Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings

# WITNESS STATEMENT OF JAMES OGLOFF

I, James R. P. Ogloff AM, University Distinguished Professor of Forensic Behavioural Science and Dean, School of Health Sciences, Swinburne University of Technology, John Street, Hawthorn, in the State of Victoria, do solemnly and sincerely declare that:

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

2. The views I express in this statement are my own based on my education, training and experience. They are not intended to represent any views of my employer.

**Background and qualifications**

3. I am a registered psychologist in Australia with endorsement in clinical psychology and endorsement in forensic psychology.

4. I have the following qualifications:

   (a) Bachelor of Arts (Psychology) from the University of Calgary;

   (b) Master of Arts (Clinical Psychology) from the University of Saskatchewan;

   (c) Juris Doctor (with Distinction) from the University of Nebraska College of Law; and

   (d) Doctor of Philosophy (Forensic Psychology and Law) from the University of Nebraska-Lincoln.

5. I am a Fellow and past chair of the Australian Psychological Society, College of Forensic Psychologists and a Fellow of the APS College of Clinical Psychologists. I am also a Fellow of the Canadian Psychological Association, American Psychology Law Society and the International Association of Applied Psychology. I am also a Research and Clinical Fellow of the Association for the Treatment and Prevention of Sexual Abusers, the peak international body in this field.

6. I am currently the University Distinguished Professor of Forensic Behavioural Science and Dean of Health Sciences at Swinburne University of Technology.

My substantive academic appointment is in the Centre for Forensic Behavioural Science (CFBS), which has been at Swinburne University since 2014. The CFBS is a research and teaching centre in the School of Health Sciences at Swinburne University that focusses on forensic mental health and forensic behavioural science. It also serves as the independent research, training and evaluation unit of the Victorian Institute of Forensic Mental Health (**Forensicare**). I was the foundation Director of the CFBS and held that position until 2022. I conduct research, train researchers, provide professional development training, and teach postgraduate courses in forensic psychology. The CFBS comprises 12 academic staff, 9 postdoctoral research fellows, and more than 40 doctoral students and research assistants.

7. In addition, I have held executive appointments at the Victorian Institute of Forensic Behavioural Science (Forensicare) since 2001. I am currently the Strategic Advisor to the CEO. I held the position of Executive Director of Psychological Services and Research at Forensicare from 2001 – 2022, with intermittent period of acting CEO (2009 – 2018). Forensicare is an incorporated public statutory authority established under Part 14 of the *Mental Health Act 2014* (Vic). Forensicare is the statewide provider of forensic mental health services in Victoria and provides an integrated range of clinical services for people with a serious mental illness in the criminal justice and general mental health systems.

8. In my role as Executive Director of Psychological Services and Research at Forensicare, I was responsible for the delivery of psychological services and research. Forensicare employs more than 80 psychologists, primarily clinical and forensic psychologists, but also clinical neuropsychologists. They also have a research department that is co-located with the CFBS. I continue to maintain a clinical load, conducting psychological assessments for the courts and tribunals in complex cases.

9. I served on the Expert Advisory Committee of the Royal Commission into Victoria's Mental Health System.

10. In addition to my research and clinical work, I regularly consult to correctional services, youth justice services, human services and the police. I sit on a number of boards and advisory committees and have chaired government task forces exploring matters such as the assessment and treatment of sexual

offenders, the provision of mental health services in jails and prisons, and the organisation and operation of forensic disability services and forensic mental health services. I have also conducted many reviews in the areas of justice, mental health, and disability involving matters such as youth justice services, review of forensic disability services, murder by people on parole, suicide and deaths in custody, mental illness among Aboriginal prisoners, violence and aggression among young offenders, and self-harm and suicide among immigration detainees.

11. I have previously been an Authorised Officer, pursuant to the *Forensic Disability Act 2011* (Qld), in 2018 - 2019 and led a review of Queensland's forensic disability service system which completed in 2018. I have worked with offenders, including mentally ill and intellectually disabled offenders, who engage in sexual and/or violent offending since 1985.

12. In 2015, I was appointed a Member of the Order of Australia, recognised for significant service to education and to the law as a forensic psychologist, academic, researcher and practitioner.

13. Attached to this statement and marked **JO-1** is a copy of my curriculum vitae.

**Adult Offender Profile**

14. When considering the types of adults who commit child sexual abuse offences, we know that there is a range of reasons people offend against children. Some offenders are paedophiles and other people who offend against children do so based on opportunity or impulse.

*Paedophiles*

15. Paedophilia is a paraphilic disorder[1] (ongoing sexual attraction to inappropriate stimuli) in which people have an intense and persistent sexual attraction to prepubescent children (typically before age 13 years).[2] The diagnosis of paedophilia can be either "exclusive type" (where one is only sexually attracted

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[1] "The term paraphilia denotes any intense and persistent sexual interest other than sexual interest in genital stimulation or preparatory fondling with phenotypically normal, physically mature, consenting human partners" (Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision, 2022, p. 780).

[2] "Over a period of at least 6 months, recurrent, intense sexually arousing fantasies, sexual urges, or behaviors involving sexual activity with a prepubescent child or children (generally age 13 years or younger)…. The individual has acted on these sexual urges, or the sexual urges or fantasies cause marked distress or interpersonal difficulty" (Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision, 2022, p. 793).

to children) or “non-exclusive type” (where one is sexually attracted to both prepubescent children and adults). I should note that being a paedophile is not axiomatic with offending. While all paedophiles, by definition, have a sexual interest in pre-pubescent children, not all paedophiles offend physically against children. Some paedophiles engage in online offending using child sexual abuse material, and some do not offend but sustain themselves with fantasy.

