



The Australian Advocacy Institute

Advocacy and the Vulnerable Witness

The AAI Vulnerable Witness Program has been developed by the Australian Advocacy Institute to promote an awareness of the relevant issues and improve the standards of advocacy of lawyers dealing with vulnerable witnesses.

The Aims of this Program:

The initial focus of the Program is on advocates practising in the criminal law.

In this context, the AAI has three fundamental goals:

- Improving the quality of evidence that is available to the court;
- Ensuring the advocate is fair to the vulnerable witness; and
- Ensuring fairness to the accused in the trial process.

Our approach is a positive one. Positive in the sense of encouraging advocates towards a greater understanding of the relevant issues and an improvement in their advocacy skills.

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1. The Vulnerable Witness Program

Stage 1 – Your pre-workshop preparation between now and Saturday 21 September.

You will find the VIDEOS for this program on the AAI Vulnerable Witness webpage at:
http://www.advocacy.com.au/VW_QDPP_Sept.html

This is a secure site. The password for access is: ‘VWQDPP’.

a) The Workshop Videos

You are required, over the period before the Saturday Workshop on 21 September 2019, to view the following 5 videos which have been specially prepared as part of this program:

1. Introduction by Craig Smith SC, Director of the Program
2. The Role of the Court (Judge Girdham SC, District Court of NSW)
3. *The Witness Intermediary (Jane Wolf, Registered Witness Intermediary, NSW)
We acknowledge that Witness Intermediaries, now regularly used in southern states, are yet to be implemented in Queensland. We include this video to give lawyers an insight into this important aspect of dealing with a vulnerable witness, a program that will in time become part of the process in Queensland.
4. Memory Research (Jane Goodman-Delahunty, Academic)
5. Principles of Examining a Vulnerable Witness (Grant Brady SC)

You should allocate approximately one hour in total to view all 5 videos.

b) The Case Study “*Regina v Chris Johns*” – at page 9 of this document

This case study forms the basis of the performance/review sessions within the workshop.

NOTE: Evidence in chief requires you to ask questions to adduce the evidence from the witness. We will not, for good reasons, simply be tendering the interview as the evidence in chief. It is important that your preparation reflects this.

Stage 2 - Your pre-workshop analysis, preparation and submission of questions

a) Analysing the case study “*Regina v Chris Johns*”

Your first task is to read and become completely familiar with the case study. Doing so will enable you to develop your case theory and then prepare your questions in cross-examination.

b) Submitting your Questions in Cross Examination

- 2.1 Please refer to the Workshop TIMETABLE on page 4 below, where you will find your GROUP and PARTICIPANT number.
- 2.2 Refer to the TIMETABLE on page 4 below, where in either Session 2 or 4 your participant number (i.e. you) has been allocated a Cross Examination task.
- 2.3 Please open the CASE STUDY “*Regina v Chris Johns*” at page 9 below.
- 2.4. Having viewed the videos in Stage 1 and closely read the case study, you are required to prepare, then submit, your cross-examination questions that you will be presenting at the workshop. This to be no more than one page.
This **must be emailed** to the AAI [aai@advocacy.com.au] no later than **FRIDAY 20 September 2019**, 1 day before the Saturday workshop. Submission can be in ‘Word’ document or ‘pdf’ form. (pdf preferred.)

Submission of your cross-examination questions is a compulsory component of this program. Attendance at the Saturday workshop will not be allowed unless your submission has been received.

c) Performance Preparation

The TIMETABLE that follows sets out a number of tasks that have been allocated for participants to perform at the workshop. **You are required to prepare your set tasks between now and the workshop.** Please prepare to perform the whole of the set task, even though there will be a time limit for your performance on the day. You will only be reviewed on that part you do perform within the time limit.

Please don't get bogged down in your preparation with any legal technicalities within the case studies. Don't research or bring statutes or precedents. Do not be distracted with "the law". Evidence is restricted to **only** that contained within the case study so you do not need to look outside the immediate information provided. We will not be concerned with jurisdictional procedure.

This is a performance-based workshop. **NO** preparation time is included on the workshop day other than for the repeat performance session at the end of the day.

Advance preparation is essential. You are required to prepare each of your set tasks between now and the commencement of the workshop. Please **allow yourself time to prepare properly** – it is anticipated that you should allocate 3 to 4 hours for this preparation.

Stage 3 – The Saturday Workshop – Saturday 21 September 2019

Venue: The District Court, Townsville

Hours: 9.00am to 4.00pm

Dress: Casual

Morning tea and lunch will be provided

The following "**Timetable**" details the format for this workshop. Below you will find a table that allocates a GROUP and PARTICIPANT NUMBER for each participant.

On Saturday, Group Performance Sessions and Technique Sessions have been scheduled through the day. In the Group Sessions, you will break into smaller groups to individually **present your allocated advocacy tasks** before a Judge/Instructor in the same manner that you would present in court. You will find your allocated advocacy tasks set out within each session of the timetable.

AAI Instructors will generally act as the witness, but may 'volunteer' you to take this role.

Once you have finished each performance you will be given a review by the instructor. This review is designed to be positive, not critical. You will be given advice on ways that your individual performance can be improved using various advocacy skills, including a demonstration and explanation of the particular skills relevant to your performance.

