REPORT OF PROCEEDINGS BEFORE

STANDING COMMITTEE ON LAW AND JUSTICE

INQUIRY INTO CHILD SEXUAL ASSAULT MATTERS

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At Sydney on Friday 3 May 2002

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The Committee met at 10.00 a.m.

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PRESENT

The Hon. Ron Dyer (Chair)

The Hon. Peter Breen
The Hon. John Hatzistergos
The Hon. John Ryan

JOHN ROBERT HESLOP, Manager, Child Protection Enforcement Agency, New South Wales Police Service, 14-24 College Street, Darlinghurst, and

DIANA McCONACHY, Senior Program Officer, Youth and Child Protection Team, New South Wales Police Service, 14-24 College Street, Darlinghurst, sworn and examined:

CHAIR: In what capacity are you appearing before the Committee?

Mr HESLOP: I am appearing as a representative of the New South Wales Police Force but more specifically in this context the Manager of the Child Protection Enforcement Agency.

Ms McCONACHY: I am appearing as the evaluator of the electronic recording of children's evidence.

CHAIR: Did you receive a summons issued under my hand in accordance with the provisions of the Parliamentary Evidence Act?

Mr HESLOP: I have.

Ms McCONACHY: Yes, I did.

CHAIR: Are you conversant with the terms of reference for this inquiry?

Mr HESLOP: I am.

Ms McCONACHY: I am.

CHAIR: Can you briefly outline your qualifications and experience as they are relevant to the terms of reference for this inquiry?

Mr HESLOP: In 1987 I was appointed the inaugural program co-ordinator for child protection for the Police Service as it then was. Since that time I have been party to a number of policy areas pertaining to child protection and ostensibly the Police Service Action Plan in relation to child abuse. More recently I have been appointed as the first Commander of the Child Protection Enforcement Agency, being in 1996. My experience in child protection has been since 1987.

Ms McCONACHY: I have a Bachelor of Arts, a Diploma in Education and Master of Education. I have been involved in conducting evaluation work for 15 or so years both as a consultant and working with organisations as a member of staff. I was appointed to conduct the evaluation of the electronic recording of children's evidence in May 2000 by the New South Wales Police force.

CHAIR: If either of you should consider at any stage during your evidence that in the public interest certain evidence or documents you may wish to present should be heard or seen only by the Committee, the Committee will be willing to accede to your request. However, the House has the right to override our decision in that regard. I understand that you wish to tender a folder entitled "Joint Investigative Response Teams". Is that correct?

Mr HESLOP: Yes.

CHAIR: There is no written submission in this matter, at least at this stage. Therefore, I invite you, Superintendent Heslop, to make a brief oral opening statement focusing on the joint investigative response teams [JIRTs].

Mr HESLOP: Thank you for the opportunity to address you and the rest of the Committee. As I said, my experience goes back to 1987. Certainly before then the New South Wales Police Service response to child abuse and the investigation of child abuse commenced in 1981, when we had at that time four officers dedicated to the investigation of that type of abuse. That extended for some while and there was an increase in the police response to this—ad hoc, I might say, at that time.

In the main, police officers who were tasked with investigating abuse normally just took statements from children and other police then carried out the rest of the investigation.

With the Child Abuse Action Plan in 1990, developed by the Police Service, was a recommendation of the notion of having joint investigation teams [JITs]—nominally police and officers from the Department of Community Services [DOCS] coming together to jointly investigate the abuse of children. That was adopted and then became a government approach to the investigation of this type of crime. We have gone from having two trial teams, one at The Entrance and one at Bankstown, to being accepted where we now have nine integrated co-located police and DOCS workers working together in the same premises investigating child abuse.

As to my experience before the introduction of the JITs, as they were then called, and now JIRTs, the best thing that has occurred in this State by far for the care and protection of children is the joint interagency approach to the investigation and management of child abuse cases. That is certainly borne out in the responses that I hear from officers investigating and also from clients.

CHAIR: Ms McConachy, would you like to make a brief opening statement?

Ms McCONACHY: I would like to make it specifically in relation to the evaluation that I have been doing. The proclamation of the Evidence (Children) Act 1997 on 1 August 1999 reformed the law relating to children's evidence by enabling electronically recorded interviews with children to be admitted into evidence as all or part of their evidence in chief. An evaluation of the provision commenced in May 2000 and it is nearing completion. Feedback about the provision has been sought from JIRT officers, prosecutors, defence lawyers, judges, magistrates, witness assistance service officers, child sexual assault councillors, parents and children.

Although more than 300 respondents have provided feedback, the majority have had limited experience of the admission of electronic recordings as children's evidence in chief because of the time lag that occurs between a child's interview and the matter being heard at court. Overall, however, there is widespread support for the provision, with the majority of respondents in favour of the admission of an electronically recorded statement as all or part of the child's evidence in chief. As with any new initiative there is acknowledgment that it is in its early days. There will be an inevitable settling in period and there are areas that still require improvement and fine-tuning.

CHAIR: Yesterday we took some in-camera evidence from a person who had been involved as a victim in child sexual assault proceedings. Those proceedings came on before the courts at a time approximately two years prior to the setting up of the joint investigation teams, as they were then known. That witness complained about the comparative lack of communication from the police with her and the circumstances under which she gave evidence at a police station, where there was the minimum of privacy, interruptions were occurring and conditions were generally unsatisfactory, which might not have been the fault of the police but might merely have been the function of a very busy police station. Would it be your view that following the setting up of the JIRT teams—I suppose I should adopt the current expression—that that sort of complaint has been minimised, that the conditions under which statements are taken are now very much improved over what was once the case?

Mr HESLOP: I think that is well and truly the case. If you look at the context where child victims are interviewed by JIRT officers, of the nine co-located teams that we have, none is in a police station. They are all in private leased accommodation with little or no signage to indicate what the office does and what goes on there. Generally, they are not close to police stations and they have been designed and outfitted to be child friendly. We have rooms for very young children where we can take recorded interviews now through the new method. They have lots of toys and two way mirrors on the wall. We have other rooms for older children and young persons. We acknowledged the pitfalls of interviewing child victims—indeed, any victim—in a police station. It is very busy and it is very intimidating for anybody. That is why we decided to move them out into other premises.

In relation to communication, I would like to think that that is one thing that we have improved substantially over the years. Ongoing police training for JIRTs has focused attention on the provisions of the Charter of Victims Rights. From a policing point of view, others in my command reinforce the need to keep victims and their families in the loop about where investigations are at.

It is not always possible to interview children at the suites in JIRT offices; sometimes we have to do it in the field using portable equipment. Because of where the child victim lives—it is not possible for them to come to the office or they cannot travel for some reason—interviews might take place at a school or some other place.

The Hon. JOHN RYAN: In what suburbs are those suites located?

Mr HESLOP: Working from north to south: The Entrance, Cardiff, Chatswood, Parramatta, Penrith, Kogarah, Liverpool, Ashfield and Wollongong.

The Hon. JOHN RYAN: So other than the suites in Cardiff and Wollongong there is nothing in New South Wales.

Mr HESLOP: Yes, there are. I referred to JITs and now JIRTs. The co-located teams were called "joint investigation teams" and police officers in the rural sector who were doing the same kind of work were called "child protection investigation teams". I decided to give them all the same name so that they could feel like they were all part of the same family doing the same job. We have 12 teams in the rural sector: they use the same model and the same way of investigating but they are not co-located with DOCS. They are not in police stations.

The Hon. JOHN RYAN: Are the other facilities located in DOCS offices?

Mr HESLOP: No, they are jointly funded by both organisations but are located not in a DOCS office or a police station but in a separate leased premises.

The Hon. JOHN RYAN: They seem to be reasonably spread around Sydney.

CHAIR: There is a reasonable spread and accessibility in regional New South Wales.

Mr HESLOP: Yes. We had existing teams in the rural sector and we increased the number of teams with the idea of ensuring—with the exception of broken Hill, which is difficult because of geography— that the furthest point they would have to travel to respond to a job was four hours away. Dareton, south of Broken Hill, is a six-hour drive.

CHAIR: I hope that communication is now better than it was prior to the introduction of the JIR teams. However, I must say in fairness that the Committee has heard evidence during this inquiry, especially from community legal centre representatives, that indicates that the degree of communication between agencies—including the police but not limited to them—tends to be somewhat patchy. I suppose that might be a function of the workload. What sort of backlog do you believe JIR teams have? How difficult is it for their officers to maintain contact and tell anxious inquirers what is happening?

Mr HESLOP: As the Manager of the agency, I would say that it is not difficult at all. More often than not, it involves a telephone call. Our COP system, our case management system, and the new eagle eye records every time police contact adolescent victims and/or their families. I can see and interrogate both systems to find out the last time contact was made with a person and why. My staff—I can speak only for police— are aware that I and my other officers audit that. When complaints are made to the Ombudsman about police inaction and people not being kept informed, I can interrogate both systems and say that a person was contacted on this date at this time and this is what was said.

The Hon. JOHN RYAN: Given that it is a joint arrangement, does someone on either side of the two agencies take charge of the case? The witnesses who have appeared before this Committee seem to believe the police officer is the most dominant party in JIRTs. They seem to want to make inquiries of the police officer because they feel that that person is running their case. Is there some formal arrangement whereby somebody says, "Look, I'll continue the liaison with this person"? There seems to be some misunderstanding as to whose case it is—DOCS or the police—which contributes to people feeling that there is no communication.

Mr HESLOP: There are three ways that JIRTs can investigate a case. Sometimes they are police-only jobs, even though it involves a joint investigation team. For instance, a 17-year-old girl meets someone at a disco and is sexually abused. Nine times out of 10 that job would not involve DOCS because there are no care needs for that person in relation to the family. Therefore, the case officer is the police officer or officers. Other cases, such as neglect cases, will go to a JIRT and DOCS will take the lead role. If no criminality is involved, the police will go to a certain point and then DOCS will come in. In the majority of cases there is the role for DOCS and for the police. If there is criminality involved that points us to the investigation process, the police officer will often be the point of contact because the case will head in that direction for us. From the outset, victims and families are given cards of both DOCS and police officers who are on their case. It might be that they view the police officer as the authority.

The Hon. JOHN RYAN: Is it left to the client to choose? Does one of the parties say, "I will be considered the liaison person from this point and if you have any concerns contact me"?

Mr HESLOP: I am aware of and have been party to training where that is not the case. We encourage both police and DOCS officers to make contact and say, "if you need to know something or something is not clear, contact me." This doubles the chance of getting a person who knows about the case. If it is left to the police officer and that officer must go away to a trial for a week, for instance, people will have no contact. That is not the case all the time, but that is what police are instructed and encouraged to do in training.

CHAIR: I would like to get to grips with what happens when a younger child comes before a JIRT, it is apparent that criminal proceedings are indicated as a result of the interview and the available evidence and, in addition, care proceedings are warranted. How is that prioritised? What happens as between the police officer and the DOCS officer to progress those two strands, as it were?

Mr HESLOP: From the outset in child protection cases— I suppose it becomes a bit of a mantra for us— the care and protection of the child is paramount, and we practise what we preach. If we go down the double road of criminal jurisdiction plus care and there is no alternative that we need to pursue care proceedings, that is what happens. If the child is safe and the risk assessment indicates to us that we can ensure that, we might also go down the criminal path. We may not need to interview the offender straight away without first interviewing other people who can corroborate the child's story and show our hand first up.

CHAIR: Would not care be taken not to contaminate the evidence regarding the criminal prosecution?

