it clear that whether to report the matter to the authorities or not is a personal decision.*

I suggest to you that that's where the truth lies: the truth, in fact, is that you tell your elders, "If you are asked, make it clear that whether to report the matter to the authorities or not is a personal decision", and that it's not something that you tell them in every case. It's not something that the elders are instructed to tell the families in every case, that it's their absolute right to deal with the authorities. Do you accept that?
A. No.

THE CHAIR: Q. Is that another document that needs to change, then?
A. Yes. Earlier, I think, I recounted under oath what we do and what we say, and have acknowledged that we certainly need to put these references together and document what is actually done, and I apologise that that's not the case.

THE CHAIR: Very well, thank you for your evidence. You are excused.

<THE WITNESS WITHDREW

THE CHAIR: We'll adjourn until 10am in the morning.

AT 4.06PM THE COMMISSION WAS ADJOURNED
TO WEDNESDAY, 5 AUGUST 2015 AT 10AM

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#29-019 [1] - 15654:18
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#29-021 [1] - 15719:26
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