



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

Opening remarks of Senior Counsel Assisting Julia Lonergan SC

Newcastle courthouse

Monday, 1 July 2013

1. Commissioner, the second Term of Reference requires you to examine carefully the conduct of Church officials, as defined, in relation to certain identified police investigations.
2. As you stated earlier, Commissioner, this Term of Reference 2 requires us to examine whether, and the extent to which, officials of the Catholic Church facilitated, assisted or cooperated with police investigations of relevant matters, including whether any investigation has been hindered or obstructed by, amongst other things, the failure to report alleged criminal offences, the discouraging of witnesses to come forward, the alerting of alleged offenders to possible police actions or the destruction of evidence.
3. A "relevant matter" for our purposes is:

"Any matter relating directly or indirectly to alleged child sexual abuse involving Denis McAlinden or James Fletcher, including the responses to such allegations by officials of the Catholic Church (and whether or not the matter involved, or is alleged to have involved, criminal conduct)."
4. In order to examine these important questions, we need to identify those police investigations.
5. Commissioner, we anticipate that the evidence will show that there were four police investigations addressing "relevant matters", the first three were operative between October 1999 and 2005, and then Strike Force Lantle, which commenced in 2010 and related specifically to allegations of concealing offences by Catholic Church officials.

6. Three of these investigations related to McAlinden. We expect that the evidence gathered by this Inquiry will show that the Maitland-Newcastle Diocese, as an institution, had extensive knowledge dating back to the 1950s of the serious risk posed to children by McAlinden.
7. I now go on to mention some matters of significance.
8. Documents in the possession of the Maitland-Newcastle Diocese show that, in 1953-54, McAlinden sexually abused a child, who we will refer to as AE. Her parents told the then Bishop and an Assistant Priest of the abuse.
9. In the early 1990s, AE and her husband also told their local parish priest about the abuse. It should be borne in mind at that time, McAlinden was still a priest of the Maitland-Newcastle Diocese.
10. In October 1999, AE made a formal "Statement of Complaint" to the Catholic Church and, on 8 October 1999, she attended a police station and made a formal complaint and statement to the NSW Police. We will return to this matter when discussing the first police investigation as the officer to whom she made her complaint is Inspector Watters, who will be giving evidence later today.
11. I turn now to another victim of McAlinden, a boy who was five to nine-years-old when he was abused by McAlinden in Singleton and we will refer to this boy as ABC. This boy, during one of his first confessions to his parish priest at Singleton, disclosed that abuse. This boy was given penance, apparently for his sin in being abused by that priest.
12. In 1975 – we are now moving to another victim of McAlinden – a primary school student in the Forster area was sexually abused by McAlinden. She told her mother about this in the following year. This led to discussion amongst parents of the parish and the then principal of the local school. A formal meeting was then convened with either Bishop Clarke or the then Vicar Capitular Msgr. Cotter.
13. A local solicitor by the name of John Vaughan, who was a parent of other children who attended the same school, went to see a Fr. Frank Coolahan, who was a senior priest of the Maitland-Newcastle Diocese at the time. Mr Vaughan provided him with some statements made by children who had been sexually abused by McAlinden.
14. Documents obtained from the Diocese show that, on 15 May 1976, there was a meeting of the Diocesan Consultors and, at that meeting, complaints were noted about what had happened in Forster regarding McAlinden and children.
15. On 16 May 1976, there was a further meeting of the Diocesan Consultors and this is recorded in minutes that have been made available to this Commission. Msgr Cotter

is noted as having reported to that group that, on his visit to Forster, he had a discussion with McAlinden and a separate discussion with some of the parents. The result of this exchange of information was that the Consultors agreed that McAlinden should then leave Forster and the minutes of this meeting noted the Consultors' agreement that McAlinden be given permission to seek work somewhere else in the Geraldton Diocese in Western Australia.

16. Documents obtained by the Inquiry show that, on 17 May 1976 – so the next day - McAlinden resigned in writing from the Forster Tuncurry parish.
17. Records that have been provided by the Maitland-Newcastle Diocese show that a very significant letter was penned by Msgr. Cotter to Bishop Clarke on 17 May 1976. Msgr. I say 'penned' because it was a handwritten letter. Msgr. Cotter referred to having obtained admissions from McAlinden in relation to his paedophilic tendencies. Msgr. Cotter also suggested that appropriate treatment be made, for McAlinden, but there are no documents within the material provided to this Commission by the Diocese that show that treatment was sought or obtained for McAlinden at that time.
18. Some sections of this very significant letter to Bishop Clarke are worth extracting:

Msgr. Cotter wrote:

"...while I was away in Sydney for our talk, a further deputation (led by a young solicitor) came to Newcastle with other charges against Fr. Mac. In my absence Fr. Coolahan saw them. These charges have to do with 'de sexto' in an unusual way but I think not extremely serious."