Mr HESLOP: That is true, but I repeat that we cannot afford to throw the baby out with the bathwater. The child is there to be protected, and this often means that our criminal case fails. DOCS will often use parts of the criminal brief to assist it in evidence in care proceedings—they are not mutually exclusive.

CHAIR: Ms McConachy, you referred in your opening oral remarks to the evaluation of video recording of evidence. I mentioned to you in informal conversation that a previous witness before this inquiry was Deputy Chief Magistrate Helen Syme, who placed great value on the video recording of a child's statement.

She told the Committee that it is very rare for those video recordings to be introduced in evidence. Ms Syme took the view that those statements are very valuable as evidence. However, there are some problems in that they can be lengthy, and the problem in the trial context for the child is that the child might go into cross-examination cold if a practice developed of introducing the child's evidence as a video recording as the evidence in chief. What role do you think is appropriate regarding video recordings of the child's evidence?

Ms McCONACHY: The JIRTs do video recording and at certain times, as Mr Heslop has said, audio recording as well. It is important to note that it can be video or audio. Certainly, the benefits and limitations of the use of tapes as evidence in chief were something I investigated in my evaluation. Both benefits and limitations are identified. The most important benefit is the reduction of the stress and the trauma for the child, and it is useful to consider this both in terms of the child's

interview and the use of the recording as evidence in chief because, as Ms Syme correctly said, many interviews are recorded because electronic recording is considered good practice. But of all the matters that come into JIRT, the figure is approximately 20 per cent that actually result in an arrest. Although a lot of recordings are being done not a lot reach court because, as Mr Heslop said, there can be a number of outcomes.

In terms of the recording process, it is certainly considered far better for the child because the interview takes a lot less time compared to the old question and answer notebook recording, which was very much a stop-start process. It also encourages much more natural and free-flowing conversation, and it takes place in an environment where the child feels a lot more comfortable about talking, rather than in a courtroom. One magistrate I recently interviewed commented about the child as the frightened rabbit in front of the headlights. In JIRT, as Mr Heslop described, it is a much more comfortable sitting when they feel they are not, perhaps, being interrogated, or it is not as formal. Generally, only one person is in conducting the interview so there is not the dynamic of the single child and two adults. I know that even with the remote witness rooms there is a very different atmosphere compared to the JIRT room. Perhaps it would be useful if I tabled these brochures, which have been developed as a hand-out for children and their parents, to give you an overview of the room I am speaking of. Forgive me for not having them earlier.

CHAIR: We will accept those as tabled documents.

Ms McCONACHY: The other thing people have highlighted as a benefit is the accuracy and the transparency of the recording. Because it records detailed information while the events are fresh in the child's mind and very close to the time the offence occurred, it is very clear to see how the interview has been conducted, how questions were asked, inflection and wording. Perhaps, most importantly, it captures the child's demeanour, movements, non-verbal actions and expressions at the time of interview, particularly important when young children change so quickly. Having said that, respondents also identified a number of limitations. One of them related to the standard of the interview. Obviously, interviews vary, and the interviews the respondents were commenting on were some of the earlier ones that have been done because of the timing of the introduction of the provision.

Another limitation is the distancing effect a tape can have for the court, and this is an issue that was raised in relation to closed-circuit television. That the child is not in the room giving the evidence and people cannot assess as clearly how the child gives the evidence. The length of tapes and transcripts can also be an issue both in preparing the child for court and the actual playing of the tapes at court. I should add that a number of respondents have raised editing, and that is not necessarily an easy thing to address, getting agreement from parties, but it is certainly one possible way of dealing with length and quality of tapes. Cross-examination and the child's preparedness for that was also something that was raised. Some people felt that that could be addressed by the prosecutor leading a few more questions before the defence began. Also, contextualising for the child what is happening—you are in the court, you have been interviewed, a tape has been made, that tape is now going to be played and then I will ask a few extra questions—so that the child knows where the proceedings are at.

CHAIR: Would you agree with Ms Syme that in an appropriate case it might be quite helpful to introduce the video recordings, perhaps accompanied by what you have just said, some introductory questions to phase the child in, so to speak, so far as giving evidence prior to being cross-examined?

Ms McCONACHY: Yes, that comes out clearly from the benefits that have been identified in the evaluation, that there is benefit in doing that.

CHAIR: Regarding the JIRT, some witnesses before this inquiry have made some claims that in the case of preschool children or preverbal children JIRTs tell them that they will not try to prosecute because of the age of the child. I put to these witnesses that there is an obvious difficulty so far as giving evidence in court is concerned if the child is preverbal. As a matter of policy, how is a very young child dealt with?

Mr HESLOP: We are talking about preverbal?

CHAIR: Or a young child.

Mr HESLOP: Or a young person. Each case is different and dealt with on its merits. Half a dozen come to my mind where kids of either very tender ages or preverbal where the JIRT has carried out very good investigations and secured a conviction. It is a very difficult area to work with. Very young children are very difficult, especially if they have not disclosed. There has been some indication and it has been referred to a JIRT and we have to find out what took place. The fact is that sometimes we cannot go any further. In the absence of any other corroborative evidence, we have a person who was told something and thought that is what the child meant, but if the child does not disclose it is very difficult. Often those are cases we might take out an apprehended violence order on behalf of the child if we have fears to provide some safety for the child.

CHAIR: Another criticism made yesterday by representatives of community legal centres was that in some cases JIRTs tended to tell the complainant that the evidence is not such as would sustain a prosecution and/or that the trauma associated with the trial is not worth going through. I tended to defend the police on the basis that perhaps they are telling the truth, that often the trauma might be more than it is worth in a given case. What would you have to say regarding that, given the obvious trauma that attends many of these cases?

Mr HESLOP: It is true, it is very traumatic. Certainly, the police in their understanding and my officers in their understanding of the Charter of Victim's Rights, part of that is to inform parents, care givers and the child, if the child is not of sufficient age to understand about what the process is. We owe that to them. I do not necessarily think it is a case of talking children and/or their parents or care givers out of proceeding, but it is to be up front with them. It is to let them know what will happen from here on. This is not an unusual question for a parent to ask, "If my child makes a statement and says this is what took place, what happens then?" The last thing I would like to hear is, "Do not worry, just leave it up to us." We have to tell them what the process is and, further down the line, that is where the witness assistance people come in. They can walk the child or parents through and say, "This is where people sit. This is what you will be asked and this is what the process is."

Some officers in the very early days of JITs did not take that tack and probably thought it was their case and took the attitude: Leave it up to me and everything will be okay. We have certainly grown in our knowledge and our expertise and our experience with children and their parents to inform them of that communication. That is what I was referring to before, letting people know what will take place. Having said that, sometimes that can be the case why one case will drop out of the system because parents and/or children say, "I do not want to do that. I do not want to have to get up in court and tell a whole room full of people in the court what he did to me. It is embarrassing."

CHAIR: I understand there has been an evaluation of the JIRTs by Professor John Taplin of the University of New South Wales. It is also my impression that the results of that evaluation are not yet available, is that correct?

Mr HESLOP: That is correct. The evaluation report, the outcomes of the evaluation have not been provided to the police force, the Department of Community Services or the Health Department.

CHAIR: The three agencies that commissioned the—?

Mr HESLOP: Commissioned and funded the evaluation.

CHAIR: It is known when the outcome of that evaluation will be available?

Mr HESLOP: I am aware that compared to the last couple of years, very close. I would like to think that over the next couple of months we might well have received the evaluation report.

CHAIR: When Ms Syme gave evidence to the Committee she was very supportive of the role played by the police officers in the JIRT. She tended to view that they were well trained and effective. She was not so complimentary of the DOCs component of the JIRT and told us that they

virtually had a manual thrown at them and that was it. It was my impression that the two sets of officers received basically the same training.

Mr HESLOP: Exactly the same. They attend the same course. They sit next each other. The course has been refined over time. The course has been rewritten and rejigged. The new course commenced in March. It has some components that are done by police only and they are not offered to DOCS staff because DOCS have already had that in their basic training and it would be silly to give some things to them again. Instead of doing that, police just do one part of that component and then DOCS will come back in. But certainly, for the great majority of the training, they do it together. Even in training we reflect the joint agency and joint co-operation of agencies to do it. It is not only the investigation part; that is also in the training and everything else we do.

CHAIR: Where does the training occur? Is it at the Police Academy at Goulburn, or is it somewhere else?

Mr HESLOP: It has been at different venues. It has been down at the police college at Goulburn. The new course is presently at the Westmead campus of the police college so there is training there for people from Sydney or for the nine co-located teams. For the rural sector, it is done in different venues around the State.

CHAIR: I am not sure whether either of you wish to comment on this or not. There has been considerable criticism during the inquiry—both by people who have given in camera evidence, that is, victims of child sexual assault, but also by other organisations and legal academics—regarding the perceived unfairness of questioning of child sexual assault victims during the course of court proceedings. Reference has been made to intimidatory questioning but also to questioning that the child might not understand, having regard to the child's stage of intellectual development. Do you wish to comment on that matter?

Mr HESLOP: Yes, I would like to. I think that courts are intimidating places for anybody, including police. I think that if a person is a six or seven year old and goes into a court, it is fairly awful. If that person then has to go on and relate in probably the most intimate detail what a person has done to them sexually in front of everybody and if we are looking at the abuse of children, then if that is not a system's abuse or secondary abuse, I do not know what is. I do not think that in general terms we have gone far enough in our positive treatment of children in the court system as victims. They are vulnerable persons and I think that we need to make some inroads into how we treat them in our court system, over and above what we now have.

CHAIR: The Director of Public Prosecutions [DPP], Mr Cowdery, was the first witness before this inquiry. He made a suggestion to us in his written submission that there ought to be a trial of a court model in which the judicial officers are appropriately trained regarding child psychology, stages of development and that sort of thing. He also suggested that the court staff should be appropriately trained and that the very best appropriate equipment should be available within that court. Do you see that as a useful suggestion?

Mr HESLOP: I would support that wholeheartedly. I think if we look at the investigation and management of child abuse cases, we have people at the front end—police officers and DOCS officers who are trained in the development stages of children, including cognitive development and a whole lot of other things dealing with children—but you get to a certain point and the people thereafter do not have similar training, not that it needs to be investigative but on childhood development and things like that. I think it is important because I have been in courts where children have been giving evidence and it is clear that they have not one idea what the questioner was asking because their level of understanding has not grown or has not matured to that point. Yet it is often seen that the child has been not willing to answer or in fact cannot answer because it is a lie. A lot of times, people do that.

The Hon. JOHN HATZISTERGOS: Do you think that it would be better if these sorts of cases were heard without a jury? You can train the lawyers, you can train judges and presiding officers, but the people you cannot train are the ordinary members of the community who are sitting in

a one-off situation in the courtroom and who may or may not be able to follow a trial with all the limitations that it has, bearing in mind matters you have raised.

Mr HESLOP: I think that is an interesting proposition. As you say, you can train everybody else but you might have 12 members of a jury who are drawn from all walks of life. It has been reported to me that in some cases there have not been convictions of persons charged with child sex offences.

The Hon. JOHN HATZISTERGOS: Only 20 per cent or so end up convicted.

Mr HESLOP: That is not necessarily because the case is weak but because some of the people who are being exposed to it are disbelieving that this actually goes on.

CHAIR: In responding to my recent question, you said that in your view more could be done for child witnesses. Is there a very specific suggestion you wish to make in that regard? You were responding to my question about Mr Cowdery's suggested model court.

Mr HESLOP: Surely. I think that with all due respect to the judiciary, more could be done for the education of officers of the court along the same lines I was talking about, that is, understanding where children come from, what they can understand and what they cannot understand. Maybe the removal of wigs and gowns would make courtrooms a lot more friendly. We do that in our joint investigation response team [JIRT] by providing child friendly suites in which to interview them. Courtrooms certainly are not child friendly suites.