16. The most difficult situation is where someone is an exclusive paedophile, because their physical sexual needs are only met illegally, by sexually abusing a child. It is difficult for them, understandably, to refrain from acting on their sexual interests by sexually abusing children. However, research shows that only a small proportion of people who have sex with children are true exclusive paedophiles.

17. Because most paedophiles are not exclusively paedophilic, and may maintain adult consensual relationships, people can be so surprised that someone sexually abuses children or accesses child sexual abuse material.

18. Just as with other people, paedophiles realise from a young age that they are sexually attracted to children. They learn that such attraction is taboo and hide their sexual attraction from others. It is very common for them to develop a secret life that they do not share with anyone, save people online who share similar interests. This lifetime of hiding their secret enables them to live a lie; even intimate partners, in my experience, are unlikely to know of their partner’s sexual attraction to children.

19. Partly as a result of their adeptness at hiding their secret and pursuing children for sexual gratification, paedophiles can be master manipulators. They capitalise on the fact that most people do not suspect that they will be paedophiles. They will set up a situation where those who know them think they are perfectly normal, but if you delve into their lives, you’ll find the relationships are not perfect. As noted, very often their partners do not know they are having sex with children, but they know things are not the way they should be in a relationship. This is in many ways the most difficult group, because their actions are calculated and intentional, and they are able to set up a situation to cover up their proclivities, if a matter is raised retrospectively. This behaviour can be highly reinforced, because they can abuse children with

impunity. Research shows that many paedophiles, once captured, admit that they had abused children on occasions when they were not caught.

20. Paedophiles, who are attracted to prepubescent children, are usually not gender specific, because they are not interested in a particular gender; rather, they are attracted to the characteristics of a child prior to the development of secondary sexual characteristics.

21. If a person has repeat episodes of victimising prepubescent children, that is usually a tell-tale sign that they are paedophilic. If they act on their sexual interests, they can become predatory.

22. As noted, people who are sexually attracted to children have typically been attracted to children from a young age (although, again, maybe not exclusively). Their attraction to and interest in children is very often both physical and emotional interest. Given the taboo against sexually abusing children, some paedophiles are able to develop cognitive distortions, or rationalisations, that justifies their desires. And they'll begin to distort their cognitions about the nature of the relationship. In the extreme, some paedophiles believe that this is healthy and normal to "have sex with children," and believe that society will eventually evolve to share their perspectives.

23. Paedophiles who act on their sexual attraction and abuse children, develop very different cognitions and rationalisations than others. In some case, unfortunately, they gravitate toward areas of employment that bring them into touch with children (e.g., teachers, coaches, child care workers, volunteers working with children). Some are drawn to those occupations because they like children in a non-prurient way, but if they also are sexually attracted to children, it is challenging for them to manage their behaviour and refraining to sexually abuse children.

*Situational or opportunistic offenders*

24. An oftentimes overlooked group of people who engage in sexual relationships with children, are those whose abuse occurs in essentially situational, or opportunistic circumstances, and the victims are usually older children (i.e., not infants or toddlers).

25. Usually these are people whose personal needs are being met by these relationships or affiliations with children and they act on physical impulses without adequate emotional control.

26. Most often such people who are not particularly insightful about their own boundaries. You will also generally find that they have relationship difficulties. They may have been in a relationship, but when you dig a bit deeper, it is not really much of a relationship. So they are emotionally needy themselves and they are meeting their needs, both physical and also emotional, by a sexual encounter with a young person.

27. People in the opportunistic group are not attracted so much to the prepubescent child, but to a young sexual being. If a person is targeting a particular gender in children, they are often interested in pubescent or post-pubescent children.

28. The term “hebephile” signifies sexual interest in pubescent children. It is a very controversial term as there are debates around whether that should be considered as a disorder in the way that paedophilia is. Whilst some people believe it should, others believe that it should not because they argue that it is more normative; that is, as humans evolved, males in particular were attracted to females who are sexually mature and can have children (peak years of age between approximately 15-25), so that they see it as natural. Most people grow away from that attraction to pubescent children, but some people are fixated at that particular stage. For those who are, that can be a problem in the way that paedophilia can regarding the attraction to prepubescent children.

29. The age of the victim is a very important indicator and one of the clinical determinants of which group an offender falls into, particularly whether the victims are prepubescent or pubescent, because, for humans, the post-pubescent child is so different from a prepubescent child. Prepubescent children obviously are not sexually mature, and they are not sexually appealing to the vast majority of people. The victims of paedophiles are, by definition, prepubescent children, and the victims of people who are not paedophiles but are more opportunistic, are usually older children (noting, however, that the age of physical maturity has been reducing over the past several decades. In the late 1970s / early 1980s, girls were beginning to develop usually by 13, and

boys a little bit later. Now, children are physically maturing as much as one year to 18 months earlier).

*Other offending adults*

30. There is another group of offending adults, who are the truly opportunistic. I have seen, for example, a situation where a teacher on a school camp ends up chatting with a student and then kisses them, and the next thing you know they are having "a relationship." So that is what I mean by truly opportunistic, it is not that they would have set out with the intention of sexually abusing a child, and oftentimes when you speak to those people after, they are entirely surprised by how they behaved, because that has not been a pattern of behaviour.

