



## WITNESS STATEMENT OF PATRICK TIDMARSH

I, Patrick Tidmarsh of [REDACTED] in the State of Victoria, Consultant at Whole Story Consulting and [REDACTED], do solemnly and sincerely declare that:

- 1 I make this statement on the basis of my own knowledge, save where otherwise stated. Where I make statements based on information provided by others, I believe such information to be true.

### BACKGROUND AND QUALIFICATIONS

- 2 I have worked with Victoria Police since approximately 2007 as a subject matter expert, a forensic interview advisor and a trainer in the Sexual Offence and Child Abuse Investigation Team (**SOCIT**).
- 3 I fulfilled the requirements for the Degree of Doctor of Philosophy from Deakin University in August 2016.
- 4 In approximately 2021, I commenced my own consultancy "Whole Story Consulting" and I continue to collaborate with other criminologists and academics to publish in the subject matter of sexual offending.
- 5 From September 2019, I have worked as the Sexual Harm Response Co-ordinator at the University of Melbourne, Victoria, assisting in the prevention of and response to sexual and other student relationship harms.
- 6 I am currently also an Associate Professor of Criminal Justice Reform at the University of Suffolk, United Kingdom, working on the UL Bluestone Project, which is aimed at improving police responses to Rape and Serious Sexual Offences (RASSO).
- 7 In October 2021, my book entitled 'The Whole Story. Investigating Sexual Crime – Truth, Lies and the Path to Justice' was published by Jonathan Cape. This book considers the investigation and prosecution of sexual crime.

### CHANGES IN VICTORIA POLICE OVER THE LAST 20 YEARS

- 8 In 2004, the Victorian Law Reform Commission (**VLRC**) published a report into the handling of sexual offence cases by the criminal justice system. The report made 32 recommendations for the improvement of police investigative and

- victim management practice. There was significant criticism of police culture and, in particular, the attitudes of detectives towards victims of sexual crime.
- 9 Most notable of the recommendations was that Victoria Police should establish a specialisation in sexual crime investigation.
- 10 In 2007, Victoria Police began the roll out of a raft of reforms to address the criticisms of the VLRC's 2004 report. These included the establishment of two specialist development positions, to focus on improvements to investigative methodology and police culture and practice. The task of these positions was to develop the existing training program into one that incorporated a 'Specialist Sexual Assault and Child Abuse Investigator' component.
- 11 I worked to improve members' understanding of sexual offending, sexual offence dynamics and offender behaviour. My role was also tasked with improving detectives' investigative interviews and interview planning with sexual offence suspects.
- 12 When I commenced with Victoria Police in 2007, the members were introspective and defensive against new information. Most of the leadership was male and a hypermasculine culture existed in some quarters.
- 13 At that time, the work of sexual crime or relationship crime was not popular. Members generally showed a lack of interest in it and described a feeling of being unable to see where the 'wins' were going to be. Investigations into sexual assault of either adults or children, were seen as time consuming and unlikely to result in reasonable prospects of a successful conviction.
- 14 There were still a lot of myths and misconceptions about victim behaviours with respect to sexual crime, why the victim did or didn't do something, how credible that person seemed and whether there was an independent witness who saw the actual abuse or offence taking place.
- 15 There is research into the way in which defence counsel approached trials of adult to adult rape in the 1950s compared to the way in which defence counsel approached similar trials in the 2000s which demonstrates that there was not a significant difference in the strategy employed.<sup>1</sup>

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<sup>1</sup> S Zydervelt, R Zajac, A Kaladelfos and N Westera, 'Lawyers' Strategies for Cross-examining Rape Complainants: Have We Moved Beyond the 1950s?' (2017) 57(3) *The British Journal of Criminology* 551.