CHAIR: On the question of intimidatory questioning, when the Legal Aid Commission witnesses were before the Committee, they tended to discount suggestions that that was damaging or intolerable on the basis that any counsel who engaged in that conduct would get the jury off side and that that was a matter with which the judge could deal in his or her summing up. What do you think about that argument?

Mr HESLOP: I do not necessarily abide by what they are putting forward to you. I think some 18 months ago there was a *Four Corners* program done on the treatment of children in the criminal justice jurisdiction, how they were questioned in court. The objections to officers of the court about the way in which children were being question by defence counsel, or the lack of objections, was deafening.

The Hon. JOHN HATZISTERGOS: I am sorry, the lack of?

Mr HESLOP: The lack of objections from either the justice presiding or by the Crown prosecutor. There was actually an audio recording of the court proceedings and nothing was being said. There were probably half a dozen cases where children have been badgered and nobody leapt to their defence.

CHAIR: One of the matters that has been put to us is that, in accordance with Mr Cowdery's estimate, some 75 per cent of matters that go to trial and result in a conviction are then appealed and that new trials are quite commonly ordered. That being the case, it is said that judicial officers are very cautious about intervening because they will attract the ire of the appeal court above. Do you think that is a possible explanation of their reluctance to intervene?

Mr HESLOP: It is something I would entertain, yes, absolutely.

The Hon. JOHN HATZISTERGOS: It is probably fair to say that our law does not make a distinction in evidentiary terms between children and adults in the way that they may be the subject of cross-examination in a particular style.

Mr HESLOP: I think what you are saying is true and there may be many schools of thought on that. I suppose that in my position and with my passion for the care and protection of children, I see there needs to be a change because I do not think we are protecting children by subjecting them to the treatment they often receive in court, but not always.

The Hon. JOHN HATZISTERGOS: These courts are closed, are they not?

Mr HESLOP: Generally.

The Hon. JOHN HATZISTERGOS: So the public does not get to see this sort of behaviour—

Mr HESLOP: No.

The Hon. JOHN HATZISTERGOS:—and the impact it can have on children or distress that they might be going through.

Mr HESLOP: Exactly. As I said before, when we are speaking about the abuse of children including secondary abuse, that is secondary abuse. Unfortunately there have been some children who have been abused more than once who come before the criminal justice jurisdiction and go down that track. You can understand why children, young people and parents say, "No way. I am not putting my child through that again." I can understand that.

The Hon. JOHN HATZISTERGOS: It is a two-edged sword, really. You can have this all made public and the public may take a view about whether it should be allowed to continue or not, but on the other hand you have the rights of the family of the individual victim and the victim himself or herself having themselves exposed publicly to that sort of thing.

Mr HESLOP: In training we use the scenario where we are talking about children giving their evidence and making their disclosure to interviewers. In part of the training the trainer will say something to those in the room, "Would you like to recount your last sexual experience?" Of course, there is much laughing, but we are asking children to do exactly that. What is the difference?

CHAIR: I can understand parents deciding at the point when a new trial is ordered not to put their child through that, again. However, I can also understand, I must say, police in a JIRT advising people to think very carefully about putting people through the trauma the first time.

Mr HESLOP: I would like to think that my staff are not actively encouraging people not to pursue the matter. If I was aware that they are, that is something that I would need to address. Having said that, I still think we have a duty to the parents, the caregivers and the children to inform them about what the process is; you might have to give evidence, you will have to do this and there will be other people in the courtroom who hear what you are saying and the person who abused you will be in the courtroom or will be very close to where you are in another room We have to be up-front and let them know that. The last thing as the police officer I want to do is have somebody get off and not be investigated or not have the matter pursued.

The Hon. JOHN RYAN: I do not want to start on too negative a note but the closing date for submissions to this inquiry was 15 February. We are somewhat at a loss to know exactly how to ask you questions because we do not have a submission from the New South Wales Police. Is there one?

Mr HESLOP: Yes. I am aware there is. I understand there is one.

The Hon. JOHN RYAN: Was it prepared by the due date, or is it somewhere else?

Mr HESLOP: It was prepared by the due date and it is in another place.

The Hon. JOHN RYAN: The Minister's office?

Mr HESLOP: That is the information I have.

The Hon. JOHN RYAN: I am interested at least later to get some idea about whether you are able to address some of the other areas of the terms in reference. The whole of it is focused on evidence given about the New South Wales Police by other people but the focus of this inquiry is more about looking for ways in which the existing system can be improved. We have not really got

insights from the New South Wales Police on that. Are there areas that you would like to address in terms of the terms of reference, such as ways and means of improving communication between police and the complainant, the role of sexual assault counsellors, the impact of the rules of evidence or alternative procedures for prosecuting child sexual assault matters, or possible civil responses to perpetrators and victims of sexual assault. Are you able to give any response or suggestions that the New South Wales Police might have made in reaction to those terms of reference?

Mr HESLOP: Not off the top of my head right now, no.

The Hon. JOHN RYAN: I will go back to what Helen Syme said to the Committee. She said that she was aware that approximately 3,500 videotape or audio tape interviews from children on child sexual assault matters had been taken but that her survey of magistrates indicated that only about a dozen of these had actually made it into court. Is that an accurate reflection of the use of these videotape and audio tape interviews?

Ms McCONACHY: No, it is a little bit more complex. As of December last year approximately 3,500 tapes had been made. That is a raw figure. Now some of those tapes may represent more than one interview with the child because at times additional interviews have to be done. There also may be one offender who has abused more than one child, so you could also have four or five tapes that actually relate to the one matter. That is just a raw figure that would need to be, if anything, adjusted down. As I was saying, those are all the tapes that had been made at the nine metropolitan JIRTs, but of those, less than 20 per cent actually result in an arrest in those matters. Less than 20 per cent because the child does not disclose, the parents do not want to proceed …

The Hon. JOHN RYAN: Sorry, the child does not—

Ms McCONACHY: Perhaps a notification has been made that a child has told someone something. They come into the suite but they do not actually disclose anything, or the evidence may be insufficient to support a charge, or the parents maybe unwilling to proceed. There is a range of outcomes but less than 20 per cent result in an arrest. Just in ballpark figures, 700 from that 3,500 would proceed to court, and then you have the ones that are no billed or withdrawn. You also have committal hearings that are paper committals where a tape is not played, I am thinking now of the Local Court. Also guilty pleas are entered. In fact, you can finish up with a very small number of matters that are heard at court where a child's tape would be played. So I guess what I am trying to say is that I think it is a little bit more complex, or it is definitely more complex than she was portraying.

The Hon. JOHN RYAN: However complex it might be, is it fair to say that her survey of the number of tapes that have been played in magistrates courts is only 12? Is that likely to be accurate?

Ms McCONACHY: The purpose of her survey was to give me information so that I could interview those magistrates to get feedback. One magistrate had heard about four matters, the remainder had heard one, but I have since heard a couple more magistrates than were on her list have also heard matters. I have not followed up with them because of the time frame I am working within. I find it difficult to answer that question.

CHAIR: That is a very low strike rate, so to speak, is it not?

The Hon. JOHN RYAN: It still only suggests about 20 out of 3,000 odd tapes have made it into magistrates courts. Even allowing for all the matters that I accept have to be taken out, there are only 20 or so. Are you saying there in fact may be more used in the higher courts?

Ms McCONACHY: Yes.

The Hon. JOHN RYAN: Are you able to determine their level of use in the higher courts?

Ms McCONACHY: Not at this point.

The Hon. JOHN RYAN: It is an enormous use of public resources and time to produce these things, and the primary reason one imagines that they are produced in this way is to ultimately

wind up as evidence in the court. If only not much more than a dozen in a year are going to wind up in a higher court—

The Hon. JOHN HATZISTERGOS: Or a magistrate's court.

The Hon. JOHN RYAN: —or a magistrate's court, and if that is an accurate reflection of what happened in the higher courts, then it is fair enough to ask some questions, is it not?

Ms McCONACHY: I am doing some case tracking as part of the evaluation, looking at a set of cases, both pre and post electronic recording. I am not in a position yet to discuss findings because analysis has not been completed, but that will be in my evaluation report.

The Hon. JOHN HATZISTERGOS: Bearing in mind the limited function of the Local Court in these indictable matters, they would not all need to be played in the Local Court, would they?

Ms McCONACHY: That is my understanding.

The Hon. JOHN HATZISTERGOS: A person can be committed for trial without the tape being played and then it would be played in the District Court.

The Hon. JOHN RYAN: I do not think we have to overly make the point. I accept that, but nonetheless one would hope that the product that is being produced is in fact being put to some use. I would be pleased to hear that 50 per cent of them are played because someone has pleaded guilty. Obviously that is a perfectly good use of the tape and one would not dispute that but, at the end of the day, it is a legitimate question to ask. If they are not actually being used for the purpose for which they are intended, then it does seem an enormous use of resources in order to get a relatively small outcome. Miss Syme asked the question, so it is obviously appropriate that we do the same.

CHAIR: In regard to what the Hon. John Ryan is putting to you, though, would it not be the case that the fact that the video recording is taken at first instance by JIRT is valuable in that it is a resource used by the prosecution to mount the case?

Ms McCONACHY: Yes.

CHAIR: There is a convenient collection of the evidence that is available.

Ms McCONACHY: Yes, and certainly the respondents who I asked—that is, judges, magistrates, Crown prosecutors and defence counsel—whether in fact the quality of the information collected was better, approximately three-quarters said yes, the electronic recording was of a higher quality.

CHAIR: I am not trying to discount the Hon. John Ryan's argument that there may well be value in using this material in the court proceedings as well. However, it has its own value in the manner I have indicated, does it not?

Ms McCONACHY: It does. I think it is helpful to consider it in two parts— the conduct of the interview and the use of the tape at court. In fact the joint investigative interview has three purposes which Superintendent Heslop alluded to earlier: one is the assessment of the child's vulnerability to risk, one is the assessment of whether a criminal offence has occurred, and one is a collection of evidence for possible use as evidence in chief using the tape. I think in some ways there are three purposes that create a camel, if you like, when you think of the interview because often you have competing purposes or different purposes. In terms of, I think, the consideration of the provision, while its original purpose is for use at court, I think in terms of the assessment of risk and the assessment of whether a criminal offence has occurred, the feedback I am getting is that the electronic recording is a better way of recording that information and of allowing those first two assessments to be made.

CHAIR: It would also minimise the need otherwise to have multiple interviews by professionals from different agencies.

Ms McCONACHY: Yes, and certainly I think this is a trade-off in terms of the quality of the interview which perhaps at times may be seen as long or containing criminally irrelevant information. The trade-off is that before these types of interviews were done, the child was interviewed many more times. So it is that balance—systems abuse versus other needs.

The Hon. JOHN RYAN: The question of the quality of the tapes has been something which has been frequently raised with the committee. Nobody has specifically criticised this, but people have said that they may have that limitation. I was wondering whether it would be possible to make available to the Committee some sample tapes, but I do not particularly want to see evidence being used by the Committee gratuitously. I imagine some of these tapes commence with some sort of preliminary material which is not related necessarily to the collection of evidence but rather to testing the quality and sound and so on. Is it possible to make that sort of material available to the Committee so that we may see what a tape looks like without actually seeing the evidence itself?

Mr HESLOP: Sure. I have available some tapes that were done when we launched the audio taping and videotaping and when we had a police officer and also a DOCS officer interview children. But the children had not been abused; they were in fact the children of another officer. The tape shows you the set up of the room, the audio quality and how the engagement starts.