31. The most common scenario in teaching is perpetrators in their early to mid-twenties (and oftentimes even older) who are having "romantic" relationships with 15, 16 year-olds, or a bit older. In most of these cases, they do not go on to re-offend. This is different from the case where the perpetrator engages in repeat victimsation and the nature of the encounters and situation is more predatory than opportunistic.

32. Truly opportunistic offenders are very different from paedophiles, who may be drawn to professions involving children because they are paedophiles. It may be helpful to understand that although they may be drawn to professions and volunteer opportunities to work with children, the conscious motivation is not always or just to sexually abuse children. Rather, many like children for non-prurient reasons, as is the case with many other people who have no sexual attraction to children. And so there will be different attitudes expressed by people after the fact, depending on which group of offenders they fall into.

33. Obviously, there is some overlap between more predatory and opportunistic offenders, and it is always really hard to make generalisations. On a case-by-case basis, we most often see a degree of heterogeneity.

*Cultural background*

34. There is no contemporary culture of which I am aware that accepts sexually abusing children. In some disadvantaged communities, such as some Indigenous communities, there may be high rates of child abuse, but this does not arise from a particular cultural background, but rather it is often because

there is a lack of positive role models, lots of intra-familial abuse and extra-familial abuse, which leads to a culture of lack of boundaries. And where families have a lack of boundaries and there is intra-familial incest, these situations and patterns of abuse, including sexual abuse, end up getting perpetuated over time.

*Intellectual or cognitive disability or mental illness*

35. As a group, people who are intellectually or cognitively disabled are no more likely to offend sexually or to be paedophilic than other people. But if an offender has very limited cognitive capacity, it becomes very difficult to provide effective treatment, because it through our cognitions (thoughts) and intellectual capacity that usually allows us to control our emotions and expressions of sexual behaviour.

36. There is no evidence that mental illness causes people to have aberrant sexual interest. In fact, low prevalence and serious mental illnesses, such as schizophrenia and other psychotic illnesses very rarely have any relationship with sexual offending, unlike other forms of offending and violence that are overrepresented in these populations. But people who have a sexual predilection towards children and who have high prevalence disorders such as anxiety or depression are more likely to act on their sexual predilections and impulses when they are depressed or anxious.

37. So mental illness does not have a direct relationship with sex offending, nor does intellectual disability. However, someone with an intellectual disability and sexual paraphilias, including paedophilia, has limited capacity to change behaviour. By contrast, if somebody who is engaging in harmful sexual behaviour when they are anxious or depressed gets treatment, they will have some increased capacity to stop engaging in that behaviour.

*Gender distinctions in adult offenders*

38. There are differences of opinion, but I firmly believe that there are very few female paedophiles, whereas the percentage of men who are paedophiles, whilst still a very small percent (somewhere like seven to ten out of a thousand), is more significant than we would have believed.

39. I have not really seen women who are paedophiles. The women that I have seen fit more exactly into the category I mentioned of being typically

emotionally needy. Their emotional needs are being met often before their physical needs. Also, many women who offend sexually against children do so with partners and, in my experience, are often co-dependent on their partners. One mother I saw professionally who had sexually abused her children with her partner put it thusly, “If I didn’t do what he wanted, I would have lost him. I needed him more than I needed my children.”

40. You can make a simple distinction, which is not always fair, but it seems to me applicable in a lot of cases I have seen, that whereas men are driven often by the physical attraction and emotion might come along after, oftentimes with women their emotional needs are being met first. And it is much more frequent that women who abuse children are feeling that they are ‘in love’, and there is almost a romantic element, whereas there are still a lot of male abusers who know fully well this is not appropriate and that they are physically meeting their needs, not emotionally. So that is a simple distinction, but it is something I have seen and it is quite clear. So the motivations are very different, and how you would treat the offenders would be very different, as would their likelihood of re-offending sexually.

*Distinction between contact and online offenders*

41. We have learned, particularly through research and clinical work with online sexual abuse material (i.e., online child pornography), that there are more people than we would have thought with sexual interests in children, who do not necessarily act on those interests by physically offending against children. And so there are differences between contact offenders, online offenders and what we call mixed offenders, who are both contact and online offenders.[3] While all three groups may share a sexual attraction to children, they differ in their tendency towards behavioural control and rule/legal violations. Simply stated, the people who have online offending exclusively, tend to be people who are less impulsive and have a higher level of emotional and behavioural control. They are less likely to perpetrate, certainly impulsively. The contact and mixed offenders are generally not distinguishable

[3] Henshaw, M., Ogloff, J.R.P., & Clough, J.A. (2018). Demographic, mental health, and offending characteristics of online child exploitation material offenders: A comparison with contact-only and dual sexual offenders. Behavioral Sciences and the Law, 36(2), 198–215. doi:10.1002/bsl.2337.

**Treatment for adult sex offenders**

42. In terms of treatment, I think it is a fact that you cannot change someone's primary sexual attraction. If you have somebody who is paedophilic, then you would not be able to change their sexual attraction. Early treatments attempted to change people's sexual attraction and those efforts largely failed. However, greater success has been found by changing perpetrator's attitudes toward offending and changing their behaviours. As treatment professionals, that is where our focus has shifted.

43. When I started working in this field almost 40 years ago, we focused on believing you could change people's sexuality (i.e., primary sexual attraction). But that view is all gone now, and now treatment is really focusing on changing and curtailing behaviour so that children are not violated. It does not change a person's sexual interest, but if you can reduce damaging behaviour, that is positive. The approaches used that have found to be effective focus on addressing offence-specific factors (i.e., the factors that directly contribute to offending) using cognitive behavioural approaches.