If you have any questions regarding your tasks, please email AAI at: aai@advocacy.com.au

YOUR GROUP AND PARTICIPANT NUMBER

Participant Number	RED GROUP	BLUE GROUP	GREEN GROUP
1			
2			
3			
4			
5			
6			
7			
8			

Workshop Timetable**Saturday 21 September 2019 – District Court, Townsville**

SESSION 1	9.00 to 9.25am (25 mins)
General Session	Introductory Session

SESSION 2	9.25 to 10.45am (80 mins)
Group Session	<p>EVIDENCE IN CHIEF AND CROSS EXAMINATION</p> <p>Case Study: <i>Regina v Chris Johns</i></p> <p>Complainants 1 and 2</p> <p>TASK: Present Evidence-in-Chief of ‘Abby’ PARTICIPANT: 1</p> <p>TASK: Cross Examine ‘Abby’ PARTICIPANT: 2</p> <p>TASK: Present Evidence-in-Chief of ‘Atticus’ PARTICIPANT: 3</p> <p>TASK: Cross Examine ‘Atticus’ PARTICIPANT: 4</p> <p>TASK: Present Evidence-in-Chief of ‘Abby’ PARTICIPANT: 5</p> <p>TASK: Cross Examine ‘Abby’ PARTICIPANT: 6</p> <p>TASK: Present Evidence-in-Chief of ‘Atticus’ PARTICIPANT: 7</p> <p>TASK: Cross Examine ‘Atticus’ PARTICIPANT: 8</p> <p>Performances in Group 5 minutes per task</p> <p>Review in Group 5 minutes per task</p>

MORNING TEA 10.45 to 11.00am (15 mins)
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SESSION 3	11.00 to 11.45am (45 mins)
General Session	Techniques in Questioning a Vulnerable Witness

SESSION 4 11.45 to 1.05pm (80 mins)																					
Group Session	<p>EVIDENCE IN CHIEF AND CROSS EXAMINATION</p> <p>Case Study: <i>Regina v Chris Johns</i></p> <p>Complainants 1 and 2</p> <table> <tr> <td>TASK: Present Evidence-in-Chief of ‘Abby’</td><td>PARTICIPANT: 8</td></tr> <tr> <td>TASK: Cross Examine ‘Abby’</td><td>PARTICIPANT: 7</td></tr> <tr> <td>TASK: Present Evidence-in-Chief of ‘Atticus’</td><td>PARTICIPANT: 6</td></tr> <tr> <td>TASK: Cross Examine ‘Atticus’</td><td>PARTICIPANT: 5</td></tr> <tr> <td>TASK: Present Evidence-in-Chief of ‘Abby’</td><td>PARTICIPANT: 4</td></tr> <tr> <td>TASK: Cross Examine ‘Abby’</td><td>PARTICIPANT: 3</td></tr> <tr> <td>TASK: Present Evidence-in-Chief of ‘Atticus’</td><td>PARTICIPANT: 2</td></tr> <tr> <td>TASK: Cross Examine ‘Atticus’</td><td>PARTICIPANT: 1</td></tr> </table> <table> <tr> <td>Performances in Group</td><td>5 minutes per task</td></tr> <tr> <td>Review in Group</td><td>5 minutes per task</td></tr> </table>	TASK: Present Evidence-in-Chief of ‘Abby’	PARTICIPANT: 8	TASK: Cross Examine ‘Abby’	PARTICIPANT: 7	TASK: Present Evidence-in-Chief of ‘Atticus’	PARTICIPANT: 6	TASK: Cross Examine ‘Atticus’	PARTICIPANT: 5	TASK: Present Evidence-in-Chief of ‘Abby’	PARTICIPANT: 4	TASK: Cross Examine ‘Abby’	PARTICIPANT: 3	TASK: Present Evidence-in-Chief of ‘Atticus’	PARTICIPANT: 2	TASK: Cross Examine ‘Atticus’	PARTICIPANT: 1	Performances in Group	5 minutes per task	Review in Group	5 minutes per task
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TASK: Cross Examine ‘Atticus’	PARTICIPANT: 1																				
Performances in Group	5 minutes per task																				
Review in Group	5 minutes per task																				

LUNCH 1.05 to 1.35pm (30 mins)

SESSION 5 1.35 to 2.35pm (60 mins)	
General Session	<ul style="list-style-type: none"> • Analysing Case Theory and the Vulnerable Witness • Communication and the Vulnerable Witness

SESSION 6 2.35 to 3.45pm (70 mins)					
Group Session	<p>EVIDENCE IN CHIEF AND CROSS EXAMINATION</p> <p>Case Study: <i>Regina v Chris Johns</i></p> <p>Part 1: 2.35 to 3.00 Participants to individually revise their performance preparation in light of earlier reviews and theory sessions.</p> <p>Part 2: 3.00 to 3.45 REPEAT PERFORMANCES</p> <p>Participants will choose a performance to repeat, first stating the review point from that earlier performance.</p> <table> <tr> <td>Performances in Group</td><td>3 minutes per task</td></tr> <tr> <td>Review in Group</td><td>2 minutes per task</td></tr> </table>	Performances in Group	3 minutes per task	Review in Group	2 minutes per task
Performances in Group	3 minutes per task				
Review in Group	2 minutes per task				

SESSION 7 3.45 to 4.00pm (15 mins)	
General Session	DISCUSSION AND CLOSING SESSION

ADVOCACY AND THE AUSTRALIAN ADVOCACY INSTITUTE

THE CRUCIAL ROLE OF THE ADVOCATE

In the adversary system, the parties are responsible for the conduct of the litigation, subject to the court's procedural rules and case management.