The Hon. PETER BREEN: Can I ask a question about that, Mr Chairman? Those tapes you are referring to, are they audio tapes or videotapes?

Mr HESLOP: Both. From the metropolitan teams, they are video tapes. In the rural sector, they are only audio. We have not established video statements in the rural sector.

The Hon. PETER BREEN: I notice in your brochure that there is some blurring of the distinction between audio tapes and videotapes, but I guess that is the reason they use the same brochure in rural areas and in urban areas.

Mr HESLOP: Yes.

The Hon. PETER BREEN: For example, the first page of the brochure shows an audio machine and on the next page it shows video equipment and, speaking as a lawyer, that is a bit confusing. I have not experienced the system in terms of children but the new Erisp system, for example, that the police use generally, as I understand it, that system is just a video system. Is that correct?

Mr HESLOP: Audio and video.

The Hon. PETER BREEN: Is the audio though on the edge of the videotape and are they used simultaneously?

Mr HESLOP: My understanding is that you have videotapes plus the audio tapes.

The Hon. PETER BREEN: Are they ever used separately? I do not want to labour the point.

Mr HESLOP: I do not know.

The Hon. PETER BREEN: Are they used separately in your jurisdiction in the context of children? If you have got an audio tape and a videotape, which one would you decide to use?

Mr HESLOP: Well, if the team has got the videotape, it is the videotape that we use.

The Hon. PETER BREEN: And the video does have the audio on the edge of it?

Mr HESLOP: It is just like an ordinary VCR. We put one in there.

The Hon. JOHN RYAN: Superintendent Heslop, some of the other comments that are made to the Committee have to do with matters of timing. There are concerns related largely to resources. I think it has been suggested by some of the service providers who counsel victims of sexual assault and

who have reported backlogs that there is a fairly lengthy period of time between the making of the complaint and the actual interview by JIRT. Are you able to give any indication as to whether there is a backlog and whether there are suitable resources to address complaints in a timely fashion?

Mr HESLOP: In preparation for coming here today, I caused an order to occur yesterday. There are four outstanding matters across the nineteenth—that is, one team—two of which have come in this week and the other two have made contact with the parents to let them know that the case has been allocated and they are going to commence the investigation.

The Hon. JOHN RYAN: It probably would not be a bad idea to give the Committee some sort of an impression of when a matter is reported to the police the sort of process it will go through before we actually wind up with an interview in the suite by a JIRT.

Mr HESLOP: Are you talking about a report of child abuse that is made to the police?

The Hon. JOHN RYAN: Yes.

Mr HESLOP: The police are bound by legislation to make a report to the DOCS Helpline. It then is assessed at the Helpline. If it meets the criteria, it goes to the relevant JIRT and it is then the police team leader and the DOCS team leader who would do an assessment on what they have on the report—the information they have on that, and the accepting or rejecting of that. Then it will be allocated to a police officer and a DOCS officer as a pair.

The Hon. JOHN RYAN: At which point does the interview take place?

Mr HESLOP: Of the child?

The Hon. JOHN RYAN: Yes.

Mr HESLOP: It depends on the circumstances of the allocation in which the report is made to the team and the mustering of evidence before them. There might have to be some preliminary work to find out if it is known to the offender and if it is a criminal matter. We may have to work up a profile on the availability of the child and where the child lives. We may have to indicate that something has been reported and whether or not they are away on holidays. Often there will be some preliminary work done before the child is interviewed.

The Hon. JOHN RYAN: Typically, how long does the whole process take from the point of complaint to the point of an interview?

Mr HESLOP: I do not think there is any typical time. It can be done on the same date. It depends on the risk the child is in and the availability of the child. I mean if the child has obviously been physically abused to the point where they have got to be hospitalised, we would hold off. If the child has been physically abused and has been hospitalised, obviously we would not be going into the hospital to interview the child. It just depends on the circumstances of the case.

The Hon. JOHN RYAN: If there is no injury to the child and it is just a matter of waiting for some advice from the child Helpline and then collecting the evidence, how long would that normally take?

Mr HESLOP: I cannot quantify it for you. If you are asking me to say is it within two or three days, sometimes it is, and sometimes it is not.

The Hon. JOHN RYAN: Do you have some sort of benchmark that will tell you? When you say there are four matters outstanding, what does that mean?

Mr HESLOP: There are four matters that have been taken, referred to that team and then accepted by that team. Two matters have not been acted on at this time. They have come in this week; the other two matters, and the DOCS officer and the police officer being tasked with a matter have made contact with the non-offending parent and said "We have now had the case allocated to us and we will be touching base with you in the next couple of days."

The Hon. JOHN RYAN: There is a fair bit of processing that happens before a case gets allocated, is there not?

Mr HESLOP: There is some processing, yes. There is certainly a lot more after.

The Hon. JOHN RYAN: Do you have any idea how many matters are waiting to be processed? From the point of view of persons making a complaint, they probably will not be aware of the point of allocation. Their benchmark will be the time they walked into the police station and made the complaint. Have we any idea how many complaints made to police are likely to get referred to JIRTS and have not been?

Mr HESLOP: That I don't know. That would come through the DOCS Helpline. They might have a number, or might not have a number, I don't know.

The Hon. JOHN RYAN: So the police largely only start to act on a complaint once it is returned from the Helpline?

Mr HESLOP: Once it comes from the Helpline in to the team. The police station and the police officer do not refer to a JIRT; it has to go through the Helpline.

The Hon. JOHN RYAN: In terms of your ability to audit, you have four as of yesterday that have been referred from the Helpline to you. How many waiting to go through the Helpline to police you are unable to determine.

Mr HESLOP: I have no idea.

The Hon. JOHN RYAN: When you get a referral, I imagine it would not normally take too long for interview facilities to be available, particularly if the matter was urgent?

Mr HESLOP: The facilities are there all the time, 24 hours a day.

The Hon. JOHN RYAN: I am trying to assess how available these JIRT interviews are in terms of care and protection matters. If it took a couple of months before you were able to conduct the interview, then clearly it may not be of much use in a care and protection matter if the child has endured another two months of neglect or abuse.

Mr HESLOP: I would like to say that an assessment would have taken place that the child was not at risk. Obviously, if the child is at risk and the perpetrator is in the home, we would deal with it straight away. If the perpetrator is in a Tweed Heads caravan park because the family are there on holidays, he is up there and she is down here, that level of risk is not there.

The Hon. JOHN RYAN: The length of tapes was mentioned as a detracting factor as to why they may not be used in court. It has been put to the Committee by another witness that one way of dealing with the length of tapes was prior preparation for the interview, and that that was critical because if it was well prepared prior to the interview it was often possible to conduct the interview in an hour or so. Is the Police Service aware of that sort of overseas research, and has it had any effect in your practice?

Mr HESLOP: We are aware. But, on the other side of the coin, there often defence counsel want to see the entire tape from the time of the rapport building, the engagement of staff and all the way through. So I suppose you have got to balance that with what legal counsel might want or might not want. I have heard that many times.

The Hon. JOHN RYAN: Obviously, one of the things that affects people who work in this area is that it is an area of great stress, with burnout being a common feature. You refer to the teams. Ms Symes commented quite favourably on the experience of police officers and the length of time which they have served in this field. When you say you are appointing teams, do you have a discreet group of police officers who largely handle only cases of this nature that you would appoint, or are they rotated from other duties?

Mr HESLOP: Entry to the team is by way of application. Nobody is told to go there; it is people who want to go there and work in the area. If they put up their hand after a period of time—and the shortest we have had is six weeks—we will rotate them out into other duties within my command or into other areas of policing. To support them we have an active program with two psychologists, and we have a yearly assessment done face to face, plus we have the availability of the chaplaincy across the State. Many officers feel better going to a chaplain than they do going to a psychologist. But I think that is changing in time. Certainly, if we observe something in an officer, or officers put up their hands, we act on that straight away.

The Hon. JOHN RYAN: How many police officers are in your team?

Mr HESLOP: I think the smallest co-located team we might have has four police officers, and the biggest has 11 police officers.

The Hon. JOHN RYAN: When you talk about a team, is that something that is established and stays established for a fair period of time? In other words, is the police officer likely to be in that location for a reasonably lengthy period of time?

Mr HESLOP: Unless they want to rotate out, or they get promotion out of that team, or they want to go to other police duties, or they want to transfer to another team because their personal circumstances have changed.

The Hon. JOHN RYAN: I understand that might happen. But, generally speaking, is there a lot of turnover in your staff?

Mr HESLOP: There is a reasonable turnover. I might say we still have a number of officers who were in the first JITS and are still there doing great and meaningful work. But most of them have rotated out, taken some respite in other areas of policing and come back.

The Hon. JOHN RYAN: Do you have any idea of what level of expertise you have that is reasonably well experienced, as opposed to new people entering the program?

Mr HESLOP: Could you explain to me what you are talking about when you refer to experience?

The Hon. JOHN RYAN: You must have some means of evaluating whether or not you have lots of people who have been there for six months, or whether you have a large number of people who have been a stable part of the organisation for a period of time, and do you assess or audit your teams for that?

Mr HESLOP: Half of the police investigators have been there for probably two years or more who are designated as detectives and criminal investigators who have child protection experience. Having said that, we have some new folk who have come on board over the last two years who are schoolteachers and ex-nurses who have experience working with children.

The Hon. JOHN RYAN: In any event, it would be fair to say that half of the people on your teams have more than two years of experience?

Mr HESLOP: In child protection.

The Hon. JOHN RYAN: That is probably pretty suitable, I would have thought. How long is the course that the officers do?

Mr HESLOP: The new course?

The Hon. JOHN RYAN: The old and new, I suppose.

Mr HESLOP: The new one is two weeks. The old one varied in different manifestations. The first lot that came in was for two weeks. There were a number of components in the first course that—

The Hon. JOHN RYAN: But it has always been a matter of weeks, I take it, and not days?

Mr HESLOP: That is correct.

The Hon. JOHN RYAN: Is that full-time study?

Mr HESLOP: Yes. And there are external field studies as well as having their work evaluated.

The Hon. JOHN RYAN: Are you aware whether the Department of Community Services organisers its JIRT teams in the same way as the Police Service does? You appear to have a group of people who see themselves as having specific work in child protection, and it seems to be that at least half of them will be there doing this work and similar work almost all of the time for a period of two or three years. Is it your experience with people from the Department of Community Services that they tend to have a stable team that continues on doing that sort of interviewing all of the time, or do you often find that police officers are teaming up with DOCS people who may have been doing other duties otherwise but have been called in to do that work?

Mr HESLOP: I am aware of some officers who were there right from the very start, the same as some of my police officers. But it is not something of which I will have a great awareness, because they are not my responsibility.

The Hon. JOHN RYAN: The impression given to the Committee is that the policing side of JIRTS has been a great deal more stable in terms of these personnel than has the Department of Community Services.

Mr HESLOP: I really cannot comment on that. I just do not have enough on-the-ground knowledge about that.

The Hon. JOHN HATZISTERGOS: Do you know anything about the DPP witness protection scheme?

Mr HESLOP: Some, yes.

The Hon. JOHN HATZISTERGOS: And the witness assistance scheme?

Mr HESLOP: Yes.

The Hon. JOHN HATZISTERGOS: Do you have any comments in particular about the witness assistance scheme?

Mr HESLOP: I think it is an excellent scheme. It is about people being put into place for a specific purpose. The feedback to my office is that even though they are there with their victims, as are DOCS officers for a case, the people are really good and know their craft in easing child victims into the process and explaining it to them. They have a number of resources which they make available to child victims. I think that is very good.