- 16 In the 1950s, defence counsel would draw on positive aspects of the alleged perpetrator's reputation, *'he's a good fellow who wouldn't do that sort of thing'* was the line of argument that might be run. It was common for defence counsel to try to destroy the credibility of the victim, often by examining the victim's sexual history and contrasting it against a fictitious woman of virtue, a woman who would have resisted, fought back and been injured. There were warnings about unreliable memory, the danger of convicting on one person's word alone and things of that nature.
- 17 In the 2000s, defence counsel are more likely to highlight the victim's delay in reporting the alleged incident and any continued relationship between the alleged perpetrator and the victim. Defence counsel tend to focus on any inconsistencies in the victim's evidence and use it to infer that the victim is not credible. Counsel may also deliberately prompt victims to misinterpret memories that they have of traumatic events.
- 18 In the face of such defence strategies police would look through the same lens of myths and misconceptions when determining whether an investigation was worth pursuing in that it may result in a successful conviction.
- 19 Even though there was a huge knowledge base that had been accumulated by researchers across the world about sex offenders and sex offending, very little of it had moved through into the practice of policing or to the criminal justice system more generally.
- 20 In preparation for a new training regimen and the development of specialist sexual assault and child abuse training investigation, it became clear that previous investigative practice substantially underrepresented the behaviour of offenders, allowing little opportunity for fact finders to understand the narratives that were presented to them by victims.
- 21 The result of these shortfalls was the misrepresentation and limitation of victim narratives, with consequences in the elicitation of critical relationship evidence. The lack of relationship evidence undermined the effectiveness of victim statements, suspect interviews and the development of 'briefs of evidence' for prosecution.

- 22 It was apparent that a new investigative methodology, terminology and processes designed to improve investigators' knowledge, attitudes and investigative skills would be required.
- 23 With the development of the SOCIT processes came a decision that some SOCITs were set up alongside partner agencies in multi-disciplinary centres with key partner agencies being the Centre Against Sexual Assault and the Department of Health and Social Services Child Protection. There was also provision of forensic nursing at some sites.
- 24 The development of SOCIT and the multi-disciplinary centres was a significant advancement on previous practice. It elevated the status of sexual crime and child abuse investigation, establishing a percentage of investigative capacity commensurate with the level of reported sexual crime.
- 25 Victoria Police went from a police service that had the lowest satisfaction ratings from victims of sexual crime at the time of the VLRC investigation in 2004 to being a service where victims of sexual crime were the most satisfied of any group with their treatment by police, as reported by the Victim Support Agency in 2015.
- 26 This was the result of SOCITs, multidisciplinary centres and an understanding from police of how to listen to the story. Policing is about so much more than just investigating crimes and sending people into the adversarial system. The way police deal with people is absolutely crucial in terms of victim satisfaction and maximising reporting rates.
- 27 I discuss these matters in further detail in my joint submissions with Dr Gemma Hamilton to the VLRC in February 2021 in the context of '*Improving the Response of the Justice System to Sexual Offences: Questions*'. Attached to this statement and marked **PT-1** is a copy of my joint submissions to the VLRC.

## **IMPORTANCE OF SPECIALISATION**

- 28 The geography of Tasmania is a practical barrier to having specialist units. Tasmania Police is set up for service delivery through single stations in different geographical locations and it is normal for members to multi-task.

