



JW Survivors

Submission in Response to
the Consultation Paper for
the establishing of the
“Terms of Reference” for
the Child Abuse Royal
Commission

JW Survivors is a volunteer not-for-profit
community based victim advocacy group
for survivors of the Church of Jehovah’s
Witnesses within Australia.

www.jwsurvivors.org

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November 26, 2012

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JW SURVIVORS Victims Advocacy Group for survivors of the Church of Jehovah's Witnesses in Australia

JW Survivors is a volunteer not-for-profit community based victim advocacy group for survivors of the Church of Jehovah's Witnesses within Australia. The seeds of **JW Survivors** were planted by current and former members of the Church of Jehovah's Witnesses, and their families, in response to the Victorian [Inquiry into the Handling of Child Abuse by Religious and other Organisations](#), and an extensive submission made in relation to the Church of Jehovah's Witnesses and their administrative controlling corporation, the Watchtower Bible and Tract Society of Australia.

JW Survivors' aim and objectives are:

- To act as a peak body to represent survivors of sexual abuse, child abuse, religious vilification, and religious bullying from within the Church of Jehovah's Witnesses.
- To advocate for, and on behalf of, victims of crime committed within the religious setting of the Church of Jehovah's Witnesses.
- To defend the religious freedoms and human rights of former members of the Church of Jehovah's Witnesses.
- To force the Church of Jehovah's Witnesses to adopt and implement a formal Child Protection Policy, a Child Safety Policy, a Privacy Policy and a Working with Children Protocol.
- To continue to fight for the reinstating of the [criminal charges](#) brought against the Church of Jehovah's Witnesses and the Governing Body of Jehovah's Witnesses in July 2011, over criminal breaches of the Victorian *Working with Children Act 2005*.
- To facilitate in bringing together the elements needed to launch a [class action lawsuit](#) on behalf of the 6,160 victims of criminal child abuse committed within the Church of Jehovah's Witnesses, in the State of Victoria, directly in relation to criminal breaches of the *Working with Children Act 2005* and committed by the church between July 2008 and December 2011.
- To be a voice for the silenced.



JW SURVIVORS ...a voice for the silenced.

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JW SURVIVORS - Submission in Response to the Consultation Paper for the establishing of the Terms of Reference for the Child Abuse Royal Commission

Secretariat
Royal Commission into Child Sexual Abuse
Canberra, AUSTRALIA

JW Survivors thanks the government of Australia for announcing the Royal Commission into Child Sexual Abuse, and welcomes the opportunity to have an input into the arrangements for the establishment of the Royal Commission, including the scope of the Terms of Reference, the form of the Royal Commission and the reporting timetable for the Royal Commission.

It is encouraging to know that child abuse is now acknowledged as a worldwide problem. Some countries are even setting up a register of known pedophiles, restricting their easy access to children. Then there are those who seek a better life for children by passing legislation to protect them. While we all no doubt applaud such efforts to rid society of child abuse, we must be realistic and acknowledge that child abuse has very deep roots in human society. It would be naive to think that a simple solution such as legislation will provide complete protection for our children. Many laws have already been passed, and yet the problem persists. It is really an indictment of the world's delinquent adults that the natural right to childhood has to be protected by a vast array of laws. Laws are not the ultimate protection for children. Governments, pushed to the limits by economic constraints, are not doing enough to stop the exploitation of their children. Think of the heartbreak of parents who have discovered, too late, that their children have been abused by trusted clergymen.

The sobering words contained within the above paragraph discussing “delinquent adults” who must be forced by legislation to protect children, and the comments criticising governments for “not doing enough to stop the exploitation of their children” were not written by anybody from JW Survivors. In fact, they were penned by the Governing Body of Jehovah’s Witnesses. In April 1999, well over a hundred thousand copies of the Awake! magazine (April 8, 1999 issue), which carried the above words in a feature article published by the Watchtower Bible and Tract Society of Australia, were distributed to households across Australia by members of the Church of Jehovah’s Witnesses.