44. As people age, the rate of sexual offending can reduce dramatically, with very few people beginning sexual offending against children after 40 years of age. By contrast, though, there is a very good study from Canada[4] that looked at a large cohort of high-risk offenders, and they found that they did not attenuate the behaviour over time. I certainly have seen incest offenders, for example, who have abused three or four generations of a family. In the main, most people will attenuate a bit over time, but there is a small group of persistent, high risk, people who do not.

45. The treatment of these types of persistent people is very different to treatment of the opportunistic group, and I think that sometimes there is not much you can do to treat them. A lot of my work is with people on supervision or detention orders post sentence, and some of these people I have been seeing for almost 20 years, since the regimes began in Australia, and it is unfortunate that some of the high risk offenders will die, or become debilitated by age, before they would cease offending if they are not in a system that makes them

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[4] Olver, M. E., Nicholaichuk, T. P., Gu, D., & Wong, S. C. P. (2012). Sex offender treatment outcome, actuarial risk, and the aging sex offender in Canadian Corrections: A long-term follow-up. Sexual Abuse: A Journal of Research and Treatment, 25, 396-422. https://doi.org/10.1177/1079063212464399

stop (i.e., being subject to supervision orders and conditions). We have to remember, though, that this is a very small group of predatory offenders, and the vast majority will be people who are more on the opportunistic scale and they are ones who will, usually because of their personal characteristics, be mortified when they realise what they have done, once the fog of cognitive distortion lifts (through ageing or treatment).

46. In considering how to treat offenders, the first thing to consider, in addition to the age of the victim, is 'what is their sexual interest?' Sexual interest is a very difficult thing to measure because mostly it is taking somebody's word and depends on their understanding. At the moment, I am leading a large research project funded by the Commonwealth on online child exploitation offending.[5] We are doing a very large amount of work with Victoria Police, Corrections Victoria and the Australian Institute of Criminology, and one of the things we are looking at is trying to measure people's sexual interest, explicitly and implicitly. With data collection just commencing, it is too early to provide information about the results, but the findings will be important for better understanding child sexual offenders (contact and online) going forward. There will be implications for policing, assessment and treatment.

47. Then you consider the offender's demeanour and other offence-specific factors that drive behaviour, and that includes everything from personality and capacity for remorse (at one extreme, more psychopathic individuals will not have much of a conscience and are not going to be very remorseful, and they are very difficult to treat) to other features, such as their own level of development, lifestyle and their capacity around relationships, and the offender's own age.

48. We consider a combination of the age of the victim and the perpetrator's age and level of development and sexual interest, which allows us to identify the treatment options, and assess the likelihood that the person will benefit from the treatment.

49. Treatment is quite a complex process, it focuses on thoughts, feelings and behaviour, and it is intense. We start with a comprehensive assessment including a careful psychosexual history and an exploration of the factors that

[5] https://www.swinburne.edu.au/news/2019/07/swinburne-builds-on-high-australian-research-council-funding-success-rate/

drive and (where applicable) sustains the behaviour (what we call the perpetrator's 'offence chain'). Then we work with the perpetrator to help them understand their 'offence chain', and we essentially unpack it and teach them how to replace the harmful behaviours with ones that are not harmful. So, for example, if someone is fantasising about a child, we teach them ways to stop at any point, no matter how far along they are in their fantasy and associated behaviour and do something else. Sometimes we train people in very simple distraction techniques.

50. The Association for the Treatment and Prevention of Sexual Abusers (**ATSA**) has practice guidelines which specify standards for the treatment of adult and adolescent perpetrators. The standards recognise that there are three elements that perpetrate behaviours, namely, cognitions, behaviours and emotions. Attached to this statement marked:[6]

    (a) **JO-2** is the ATSA Practice Guidelines for Assessment, Treatment, and Management of Male Adult Sexual Abusers (2014); and

    (b) **JO-3** is the ATSA Practice Guidelines for Assessment, Treatment, and Intervention with Adolescents who have engaged in Sexually Abusive Behaviour (2017).

51. Cognitions are often the starting point, because, to put it really simply, if you are abusing a child, you know it is wrong. So either you do it because you do not care that it is wrong, or you do it because you have convinced yourself it is not wrong. The ones who do not care may lack empathy and can be the more psychopathic people. The ones who convince themselves that it is not wrong have cognitive distortion.

52. And so we start with the cognitive distortion. As the vast majority of people, including those sexually attracted to children, realise that it is wrong to have sexual attraction to children or to perpetrate sexual acts against them, their attraction leads to cognitive dissonance (thoughts and behaviours inconsistent with values and beliefs). This cognitive dissonance leads to feelings that what one is doing or feeling is wrong; which can in turn lead to feelings of guilt,

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[6] The practice guidelines are meant to be protected documents copyrighted by the Association for the Treatment and Prevention of Sexual Abusers and are only made available to ATSA members. As such, they should not be shared or distributed publicly.

depression, self-loathing, etc. To eliminate the cognitive distortion, people either cease the thoughts feelings and behaviours causing the dissonance or the person begins to distort their cognitions, essentially convincing themselves that what they are doing is not harmful or wrong.