- 29 Service delivery through this model can cause a fragmentation of culture which can make it difficult to maintain the environment required for a SOCIT model to be effective.
- 30 This does not mean that specialisation in the style of SOCIT cannot exist but the scale of the team might be small and represent a very select group of members.
- 31 It is my view that specialisation of a group of police into sexual offence and child sexual abuse investigation remains important in the Tasmanian context. The nature of the offences and the investigation of them requires a specific skill set that is not held by most police, no matter the level of experience that they have.
- 32 Specialisation in this area is important to maximise the number of complaints that progress to prosecution and conviction and, possibly most importantly to minimise the compacting nature of the trauma experienced by both adult and child victims as they move through the investigation phase. Public confidence in the complaint and investigation process is likely to result in an increase in disclosures of sexual abuse.
- 33 I would suggest that sexual offences against adults and child sexual abuse investigation should remain a specialisation rather than being absorbed into another unit, such as domestic violence investigation.
- 34 Although there is stronger and stronger evidence emerging about the interconnectivity of all relationship crimes, the framework for understanding domestic violence is different to the framework for understanding sexual offending against adults and child sexual abuse. Whilst there are some screening tools routinely used in the investigation of domestic violence geared to detect possible adult to adult sexual violence, they do not broach the possibility of child sexual abuse.
- 35 Uniformed members, who are not specifically trained usually find it difficult to ask questions about child sexual abuse. It is also the case that violence is easier to prosecute than child sexual abuse which can affect a uniformed officer's motivation to pursue that line of inquiry.
- 36 The most important aspect of skill specialisation in the area of sexual offending against adults and child sexual abuse is in interviewing. Fast tracking the

training of interviewers is key. The interview of the complainant is the most important factor and will dictate if the investigation should proceed to the stage of interviewing the perpetrator. An investigation will fail very quickly if the interviews of the perpetrator, the victim and key witnesses are not good enough.

- 37 People trained to specialise in the investigation of sexual offending against adults and child sexual abuse should not, in my view, be rotated through different roles.
- 38 It is true that the key skills and attitudes required to be an investigator in this area are empathy, good communication skills, patience, good investigative skills and open mindedness. Empathy is the most important. Empathetic people are, however, also more prone to suffering vicarious trauma and this can cause burnout. In my view, the answer to that is not to rotate people in and out of the role because that causes disruption in experience, skill acquisition, culture and local connections between the investigator and different agencies. The answer is to support the investigator properly with training, debriefing, mentoring and development of a team culture.
- 39 In Victoria Police there is a Specialist Investigator Support Unit (**SISU**) comprised of a variety of mental health professionals, who are responsible for two or three SOCITs each. A couple of times a month, the SISU runs reflective practice sessions directly with teams, as well as offering support to individuals. That may not be feasible in the Tasmanian context but there would be ways of ensuring that similar support was extended to specialist investigators.
- 40 Another reason to avoid rotation is to ensure continuity of engagement between the investigator and the victim. Historically, an investigator would conduct one interview or take one statement, and would never conduct another interview or take another statement for the purpose of avoiding any inconsistencies which is a logical approach, however, it is a fact that most people remember things in phases. So with that in mind, if a complainant or victim has a good rapport with the investigator, and begin to believe and trust the investigator, they could come back for multiple interviews and follow-up statements.

- 41 The vast majority of inconsistencies in interviews are created by the interviewers and not the complainant. So the quality of interviewing, continuity of engagement and specialism in interviewing is key to the investigative process.
- 42 The SOCIT model in Victoria Police also involved the use of multi-disciplinary teams and co-located facilities for investigation and support services, which provided the optimum service for victims, however, I do not think that it is essential for the formation of an effective specialist investigation team for sexual offences against adults and child sexual abuse.
- 43 There are possibilities for a mobile specialist team or two teams, one in the North and one in the South that could potentially cover the state-wide demand for services in specialist investigation.

### **Form of Training**

- 44 In Victoria Police specialist interviewer training was originally done as a comprehensive single course. More recently training has been modularised. Video and audio evidence training is delivered separately from sexual offences training. This is not my preference but it does allow for flexibility and for components of the course to be delivered on line. Specialist interviewers would, in any event, participate in every training module. The most effective models for training allow for field practice between modules, a focus on career-long learning over one-off courses, and regular practice and feedback regarding core skills, such as forensic interviewing.
- 45 In my view, the financial impost associated with training is not great and it really is essential to ensure police competency in relationship crime investigation and especially sexual offending against adults and child sexual abuse.

### **THE WHOLE STORY FRAMEWORK**

- 46 In around 2007, Mark Barnett, then Principal Practitioner at Victoria Police, and I developed what we call the 'whole story' approach to understanding and investigating sex offending and the sexual abuse of children. It's based on a simple notion that although courts must prove that certain events happened in

time and place, sex offending is primarily a crime of relationship. The relationship would have occurred before and during those events themselves.