“It is really an indictment of the world’s delinquent adults that the natural right to childhood has to be protected by a vast array of laws.”

On July 26, 2011, the Governing Body of Jehovah’s Witnesses, and the Watchtower Bible and Tract Society of Australia, were formally charged in the Magistrates’ Court of Victoria with the committing of criminal offences against children within the Church of Jehovah’s Witnesses by

JW SURVIVORS - Submission in Response to the Consultation Paper for the establishing of the Terms of Reference for the Child Abuse Royal Commission

their refusal to comply with mandatory child protection laws, as legislated in the Victorian *Working with Children Act 2005*. (Case No's: B12083527 and B12082206 respectively.) The period of non-compliance covered July 1, 2008 through July 22, 2011.

The Governing Body of Jehovah's Witnesses refused to answer the Summons to appear in Court on September 13, 2011, either in person or by legal counsel. They were summoned to appear again on October 11, 2011. They failed to appear or to send legal counsel. A third time they were summoned to appear in the Magistrates' Court on November 9, 2011. They again failed to appear or to send legal counsel. A fourth time they were summoned to appear on December 6, 2011. Yet again they failed to appear or to send legal counsel. A fifth time they were summoned to appear on February 21, 2012, to answer the criminal charged filed against them. Once again they failed to appear or to send legal counsel. Arrest Warrants, for each individual member of the Governing Body of Jehovah's Witnesses, were thereupon presented to the Magistrates' Court by Acting Prosecutor Steven Unthank.

Following this the Victorian Director of Public Prosecutions "discontinued" the prosecution citing that the ongoing prosecution of the Governing Body of Jehovah's Witnesses in relation to their refusal to comply with mandatory child protection laws was "not in the public interest." Criminal breaches of the *Working with Children Act 2005* continue to be committed within the Church of Jehovah's Witnesses at the rate of over 1,000 offences per week.

During the above criminal court cases it was discovered that the Church of Jehovah's Witnesses, the Governing Body of Jehovah's Witnesses, and the Watchtower Bible and Tract Society of Australia had knowingly breached Section 35 of the *Working with Children Act 2005* by engaging and continuing to engage persons ("ministers of religion") in child-related work, knowing that it is child-related work, and knowing that the worker ("minister of religion") has not passed a working with children check.

In total there were over 2,000 "ministers of religion" and volunteers directly engaged in child-related work within the Church of Jehovah's Witnesses in over 170 congregations and over 200 Ministry Schools with 1000's of enrolled children, in the State of Victoria that had not complied with the *Working with Children Act 2005* from July 1, 2008 up until the filing of criminal charges against the church on July 26, 2011. The Church of Jehovah's Witnesses continue to offend.

14,600 serious offences (Level 7 offences) had been discovered committed against *the Act* by the Church of Jehovah's Witnesses in the State of Victoria against some 6,160 children. Had the Director of Public Prosecutions not "discontinued" the prosecution, in relation to the first 5 sets of criminal charges against the church in relation to the Traralgon Congregation of Jehovah's Witnesses, then the church could have been prosecuted for all 14,600 criminal offences. The potential fine's the Church of Jehovah's Witnesses was facing was:

\$2.5 billion (\$2,567,871,360.00)

Instead the Church of Jehovah's Witnesses was allowed to escape accountability in relation to their wholesale criminal breaches of the working with children laws. On February 21, 2012, at the Magistrates' Court of Victoria, Morwell, and immediately after the Director of Public

JW SURVIVORS - Submission in Response to the Consultation Paper for the establishing of the Terms of Reference for the Child Abuse Royal Commission

Prosecutions “discontinued” the criminal cases against the Church of Jehovah’s Witnesses, the family whom had lodged the complaint over criminal breaches of the *Working with Children Act 2005* by the Church, and of whom were current members of the Church of Jehovah’s Witnesses and were present at the court hearing, were informed by legal counsel for the Watchtower Bible and Tract Society of Australia (which trades under the trading name “Jehovah’s Witnesses”), that:

“You’re implied invitation for you and your family to attend any gatherings of Jehovah’s Witnesses has been revoked. This includes the Traralgon Congregation.”