The Hon. PETER BREEN: Does your are unit investigate offenders as well as look after victims?

Mr HESLOP: Yes.

The Hon. PETER BREEN: Do the offenders go through the same system in terms of being interviewed and giving video evidence?

Mr HESLOP: Yes. I suppose if we take the child component out, they will be treated like any other offender then go through an ERISP interview.

The Hon. PETER BREEN: But if they are a child, will they go through the same interview room, for example, that the victim would go through?

Mr HESLOP: No.

The Hon. PETER BREEN: So they would go through an ERISP interview in the police station?

Mr HESLOP: Yes.

The Hon. PETER BREEN: Ms McConachy, I think you said that 20 per cent of cases result in prosecution.

Ms McCONACHY: Approximately.

The Hon. PETER BREEN: That is 20 per cent of the 3,500 tapes result in a prosecution. Are you able to say how many of that 20 per cent result in convictions?

Ms McCONACHY: No. As I have said, I am tracking a set of cases—or two sets, pre and post electronic recording—and when I have analysed that information I will be able to comment on that set. But to track 3,500 cases would just not have been possible within the timeframe of the evaluation.

The Hon. PETER BREEN: So there are no figures on what percentage of prosecutions result in conviction?

Ms McCONACHY: There are figures on that, but in terms of whether an electronic recording was played as the child's evidence-in-chief in that matter, not that I am aware of.

The Hon. PETER BREEN: Would the general practice be to use an audio recording or a video recording?

Ms McCONACHY: A video recording, certainly in the nine metropolitan JIRTS, because that is the preferred method of recording. Obviously, in country areas, at the moment they do audio recording only.

The Hon. PETER BREEN: Do they only do audio recording because of the lack of resources? Is that the only reason?

Ms McCONACHY: Initially, this evaluation was going to inform the rollout of electronic recording in rural areas and it was going to take 12 months, but it became apparent fairly early on that a very small number of matters would actually reach court within that 12 months, so it was extended. A decision was made that it was just too long to wait for rural areas and that they would start doing audio recording and then, depending on the findings of this evaluation and other information that people have, make a decision about video recording in rural areas.

The Hon. PETER BREEN: If you were to make the decision, would you extend video recording to rural areas?

Ms McCONACHY: I would, because when I have asked people for feedback about the benefits of the provision, the things that they have always highlighted are the demeanour of the child, the child's body language, their movements, how they actually give their evidence, and the assessment of the child as a whole. Of course, you cannot get that with audio recording. You can get changes in voice tone, hesitation and things like that, but you do not get such a complete picture of the giving of the evidence.

The Hon. PETER BREEN: Are you able to say when the audio and video recording of children witnesses' evidence began?

Ms McCONACHY: Following the proclamation of the Evidence (Children) Act, which was 1 August 1999, it commenced in the metropolitan JIRTS. But, having said that, when it was rolled out it was dependent on a number of factors. The first was that no interview was to be conducted unless the interviewer had done the training that Mr Heslop spoke about. And that training was staggered; it actually began before the proclamation of the Act, in June of that year. But it was rolled out over approximately 12 months.

The other thing is that the JIRTS did not have those special rooms that are pictured on that brochure, so the JIRTS had to be refurbished. Again, this was a rolling program for refurbishment. Some, for example, Chatswood, Ashfield and Parramatta JIRTS began videotaping as soon as they had trained staff, whereas Liverpool and I think The Entrance did not begin until perhaps 12 months later because their offices were not ready.

CHAIR: Superintendent Heslop, you will remember that I commenced a considerable time ago asking you questions about the JIRTS and where they were located. I understood you to say there is a different facility available in some regional areas but that that is not a joint facility with the Department of Community Services. When Mr Cowdrey gave evidence to the Committee he did say, I have been reminded, that rural children are sometimes waiting weeks or months to be interviewed. Do you regard that as an exaggeration on his part, or what is the position in that regard?

Mr HESLOP: I do not have a sense of weeks or months at all. I suppose I cannot offer you an answer because I am not aware of that. I would be fairly unhappy if that were the case.

CHAIR: I thank you very much for your evidence this morning. It is much appreciated. We look forward to the formal written submission.

(The witnesses withdrew)

JULIE GRAY, Statewide Co-ordinator, Joint Investigation Unit, Department of Community Services, 55 Renwick Street, Redfern, and

MICHAEL DALKEITH TIZARD, Acting Area Director, Metropolitan South East Sydney Area, Department of Community Services, 55 Renwick Street, Redfern, sworn and examined:

CHAIR: Ms Gray, in what capacity are you appearing before the Committee?

Ms GRAY: In my role as the statewide co-ordinator.

The Hon. JOHN RYAN: How long have you held that position?

Ms GRAY: Since October last year.

CHAIR: Mr Tizard, in what capacity are you appearing before the Committee?

Mr TIZARD: I am appearing as the Acting Area Director for Metropolitan South East Sydney and as the sponsor for JIRT statewide co-ordination.

The Hon. JOHN RYAN: How long have you been in your position?

Mr TIZARD: As Acting Area Director, since August last year. Prior to that my substantive position with the department was principle policy advisor, child and family services.

The Hon. JOHN RYAN: Where was that located?

Mr TIZARD: Central office.

The Hon. JOHN RYAN: And you were there for the balance of the tour of duty?

Mr TIZARD: Yes.

CHAIR: Did you receive a summons issued under my hand in accordance with the provisions of the Parliamentary Evidence Act?

Ms GRAY: Yes, I did.

Mr TIZARD: Yes, I did.

CHAIR: Are you conversant with the terms of reference for this inquiry?

Ms GRAY: Yes, I am.

Mr TIZARD: Yes, I am.

CHAIR: Can you briefly outline your qualifications and experience as they are relevant to the terms of reference for this inquiry?

Ms GRAY: I have a psychology degree, and I am halfway through a law degree. I have worked for five years in the area of child development. I have worked for 12 years within the Department of Community Services in positions such as district officer to management. I have actually worked in a co-located JIRT, and I am now the statewide co-ordinator of JIRT.

Mr TIZARD: I have a Bachelor of Arts, a Bachelor of Social Work and a graduate certificate in arts social administration. I have worked in child and family welfare for the past 20 years, in Victoria for most of that time. I have been working in New South Wales for the past three years for the Department of Community Services. In Victoria I was the chief executive officer of a non-government organisation that established a child sexual abuse treatment program, and as part of that program there was an adolescent sex offender program.

CHAIR: The department has made a written submission to this inquiry. Is it your wish that that submission be included as part of your sworn evidence?

Ms GRAY: Yes.

Mr TIZARD: Yes, it is.

CHAIR: If either of you should consider at any stage during your evidence that in the public interest certain evidence or documents you may wish to present should be heard or seen only by the Committee, the Committee will be willing to accede to your request. However, the House has the right to override our decision in that regard. I understand that neither of you wishes to make a preliminary oral statement but you do wish to tender some documents you have in your possession.

Ms GRAY: Yes, that is correct. What we have is a statement in relation to an opening address and answers to the proposed questions that we would like to tender, as well as the joint investigation manual.

CHAIR: One of the primary purposes of questioning you here today is regarding the JIRT teams as they are now known, or the JIT teams as they were when they were established in 1997. Can you give the Committee a brief overview of how the JIT team works, how you interrelate with the Police Service and what the training is for participants in the JIRT?

Ms GRAY: JIRT is a statewide service. There are nine co-located JIRTs and 12 rural JIRTs across the State. JIRT response occurs when a report of child abuse, if substantiated, meets the criteria of being a criminal offence. This may be either physical abuse or sexual abuse. DOCS and Police have equal partnership in joint investigation and that is for the operation of the program area. Health provides therapeutic and medical assessments. JIRT is actually three agencies: Police, DOCS and Health.

Joint investigation is responsible for enhancing the effectiveness of the investigation process. It is a parallel process of child protection investigation and assessment conducted by both the Police and DOCS. The JIRT decision-making process involves consultation between the Police Team leader and the DOCS Casework Manager. When the matter is referred to JIRT, both the Casework Manager and the Police Team leader consult and decide whether the matter is accepted. If the matter is accepted by JIRT, a briefing will be held by management—the Police Tteam leader and the Casework Manager—with the officers who have been allocated the case. In that briefing we detail roles and responsibilities and identify the child's needs.

On some occasions if no risks are identified in the initial report, this may constitute a police-only response. For example, if a 17-year-old child is reported to have been sexually assaulted while on her way home from work on a Thursday night, she returned home, had a medical and there are no ongoing risk factors, the police will investigate that matter. It is a police-only response within JIRT. Both DOCS and police officers have the same training for JIRT. We have joint investigative interview training as well as joint audio-video training for electronic recording. Joint Investigative Interviewing training commenced in 1997 and joint audio-video training for electronic recording of evidence commenced in 1999.

CHAIR: So it is simply not true to say that DOCS officers have a lower level of training than Police participants in the JIRT.

Ms GRAY: It is absolutely not true to say that.

The Hon. JOHN RYAN: As to the investigating officers appointed by the DOCS casework manager and the Police Team leader, are there any circumstances in which people from DOCS who have not completed the training become part of the interviewing team?

Ms GRAY: No, because the guidelines for electronic recording—as you will see in our manual—specify that officers must be trained in that area in order to conduct such an interview. I will say a little about the process and the roles of the interviews. As I said before, both a Police Officer and

a Caseworker are allocated a case and they are both crucial players in the interview. A JIRT suite primarily comprises two rooms: the interview is conducted in one room and the monitoring equipment is in the other room. The lead interviewer sits in with the child and conducts the interview and is connected with the second room via an earpiece and cameras. The person in the second room is in contact with the lead interviewer via the earpiece and can ask questions in that way. So they are also involved in the interview process. These questions might be designed to ensure that both areas are covered. For example, if a DOCS officer has the primary interview role, the police officer may want to ask a question that will assist with the criminal investigation. This ensures that both agencies' requirements are covered: we cover risk of harm as well as criminality in the same interview.

The child is shown all the equipment and is introduced to both officers and knows that they are both part of the interview. The officers' roles may interchange at any time depending on the child's needs. We tell the child, "If you're not comfortable, that's okay; you can talk to the other lady or gentleman if needed." DOCS continually maintains the focus that the child's or young person's safety and wellbeing is paramount. That focus is a key DOCS principle for all matters, not only for JIRT.

The Hon. PETER BREEN: Does the child see the recording room as well as the interview room?

Ms GRAY: Yes. We show them the monitors. There are two monitors: one is set up with four quads and the other is plain. We incorporate that information differently depending on their age and level of understanding.

The Hon. PETER BREEN: Is there a window between the recording room and the interview room so that the person doing the recording can see what is happening in the interview room?

Ms GRAY: No, because there are monitors. The interview room has cameras and the person in the monitoring room sees what is happening on the television monitor.

The Hon. PETER BREEN: So there is no direct window for them to see what is happening.

Ms GRAY: No.

CHAIR: Do you believe the JIRTs have been successful in lessening the trauma for children and enhancing the preparation of evidence?

Mr TIZARD: We have not received the formal evaluation that Professor John Taplin from the University of New South Wales was undertaking and we do not have the final evaluation report from Diana McConachy. However, it is the impression of staff that it has certainly reduced trauma for children. In terms of the quality of evidence, it is believed that it can be enhanced but it is perhaps variable.

CHAIR: I asked the police witnesses who appeared before the Committee this morning about Professor Taplin's study, which is seemingly not available at present. I understand that that study was commissioned by the police, DOCS and Health.