The independent judge or jury has no investigative role and no position on the merits of the case until the evidence and submissions are presented by the parties.

The court's role is to decide the case on what it finds to be the facts established by the evidence and the legal consequences which flow from such facts. Ultimately, after evaluating the evidence and argument, the court makes its decision by asking the question: whether or not the party making the allegation or claim has proved their case to the required standard.

The system depends on each party presenting its best case on the understanding that "truth is best discovered by powerful statements on both sides of the question".

The advocates' role is crucial because they decide how to conduct their case, what evidence to present and what arguments to put. Their role is not to judge but to present and argue consistently with their clients' instructions, their ethical obligations and in their clients' best interests.

In the adversary system, where in contested cases there are often different versions of events, each side contends for its version of the true facts upon which the decision should be based.

The advocates' responsibility is to deal with the facts and submissions skillfully and ethically to persuade the court to accept the version of events and legal consequences which best suit their clients' cases.

ADVOCACY TRAINING

For centuries there was a wide spread belief that advocacy could not be taught. Lawyers who wanted to practice as advocates relied on observation, trial and error, and experience to learn their art. All this was often done at the expense of the client and without any defined standards or assessment of even minimal competence in advocacy.

This was not a professional approach. Advocacy is a specialised activity for lawyers which requires developed disciplines and skills. A competent advocate must be more than someone performing "to the best of their skill and ability". A minimum standard of competence should be required.

The Australian Advocacy Institute (AAI) was established by the Law Council of Australia in 1991 in response to the ever-growing demand by the Australian legal profession for advocacy training. The AAI is now an independent, not-for-profit, non-commercial body that conducts or assists with Advocacy Training Workshops across Australia and in the UK, The Hague, Hong Kong, Singapore, Malaysia and South Africa.

The AAI is now recognised as a world leader in advocacy training. The teaching method is based on the combination of concepts and practical skills. Its application is comparable to 'coaching' rather than lecturing and is the accepted teaching method worldwide.

THE AAI AIMS AND TEACHING PHILOSOPHY

The aims of the Institute are to:

- improve the standards of advocacy skills
- provide a forum in which ideas and experience in advocacy training can be shared and developed
- design and develop methods and materials for training lawyers in advocacy.

The AAI teaching philosophy is based on the following principles:

1. Competent advocacy is essential to serve the best interests of clients, the interests of the community, and the interest of justice.
2. Advocacy is characterised as the art of persuasion. All advocates must have the basic understanding of good advocacy and the ability to perform the essential skills of an advocate.
3. The practice must be in accordance with professional ethics and etiquette.
4. Advocacy consists of identifiable disciplines, skills and techniques which can be taught, learned and developed.
5. Effective court room communication skills are essential to advocacy.
6. Advocacy skills are best taught and learned by the workshop method of instruction, demonstration, performance and review.
8. The focus of teaching is on methods of preparation, analysis and performance, enabling advocates to develop individual style and approach, free of fundamental error. The aim is to help pupils to improve, rather than find faults in their performance.
9. The disciplines, skills and techniques taught are generic and cross jurisdictional.
10. Experience alone does not ensure competence. The AAI approach to preparation, analysis and performance helps advocates to learn from their experience and develop their skills.
11. The emphasis in teaching is on:
 - complete familiarity with factual and legal materials
 - a method of analysis of those materials to produce a consistent case theory
 - a method of preparation for the performance of specific advocacy tasks
 - development of skills in:
 - i. legal argument
 - ii. opening and closing addresses
 - iii. evidence in chief and re-examination
 - iv. cross-examination
 - v. written advocacy
 - vi. communication skills.
12. The instructors are experienced and competent advocates, trained in the skills method of teaching by the AAI in accordance with its philosophy.
13. The AAI is committed to the pursuit of excellence in advocacy by:
 - encouraging advocates at all levels to continue learning and developing their skills
 - equipping advocates to analyse their work and critically assess their performance
 - identifying and training members of the profession as potential instructors.

EDUCATION, TRAINING AND RESEARCH BY THE AAI

The work of the Institute includes:-

- Researching and developing advocacy techniques and advocacy training methods.
- Developing workshop materials.
- Providing general advocacy skills workshops open to all lawyers who have a right of audience in courts and tribunals.
- Designing and conducting in-house workshops for law firms and institutions such as Offices of the Director of Public Prosecutions, Government Solicitor and Legal Aid Services.
- Conducting advanced and specialised workshops in appellate advocacy, expert evidence, advanced cross-examination techniques, vulnerable witnesses and jury advocacy.
- Providing teacher training workshops for Australian, English, Hong Kong, Malaysian, Singaporean and South African advocacy teachers according to the AAI method.
- Giving advice and instruction in advocacy training to the Inns of Court College of Advocacy (formerly Advocacy Training Council) UK, the English Inns of Court and the Singapore, Hong Kong, Malaysian and South African professions.
- Structuring and providing workshops in conjunction with Monash, Melbourne and Bond Universities, ANU, University of Hong Kong and the Leo Cussen Institute.
- Training of war crimes prosecutors in The Hague and Tanzania.
- Supporting and teaching at the bar readers' courses in Australia.
- Presenting seminars and demonstration sessions at national and international conferences.
- Conducting international conferences on advocacy and advocacy training.

The AAI's work would not be possible without the contributions of the AAI board members and instructors whose ideas and teaching have enabled the philosophy of the Institute and the teaching of advocacy to develop.