Thereupon the family, and their children, were thrown out of the Church of Jehovah’s Witnesses.

Steven Unthank, the Acting Prosecutor of the above criminal cases, and several other criminal cases within the Magistrates’ Court of Victoria against the Church of Jehovah’s Witnesses over breaches of mandatory child protection laws (Case No’s: B12083367, B12083108; B12083833), went on the set up and finance the victim advocacy group **JW Survivors** to help survivors of the Church of Jehovah’s Witnesses and their families.

“It would be naive to think that a simple solution such as legislation will provide complete protection for our children. Many laws have already been passed, and yet the problem persists.”

Working with children laws and child safety legislation are the frontline of physical and sexual protection for children within the community. These laws prevent those who pose a risk to the physical and sexual safety of children from having easy access to children across a wide range of industries, including within religious organisations.

With the exception of Tasmania, all other States and Territories have legislated working with children laws of varying degrees. However, not all States and Territories require “religious organisations” and “ministers of religion” to undergo a working with children check.

During the “Protecting Victoria’s Vulnerable Children Inquiry” Steven Unthank presented a verbal submission in relation to the Victorian *Working with Children Act 2005* (the Act) and the persistent problem of the failure of the Church of Jehovah’s Witnesses to comply with the

JW SURVIVORS - Submission in Response to the Consultation Paper for the establishing of the Terms of Reference for the Child Abuse Royal Commission

legislation. Based on Unthank's submission, the Inquiry Panel in their January 2012 report (Cummins Report, Volume 2, chapter 14.5, page 353), stated:

"The Act is an important element of the legal framework in place to protect vulnerable children. It is appropriate for there to be not only an effective response to any complaints of potential offences committed under the Act, which is the responsibility of Victoria Police, but also for there to be proactive administration of the Act by DOJ. In that regard, any future review of the operation of the Act would benefit with the recording and reporting of data in relation to investigations and prosecutions under the Act as well as the number of active audits undertaken by DOJ of religious and other organisations that involve working with children, on their level of compliance with the requirements of the Act.

"As noted above, DOJ records data relating to the application and issue of Working With Children Checks and published these on its website. The recording and reporting of data on the number of investigations and prosecutions for breaches of the WWC Act is not recorded."

In the State of Victoria, breaches of the working with children laws are a Level 7 offence and carry up to 2 years imprisonment, in addition to a potential fine of **\$29,313.60** (240 penalty units) for an individual and **\$146,568.00** (1,200 penalty units) for a corporation or body.

A failure, or a refusal to comply with working with children laws, by an organisation, religious or otherwise, may be an indicator of the systemic failure of such an organisation to view the physical and sexual safety of children, with whom they work with, as a responsibility and priority; and also may be an indicator of their underlying attitude towards child protection that may place current and future children at a very high risk of being physically or sexually abused.

"While we all no doubt applaud such efforts to rid society of child abuse, we must be realistic and acknowledge that child abuse has very deep roots in human society."

Child abuse and child sexual abuse is rampant within religious organisations. This fact is testified to by the never ending barrage of newspaper articles reporting on massive financial payouts made to victims of child sexual abuse within religious setting. Large jury awarded amounts of financial compensation, such as the recent California, USA, jury award of \$28 million to Ms Candace Conti for being raped as a nine year old child within Church of Jehovah's Witnesses, seem to becoming more and more common. We must be realistic and acknowledge

JW SURVIVORS - Submission in Response to the Consultation Paper for the establishing of the Terms of Reference for the Child Abuse Royal Commission

that child abuse has very deep roots in human society; roots that go right back to organised religion.