- 47 The Whole Story framework helps investigators understand that offending starts with the offender. Perpetrators of child sexual abuse generally work from a place of wanting their victim to think like them, to be like them, to do what they want them to do, not to tell and, if possible, make the child feel responsible for what has occurred.
- 48 There are five key theories that sex offenders are more likely to hold than their peers in the wider population (these are taken from the Implicit Theory model, first presented by Ward and Keenan):
- (a) Dangerous world — most child molesters perceive the adult world as a dangerous place. They might say things like '*Children understand me and I understand them.*' For these people, adult connection is quite difficult and they lack belief systems around relationships, love, intimacy, friendship and connection.
  - (b) Sense of entitlement — child molesters often think that they are entitled to behave in the way that they want to, when they want to. Perhaps the clearest example that I have observed was a priest who was convicted of child sexual assault. It was his view that as priest he had given his life to his church and community and he was entitled to have '*a little bit back*'.
  - (c) Uncontrollability — perpetrators justify their actions in their own mind and consider that what happened was not really their fault. They have a propensity to refuse to accept blame and might say things like '*it wasn't me. I was drinking*' or '*I was using pornography*'.
  - (d) View children as sexual objects — many perpetrators see children as sexual objects and are able to justify that to themselves. If you were to go on-line and look at pornography sites, the biggest category is teenage pornography and there is a lot of child pornography. Many perpetrators rationalise their behaviour as '*not that bad*' within the context of that imagery which normalises teenage and child pornographic acts.

- (e) Minimisation of harm – a child sex offender will usually find ways to minimise, in their own minds, the damage that they have done. They will explain their conduct as *'just showing her love'* or *'it was a special relationship'* or *'it doesn't matter, she's too young to remember'*.
- 49 There is often an assumption that child sexual offending is a specialisation but research is beginning to show that is not necessarily the case.<sup>2</sup> There is significant cross over in adult to adult family violence, child to child sexual abuse, and child sexual abuse by adults. Many abusers cross over age, gender and situation. Some perpetrators will gravitate towards institutions or professions which facilitate access to children and others will prefer the on-line world to the real world.
- 50 No matter the context of the abuse, perpetrators generally display the same thematic thinking, namely:
- (a) an inability to navigate adult relationships;
- (b) a lack of perspective about their own agency which gives them the ability to blame circumstance rather than their own conduct;
- (c) a strong sense of entitlement;
- (d) an ability to sexualise different groups of people even in the face of strong community mores; and
- (e) the ability to mentally dismiss the damage that they are doing, projecting forward prior to the abuse or retrospectively, after they have offended.
- 51 The whole story framework requires understanding of three main elements: grooming, unique signifiers and points of confirmation.

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<sup>2</sup> H Turner, D Finkelhor and R Ormrod, 'Poly-Victimisation in a National Sample of Children and Youth' (2010) 38(3) *American Journal of Preventive Medicine* 323; M Campo, 'Children's exposure to domestic and family violence. Key issues and responses' (CFCA Paper No. 36, Australian Institute of Family Studies, December 2015); S Hamby, D Finkelhor, H Turner and R Ormrod, 'The overlap of witnessing partner violence with child maltreatment and other victimizations in a nationally representative sample of youth' (2010) 34 *Child Abuse and Neglect* 734; A Appel and G Holden, 'The co-occurrence of spouse and physical abuse: A review and appraisal' (1998) 12(4) *Journal of Family Psychology* 578; Z Bidarra, G Lessard and A Dumont, 'Co-occurrence of intimate partner violence and sexual abuse: Prevalence, risk factors and related issues' (2016) 55 *Child Abuse and Neglect* 10; T Herrenkohl et al, 'Intersection of Child Abuse and Children's Exposure to Domestic Violence' (2008) 9(2) *Trauma, Violence and Abuse* 84; G Bedi and C Goddard, 'Intimate Partner Violence: What are the impacts on children?' (2007) 42(1) *Australian Psychologist* 66.