53. With online child exploitation, people do tend to have cognitive distortions, convincing themselves that by accessing online child pornography, they are not the ones harming the child. Of the contact child sex offenders I have seen, they usually have pretty significant cognitive distortion, where they think that they really love the victim, or the victim really loves them, failing to realise that even if they do think they love the child, it is too bad – they are the adult and this is a child. Moreover, they must be aware that their behaviour is harming the child and the nature of adult-child relationships does not extend to sexual behaviour. The development of cognitive distortions enables a person with sexual attraction to children to alter their thinking regarding the taboo of considering children as sexual beings. As a result, treatment is focussed on ensuring that the perpetrator's cognitions are challenged, and empathy is increased.

54. After looking at cognitions, one then focusses on behaviour. As noted, even if you cannot eliminate sexual attraction to children, people can develop strategies for managing their behaviour to refrain from engaging in sexual offending (online and face to face). Early on, the treatment focusses on developing insight regarding the relationship between one's thoughts, feeling and behaviour. The focus then turns to developing strategies for controlling their behaviour, including behavioural reconditioning (techniques employed to increase arousal to appropriate sexual stimuli and to decrease arousal to deviant or inappropriate sexual stimuli).

55. Emotions are important as well, because most abuse occurs when people are emotionally aroused. As part of the treatment processes outlined above, emotions are also considered, and the perpetrator develops insight into their emotions and emotional states at the time of sexual fantasising and sexual behaviour. This understanding provides them with further insight into the triggers that may precipitate inappropriate behaviour.

56. It is very difficult to provide effective treatment to offenders who are in institutions like prisons because it requires extended, intensive work and you

cannot often provide the required 'dosage' of treatment for the amount of behavioural change that is required. Most people have developed these proclivities over time, sometimes decades, and we are not going to be able change them in just 100 hours. The treatment programs that are successful are usually hundreds of hours with highly trained clinicians, with group and individual therapy, and bridging follow-up when they get back into the community.

57. There are a few places in the world that have developed treatment programs with good outcomes. New Zealand has some very good programs and has a good system. The United Kingdom, Canada, and some of the Scandinavian countries are places where they would have better outcomes.[7] In Australia, there are pockets of excellence, for example, in Victoria and New South Wales, but in most jurisdictions, it is almost like a 'tick box' exercise and oftentimes you will get prisons employing people who are not particularly skilled, and they are running programs which are not particularly good, and therefore there is no positive outcome.

58. In terms of the impact of treatment programs, analytic studies show that "gold standard" treatment programs would result in a 20% to 30% reduction in the recidivism rate.[8] So, if, for example, there was a population where there was a 20% likelihood of reoffending, then a 30% reduction of that would be 6%. So, it would go from a 20% likelihood of reoffending to 14%.

59. There are some offenders who will not respond to treatment and will continue to offend over time. As noted in Paragraph 44, there is one particularly good study that was done in Canada that investigated a group of high-risk sexual offenders over time, and essentially they continued to offend across their lifespan.

60. Usually there is a significant reduction in offending just as offenders age. Most sex offenders, if you just look outside institutions in the general world, are adolescents and young adult males who are abusing children. And by the time

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[7] Tyler, N., Gannon, T.A. & Olver, M.E. Does Treatment for Sexual Offending Work?. Current Psychiatry Reports, 23, 51 (2021). https://doi.org/10.1007/s11920-021-01259-3

[8] Gannon TA, Olver ME, Mallion JS, James M. Does specialized psychological treatment for offending reduce recidivism? A meta-analysis examining staff and program variables as predictors of treatment effectiveness. Clin Psychol Rev. 2019. https://doi.org/10.1016/j.cpr.2019.101752

they are even in their mid-twenties or later, the rates start to drop pretty dramatically. For most offenders, these rates drop dramatically over time.

61. But there is a cohort of people who are persistent offenders, and part of my work is trying to identify who they are. Unfortunately, there is no way to tell without having the opportunity to observe behaviour whether someone is going to be recidivist or not. Even as an expert, I cannot predict any better than somebody else. You really have to be able to measure objective data which help us identify which characteristics people have, and how they relate to the likelihood of sex offending.

**Rates of reoffending**

62. Comprehensive studies show that, contrary to popular belief, most sexual offenders do not reoffend over time. In a large-scale study with more than 7,000 convicted sexual offenders, results revealed that after being offence free for 10-15 years (5 years for juveniles), the risk of them sexual reoffending is no greater than non-sexual offenders.[9] Desistance from sexual offending over time is the norm.

63. Rates of recidivism of sexual offending are typically lower than for other offending. If we divide offending into general offending, sex offending (including both contact and non-contact sex offending), and physical or violent offending that is non-sexual, the rates of recidivism are the highest among general offending at 50% to 60%; violent non-sexual offending is typically in the order of 30%; whereas sexual offending is often less than 20%.

64. These rates depend largely on how long you following people up for. Based on official data (obviously there is lots of offending going on that is not measured), usually what happens is people will reoffend within one year or two years. If someone has not offended in two years, there will be much less of a gradual rise in recidivism over time.

65. By way of example, in research conducted by my own group we followed all 653 sexual offenders who were clients of the Victorian Institute of Forensic Mental Health (Forensicare) during the time period 1987-2011. Forensicare is

[9] Hanson, R. K., Harris, A. J., Letourneau, E., Helmus, L. M., & Thornton, D. (2018). Reductions in risk based on time offense-free in the community: Once a sexual offender, not always a sexual offender. Psychology, Public Policy, and Law, 24(1), 48; see also, Hanson, R. K. (2018). Long-term recidivism studies show that desistance is the norm. Criminal Justice and Behavior, 45(9), 1340-1346.

the public statutory agency in Victoria, Australia, responsible for all sex offender services in this state until 2000 and has continued to operate a treatment arm since that time. We undertook the study to assess the validity of some risk assessment measures, but in so doing we obtained recidivism data for the sample. During the long follow-up period, 17.4% of people convicted of child sexual offences went on to reoffend with further sexual offences. By contrast, 40.8% of them had record some reoffending.