Working with children laws, not only prevent those who pose a potential harm to children from having easy access to them, but also allow the community to identify religious organisations, and other organisations, which are proactive in introducing and promoting a child safe environment. Any organisation, religious or otherwise, that fights against the adopting of mandatory child protection laws MUST be rooted out of society, or at the least, publicly exposed as a threat, or potential threat, to the physical and sexual safety of children.

On January 1, 2012, a group of children from the Traralgon Congregation of Jehovah's Witnesses in the State of Victoria wrote an [Open Letter from the Children of Jehovah's Witnesses to the Governing Body of Jehovah's Witnesses](#) seeking an explanation as to why the Church of Jehovah's Witnesses refused to comply with child protection laws. The children's personal letter to their religious leaders was ignored. The children wrote in part:

To the Governing Body of Jehovah's Witnesses

Dear brothers,

We were wondering why you did not help look after us and protect us children in Victoria, Australia, by having the elders get their working with children cards and why you have not said sorry for breaking the law.

When us kids are naughty or we do something bad we have to say sorry to the people we did wrong to. This is what Jehovah and Jesus says in the Bible that we must do if we want to be good people. Sometimes when us kids are naughty at home we get 'time out' and sometimes if we are really naughty we might also get punished. If we break the rules at school then we can also get 'time out' or we might get yard duty or even suspended or expelled.

...Why have you not said sorry to us kids and why are you hiding what you did wrong to us?

Why didn't you do anything to help us when you were first told about the new laws to protect us children all those years ago? All these good laws try to do is to stop bad people from spending time with us or from trying to hurt us. You could have stopped all these problems if only you listened when you were first told.

..Will you please tell us the answers to all our questions and if you will say sorry to us at all for what you have done to us kids?

...It makes us sad that you have broken the law for a long time and not said sorry but hide what you have done instead. This is not love. If you do say sorry to us kids and mean it then we will forgive you. This is love.

We are only children but we will be grown-ups one day and then we will learn everything you did to us.

JW SURVIVORS - Submission in Response to the Consultation Paper for the establishing of the Terms of Reference for the Child Abuse Royal Commission

Warmest Christian love,

signed by us kids – the children in the Traralgon Congregation of Jehovah’s Witnesses for all the children in the State of Victoria, Australia

One of these children has also made a written submission to the Victorian “Inquiry into the Handling of Child Abuse by Religious and other Organisations”. A copy of this child’s submission is included with this JW Survivors’ submission in Response to the Consultation Paper for the establishing of the Terms of Reference for the Child Abuse Royal Commission. The young author of the attached submission has asked:

“Could the government investigation into religions also look at how the Jehovah’s Witnesses break the law over the working with children laws?”

JW Survivors is happy to accommodate this child’s request and to include his hopes, fears and concerns into our “Recommendations and Suggestions in Relation to the Terms of Reference for the Royal Commission into Child Abuse” on the following pages:



RECOMMENDATIONS AND SUGGESTIONS IN RELATION TO THE TERMS OF REFERENCE FOR THE ROYAL COMMISSION INTO CHILD ABUSE

Recommendation 1

JW Survivors recommends that the Royal Commission invite the statutory bodies that administer the working with children laws in various States and Territories to provide a report in relation to complaints made against religious and other organisations under their applicable legislation; the degree of compliance; and any prosecutions launched against religious and other organisations whom had failed or refused to comply with legislated working with children laws.

Such a report would benefit from an assessment of the level of compliance or non-compliance by any organisations, religious or otherwise. Stakeholder input should be pursued.

Recommendation 2

JW Survivors recommends that the Royal Commission investigate religious and other organisations in relation to their response to working with children laws as legislated in various jurisdictions across Australia.

Such an investigation should also consider whether any such criminal breaches, or the handling of allegations of such criminal breaches, are also a contravention of the Australian *Corporations Act 2001*, in relation to the suitability of directors and officers, of registered religious and other corporations and charities, to hold office.