## Grooming 1

- 52 Grooming is the process whereby offenders manipulate victims into compliance.
- 53 A perpetrator will often spend a significant amount of time engaging the target victim in the first, non-sexual stage of grooming, although sometimes this may happen over a short period of time, or acts of violence. Whether conduct can be defined as grooming is dependent on the sequence and accumulation of events.
- 54 Investigators need to look at events and relationship interactions, from the time that the target and the perpetrator first meet to the time of the sexual abuse, in their entirety. Considering elements, particularly offending events, in isolation can result in an erroneous decision to dismiss them as irrelevant.
- 55 Investigators should be looking for the development of power, control and authority by the perpetrator over the victim in the course of their relationship.
- 56 When we conduct training in 'Grooming 1', we undertake a scenario based exercise where half the trainees represent child molesters and the other half represent perpetrators of adult to adult rape. The trainee might be asked to role play a child molester who is a teacher, or a football coach who has just moved to a country town or a rapist who is a peripheral friend or acquaintance who is present on a night out on the town.
- 57 We ask the investigators to imagine that they are the perpetrator and to adopt the mindset that the perpetrator has. The investigator is required to think about what they would do if they wanted to achieve the goal of sexually abusing their target.
- 58 This exercise assists the investigator to understand that it does not matter whether the perpetrator is acting deliberately or instinctively, there will be key events and communications throughout the entirety of the Grooming 1 phase of the relationship which constitute evidence of the intention of the perpetrator and the manipulation of the victim by the perpetrator.
- 59 Understanding the mind of the perpetrator and the key events and communications which occur in the Grooming 1 phase will assist the investigator to understand why the victim may behave in ways that would have

historically been used to infer a lack of credibility. For example, a delay by the victim in making a complaint might be explained by the dynamics of the relationship and the successful establishment of power, control and authority of the perpetrator over the victim.

### **Grooming 2**

- 60 'Grooming 2' refers to the stage when the relationship becomes sexualised. The sexualising of the relationship is generally fairly obvious with children because there are clear boundaries around what constitutes appropriate physical contact and communication with a child. Grooming 1 and Grooming 2 will then often run together until they evolve into 'Grooming 3'.

### **Grooming 3**

- 61 The Grooming 3 stage occurs as soon as the victim keeps the act of abuse a secret. This is a form of entrapment by the perpetrator against the victim.
- 62 These three stages of grooming may continue to run together where children are concerned, even when the offending behaviour and the sexualising in the relationship is no longer continuing. This is usually in order to maintain a continued level of control over the child and to ensure the offending or associated behaviour is not disclosed.

### **Unique signifiers and points of confirmation**

- 63 Unique signifiers refer to the unique elements of each offending 'relationship' which should aid in the elicitation of complete, complex and detailed narratives from victims and perpetrators alike. An example of the use of unique signifiers is set out below.
- 64 Points of confirmation are elements of the victim's narrative that are corroborated by the perpetrator's narrative which can be used to replace third party corroboration which have traditionally been thought of as necessary to secure a conviction. Points of confirmation assist the investigator to understand the unique and often private dynamics of sexual offending narratives, where external corroboration is rarely available.

