

OUR REFERENCE
J.Pheils 02 9285 8669 02 9267 5305 (fax)
YOUR REFERENCE
«RefName»
DATE
20 March, 2013



**OFFICE OF THE DIRECTOR
OF PUBLIC PROSECUTIONS**

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SYDNEY NSW 2000
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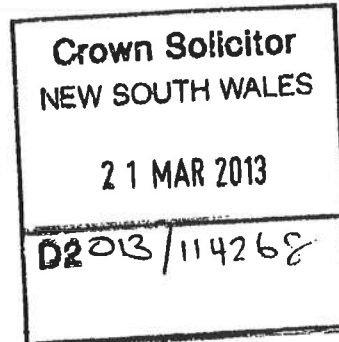
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ABN 27445689335

Emma Sullivan
Special Counsel
Crown Solicitors
DX 19
Sydney

By email
Emma_Sullivan@agd.nsw.gov.au



Dear Ms Sullivan,

Re: Special Commission of Inquiry into matters relating to the police investigation of certain child sexual abuse allegations in the Catholic Diocese of Maitland- Newcastle – Summons No 5 (b)

I refer to the summons issued on 18 March 2013 and received today by e-mail, requesting production of "all documents concerning or relating to a brief of evidence prepared by Detective Chief Inspector Peter Fox in relation to possible charges to be preferred against Bishop Michael Malone".

I have conducted a search of the ODPP CASES database for the names "Michael Malone", "Michael Mallone", "Bishop Malone" and "Bishop Michael" with the only result returned being file number 2012 2629, which is the file I have already produced to the Special Commission.

If an ODPP office received a brief of evidence from a police officer requesting advice, ODPP policy and practice is that the request for advice would be promptly registered on the CASES system, a file number generated and the matter put into practice of a Solicitor or Managing Lawyer in order for an advice to be prepared. If it was a matter of particular complexity or sensitivity, it is possible that a brief may have been referred to the Solicitor for Public Prosecutions or the Director for allocation. But again it would be expected that the matter had been registered on the CASES system.

~~I cannot exclude the remote possibility that a brief was received and mislaid before it was registered. But without having a clearer indication of when this request for advice was made and who in the ODPP it was made to, it is not feasible for me to make any further enquiries about this matter.~~

Yours faithfully

~~Solicitor for Public Prosecutions~~
per

Signed

~~Johanna Pheils~~
A/Deputy Solicitor (Legal)



**Crown
Solicitor's
Office**

My Ref: 201203450

T20 Emma Sullivan

Tel: (02) 9224-5029

Fax: (02) 8224-5355

Email: Emma_Sullivan@agd.nsw.gov.au

20 March 2013

Ms Johanna Pheils
Office of the Director of Public Prosecutions
Acting Deputy Solicitor (Legal)
175 Liverpool Street
SYDNEY NSW 2000

By email: jpheils@odpp.nsw.gov.au

Dear Ms Pheils

Special Commission of Inquiry into matters relating to the Police investigation of certain child sexual abuse allegations in the Catholic Diocese of Maitland-Newcastle ("Inquiry") – Service of Summons No. 5(b)

Further to Mr Kavanagh's recent discussion with Ms Sullivan of my Office, I now enclose by way of service a Summons to attend to give evidence and produce documents issued by Commissioner Cunneen on 18 March 2013 pursuant to s. 14 of the *Special Commissions of Inquiry Act 1983*.

The Summons is returnable before the Special Commission at **4.00pm on Monday 25 March 2013**. However, you need not personally attend before the Special Commission in response to the Summons if all the documents referred to in it have been produced to the Special Commission by the nominated time.

In this respect, the Commissioner will regard as sufficient compliance with the Summons the provision by you of the required documents to the solicitor for the Inquiry prior to the nominated time.

When providing documents in response to the Summons, please indicate (in a covering letter or accompanying table) in respect of which paragraph(s) of the Summons the particular documents relate.

You may produce copies of the documents instead of originals in response to the Summons. The Commissioner may request the original document(s) at a later date if necessary.

Yours faithfully

Signed

Emma Sullivan
Special Counsel
for Crown Solicitor

Encl.

SUMMONS TO PRODUCE DOCUMENTS



Special Commission of Inquiry into matters relating to the Police investigation of certain child sexual abuse allegations in the Catholic Diocese of Maitland-Newcastle

Summons No. 5(b)

TO: Director of Public Prosecutions
Office of the Director of Public Prosecutions
175 Liverpool Street
Sydney NSW 2000

Attention: Ms Pheils, Acting Deputy Solicitor (Legal), Office of the Director of Public Prosecutions

You are required to attend the Special Commission of Inquiry into matters relating to the Police investigation of certain child sexual abuse allegations in the Catholic Diocese of Maitland-Newcastle c/ Crown Solicitor's Office, Level 5, 60-70 Elizabeth Street, Sydney, at **4.00pm on Monday 25 March 2013** to give evidence and to produce the documents specified in the annexure to this Summons.

Pursuant to s. 23 (1) of the *Special Commissions of Inquiry Act 1983* you are not excused from answering any questions or producing any document on the ground that the answer or production may criminate or tend to criminate you, or on the ground of privilege or on any other ground.

If you have any queries concerning this Summons, please contact Ms Emma Sullivan, Senior Solicitor of the Crown Solicitor's Office, on (02) 9224 5029.

Signed

Margaret Cunneen SC
Commissioner

Special Commission of Inquiry into matters relating to the Police investigation of certain child sexual abuse allegations in the Catholic Diocese of Maitland-Newcastle Diocese

18 March 2013

ANNEXURE TO SUMMONS TO PRODUCE DOCUMENTS
Summons No. 5(b)

All documents concerning or relating to a brief of evidence prepared by Detective Chief Inspector Peter Fox in relation to possible charges to be preferred against Bishop Michael Malone.

In this Summons:

"document" means any record of information and, without limitation, includes emails and SMS messages.