Mr TIZARD: That is right. It was due in January 2000. There have been considerable negotiations between those three agencies and the University of New South Wales to try to resolve the matter to ensure that we have a final copy of the report. The university has made an undertaking that it will be provided, but I am not aware of the final deadline for that.

The Hon. JOHN RYAN: When was the study commissioned?

Mr TIZARD: I do not have the date. I will take that question on notice. The completion date was certainly January 2000. Professor John Taplin has moved States and employing institutions, which has created difficulties.

CHAIR: Can we confidently expect that the study will be available soon or is that an overstatement?

Mr TIZARD: I understand that it is being worked on at the moment and will be available soon. However, I do not have the date that has been given.

CHAIR: Do you believe the data in the study will still be contemporary and relevant?

Mr TIZARD: Obviously it will not be as contemporary as we would like, but we believe from discussions with Professor Taplin that the content of the material in the study will be of value as an evaluation report to us of the effectiveness of JIRT.

The Hon. JOHN RYAN: The department is paying for the study, is it not?

Mr TIZARD: The three agencies paid amounts of money for the study.

The Hon. JOHN HATZISTERGOS: How much did it cost?

Mr TIZARD: I cannot recall the total cost. Police and DOCS made equal contributions and Health contributed less. However, I do not recall the actual amounts. I will follow that up.

CHAIR: Let us be clear: Professor Taplin is now teaching at another university.

Mr TIZARD: In South Australia.

CHAIR: You—meaning the agencies collectively—are negotiating with the University of New South Wales to gain access to the material.

Mr TIZARD: Yes, and a final version of the report.

The Hon. JOHN RYAN: I understand that a payment has been made already.

Mr TIZARD: Yes, payments have been made. The University of New South Wales has advised that it has retained the final payment that was made in order to facilitate the finishing of the report.

The Hon. JOHN RYAN: Was the report paid for entirely?

Mr TIZARD: I think one further payment is to be made on completion of the study.

The Hon. JOHN HATZISTERGOS: Who are you contracted to: the university or the professor?

Mr TIZARD: The Department of Psychology at the University of New South Wales.

The Hon. JOHN RYAN: In addition to the total cost, can we have details of how much has already been paid?

Mr TIZARD: Certainly.

CHAIR: The department submission states that the increase in child protection reports means an increased demand on JIRT resources. You say:

> As a result JIRT can only accept matters where there is a serious level of criminality and a good chance of successful prosecution. Opportunities to pursue less serious sexual offences or those that have a weaker evidential base are lost.

What does that mean? Presumably it means that you are categorising matters according to a hierarchy of whether they are serious or less serious and those that are less serious or perhaps where the evidence is weaker are weeded out. Is that what it means?

Mr TIZARD: Perhaps I should add some information. It is saying that there is pressure on some JIRTs—it is not necessarily the same across the State; it varies from JIRT team to JIRT team. There is a prioritisation of the most serious matters and they are progressed where the teams think

there is sufficient evidence for prosecution. We also have the capacity to transfer cases to our community service centre teams—our child protection teams at community service centres—to undertake risk assessment and investigation of the matter. Just because it is not handled by a JIRT team does not mean that it is not handled at all by child protection staff.

Ms GRAY: There are clear criteria for JIRT acceptance and, if the matter meets our criteria, JIRT will accept it. It is not based on the priority of how much we have in the unit at that point in time; it is clearly the criteria.

CHAIR: Yesterday we heard evidence from representatives of community legal centres who told us that sometimes complainants are told that a matter would cause too much trauma or the evidence was weak and people were discouraged from continuing. I defended JIRT on the basis that it is no more nor less than telling the truth to say that trauma is involved in court proceedings. What is your response to that? Are people sometimes told that they ought to forget about it having regard to the trauma that might be caused to the child?

Ms GRAY: Joint investigation response can lead down two paths: care proceedings or criminal action. Are you referring to criminal prosecutions or care proceedings.

CHAIR: I am directing my attention to the criminal proceedings. The community legal centre representatives said that in some cases people are told, "You would be better advised to forget about it because the child will be traumatised if they have to go through a process that involves intimidatory questioning and other unpleasantness."

Mr TIZARD: That issue has not been drawn to my attention in the time I have been at the department. I hope that that is not the practice. However, I hope that workers explain that the process can be traumatic and that relevant support is offered for both the victim and the non-offending carers in that situation. I am not aware that it is used as a reason for not proceeding.

Ms GRAY: It is certainly not my understanding either.

The Hon. JOHN HATZISTERGOS: I do not know whether you heard the evidence of the witnesses from the Police Service but they said that about 80 per cent of interviews conducted in JIRT offices are not used because the complaints are not substantiated, the evidence is insufficient and so on.

Mr TIZARD: Is that in relation to criminal proceedings?

The Hon. JOHN HATZISTERGOS: They said that tapes of 80 per cent of interviews in JIRT offices are not used for the reasons that I have outlined. In your submission you say:

> JIRT can only accept matters where there is a serious level of criminality and a good chance of successful prosecution. Opportunities to pursue less serious sexual offences or those that have a weaker evidential base are lost.

Does that mean that you turn them away at the door?

Mr TIZARD: No, that goes to what I said before: we still have the capacity for a child protection response through the community service centre. So a risk of harm assessment can be conducted by child protection caseworkers at a community service centre.

The Hon. JOHN HATZISTERGOS: What happens to them then?

Mr TIZARD: The matter may be progressed through the Children's Court or there may be some other outcome that guarantees the safety of the child. That depends on the particular case and the circumstances of each case.

The Hon. JOHN HATZISTERGOS: But it is not handled in the JIRT office, is that what you are saying?

Mr TIZARD: It will not be handled in the crime path, but it can still go through the child protection and through the Children's Court path.

CHAIR: How is a matter handled where there may be both criminal prosecution concerns and child protection concerns? How do you avoid contaminating the evidence required for the criminal prosecution?

Ms GRAY: I come back to one of the main key principles of JIRT, and that is that the child or young person's safety and wellbeing are paramount. That has to be considered at the time of looking at which action will protect that child more effectively. We have a very tight time frame for care proceedings, which is tighter than your criminal proceedings. We hope that one will enhance the other. We are very careful of trying not to contaminate the criminal brief. But on some occasions it has to be decided what is in the best interests of the child, and maybe it is the Children's Court proceedings that have to override.

CHAIR: Sometimes you would have to make a choice between the two?

Ms GRAY: On some occasions, yes.

Mr TIZARD: Our submission draws attention to the fact that timing is a factor in those matters. Sometimes if the Children's Court matter is proceeding at a faster rate than the criminal proceedings, they require certain evidence to make decisions about risk of harm to the child or young person and the alleged perpetrators can be present in those hearings and, therefore, hear evidence that may be used in the criminal proceedings. That can sometimes jeopardised criminal proceedings.

Ms GRAY: There are certainly provisions under new Children and Young Persons (Care and Protection) Act to enable some of that material to have restricted access as well, if desired.

CHAIR: The department's submission draws attention to the fact that in 1994 the Attorney General established a Child Sexual Assault Task Force. You go on to say that there is now a need for further systemic review of a range of issues that impact on child victims, and witnesses, and the prosecution of alleged offenders. Would you like to tell the Committee why the view is being taken that a multidisciplinary task force, as you describe it, is needed now?

Mr TIZARD: I suppose, broadly, we are saying that there are still some deficiencies in the system, and that we need to look at how to best support children who have been through sexual assault experiences to ensure their safety and protection through the Children's Court and the criminal court process. There is more detail in the submission, but the rules of evidence and children as witnesses and children giving evidence raise issues for us about the timing of hearings, which has been already raised. Those sorts of things have to be looked at. It is about trying to improve on the system to promote the well being of children who have been through this experience.

CHAIR: Is the department's concern about how the laws of evidence operate in child sexual assault matters a primary reason for the study that you are advocating?

Mr TIZARD: It is one of significant reasons, the giving of evidence by children. We are aware that there is an Evidence Act and that it applies for both adults and children. It does not distinguish between any differences between adults and children. We are also aware that legislation in itself is not the answer; it has to be combined with training of those people who are applying the legislation to the situations. It is a combination of looking at what is in place and what needs to be improved in terms of knowledge and expertise about the management of those matters.

CHAIR: Is one of your concerns that, despite the fact that the legislature has abolished the requirement for corroboration of the child's evidence, judges tend to give a corroboration warning in any event?

Mr TIZARD: I cannot comment on that.

Ms GRAY: It is our concern, yes. There have been recent cases that have been brought to our attention in relation to that. Our legal branch of the Department of Community Services has had those matters referred to it. We cannot comment any further on that.

CHAIR: Would the department also be concerned that section 107 of the Criminal Law Procedure Act requires certain warnings to be given to the jury where there is a delay about making a complaint, but that in addition to that it is still commonly the case that common law warning is given by the judge about the need to scrutinise the evidence with care, given the delay in making of a complaint?

Ms GRAY: Research tells us that the delay in making a complaint does not necessarily mean that the victim is not credible. I would have concerns if the delay in complaint is a key issue that is raised with jurors.

CHAIR: It seems to be a matter that is commonly raised with the juries. In fact, the Chief Judge at Common Law, Mr Justice Wood, in a case decided in the Court of Criminal Appeal earlier this year drew attention to the number and complexity of the warnings that have to be given and suggested that the time might now be right for the law to regard the giving of such warnings to be reconsidered with a view to reducing them in number, and also making them less complex. Would that be a matter that you would regard as right for study by the review you are advocating?

Mr TIZARD: We could agree that it is right for study, that it is a complex issue. I fully understand the need for warnings to be given, but at the same time I fully understand the complexity of child sexual abuse matters and their impact on victims, and how it affects them in both the short and long term. At times it is hard to balance the two.

CHAIR: Page 7 of the department's submission mentioned that the videotaping of children's evidence in chief has been successful in reducing the number of interviews required of children. We have been discussing with the police witnesses this morning, and also with the Deputy Chief Magistrate, Ms Helen Syme, who gave previous evidence to the Committee, the pros and cons of the video evidence of being more commonly introduced in evidence in court proceedings, which is very rare at the moment. Does the department have any views about that?

Mr TIZARD: This is the Children's Court? Introduced into the Children's Court?

CHAIR: Initially, but also in a subsequent trial. One argument that has been raised against that is that the opportunity of the child settling in, as it were, in the court proceedings prior to being cross-examined might be lost. It has also been said that perhaps that can be overcome by some brief preliminary evidence given by the child supportive of the interview. Do you think there is room for video evidence to be used more widely in the court proceedings themselves?

Mr TIZARD: We take the view that where it forms the best source of evidence then it should be used.

Ms GRAY: Yes.

CHAIR: You draw attention to children's evidence, and you very properly make the point that insufficient account, I am using my words, is taken of the developmental stage and capacity of children, and that the rules of evidence and procedure significantly disadvantage child witnesses and favour the adult accused. What do you think ought to be done about that?

Mr TIZARD: Our view is that there is a need for training for members of the judiciary and court officials in relation to child sexual abuse matters, and that would include training around child development, the impact of the abuse on the child and the child's thinking patterns, issues about the relationship and exposure of the victim to the alleged offender. Those sorts of things are really important. I note that court officials and the judiciary change, and training is an ongoing process. That can create some difficulties, but it is very important.

CHAIR: The Director of Public Prosecutions, Mr Cowdery, has suggested to the Committee that there ought to be a trial or pilot of the court at which the judicial officers would be appropriately trained in child psychology and the stages of child development; similarly, the court staff would be so trained and all of the suitable equipment would be available at that Court to make the environment as child friendly as possible. Do you think that is useful suggestion?