## **INTERVIEWING**

### **Interviewing the Victim**

- 65 Given that grooming reflects an imbalanced power dynamic, investigators are trained to investigate the suspect and not the victim. The focus should be on the actions of the offender, rather than the reactions of the child victim. The key is to understand why the victim did or didn't do something, in the absence of any judgment, and how the offender caused the victim to react in that way.
- 66 It is important for an investigator to eliminate notions of sexism and victim blaming cultures, move away from his or her own values and beliefs, and concentrate on the specific facts at hand.
- 67 When victims are able to use a narrative style the breadth and depth of the information elicited increases dramatically. It can uncover the things that a child knew, but didn't realise that they knew, about the way that the relationship became structured by the perpetrator's power, control and authority over the victim. This is why investigators are trained to ask open questions and minimise the use of closed questions typical of the wooden question and answer techniques of the past.
- 68 In terms of the methods used for interviewing child victims versus adult victims, the core process is the same, but there are slight nuances in techniques employed. For example, with children, language may be simplified and fewer repetitions elicited.
- 69 Conducting victim interviews in the narrative style will result in a statement that provides the investigator better avenues of inquiry, it suggests witnesses that wouldn't otherwise have appeared relevant and it helps in the formulation of a case concept for the prosecution. When the time comes for interviewing a suspect it allows the interviewer to know the victim's version of events so that they can plan the way that they are going to frame the conversation.

### **Interviewing the Perpetrator**

- 70 If interviewers are taught about the psychology of perpetrators they are better equipped to be curious about why perpetrators do what they do and how they go about it. It makes it easier for the interviewer to move away from the

traditional culture of thinking along the lines of, *'well, he's a scumbag, so he deserves it if I am aggressive and intimidating'*. That technique does not elicit the most useful evidence.

- 71 There have always been police officers who have been really good at interviewing alleged perpetrators and when asked about their methodology, they will say things like *'you've got to give them a bit of dignity, treat them with some respect and listen to what he is saying'*.
- 72 Better evidence can be gleaned with an open narrative style. The interviewer can use the unique signifiers and points of confirmation (as explained above) which have emerged from the interview of the victim. By way of example, the question of whether the perpetrator gave the victim gifts might be a useful piece of information, but it is more useful to know that the offender gave the child a red remote control car for the child's 13th birthday. That is because when the perpetrator is interviewed and is asked to tell the investigator about the red remote control car that they gave the child then there is a lot going on in the perpetrators mind at that point. He is coping with the fact that the investigator knows about that present and he's concerned about what other detail the investigator might have. This gives the investigator power and leverage. It creates a conversational style of interview where the offender is more likely to give up information demonstrating the construct of his offending.
- 73 If the whole story of the relationship is not investigated then it is impossible to have all of the evidence needed to be able to make sense of what happened.
- 74 Often there will be no witness to the offences which usually happens in a private space but there will be witnesses to the non-sexual grooming. For example, if a carer wants access to one child within the family unit they might encourage the other carer to go out to night classes and they will send the other children to bed earlier than the target child. It might take some time to set up those circumstances which allow access. Often the set up and its operation can be corroborated by witnesses even if the actual offence was not witnessed.

### **Skills of the Interviewer subsequent to training**

- 75 In my experience, after training and field practice participants develop an increasing belief in the specialisation of sexual crime investigation. They

demonstrate an increased ability to identify critical themes in victim narratives, including grooming elements and unique signifiers. They are able to utilise open questions and use less closed questions in interviews.

- 76 Training significantly increases investigators confidence in both the process of briefing prosecutors and the prospects of a successful conviction. Investigators also display a decreased level of attributing responsibility and blame to victims.
- 77 Research that I have conducted demonstrates that not all gains after training are maintained after a 12 month period which emphasises the need for specialisation, ongoing professional development and continuity of the role incumbent in the role.<sup>3</sup> Some changes are retained, particularly in relation to the investigators ability to see through myths and misconceptions about victim behaviour.

## **WHOLE CRIMINAL SYSTEM UNDERSTANDING OF OFFENDING**

### **Police prosecutors**

- 78 In Victoria, it is probably the case that police prosecutors would say that the Whole Story methodology has a much higher rate of success in the Magistrates' Court than it does in the County Court, noting that police prosecutors do not have a role in the County Court where the prosecuting is done by Crown Prosecutors. The success in the lower courts is probably because the police, the police prosecutors and the magistrates have been trained in the same process.
- 79 In Victoria, the Whole Story training program went from being a two hour presentation to three days of training within a five year period. There are now three levels of training for police prosecutors and level three training is required before a police prosecutor can prosecute a sexual crime.
- 80 When we engaged with prosecutors directly, they often shared concerns in relation to how best to respond to and argue the points raised by defence counsel.