And this:

"The 'de sexto' business. Fr. Mac has an inclination to interfere (touching only) with young girls – aged perhaps seven to 12 or so. The furore cause[d] by striking the boy about the head in the presence of the whole class caused the girls to give the other information to their mothers, which they had till then withheld.

On examination this is found to be factual. Having dealt with the people, I had a long session with Fr. Mac at the presbytery.

Slowly, very slowly he admitted some indiscretions but then agreed that it was a condition that had been with him for many years.

He feels no such inclination towards the mature female but towards the little ones only. There never has been any physical assault or damage, but inevitably it leaves a psychological scar on the child's mind and attitude and religious outlook."

And finally this:

"Last night we had a further meeting of consulters and agreed to accept Fr Mac's resignation and to fill the parish by promoting Fr A. Brady, senior curate at present at Raymond Terrace in a situation in which we are already down three.

The point is that I would still say that we recommend Fr. Mac to Bishop Thomas provided of course the Bishop is told something of all this background. The reason why Father wants to go so very much now is because it will afford a good cover-up for his resigning the parish. The priest and his own family, most of whom live in Sydney, will not wonder because his desire to go to Geraldton a few years ago was well known."

19. I can comfortably anticipate that, notwithstanding all that material, McAlinden went on to have contact with children in various locations both within and outside the Maitland-Newcastle Diocese and he continued to commit sexual abuse upon some of those children.
20. Back in October 1976, McAlinden applied for, and received, permission to work for a period in the Diocese of Kerema, Papua New Guinea. Documents we have obtained from the Maitland-Newcastle Diocese show that the Maitland Central Clergy Fund of the Diocese paid for a one-way ticket for McAlinden's travel to PNG.
21. In June 1981, there was a letter written by Bishop Clarke to the Bishop of Geraldton, recommending McAlinden for loan to the Geraldton Diocese. In writing, Bishop Clarke referred to "problems" with McAlinden in 1976, but stated "these problems are over now. I would really think he is worth a try". McAlinden subsequently arrived in the Geraldton Diocese in October 1981.
22. In response to a letter dated 9 January 1988 from Bishop Kalisz of Wewak, PNG, enquiring as to McAlinden's character, Bishop Clarke stated, in his letter in reply that allegations were raised in 1987 about McAlinden's behaviour with small girls, but that the investigation by the Church proved inconclusive. Bishop Clarke stated: "In view of these allegations, in his own opinion, it would be unwise for him to continue to work in this Diocese [Maitland]."
23. Moving now to early 1993, events prompted Bishop Leo Clarke to recall McAlinden, who was at the time working in WA.
24. Fr. Brian Lucas, from the Sydney Archdiocese, interviewed McAlinden. I anticipate that the weight of the evidence will show that, at this time, McAlinden made some

admissions regarding having sexually abused a number of small children and young children.

25. Documents obtained by the Commission from the Diocese show that in February 1993, Bishop Clarke issued an administrative decree formally withdrawing McAlinden's faculties as a priest in light of the "serious allegations" that had been made concerning his behaviour.
26. We anticipate that evidence will suggest that a plan was made for McAlinden to be sent overseas to England at or around that time.
27. Records will show that, on 23 March 1993, McAlinden left Australia to travel to England and Ireland.
28. Stepping back slightly in time, in September 1991, McAlinden had been charged in WA with indecent dealings with a 10-year-old girl, which was conduct that occurred back in the 1980s. In July 1992, McAlinden was acquitted of those charges.
29. Having heard of those charges and the acquittal in WA, in 1992, AL, who in another victim of McAlinden, disclosed to a Sister Redgrove that McAlinden had abused her when she was between eight and 12-years-old. Sister Redgrove instigated a meeting so that AL could disclose this abuse and there was a meeting attended by Sister Redgrove, Fr. Lucas and Msgr. Hart from the Maitland-Newcastle Diocese.
30. In October 1995, AL was asked to sign a formal statement for the Church reporting that abuse.
31. She was not asked to sign a formal statement reporting that abuse when she was initially interviewed some year or two before.
32. Letters obtained by this Commission show that there was a series of correspondence between McAlinden and the Diocese in 1993, and again in 1995, some of which referred to McAlinden having admitted that he had abused children.
33. In 2002, another victim – and we call her AC - disclosed via the Towards Healing program that had been set up by the Catholic Church that she had been sexually abused by McAlinden when she was seven to 11-years-old. When she made her statement to a person engaged to take her complaint, she made it clear that she wanted her complaint to be used to corroborate any other complainant who took their matter to the Police and she made this additional comment in writing. This information was not made known to the Police by the Diocese or any other Church officials at that time. We expect that evidence from Inspector Watters, later today, will show that he found out this detail himself and made contact with AC at that time, that is, in 2005. I anticipate the Inquiry will hear that, in August 2002, when

she first had interface with the Maitland-Newcastle Diocese about her complaint about McAlinden, AC was informed by Bishop Malone that McAlinden had a known history of child abuse and a "file you couldn't jump over".