Contact the AAI

Chair: The Hon Justice Ann Ainslie-Wallace
General Manager: Scott Wallace
Phone: 0418 473 303
Email: aai@advocacy.com.au

AUSTRALIAN ADVOCACY INSTITUTE

AAI CASE STUDY

Regina v Chris Johns



INTRODUCTION

Charges

The accused, Chris Johns, who is 16 years old, is charged with three offences: two counts of committing an act of indecency towards a person under the age of 16 years and one further count of inciting a person under the age of 16 to an act of indecency.

The first charge alleges an act of indecency towards ‘Abby’, a child aged 6 on 1 January two years ago. It is alleged that the accused pulled his pants down and exposed his bottom towards Abby.

The second charge alleges inciting Abby to an act of indecency on the same date. It is alleged that the accused, after pulling his pants down and exposing his bottom towards Abby, told Abby to kiss him on the lips.

The third charge alleges an act of indecency towards ‘Atticus’ a child aged 11, sometime before 1 January two years ago. It is alleged that the accused on a separate occasion, exposed his bottom towards Atticus.

The charges against Chris are to be heard together.

Background

Abby and Atticus live with their parents Margaret and Rodger Davis in a three-bedroom house. The home has a front yard with a driveway. It has a large backyard which is almost completely covered by grass.

In January three years ago, Chris came to stay with Margaret, Rodger, Abby and Atticus in their home. Rodger’s brother, Paul, married a lady, Tracey, who had a son, Chris. Things weren’t going too well for Chris in the new household so Rodger volunteered to have Chris come and stay for a time.

On 1 January two years ago, Margaret asked Chris to watch Abby and Atticus while she went to the shop. Rodger was mowing the backyard lawn. When Margaret left the house, Chris, Abby and Atticus were in the lounge room watching a movie on television. She was away from the house for about 30 minutes.

When she arrived home with lunch, Abby ran up to the car in the driveway. She was smiling and partially covering her mouth with her hand. They had a conversation.

Margaret put Abby in the car and went inside and got Atticus. She saw Atticus in the lounge room. She went out to the back yard and spoke with Rodger. The family drove directly to their local police station to report what Abby had said. Chris was left at home. Senior Constable King interviewed Abby right away. For reasons unknown, Atticus was not interviewed at this time.

Later that day, police spoke to Chris and took him to the police station. He participated in an interview with Senior Constable King in which he denied doing anything wrong. Chris did not return to live at that home.

About a week later, Atticus told Margaret that Chris also exposed himself to him while the two boys were alone in Atticus's bedroom. As a result, Atticus was interviewed by Senior Constable King. Before he was interviewed, Margaret told Senior Constable King that Atticus has a mild intellectual disability.

Note regarding the witness Atticus

Atticus is 11 years old. Atticus has a mild intellectual disability with an IQ of 68.

Atticus has a language profile of a five-and-a-half year old. His language inefficiencies involve receptive skills (comprehension) and expressive skills (his ability to retrieve words and explain ideas). He has a slow speech style associated with his expressive language issues, and some minor articulation difficulty. Atticus' overall presentation is one of delayed information processing.

Atticus will be able to give evidence if provided with appropriately structured questions. Atticus was very compliant and he participated well during the police interview.

Note regarding the witness Abby

Abby is 6 years old. Socially and developmentally, Abby presents as typical for her age. Abby is a good communicator and was able to maintain concentration during the interview with Senior Constable King.

Abby had her dolly with her during the interview with the police. This gave her some comfort and allayed her anxiety. The dolly was also used by Abby to demonstrate relevant body parts.

Abby can be prone to spontaneous outburst when she is under stress or is unsure. She is unlikely to recognise the signs. She would also be assisted by reminders of the rules of communication, for example, if she doesn't know the answer she can say "I don't know".

The week before the trial, the prosecution held a conference with Abby. During the conference Abby disclosed that at the time Chris showed her his moon he also asked her to kiss him. He said Abby kiss me on the lips, Abby kiss me on the lips, and I said gross, cos it's gross to do that. He went to try and kiss me on the lips [*Abby motions to the dolly that gesture*].

After this the following exchange occurred:

Q Tell me about when Chrissy said kiss him on the lips?

A It happened the first time not the second time. It was first time. He said hey Abby kiss me on the lips like in the movies and I said that's gross Chrissy. But that happened the first time.

Q You've mentioned there a first time and a second time and that Chrissy asked you to kiss him on the lips on the first time, when was the second time?

A The second one was the moon. His face looked like a tomato.

This material has been disclosed to the defence in the form of the DPP solicitor's notes of the conversation. The notes are in exactly the same terms as above. Count 2 on the Indictment has been added to reflect this disclosure and the Court has granted leave to the Crown to present the Indictment as set out in these materials.

Index of Materials

Below you will find the following brief materials:

1. Indictment;
2. Statement of Margaret Davis;
3. Statement of Senior Constable King;
4. Relevant portions of Senior Constable King's recorded interviews with Abby, Atticus and the accused;
5. Further instructions from the accused.

MOCK

INDICTMENT

On _____, the Director of Public Prosecutions on behalf of
Her Majesty charges that

CHRIS

- 1** on 1 January two years ago, committed an act of indecency towards Abby, a person then under the age of 16 years, namely 6 years.

S 61N(1) Crimes Act 1900 Law part code 294

AND the Director of Public Prosecutions FURTHER CHARGES that

CHRIS

- 2** on 1 January two years ago, incited Abby, being a person under the age of 16 years, namely 6 years, to commit an act of indecency with Chris.