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<sup>3</sup> E Darwinkel, M Powell and P Tidmarsh, 'Prosecutors' perceptions of the utility of 'relationship' evidence in sexual abuse trials' (2014) 47(1) *Australian & New Zealand Journal of Criminology* 44; E Darwinkel, M Powell and P Tidmarsh, 'Improving Police Officers' Perceptions of Sexual Offending Through Intensive Training' (2013) 40(8) *Criminal Justice and Behaviour* 895.

81 In response to this, we prepared a booklet which was designed to assist prosecutors to create a case concept which facilitated the prosecutor to call as much of the available relationship evidence as possible. Attached to this statement and marked **PT-2** is a copy of this booklet. That evidence, once it is before the fact finder, can be very powerful if the fact finder understands the mind of an adult sex offender or a sexual abuser of children and is not labouring under the myths and misconceptions surrounding victim behaviour.

### **Magistrates and Judges**

82 I have done training with magistrates and judges but in Victoria it is a voluntary process for those who want to be involved. Often you will see the same people coming back over time but some people never involve themselves. That acts as a barrier for change and means that many judges don't have the most basic education about the psychology of perpetrators or how they operate.

83 In my view, there are strong arguments for compulsory training for court officials, particularly given that myths and misconceptions are still widespread and have a considerable impact on case outcomes. There is also a strong argument for non-case specific training for fact finders, conducted pre-trial, to minimise the impact of myths and misconceptions that defence counsel may wish to invoke during trial.

### **Juries**

84 In terms of juries and jurors, there have been various experiments conducted in how best to deal with jurors.

85 What I found particularly interesting, was a survey conducted by the ABC in 2021. One of the survey questions was along the lines of: '*Allegations of sexual assault are almost always true – agree or disagree?*' In 2021, 55% of people agreed. Given that the rate of making a false report of sexual assault in Australia is somewhere between 2% to 10%, or maybe even 5% to 10%, the result of the survey is a long way off. But when you compare this with the result in 2019, in which 41% of people agreed, there is a noticeable shift.

86 There have been some models which used non-case specific educational sessions for jurors and potential jurors pre-trial, which have clearly shown to

prompt defence counsel to use fewer myths and misconceptions than they otherwise would have done. This would be a way to take action directly, instead of waiting for the attitudes of the community to shift. These non-case specific educational sessions have been trialled in New Zealand courts. Another way would be to utilise professional jurors within specialist courts. This would entail training, supervising, and maintaining the health and wellbeing of fact finders, who are employed as part of a pool of potential jurors.

### **Witness Intermediaries**

- 87 I believe witness intermediaries are incredibly important and effective.
- 88 In the United Kingdom, there are organisations, for example Triangle, which enable children and young people to communicate about important things, especially in legal proceedings. These kinds of organisations and intermediaries in the United Kingdom are everywhere and can be easily accessible.
- 89 In Australia, the availability of witness intermediaries is in a formative phase. In 10 years' time, I would hope organisations that provide access to witness intermediaries are more widespread, like in the United Kingdom.
- 90 Any resource or thing that helps a child, or adult, tell their story for the breadth and depth of the detail helps gather relevant evidence, and ensures a factfinder moves beyond their own script and myths and misconceptions. Once a factfinder identifies with the protagonist, the focus shifts from 'what he/she should have done' and 'what I would have done differently' to understanding what he/she did do and why he/she did that.

I make this solemn declaration under the *Oaths Act 2001* (Tas).

Declared at [REDACTED] Victoria  
On 16/6/2022

[REDACTED]  
.....  
Patrick Tidmarsh

Before me

[REDACTED]  
.....  
[REDACTED], Solicitor, Commissioner for Declarations