66. Of course, lots of offending goes undetected. But once people are identified as offenders, it is much harder for them to continue to offend, because they become the targets for police and everybody else, and every time there is an event, they are a suspect.

**Post-sentence supervision and detention of adult offenders**

67. I was a cynic when the post-sentence supervision work began. I was an expert witness in the first post sentence supervision case in Australia in 2003.[10] Initially in Victoria two of us at Forensicare did all the assessments of offenders initially. I was a cynic, but I think in fact the scheme has worked pretty-well. For a while there was no treatment for such persistent offenders, now there is intensive treatment and a range of options. Community supervision has worked well, and residential supervision models have worked quite well. As at 30 June 2021, there were only three people on post sentence detention orders in Victoria and the overall failure rate from people on order has been low.[11]

68. But the reality is that there is still a small number of people who cannot mix generally in the community. For example, in the State of Victoria As at 30 June 2021, there were 142 serious offenders subject to a post sentence order. Of these offenders, 104 are serious sex offenders, 17 are serious violent offenders and 21 are both serious sex and serious violent offenders. This is out of a few thousand sexual offenders. That is because most people are able to change their behaviour, their thinking, and the natural ageing process helps. Although, in all the states, including Victoria, we really struggle with a small number of people on post-sentence orders who are generally incorrigible.

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[10] Fardon v Attorney-General (Qld) (2004) 223 CLR 575
[11] Victoria Post Sentence Authority Annual Report 2020 – 2021; https://files.postsentenceauthority.vic.gov.au/2021-10/Post%20Sentence%20Authority%20Annual_Report_2020_21.pdf

**Young people and harmful sexual behaviour (identification and treatment)**

69. Most adult predatory, persistent offenders started offending, or knew they were sexually interested in children, when they were adolescents. Of the very large number of people who engage in offending behaviour, a tiny proportion persist. Although clinically we try to differentiate who they are, it is very difficult. And obviously the young people themselves do not know that they will be persistent offenders.

70. Very often, if young people have engaged in harmful sexual behaviour, usually it is highly remediable, with treatment around gaining cognitive control and emotional control, and often there is a strong element of remorse and a desire to change. So, it would be a small number of people who are going to be persistent.

71. One of the things that is important is starting treatment young. In Victoria, we have the Therapeutic Treatment Order legislation, which Tasmania does not have. I have been a member of the Therapeutic Treatment Board since 2015. I did some consultation in 2006 before the legislation establishing Therapeutic Treatment Orders were established. There was initially mixed support for the legislation that diverts young people who engage in harmful sexual behaviour to a Therapeutic Treatment Order. The logic behind the scheme is that, because sexual interests develop early but they are usually a bit equivocal, if you can intervene younger, there is greater hope for long-term positive change.

72. For this reason, I am in favour of broad opportunities for change. In the Centre for Forensic Behavioural Science at Swinburne University of Technology, I led a review of adolescent harmful sexual behaviour programs and group conferencing approaches in Queensland. Although the work was done in confidence and the results cannot be shared, the approaches are effective. So we need multiple ways of intervening, depending on the needs of the young person and the victims.

**Child sexual abuse in youth detention (risks of abuse and treatment)**

73. In July 2017, Penny Armytage AM and I completed an independent review of Victoria's youth justice system. Attached to this statement and marked **JO-4** is a copy of the Executive Summary of Youth Justice Review and Strategy dated July 2017.

74. We know there are high rates of sexual abuse for children and young people in detention.[12]

75. I have led a program of research investigating the long-term effects of more than 3,000 children who were medically confirmed to have been sexually abused. What we know through our research is that there is a small but meaningful risk that someone who is sexually abused will go on to sexually abuse, particularly boys. In our research we found that when boys are sexually abused when they are older than 12 (so when they are cognitively aware of what sexual feelings are), they are significantly more likely to offend when they are adults than the control group.[13]

76. With children in youth detention, for a lot of them, there will be higher rates of problems in their families, and they will be more likely to have been victimised. And so they have been socialised in this abusive environment, with no boundaries, and damaging behaviour becomes normalised and highly problematic.

77. Although most adolescent males and females have surging sexual interests, they learn to manage their attitudes and behaviour through normal socialisation at home, school, and in the community. We teach boys and girls how to behave, how to court, how to do be respectful, etc. But if they are in an environment where there is no sort of socialisation or boundaries, they learn that when they are aroused they just take advantage of whoever's around. It is very hard for people to change that behaviour themselves.

78. 'Trauma-informed' care means dealing with people who have had a trauma in a way that does not re-traumatise or reduces the likelihood that they will re-experience the trauma. And our environments are often traumatising. In Victoria we went through a period of time in our youth justice system where there was a real focus on what they call 'trauma-informed care', but occasionally staff were beating kids up, so this was lip service.

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[12] Papalia, N., Baidawi, S., Luebbers, S. Shepherd, S. & Ogloff, J. R. P. (2022). Patterns of maltreatment co-occurrence in incarcerated youth in Australia. Journal of Interpersonal Violence, 37, 7-8, NP4341 - NP4371. doi:10.1177/0886260520958639.