S 61N(1) Crimes Act 1900 Law part code 295

AND the Director of Public Prosecutions FURTHER CHARGES that

CHRIS

- 3** between 1 January three years ago and 1 January two years ago, committed an act of indecency towards Atticus, a person then under the age of 16 years, namely 11 years.

S 61N(1) Crimes Act 1900 Law part code 294

Crown Prosecutor
On Behalf of the Director of Public Prosecutions

STATEMENT OF MARGARET DAVIS

My name is Margaret Davis. My husband is Rodger, and together we have two children – Atticus who is 11 and Abby who is 6. Atticus has an intellectual disability.

Our house is a small three-bedroom one. The children each have their own room which are directly opposite one another. There is a front yard and a driveway. We have a big backyard.

Sometime a few years ago, Chris, who is the son of Rodger's brother's partner, came to stay with us in our home. I found Chris, initially, to be a positive addition to our family home – he helped around the house, cleaned up after himself and was always willing to help look after Atticus and Abby. Over the last twelve months he has become lazy and doesn't do as much as he used to. He also eats a lot of food and we don't make a lot of money so that has made things hard. His parents don't give us any money to pay his board.

While he stayed with us, Chris initially slept in Atticus's bedroom, although after some time he began sleeping on the couch in the lounge room. Atticus's bedroom door is always left open at night because he is afraid of the dark and we keep a night light on for him in his room. Chris mentioned that he preferred to sleep in the lounge room because the night light made it hard for him to fall asleep.

On New Years' Day this year, I went down to the corner shop to buy fish and chips for lunch. When I left, Rodger was mowing the lawn, Chris and Atticus were sitting on the couch in the lounge room watching a movie and Abby was sitting on the rug just in front of them playing with something, possibly her dollies but I'm not 100 percent sure. I don't remember which movie they were watching. I remember that Atticus was excited to be watching it.

I was away from the house for about 30 minutes. When I arrived home, Abby came running out through the front screen door and up to my car window. She was holding one of her dolls and was smiling and partially covering her mouth with her hand.

I said: *"What's so funny darling?"*

Abby said: *"Chris pulled down his pants and showed me his moon!"*

I said: *"What? Where is dad?"*

Abby said: *"I don't know. I think he is with Chris. Chris tried to kiss Atticus."*

She was giggling as she said this.

I immediately became anxious. I told Abby to get into the car which she did. I went inside and got Atticus who was in the lounge room. I went out the back and spoke to Rodger. He had finished mowing the lawn and was near the back of the house watering our vegie patch. Together the four of us went to the police station to report what Abby had told me.

We left Chris at home. I did not speak to him at all. I was disgusted. I took Abby into the police station and spoke to Senior Constable King who then interviewed Abby.

About a week later I decided to talk to Atticus and Abby about why Chris wasn't staying with us anymore. For several days Abby had been talking about what had happened and I wanted to speak to them both together about the situation.

During my conversation with the two of them, I asked Atticus whether Chris had ever done anything inappropriate towards him and he told me that he had and more than once.

Atticus said: *"It was late at night and everyone was sleeping. Chris came in and I woke up. He asked me if I wanted to see his bum cheeks and I said no but then he showed me his bum cheeks anyway. He pulled down his pants and I just ignored him. I didn't say anything before because I didn't want to get into trouble."*

I said: *"Has he done that more than once?"*

He said: *"Um, I think so."*

I said: *"More than 5 times?"*

He said: *"Yes mum."*

I didn't know what else to say to Atticus as I was very upset. I just assured him that he hadn't done anything wrong and I took him to see Senior Constable King and he was interviewed.

I have not seen Chris since New Years' Day and never want to see him again.

STATEMENT OF SENIOR CONSTABLE KING

My name is Senior Constable King.