Mr TIZARD: We support that being looked at as an option, and believe that it may be an appropriate course to follow.

CHAIR: You made a suggestion in the department's submission to the Committee that, to prevent undue delay, there ought to be a legislative time limit and priority listing of these matters for trial. You say that time limits should exist at all steps throughout the process, such as from complaint to charge, from charge to committal, and from committal to trial. Supposing that at the committal to trial stage the time is not met. What happens then? Does the accused go free?

Ms GRAY: The department believes that it may be difficult to prescribe actual time limits and that it may be useful to regulate specific time ranges instead. This will also ensure accountability and, if the time range was not met, it would go back before the court. Therefore a matter does not necessarily lead to the offender going free, no.

CHAIR: The court would still superintend the process, and parties or legal representatives might be called to account if time limits are not met?

Ms GRAY: That is what we believe, yes.

CHAIR: Another recommendation in the department's submission is that there ought to be legislative reform to place greater responsibility on judges and magistrates to actively regulate cross-examination of a child to ensure that the child's inherent capacity is respected. In making that recommendation do you have in mind what is said to be the sometimes intimidatory questioning of children and the apparent reluctance of judicial officers to intervene?

Mr TIZARD: That would be part of it. We are certainly concerned about the approach of prosecutors to children and the manner in which they are behaving through the process of cross-examination. We believe that the judiciary should be able to respond and regulate that appropriately.

CHAIR: It has been said to us that judicial officers are very reluctant to intervene in the cross-examination process on the basis that they may attract the adverse attention of the court of appeal, and have a new trial ordered. Is that your impression or experience, that judicial officers are reluctant to intervene?

Mr TIZARD: Speaking generally, I believe that is a reason that is given for not intervening and not changing the rules of evidence.

The Hon. JOHN HATZISTERGOS: You have put forward a recommendation to deal with it, have you not?

Mr TIZARD: Part of it goes back to the recommendation for education of the judiciary, and that does not apply just to one court.

The Hon. JOHN HATZISTERGOS: You had a recommendation that—

CHAIR: I have put to you specifically, although I did not give you the number—recommendation 5—that there ought to be legislative reform to place greater responsibility on judges and magistrates to actively regulate the cross-examination of a child. That is why I put it to you. Do you have a concern regarding intimidatory questioning or other unfair questioning that leads you to make that recommendation?

Mr TIZARD: Yes, that is what it has been based on.

CHAIR: A section of your submission deals with pre-trial diversion programs, for example Cedar Cottage, which is a pre-trial diversion program. You say it is the only one in operation. You also referred to the New Street program, which is an early intervention service designed to prevent child sexual assault. In the near future we are going to have some evidence from appropriate people regarding those programs. Is the essential point you are making that there is room to replicate those programs more widely in other locations in New South Wales?

Mr TIZARD: Yes. Cedar Cottage is the adult program and New Street is the program for adolescents. We believe that there needs to be consideration of expanding those services and replicating them elsewhere in New South Wales.

The Hon. JOHN HATZISTERGOS: Have they been properly evaluated? I notice Ms Gray is shaking her head.

Mr TIZARD: I believe the New Street program has been evaluated. I believe that Cedar has, but it has been some time since I have been in contact with them.

Ms GRAY: However, I have not actually seen the evaluation yet.

The Hon. JOHN HATZISTERGOS: So they are expanding without knowing how successful they are.

Mr TIZARD: Speaking more generally, evaluating those programs is absolutely essential and it needs to be ongoing, as does the monitoring of those programs. I mean, they are extremely complex programs to run, given the nature of the clients that they are dealing with. Research and evaluation are definitely essential.

CHAIR: If you are advocating their expansion, though, it would appear to be the case that you have formed at least a preliminary view that they are worthwhile programs.

Mr TIZARD: Part of my experience as the CEO of the Children's Protection Society in setting up a child sexual abuse treatment program and an adolescent sex offender program was based on looking at the programs in New South Wales at the time and was based on looking at international research about the effectiveness of those programs, and liaising with experts from overseas in the field of both victim and offender treatment. I base my comments on that experience.

The Hon. JOHN HATZISTERGOS: What sort of people are suitable to go into those programs?

Mr TIZARD: It is hard to generalise about what sort of people are suitable. The younger that we can deal with alleged offenders, the better.

The Hon. JOHN HATZISTERGOS: I notice that you are recommending that the Cedar Cottage program also be extended to grandfathers because there is increased reporting of grandfathers sexually abusing young children, which I find to be quite an appalling situation. Leaving that aside, I would have thought it is quite entrenched behaviour at that level.

Mr TIZARD: Absolutely.

The Hon. JOHN HATZISTERGOS: I am just wondering how much success you are going to have with a program aimed at addressing that sort of behaviour, given that a person may have been participating in that behaviour for quite some time.

Mr TIZARD: Really the only way that you can know about the effectiveness of those programs is through follow-up studies on whether or not there have been further reoffending behaviours. You are reliant on whether there have been further charges and convictions or some sort of self-reporting which makes research difficult. My understanding though, broadly from the research, is that they can be effective in changing behaviours.

The Hon. JOHN HATZISTERGOS: What sort of strategies have you put in place?

Mr TIZARD: I think you need a combination of both the legislative framework and a therapeutic framework—a carrot and stick approach, if you like. These people are not too amenable to treatment usually, so you need some sort of court ordered approach to get them in there and then you need a very carefully managed therapeutic approach, combined with legal sanctions for not adhering to the program. It has to be very closely linked.

The Hon. JOHN HATZISTERGOS: I do not know a lot about them but I just find it somewhat difficult to comprehend the way you have proposed them. You are suggesting that they are almost in a Drug Court situation where you delay sentencing a person, you send them off to these programs and you bring them back for sentence. It is not as though you are dealing with drugs, which are addictive, but behaviour, and presumably a person may be able to control that for a period. After they are sentenced and get the benefit of what the program provides, it continues to be an at-risk situation, potentially.

Mr TIZARD: It is extremely complex but I suppose my views are based on the fact that we need to do something about trying to prevent child sexual abuse, and that does mean addressing the problem of offenders, both through the criminal justice system and also therapeutically. Through the research and through the work with offenders as well, very valuable information has been gained on thinking patterns and behaviours. That has assisted us to work very effectively with victims and also to understand the change from victim to victimiser in some instances. My understanding is that a fairly high degree of young offenders have been victims and have moved onto victimising, particularly in the case of young males, Treatment programs are important from a knowledge point of view as trying to address the problem overall to prevent sexual abuse.

The Hon. JOHN HATZISTERGOS: I suppose what I am concerned about is that you have put forward a recommendation to the Committee that Cedar Cottage in particular be extended to grandfathers and basically that these programs be expanded in terms of their outreach. I am not sure we have the information before us to form a judgment that that is an appropriate recommendation for us to endorse.

Mr TIZARD: We would only recommend immediate expansion of the program once it has been evaluated and there is a positive outcome being described in terms of this evaluation.

The Hon. JOHN HATZISTERGOS: We need some sort of evaluation information.

Mr TIZARD: Absolutely.

The Hon. JOHN HATZISTERGOS: Are you able to get some of that to us?

Ms GRAY: No.

Mr TIZARD: No.

CHAIR: Recently I was asking you about Mr Cowdery's proposal for a pilot court that would be more child friendly. He also made a suggestion to the Committee within that proposal that there ought to be what he described as an expert interviewer. I understand that you have not yet seen the text of what he has had to say to us. However, would you agree, if we communicate that material to you, to give us the department's views subsequently?

Mr TIZARD: If we were provided with that material to respond on notice, yes, we will do that. I would just comment that we are aware of the Queensland Law Reform Commission's report on children's evidence recommending against that sort of approach. We would use that information to our response, and we are not in favour of implementing systems that will increase the number of interviews children are subjected to.

CHAIR: That is one of the rationales for the original JIT, now JIRT, proposal.

Ms GRAY: Yes.

Mr TIZARD: That is right.

CHAIR: I will come back for a moment to criminal proceedings and care proceedings. I note that this issue is dealt with on page 14 of the department's submission. You mentioned that when DOCS believes that the child is in need of care and protection due to sexual assault, DOCS acts quickly to protect the child from the alleged offender and that usually means that the information and allegations upon which DOCS happened to base its concern are put before the Children's Court,

meaning, as you go on to say, that the offender is then forewarned of the allegations and the evidence, such as the child's disclosure and so on. I suppose in some cases it is quite difficult for you to decide what to do. You have to make a choice, and if you make the choice in favour of care proceedings, that may vitiate or impede the criminal prosecution. Do you agree with that?

Ms GRAY: Yes, I do, but there are other avenues that may be used to look at protecting the child. We assess the immediate risk of harm for that child and it is our belief that the least intrusive option is the best option for that child. One of the methods that can be used is an application for an AVO. The application for the AVO means that at that initial stage not as much information is provided, so that is one of the ways that the department can look at that. Also it is a very complex question because it is based on who the actual offender is and the relationship of the child to the offender.

The Hon. JOHN RYAN: I want to go back to the staffing arrangements. I get the impression that within the New South Wales Police, the people who service the JIRTs in the nine places in the metropolitan area and the 12 other rural resources are specifically allocated to that task and tend to do that task only. They also tend to stay there for a period, at least for a couple of years. The impression given to this Committee from a wide variety of sources is that that level of stability is not observable within the Department of Community Services; that there seems to be a very significant turnover of staff. When we talk about the allocated JIRT officers, are they drawn from the specifically allocated team of people who are located at those nine locations in Sydney and 12 locations throughout rural New South Wales, or are they drawn from people who hold appropriate training and who have, among other things, to do the normal casework that is usually conducted by the Department of Community Services?

Ms GRAY: The nine co-located JIRTs means that both the police and DOCS are actually physically co-located and the DOCS officers' role is purely JIRT focused. For the rural sector, because they are not co-located, some areas—for example our western area—have actually made it that JIRT workers are actually just doing JIRT work. But in some of the other rural areas, they also do generic work or a generalised caseload.

The Hon. JOHN RYAN: Have you any idea how long it takes from making a complaint either with the police department or with your department until the matter is allocated to a JIRT? How long does it take for the assessment period and for it to be allocated? You say that a complaint is usually assessed in some way through a decision-making process that invites consultation between the police team member and a DOCS casework manager and so on, and then when the matter is accepted by JIRT it is allocated to some officers. Do you have any idea how long that process takes?

Ms GRAY: That varies, depending upon the risk of harm and the immediate risk to that child.

The Hon. JOHN RYAN: I am sure it does, but I cannot believe that you would not have some sort of benchmark for knowing how long it takes your department to do that and some way of assessing whether you are doing it well or not doing it well. I do not know what the question is that I should ask you, but I am sure you must have some means of assessing whether it is working. Obviously a delay in that area would be a matter of some significance. I guess I am asking you to say how you would assess the delay? What is your performance against the assessment criteria that you use?

Mr TIZARD: In relation to a serious level one matter, a serious physical or sexual abuse matter, we would be looking at a response within 24 hours as a benchmark.

The Hon. JOHN RYAN: But a response is an interview from someone from the department, is it not?

Mr TIZARD: It may depend on the situation. It may require a face-to-face contract interview with the alleged victim and the family. If the child, for example, was in hospital and was quite safe in the hospital, it may not be that we need to make the face-to-face contact within a 24-hour time frame. Children who are seriously physically injured, for example, and who require medical attention may well be in the hospital and it may well be the hospital that reports in that situation, so

you would talk to the hospital about what the situation is, what the parents' response is, and what you need to do. You may not see them within the first 24 hours, but you would be dealing with that situation, knowing that the child is safe.