[13] Ogloff, J. R. P., Cutajar, M., Mann, E., & Mullen, P. E. (2012). Child sexual abuse and subsequent offending and victimisation: A 45-year follow-up study. Trends and Issues in Crime and Criminal Justice, No. 440: Australian Institute of Criminology. https://www.aic.gov.au/publications/tandi/tandi440

79. The appropriate way to deal with a young person who is engaging in harmful sexual behaviour is to deal with it as a complex behaviour that has the elements I already spoke to – cognitions, behaviours, emotions – and to begin to help unpack that with the young person. But it is very difficult to do that if they are in a toxic environment (which can include our institutional environments, particularly youth justice), because it is just like physical violence, which is equally problematic in those settings, where kids learn that whoever is the strongest is the dominant one, that the dominant ones take advantage of others, and their needs are met by disadvantaging other people.

80. That is the problem with institutions that are detaining children, either for their own benefit like out of home care, or for the benefit or safety of society, like youth justice. Both youth detention and out-of-home care tend to be horribly disrespectful to children. What tends to work better is moving away from the institutional settings to smaller clusters, more like a family, with positive role models and positive relationships.

**Treating victim-survivors of child sexual abuse**

81. In relation to treatments for victims of child sexual abuse, you will find a wide range of opinion on this. The law still punishes people more who are harming younger children, because it is more aberrant. However, from a psychological perspective, the greatest harm arguably comes to children entering puberty, during puberty or immediately after puberty and they already have a cognitive and emotional awareness of what sexual abuse is. If a young child is being abused sexually or physically, then they do not really understand what this abuse is (unless it is painful, and then they experience it as pain). It is only when they develop a frame that they understand it as sexual, and that is when it is most harmful from a psychological perspective over the long-term. The treatment required is very different for someone who is very young and abused, versus someone who has some cognitive capacity to understand that they have been abused.

82. The example I always use when I talk to parents about this to explain the age at which a child develops a frame is that it is the age at which the child starts closing their bedroom door, and does not want their body to be seen. They are beginning to come to terms with their body and sexuality.

83. The treatment of younger children, from a psychological perspective, is really around love, support, warmth, positive relationships. I am quite critical of colleagues who try to treat a three-year-old for sexual abuse in a way that would in any way touch on sexual themes, because the child has not appropriate frame of reference.

84. But when you are treating children from school age, say, 7, 8 years old, to the onset of adolescence, the focus has to be on emotional wellbeing and how you provide supportive relationships and trust. This is because in institutional abuse, usually the perpetrator is someone the kids trusted or had some respect for, and oftentimes that is what perpetuates the abuse, because people would not believe the children, or the perpetrator presents in a way that if the child tells anybody, something bad will happen to them. This means the victim experiences both physical harm and, more importantly, emotional harm.

85. In our research in Victoria, we found that victims of child sex abuse are more likely to have all kinds of adverse outcomes, including that they are more likely to die of suicide, drug overdose, be re-offended against, or develop a mental illness.[14] Importantly, though, children are resilient and our research shows that 75% of child sex abuse victims do not have any significant adverse outcomes over their lifespan. That is, they do not commit suicide, they do not have drug problems, they do not have mental illness, they do not get re-

[14] See, for example, Ogloff, J. R. P., Cutajar, M., Mann, E., & Mullen, P. E. (2012). Child sexual abuse and subsequent offending and victimisation: A 45-year follow-up study. Trends and Issues in Crime and Criminal Justice, No. 440: Australian Institute of Criminology; Cutajar, M., Mullen, P. E., Ogloff, J. R. P., Thomas, S. D., Wells, D. L., & Spataro, J. (2010). Schizophrenia and other psychotic disorders in a cohort of sexually abused children. Archives of General Psychiatry, 67(11), 1114-1119. doi:10.1001/archgenpyschiartry.2010.147; Cutajar, M., Mullen, P. E., Ogloff, J. R. P., Thomas, S. D., Wells, D. L., & Spataro, J. (2010). Psychopathology in a large cohort of sexually abused children followed up to 43 years. Child Abuse and Neglect, 34(11), 813 – 822. doi:10.1016/j.chiabu.2010.04.004; Cutajar, M. C., Mullen, P. E., Ogloff, J. R. P., Thomas, S. D., Wells, D. L., pataro, J. (2010). Suicide and fatal drug overdose in child sexual abuse victims: An historical cohort study. Medical Journal of Australia, 192(4), 184-187. doi:10.5694/j.1326-5377.2010.tb03475.x; Ogloff, J. R. P. & Cutajar, M. (2015). Providing protection and turning away from future offending. In Sheehan, R. & Ogloff, J. R. P. (Eds.), Working within the forensic paradigm: Cross-discipline approaches for policy and practice (pp. 135 – 151). Oxon, UK: Routledge; Papalia, N., Mann, E. & Ogloff, J. R. P. (2021). Child sexual abuse and risk of revictimization: Impact of child demographics, sexual abuse characteristics, and psychiatric disorders. Child Maltreatment, 26, 1, 74 – 86. doi:10.1177/1077559520932665; Guha, A. Luebbers, S., Papalia, N. & Ogloff, J. R. P. (2020). Long-term healthcare utilisation following child sex abuse: A follow-up study utilising five years of medical data. Child Abuse and Neglect, 106(1). doi:10.1016/j.chiabu.2020.104538; Guha, A., Luebbers, S., Papalia, N. & Ogloff, J. R. P. (2019). A follow-up study of mental health service utilisation in a cohort of 2433 sexually abused Australian children utilising five years of medical data. Child Abuse and Neglect, 90, 174-184. doi:10.1016/j.chiabu.2019.01.015; Papalia, N., Luebbers, S., Ogloff, J. R. P. (2018). Child sexual abuse and the propensity to engage in criminal behaviour: A critical review and examination of moderating factors. Aggression and Violent Behavior, 43, 71-89. doi:10.1016/j.avb.2018.10.007; Papalia, N., Ogloff, J. R. P., Cutajar, M., Mullen, P. E. (2018). Child sexual abuse and criminal offending: Gender-specific effects and the role of abuse characteristics and other adverse outcomes. Child Maltreatment, 23(4), 399-416. doi: 10.1177/77559518785779