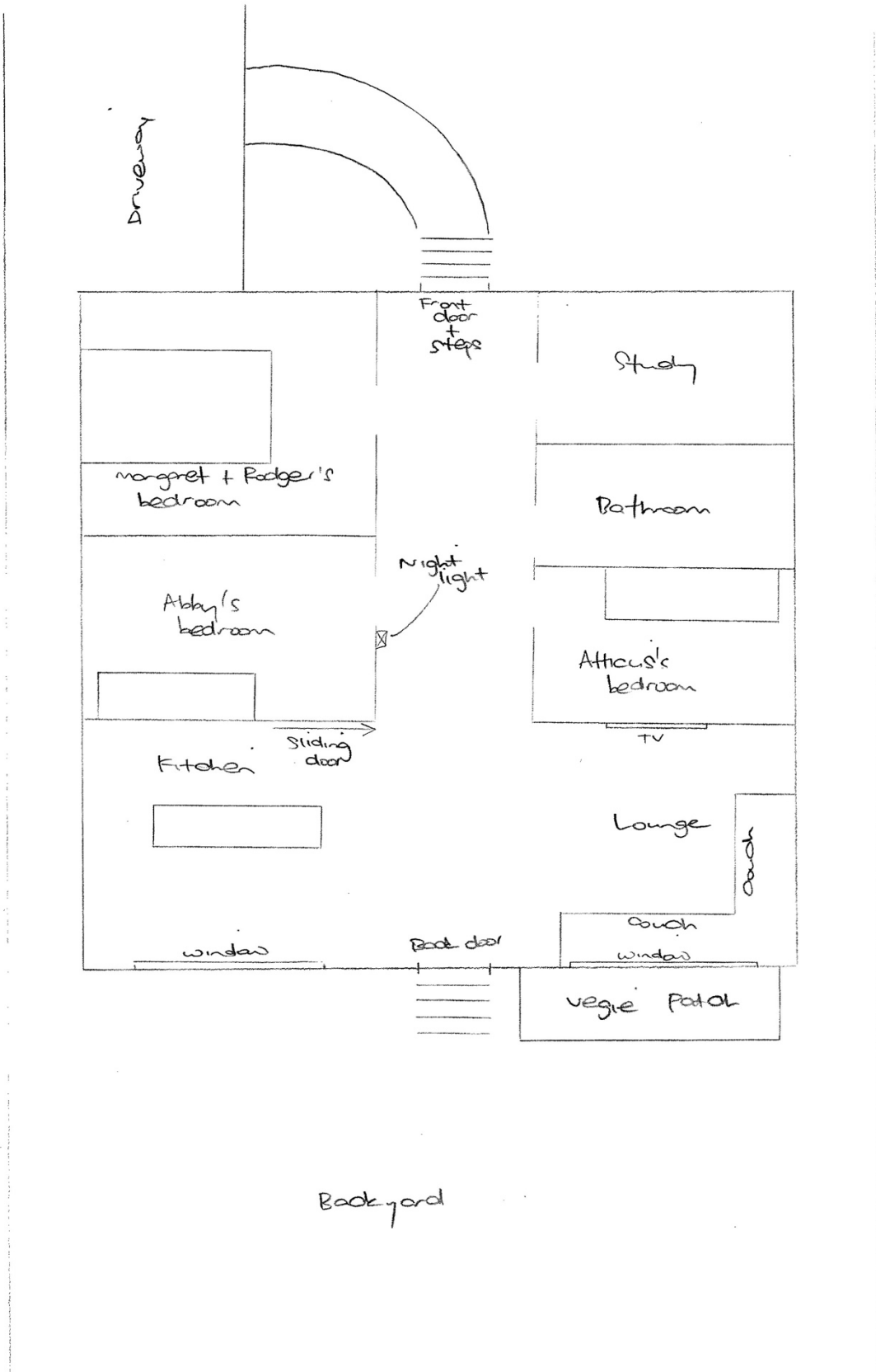
On 1 January at about 3:00 pm, Margaret Davis brought her daughter Abby to the police station to see me. Margaret told me something and as a result I interviewed her daughter Abby.

Later that day, the young person Chris Johns was brought into the police station. After being properly advised of his rights, he was offered the opportunity to be interviewed and he accepted. I conducted an interview with Chris, in the presence of a support person, about the allegations that had been made about him by Abby. He was later allowed to leave but did not return to live with Margaret and Rodger Davis.

A couple of days later I attended Margaret and Rodger's house and prepared a rough sketch of the floor plan of their home.

I now produce a copy of my floor plan sketch. (over page)

On 9 January, Margaret brought her older son Atticus into the police station. Because of some things Margaret told me I interviewed her son Atticus. Before I did so, Margaret told me that Atticus has a mild intellectual disability.



EXTRACT OF SENIOR CONSTABLE KING'S INTERVIEW WITH ABBY

Q.1 OK. The time now is 3:30 pm on 1 January. My name is Senior Constable King and I'm here with Abby and Abby's dolly [*Abby is holding a dolly*].

A --

Q.2 Abby, how old are you?

A Um, I'm six.

Q.3 Six, OK great. Abby is it alright if I speak to you today without your mum?

A Uh-huh.

Q.4 Abby, would you like to tell me why you're here today?

A Because Chrissy showed me his moon.

Q.5 Who is Chrissy?

A Chrissy is my big brother. He stays with us sometimes.

Q.6 OK. Now I wasn't there when Chrissy showed you his moon, so why don't you tell me everything that you remember about that.

A Well, Chrissy was talking and then I was talking and mum and dad had gone to the shop to buy lunch, fish and chips. And we were in the lounge and I was on the floor and Chrissy was on the floor and Chrissy got up and pulled his pants down and showed me his moon and it was funny. He said hey Abby look at this, it's a moon, and I was like that's rude but it was also a bit funny. And then I told mum what happened and now I'm here.

Q.7 OK. When did this happen Abby?

A Today.

Q.8 Do you remember what time today?

A Um – 20 o'clock.

Q.9 OK. Well, was it daytime or night time outside?

A It was nearly dark outside.

Q.10 Nearly dark outside.

Q.11 Now Abby when you say moon do you mean bottom?

A Um --

Q.12 Do you mean –

A This [*pointing to the bottom on her dolly*].

Q.13 What do you call that Abby?

A Bum moon.

Q.14 OK. Was anyone else there when Chrissy showed you his bottom?

A I don't remember.

Q.15 Were you on your own when Chrissy showed you his moon?

A Chrissy was there.

Q.16 What about Atticus?

A Atticus had gone somewhere and I was playing. But then Atticus came back but I didn't say anything to Atticus. It was funny.

Q.17 Where was your dad Rodger?

A Daddy was watering the back window.

Q.18 Why didn't you say anything to Atticus?

A I don't know.

Q.19 What were you, Atticus and Chrissy doing while your mum and dad were away?

A We were watching the tv.

Q.20 What were you watching?

A I think it was Jumanji.