The Hon. JOHN RYAN: Yes, I realise that that might happen, but there have been people who have given evidence either as non-government service providers or in a couple of instances as those who have been through the process as victims. They refer to waiting periods in the order of months from having made a complaint until they are actually interviewed by a JIRT. The police have said that they have virtually no backlog in terms of matters that have been allocated to JIRT, so the only potential area for delay as I see it is at the assessment period. What is the current performance of your department in making those assessments?

Ms GRAY: I am not aware of any backlog, either, within the JIRT, particularly the co-located JIRTs.

The Hon. JOHN RYAN: Nobody has suggested there is. The area of backlog is prior to it being allocated to the JIRTs.

Mr TIZARD: That should not be the case. They should be coming through straightaway from the Helpline.

The Hon. JOHN RYAN: The person making the complaint has absolutely no idea that there is this other bureaucratic procedure that happens before someone is allocated to do that. They tend to measure it from having made the report to a DOCS officer or a police officer and months later they go to a JIRT suite and make a statement or take their child to make a statement. According to Superintendent Heslop, only four matters had been allocated to JIRT in which an interview has not actually taken place, so the only area for delay whereby people say that they have had to wait for months is clearly from the time at which a matter is notified either through the Helpline or through a report to the school principal, to DOCS, or to someone, until the matter is assessed and discussed by the two people to whom you have referred, the case worker and the JIRT leader. Then it is allocated. What is the performance? How do you judge your performance on whether that procedure is progressing efficiently and without undue delay?

Mr TIZARD: All reports would be coming from Helplines, so they should not be going to individual offices in CSCs or JIRTs. The Helpline monitors performance on a daily basis in terms of waiting times and the processing of reports through to CSCs and JIRTs, and my understanding is that those timings have greatly improved. I cannot see that there would be a delay there in the order of what you are talking about because that is monitored constantly. We also monitor at an area level what is going on.

The Hon. JOHN RYAN: You have discussed it wonderfully in general terms. Does the department have some statistics which it looks at to assess the problems between when something arrives at the Helpline and when a case has been allocated?

Mr TIZARD: The department is looking at that statistical information at the moment.

The Hon. JOHN RYAN: Are you able to supply the Committee with any information relating to that.

Mr TIZARD: No, I am not.

The Hon. JOHN RYAN: Why not?

Mr TIZARD: I do not have that information at this point in time.

The Hon. JOHN RYAN: Are you able to supply that at another time—on notice, I mean?

Mr TIZARD: We would be able to provide information on the process that is being developed to monitor the allocation of cases and time frames for responding to those cases.

The Hon. JOHN RYAN: At the moment you do not have any idea of whether there might be cases that have been waiting for months.

Mr TIZARD: It is not my belief that these cases waiting for months, given the processes that exist at the Helpline and at the area level.

The Hon. JOHN RYAN: But you have got no management statistics to let you know for certain that that is not what is happening?

Mr TIZARD: We are in the process of developing a Statewide set of data and a management strategy so that we have got consistency in how that is managed across the State.

CHAIR: Could I just clarify this? I was understanding you to say a short while ago, Mr Tizard, that it is your impression or understanding that matters go with a minimum of delay from the Helpline to a JIRT in an appropriate case where it is a serious matter. You did say that?

Mr TIZARD: Yes.

The Hon. JOHN RYAN: So there would be people making complaints to the Helpline and there would be JIRTs investigating them within a week. Judging by the process you have described, it does not look like that is something that would happen within 24 hours or a week. I would imagine that if a person is being seen within 24 hours, it is probably in the nature of a visit by a DOCS case worker to make some assessment as to the level of additional risk, is it not? It would not be a JIRT making that visit.

Ms GRAY: JIRT can respond within 24 hours, yes—definitely. If we get the information that meets the criteria, if we assess that the child is at high risk and if we accept the matter, well then we can respond within 24 hours, yes.

The Hon. JOHN RYAN: Yes, but can that assessment be made within 24 hours? I accept that JIRT appears to be able to respond fairly quickly because the office has not been discretely located. What I am trying to find out is this: given that there is another process of assessment to make sure that a matter falls within the guidelines—and one imagines there would be some assessment or visit to the individuals to check up on the nature of the complaint and so on—that happens beforehand. That is what the people who are telling us about the process are saying constitutes delay.

Mr TIZARD: At the case management level, yes.

The Hon. JOHN RYAN: I am not sure we have an answer to that at all yet.

Mr TIZARD: We are currently developing—a system of monitoring. We are not proposing to monitor how long the assessment process is taking in individual cases. That will vary according to the complexity of the case and things like the number of people involved, the nature of the abuse—those sorts of things—in terms of planning and appropriate response.

The Hon. JOHN HATZISTERGOS: But in terms of being able to protect the child, how quickly can you respond?

Mr TIZARD: In serious matters the benchmark is to respond within a 24-hour time frame.

The Hon. JOHN HATZISTERGOS: But just assuming that the complaint is fairly serious, you are not able at that point necessarily to identify the offenders or process that part of the case, but you still have a very serious issue at hand with limited information. How long does it take you to respond, to put the child in a position where his or her safety is assured?

Mr TIZARD: It is a complex question to answer, given the circumstances of the case. If there is clear information that this child is at risk now, at serious risk now, of say physical or sexual abuse, then we need to respond within the 24-hour time frame in order to make that child safe. If it is a matter where the allegations are a little bit unclear and further information is needed to ensure a successful outcome in terms of protecting the child in the future, then you may need to slow it down to

get the information that you need. If you go in there immediately without all the information, you can actually do more damage to the situation and leave the child an at-risk situation because you do not have the evidence to take action. If it is a very clear allegation and report, then it is much more straightforward to then say, yes, we need to investigate within 24 hours or we need to investigate, assess and take action now. But if, for example, there is uncertainty about the perpetrator, there is uncertainty about the type of abuse and those sorts of things, you need to be careful to gather that information before you start the assessment.

The Hon. JOHN RYAN: You said earlier "if we accept the matter" reported to you from the Helpline. What happens to matters which are not accepted within the criteria for acceptance?

Ms GRAY: The process is that the matter will come straight from the Helpline directly to a JIRT if the Helpline feels that a JIRT response is required. As I said before, the Casework Manager and Police Team leader will look at the report and make a decision as to whether it meets the criteria. If we accept it, we keep the matter. If we reject it, we refer the matter back to a local CSC.

The Hon. JOHN RYAN: Sorry, the expression CSC?

Ms GRAY: Community Service Centre.

The Hon. JOHN RYAN: One of the other things that has been said to the Committee is that to some extent if a matter has been referred to a JIRT and if it is one of the 80 per cent of matters that do not successfully proceed to a prosecution, there is a belief at least by some of the service groups that have been reporting to this Committee that that tends to be where the involvement of the Department of Community Services seems to end, too. If it is regarded as something that has been pursued as a criminal matter, that will not be successful because it has been deemed to be investigated to a point at which it is able to be assessed on whether it is going to be criminal or otherwise. There tends to be a belief by some that that tends to be where DOCS says, "Well, we have taken that as far as it can go", and that is where it ends. Are you able to respond to that kind of claim?

Mr TIZARD: We cannot respond in terms of having any hard data on how many have been progressed by the CSC and how many are closed at that point, but it is certainly not my understanding that that practice is widespread. My understanding is that a number of the matters that require ongoing investigation and assessment are managed by CSCs.

The Hon. JOHN RYAN: Who has the responsibility within JIRT for referring it back to a CSC for further attention?

Ms GRAY: The process is that if ongoing work needs to occur within a local CSC, a meeting is called—which is known as a planning meeting—and it will be the Casework Manager of JIRT and the Casework Manager of the local CSC.

CHAIR: If care proceedings are indicated, where are they initiated—at the JIRT, or at the CSC?

Ms GRAY: Depending on what form of care application we are making, under the new Act we have a whole new range of care applications we can make. If it is that we feel that the child is in immediate danger and we have to actually remove the child, the JIRT officer is the one taking the action and will actually lodge the care application.

The Hon. JOHN RYAN: So members of your JIRT do have both a criminal role and a care application role as well?

Ms GRAY: Yes.

Mr TIZARD: The care role of it is always part of their role.

CHAIR: That was one of the essential rationales for creating the multidisciplinary approach, was it not?

Mr TIZARD: Yes.

Ms GRAY: Yes.

The Hon. JOHN RYAN: Are you able to give the Committee any indication about the stability of the staffing of the individual JIRTs, such as how many of your staff would be, for example, in continuous employment in those units for in excess of a period two or three years?

Ms GRAY: What I can comment on is that for the co-located JIRTs, we tend to be able to maintain staff for in excess of two years, yes.

The Hon. JOHN RYAN: The other area that people complain about in terms of the child sexual assault matters is in the area of co-ordination and communication during the procedure when something goes up for criminal prosecution. It seems to me that one of the possible reasons why people report difficulties in this area is that while there are three or four agencies all trying very hard, no one, particular individual has case management of the particular case. Quite often the clients find it very difficult to know who to go back to; similarly, nobody knows who to blame at the end and nobody to whom, "Look, this procedure was not explained to me. I was not clear" can be said. For example, somebody said the other day that one of the shocks they got when they arrived at the court was that they had absolutely no idea when the case was going to come up and they got less than 24 hours notice that the case was coming to the court. When they arrived at court they were surprised to discover, although it might seem common to us, that there was a large number of people there to support the alleged perpetrator yet they were there almost on their own with a single other member of their family. That appears to suggest a level or a lack of co-ordination. The difficulty I have is that no one agency seems to assume responsibility for making sure that those kinds of things do not happen. Is there some way in which that problem can be addressed?

Ms GRAY: DOCS JIRT officers may not still be involved in the case when the matter actually goes to criminal prosecution. DOCS JIRT officers are not in a position to be advising those families because it is not our action and we are not involved at that stage.

The Hon. JOHN RYAN: I think the police officers would take the same view—that they might have moved on to another area of investigation. Their primary role was to prepare a statement or some evidence for the court. That has been done and they would take the view that they too move on. There is another group of people who provide some sort of court assistance and they would say that their role starts when the matter actually comes to court. Who is controlling what happens to the individual in the middle? Many of them report that there are services that they need, or access or support that they need, that is not given to them because, even though there is co-ordination to get the statement together or the evidence together, after that point has been reached there appears to be precious little co-ordination with the victim at all.

Mr TIZARD: I think that DOCS should undertake, where there is ongoing involvement, either through care proceedings or where the child or young person is on an order from the Children's Court and we are involved, to maintain case management responsibility. It is a bit more difficult for us if we have resolved our work in relation to the care proceedings and we are no longer involved. But I would expect the police should be able to take that case management responsibility during criminal proceedings.

The Hon. JOHN RYAN: So is it not possible after the interview has taken place for JIRTs officers to allocate between the two of them whether the case falls into one of those two categories, appoint one or other of the two individuals to take up the ongoing responsibility for that person and follow that up occasionally?

Mr TIZARD: That sort of approach should be used, I would hope. It is an appropriate approach. They should be talking about the closure of the case or the ongoing nature of the case and who has the case management responsibility. If the care proceedings or care situation is ceasing for some reason and police are continuing on, I would see it as a police responsibility and it should be negotiated.

Ms GRAY: And post-interview, just like pre-interview, there are briefings. Post-interview we also have debriefing sessions and issues of roles' responsibility, exactly like those you are talking about, are discussed at that point in time.

CHAIR: Thank you very much for your evidence this morning and for the department's submission.. Your co-operation is very greatly appreciated.

(The witnesses withdrew)

(The Committee adjourned at 12.45 p.m.)