victimised, they do not offend. They cope with these afflictions, but they are not irretrievably damaged.'

86. Child sexual abuse is incredibly damaging behaviour, and we have a significant onus to repair that behaviour. But there is much more hope for effective treatment of victims than of perpetrators, because the victim does not have a predilection towards engaging in this harming behaviour, such as the perpetrator might have.

87. If a young child has been abused and is not aware that the abuse has happened, we need to be really cautious about it, but they need to be told. Otherwise they could find out by other means, and it could be far more harmful and it would affect their trust of their family and others. I think victims do need to be told, but at an appropriate point in time and in a very measured and age appropriate and supportive way, so that it will not be damaging or re-victimising of them.

**Keeping children safe in institutions**

88. I think there is a distinction between offenders who find their victims through their work in institutions, and those who offend within the family or within friendship circles.

89. What is hard from a policy perspective, is that we need to have systems that can address both the predatory perpetrator, who is there for malevolent reasons, and the opportunistic perpetrators who might nonetheless damage children and take advantage of them, and you need different treatment modalities and processes as well.

90. This is why the sort of precautions we have are not particularly effective, like Working with Children checks and those sorts of things; because people are usually pretty astute and can get away with behaving inappropriately. If one is sexually attracted to children sexually, then they set up situations to facilitate that. Everybody is now more familiar with the grooming process, and those processes are very well tailored and designed. Because children, particularly younger children, do not think about sex, they are thinking in a very different way and they do not have a cognitive frame, it is easy for people to take advantage of them to set up those situations. Children will be blithely unaware of being groomed and other inappropriate behaviour.

91. The opportunistic group is hugely problematic, and of most concern in institutions, because these can be people like teachers, health professionals, or volunteers, who find themselves sexually attracted to a child, not necessarily because they are a child, but because they are a developing sexual being, and often it is the innocence and other characteristics that attract them. And because often there is no policies, procedures, training, or supervision, no support for how they should deal with these sorts of feelings, and they are not prepared for it, they end up violating boundaries and ultimately they can end up abusing children.

92. That is why I think there is a distinction between the institutional abuser who's essentially in it for the wrong reasons, compared to institutional people who are sometimes opportunistic, who are typically emotionally needy, have poor boundaries, and poor insight.

93. You can see the different sorts of trajectories between the groups and how they have implications for how we might develop a system that is safer for children. For example, there is a much greater likelihood that suitable policies and procedures and training will reduce the likelihood of child abuse happening with the people who are in the opportunistic group.

94. One difficulty with opportunistic adult offenders in institutional employment or volunteering is the lack of appropriate supervision and support. For psychologists, for example, it is not uncommon to be attracted to a client. The important thing is how the attraction is dealt with. All psychologists are required to undergo clinical supervision where such matters are raised and addressed. By contrast, teachers, and others, do not get that sort of supervision. There is also significant societal stigma attached to such desires. So where young people are in these very damaging environments it becomes very difficult to intervene early because the people who work with them are either not talking about these matters, or are themselves not very versed in it.

**Training and expertise of mental health professionals**

95. The most important thing for people who are engaging in treating victims of child sexual abuse is to have a professional training and credential, because at least it establishes a minimum standard of care, and then they should have training, supervision and experience beyond that. Ideally any psychologist – or other mental health professional – who is new to either treating perpetrators or treating victims should have formal training, formal supervision and development of experience, in addition to their basic credential. The difficulty is that there is currently a lack of psychologists and of psychiatrists and it is easy for professionals to see a range of needy people, and they may not have appropriate training for appropriately dealing with either perpetrators or victims of child sexual abuse.

96. There is a lack of suitably trained and experienced mental health professionals, including psychologists. ideally, those who work with perpetrators of sexual offending should have both experience in clinical and forensic mental health. However, it does make it very hard to recruit and retain people – if we are too selective, you cannot find people and it is highly competitive – and in jurisdictions like Tasmania, it is all the more difficult. It is a very small community, it is very difficult to recruit and retain people.

97. But this is a problem we have in Australia which you cannot fix easily, because we have such a small critical mass to enable us to develop the expertise. And I have had a fair amount to do in corrections and the forensic system in Tasmania, and know that it is just constantly under pressure to get staff, to retain staff, in order to provide the sort of treatment programs that are needed. So it is very, very hard to do that.

98. Nevertheless, it is important to have and develop standards, and continuing to raise standards, is important, and in psychology and psychiatry there has certainly been some efforts to do that around professional supervision and development.

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

Declared at [redacted]
on 22 August 2022

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James R. P. Ogloff AM

Before me

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