Q.21 Jumanji, OK. Now you said that Chrissy was talking, do you remember what he was saying?

A Chrissy was talking about my dollies.

Q.22 Were you playing with your dollies were you?

A No.

Q.23 You said that you were talking, do you remember what you were saying?

A I don't remember.

Q.24 How long have you known Chrissy for?

A About a day.

Q.25 When Chrissy pulled his pants down which way was he facing?

A Um –

Q.26 Which way was he –

A I could see his bum, I could see Chrissy's bum and moon and it was rude. Like nudie rudie.

Q.27 What do you mean like nudie rudie?

A Like nudie rudie in the bath, nudie rudie everywhere, that's my favourite book. Mummy and daddy read me that book every night before bed time.

Q.28 Now Abby do you remember if Chrissy asked you to do anything?

A I don't remember.

Q.29 Right –

A I don't want to do this anymore.

Q.30 What do you mean?

A Can I go back to my mum now?

Q.31 Soon Abby. Now, is there anything else that you can tell me?

A I don't want to do this anymore, I want to see mum [*gets up and walks towards the door to the interview room*].

Q.32 OK. We might just end the interview there --

END OF INTERVIEW

EXTRACT OF SENIOR CONSTABLE KING'S INTERVIEW WITH ATTICUS

Q.1 OK Atticus. The time is now 10:00 am 9 January. My name is Senior Constable King and I am going to ask you some questions. Do you understand?

A Yep.

Q.2 Atticus, how old are you?

A 11.

Q.3 Who is Chris?

A He is a brother I think. He is dad's boy or friend. Mum doesn't like him. Dad likes him but.

Q.4 How come mum doesn't like Chris?

A. Well, she says he's lazy and he's eating lots of our food.

Q.5 Atticus I'm going to start by asking you some questions about New Years' Day OK?

A OK.

Q.6 Atticus do you remember on New Years' Day when your mum went out and left you and Abby with Chris?

A Yep. Mum went to get dinner.

Q.7 OK. Now what can you tell me about what you did while your mum was out?

A Nothing much. We watched telly.

Q.8 Is there anything else that you can tell me?

A I don't think so.

Q.9 Do you remember going to the toilet at all?

A Oh yeah I remember I went to the toilet to do a wee. But that was before --

Q.10 How long were you in the toilet for?

A About 10 minutes probably.

Q.11 After you finished in the toilet, where did you go?

A I would have gone to the lounge room. But I'm not too sure if I went to the toilet before or after mum left. I think that it was after mum left.

Q.12 OK. Did you go back to the lounge room did you?

A Yes.

Q.13 When you got back to the lounge room where was Abby?

A She was on the floor with her dolls. She likes her dolls.

Q.14 Where was Chris?

A He was sitting on the lounge where he always sits.

Q.15 Did you notice anything about Abby?

A Just normal I suppose.

Q.16 What do you mean by normal?

A I mean, I don't know, normal.

Q.17 Did you notice anything about Chris?

A He was watching the telly, we were watching Jurassic World which is one of my favourite movies. I love that movie.

Q.18 What happened after that?

A Well Abby went somewhere. I didn't see. She didn't say anything, she just went. And then the next thing was that dad came in and told me to go out and get in the car so I did.

Q.19 OK. Now, do you know why you're here today?

A Yep because Chris showed Abby his bum cheeks and he showed me too.

Q.20 How do you know that Chris showed Abby his bum cheeks?

A Because that's all she's been saying every day for the past week at least. She's been running around the house saying things like, I saw Chris' moon just like nudie rudie. It's been pretty annoying. Then I told mum that Chris showed me as well. It was like before.

Q.21 What do you think Abby meant when she was talking about a moon?

A His bum or the dolly's bum.

Q.22 Have you ever heard Abby use the word moon for bum before this week?

A No. I don't think so.

Q.23 And you mentioned that you told your mum that Chris had showed his bum cheeks to you too. Tell me about that?

A I just told her. I told her that one night he came into my room and he woke me up and he had a towel around him and he turned around and dropped his towel and he wiggled his bum cheeks at me. And he was laughing but I screamed. He would always do it. He'd laugh sometimes and sometimes wouldn't say anything. He got close to me. He is smelly.

Q.24 How was it that you told your mum this?

A I just told her. I think she was talking to Abby about lunch. We were at home and it was just me and mum and I decided to tell. That's it. I didn't like when he'd do it.

Q.25 OK. You mentioned that Chris woke you up, how did he do that?

A Oh he just like moved me like that [*indicating that he was pushed to the front of his shoulder*] and I woke up straight away.

Q.26 How could you see him?

A I saw him.

Q.27 OK Atticus. Now, if I show you these pictures [*body diagrams front and back*] can you circle what part of Chris you saw when he pulled down his towel and wiggled his bum at you?

A [*Draws a circle on one of the diagrams ... copy of diagram attached*]

Q.28 OK great. And I'll just get you to write your name on that. Thanks.

Q.29 Now Atticus, when this happened, where were your mum and dad?

A They were asleep in bed, I think.

Q.30 Where was Abby?

A I don't know.

Q.31 And what time was it?

A I don't know.

Q.32 When did this happen?

A It happened, um, at Christmas time. I don't know. When did it happen?

Q.33 Now, Atticus, you said earlier that this would always happen. What do you mean by that?

A Just like be annoying. Abby is annoying too but. She keeps saying that Chris loves me. I don't really like it.

Q.34 What happened after Chris did that?