The collection and publication of data on the number of investigations and prosecutions for breaches of working with children laws, committed by religious and other organisations, could be a valuable indicator of the effectiveness of these laws as they form the primary frontline of protecting vulnerable children within the community.

Recommendation 3

JW Survivors recommends that the Royal Commission call the leaders of the Church of Jehovah’s Witnesses, and the Governing Body of Jehovah’s Witnesses, to appear and answer questions in relation to their failure and refusal to comply with mandatory child protection laws as legislated in the Victorian *Working with Children Act 2005*; and in relation to their failure to comply with working with children laws in other jurisdictions.

Recommendation 4

JW Survivors recommends that the Royal Commission investigate whether religious and other organisations, who work with children as defined by statutory bodies, should adopt at a minimum:

- a formal Child Protection Policy,
- a Child Safety Policy,
- a Privacy Policy, and
- a Working with Children Protocol.

And that stakeholders be invited to contribute to the development of such policies.

Recommendation 5

JW Survivors recommends that the Royal Commission investigate whether “mandatory reporting” of child abuse should be required for all holders of a Working with Children card, including those within religious organisations, thereby lawfully circumventing the ecclesiastical privilege often claimed by religious in relation to reporting of child abuse.

Recommendation 6

JW Survivors recommends that the Royal Commission investigate whether solicitor-client privilege is being used by religious organisations to manage cases of child abuse; and whether there exists a conflict or potential conflict-of-interest when a solicitor for a religious organisation and/or their insurance provider is also a religious leader or minister of religion within the religious organisation.

Recommendation 7

JW Survivors recommends that the Royal Commission investigate whether religious and other organisations (including their directors and officers) which operate under the *Australian Corporations Act 2001*, and are registered with the ASIC, have breached *the Act* in relation to their handling of child abuse.

Recommendation 8

JW Survivors recommends that the Royal Commission investigate the response of statutory authorities and the police in relation to the reporting of criminal child abuse within religious and other organisations.

Recommendation 9

JW Survivors recommends that the Royal Commission investigate whether religious organisations or their members, carry out campaigns or engage in activity, to discredit or attack survivors of abuse, including by the application of adverse religious doctrine, by innuendo, name-calling, false labelling, religious vilification, or by the publishing or disseminating of false or misleading information.

JW SURVIVORS - Submission in Response to the Consultation Paper for the establishing of the Terms of Reference for the Child Abuse Royal Commission

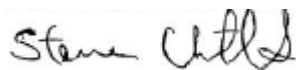
CONCLUSION

Child sexual abuse exists within the entire Church of Jehovah's Witnesses in Australia. Child abuse within the church is micro-managed by a team of lawyers and senior religious leaders, all of whom have taken a 'Vow of Obedience' to protect the interests of the Church and its publishing corporation above all else, even the children. Child abuse victims, and their families, are justified in referring to the Church of Jehovah's Witnesses as a "Pedophile's Paradise".

Following the commencement of the Victorian "Inquiry into the Handling of Child Abuse by Religious and other Organisations", Steven Unthank, the founder of JW Survivors, was inundated with requests for help and assistance, from both former and current members of the Church of Jehovah's Witnesses, in relation to widespread child abuse within the religion. Following the announcement made by Prime Minister Gillard of a Child Abuse Royal Commission, Unthank received a huge spike of calls and requests for help, the result of which, by sheer necessity, demanded the establishing of JW Survivors as a victim advocacy group.

Many submissions made by various organisations and groups to the current Victorian "Inquiry into the Handling of Child Abuse by Religious and other Organisations" have heavily addressed the plague of child sexual abuse within our community. It is anticipated that such organisations will address these same concerns in their submission in response to the Consultation Paper for the establishing of the Terms of Reference for the Child Abuse Royal Commission. Therefore, JW Survivors has specifically addressed areas that they have unique experience and knowledge in.

Yours faithfully,



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