A Well he just said like don't tell anybody about what I just did because we'll both get in trouble and then we went to sleep in our beds.

Q.35 OK. Did you ever talk to Chris about what happened?

A No.

Q.36 Did you tell your mum or dad about it?

A Yeah, I told mum today because like, it happened to Abby so –

Q.37 Did you tell anyone else about it?

A No.

Q.38 So, you hadn't said anything about this to anybody until you spoke to your mum today?

A Yep but I told mum today so –

Q.39 And you obviously spent time with Chris after this happened?

A Yep. He was living with us. I saw him every day pretty much.

Q.40 OK. I'm going to suspend the interview now --

END OF INTERVIEW



Attain's

EXTRACT OF SENIOR CONSTABLE KING'S INTERVIEW WITH CHRIS JOHNS

Q.1 OK. The time is now 10:30 pm on 1 January and I am conducting an interview with Chris Johns. Chris, it is alleged that earlier today you exposed yourself to Abby while her parents were out of the house, did that happen?

A No, I didn't do that. I would never do that. I don't think their mum likes me. Rodger's alright.

Q.2 Well, it has been alleged that after Abby's mum Margaret went to buy lunch, you were in the lounge on the floor with Abby and you got up and pulled your pants down and exposed your bottom to Abby and you said "Hey Abby look at this, it's called a moon".

A Not true. I mean, Margaret did go to the shops to buy us fish and chips, and I was in the lounge room watching a movie, and Abby was there but that other bit about me exposing myself to her isn't true. Atticus was home as well. He was in the lounge with us the whole time. I thought Rodger was out the back. Did he go to the shops as well?

Q.3 Why don't you tell us your side of the story.

A Well there's nothing to tell really. Margaret told me that she was going to go down to the shop to buy us all some lunch and asked if I could watch the kids, which was fine with me because we were going to watch a movie anyway. Atticus wanted to watch Jurassic World so that's what I put on. Abby wasn't interested in it but she played on the floor with her dolls so that's what we did. And then next thing I know Rodger came in and grabbed Atticus and I was left in the house on my own.

Q.4 Did you notice Abby leave the lounge room at any point?

A No, I didn't notice that. But I guess she must have because when Rodger came in and got Atticus she wasn't there.

Q.5 OK. At some point did Atticus get up and leave the lounge room?

A I don't think so.

Q.6 Did you do anything or try to do anything to Abby –

A No.

Q.7 Is there anything else that you'd like to say?

A I'm just trying to think why Abby might be saying this. All I can think of is that she always takes the clothes off her dollies. The ones that had clothes you could take off, she would take them off –

Q.8 OK –

A And like her favourite book is this book called rudie nudie or nudie rudie or something like that, one of those. Her parents read it to her every night. I mean she also runs through the house without clothes on all the time yelling nudie rudie, it's just how she is. She does it to Atticus.

Q.9 Right.

A And I did get a bit angry with her while we were watching Jurassic World because she was talking loudly and rolling around and I told her to shut up.

Q.10 Have you ever heard her use the word moon before?

A No.

END OF INTERVIEW

FURTHER INSTRUCTIONS FROM THE ACCUSED

Chris instructs that in relation to the complaint that was subsequently made by Atticus, that it is also untrue – he didn't expose himself towards Atticus in his bedroom. Further, that he never tried to kiss Abby and would not do that.

He only slept in Atticus's bedroom for a night or two when he first began sleeping at the home but then slept in the lounge room because Atticus's night light kept him awake.

Chris says that in the last twelve months he hasn't got on with Margaret at all. It's like she is jealous of him.

He also babysat Abby and Atticus several times before 1 January.

Australian Advocacy Institute
Advocacy Skills Workshop

VW Program– Townsville – 21 September 2019



EVALUATION SHEET

Please print these two pages and bring to the workshop

It will greatly assist the Institute in assessing this workshop if you can (anonymously) complete this Evaluation Sheet at the end of the workshop, when they will be collected.

1. How many years experience do you have? (Please tick response)

- | | | | |
|----|------------------------------|---------|-----|
| a) | in legal practice: | Under 5 | [] |
| | | Over 5 | [] |
| | | Over 10 | [] |
| b) | in making Court Appearances: | Under 5 | [] |
| | | Over 5 | [] |
| | | Over 10 | [] |

2. What were your expectations of what you would learn at this workshop **before** it started?

3. Were these expectations met **during** the workshop? Yes [] No []

Comments: _____

4. What were the three most important skills you have learned from this workshop?

1. _____

2. _____

3. _____

5. Did you find the exercise: Well designed: **Yes** [] **No** []
Clear: **Yes** [] **No** []

If **No**, why?

6. How do you rate the:
- | | Excellent | Good | Fair | Poor |
|--------------------------------|-----------|------|------|------|
| a) Performance/review Sessions | [] | [] | [] | [] |
| b) Overview Sessions | [] | [] | [] | [] |

7. What do think of the way the Instructors handled the:
- | | | | | |
|--------------------------------|-----|-----|-----|-----|
| a) Performance/review Sessions | [] | [] | [] | [] |
| b) Overview Sessions | [] | [] | [] | [] |

8. At the start of the workshop, did you believe you had prepared sufficiently?

Yes [] **No** []

If YES - now the workshop is complete, do you still believe you had prepared sufficiently?

Yes [] **No** []

9. Any suggestions towards improving the workshop?

10. Any further comments generally?

This form will be collected at the end of the workshop.

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