34. Other documents acquired by the Commission, including reference to admissions having been made by McAlinden as sexually abusing children, are as follows:

(a) a letter from Bishop Clarke to Fr. McGuinness, who is a priest in the United Kingdom dated April of 1993. That is about the time McAlinden was flying to the United Kingdom;

(b) a letter from Bishop Clarke to a Fr. Brambilla in May 1993, and we will come to a bit more detail about that in a minute;

(c) there was an insurance proposal form completed by Bishop Clarke in November 1993, and again I will come to that;

(d) there was a letter from Bishop Clarke to Bishop Bantigue dated May 1995. He was a Bishop in the Philippines where McAlinden was seeking to work later in 1995;

(e) there is a letter from Bishop Clarke to Fr. McAlinden dated October 1995 and a reply from McAlinden to Bishop Clarke about a week later.

35. Going back to the signed insurance proposal form that was completed by Bishop Clarke in November 1993, Bishop Clarke stated this:

"One of my priests working in another Diocese was tried for a case alleged to have taken place when he served there some time ago. He was found not guilty, however, a number of people in this Diocese came to know of this case and were incensed that he was exonerated. They complained that they had been victims many years back and their complaints were referred to Fr. Brian Lucas. He handled this case with great dexterity and extracted a confession from the priest that he had offended. He has returned to Ireland and was told that should he return here, these angry women will pursue him..."

36. I now turn to the October 1995 letter that Bishop Clarke wrote to Fr. McAlinden, who was at that time in WA. The letter is addressing a canon law process, which had been commenced by the Diocese. This is what Bishop Clarke says:

"The resolution of the problems associated with your ministry has been a concern to me for some time...I beg you, for the sake of souls and the good of the Church, to cooperate in this matter so that it may be speedily resolved.

A speedy resolution of this whole matter will be in your own good interests as I have it on very good authority that some people are threatening seriously to take this whole matter to the police.”

37. In November 1994, Bishop Clarke wrote to Bishop Bantigue in the Philippines refusing to release McAlinden to be incardinated to the Diocese of San Pablo stating that McAlinden knew why, but giving no details to the Bishop.
38. About six months later, Bishop Clarke seems to have had a change of heart. He wrote to Bishop Bantigue again, this time informing him of the accusations and admissions that McAlinden had sexually abuse children.
39. Later in the same month, Bishop Clarke wrote to the Apostolic nunciature in Manila, to Franco Brambilla, advising him of these admissions made by Fr. McAlinden and requesting that he intervene to prevent McAlinden from working as a priest in the Philippines because of concerns raised by AL about his conduct with children in Maitland-Newcastle.
40. I now turn to the Police investigations.
41. The first formal police investigation of relevant matters commenced in October 1999 when AE attended Maitland police station and made a formal complaint to then Senior Constable Mark Watters. Her complaint related to multiple serious sexual abuses of her in the 1950s when she was about 11-years-old.
42. We will hear evidence from now Inspector Watters regarding the progress of that investigation. The investigation processes included a warrant being issued for McAlinden’s arrest in December 1999. We expect that the evidence will show that attempts to find McAlinden at that time did not result in an arrest.
43. We also anticipate that evidence will be heard and documents tendered that show in 2005 a warrant for McAlinden’s arrest was reactivated by a police review process after having laid dormant for some five years. We expect the evidence will show that there was then some contact with Church authorities, which led to identification of other victims of McAlinden, who had, by then, come forward under the Church’s Towards Healing protocol in those intervening years.
44. As indicated earlier, Commissioner, we anticipate one significant matter is that one of those victims, AC, specifically requested that her complaint be used to corroborate or support any other McAlinden victims who come forward and despite her wish being clearly expressed in writing to the Church official who took her complaint, this request was not conveyed to police. We expect Inspector Watters will give some

evidence about how he came to know about AC in August 2005 and what steps he took to involve her in the action being taken in 2005.

45. We also expect the evidence to show that, in late 2005, McAlinden was located in WA. This information was provided to NSW Police by Ms Keevers, who then worked in a child protection role for the Maitland-Newcastle Diocese.
46. An extradition warrant seeking his return from WA was not ultimately enforced as, by that time, McAlinden was in the final stages of cancer and died two months later. A statement has been tendered addressing that issue authored by a WA Police officer, Detective Senior Constable Grono.
47. The question to be examined in relation to the investigation by Inspector Watters was whether the officials of the Catholic Church facilitated, assisted or co-operated with his investigative tasks; or, alternatively whether they hindered or obstructed in any way, and this will be examined in the evidence that will be taken over the next few weeks, Commissioner.
48. The second investigation relating to McAlinden commenced in 2001, when another woman came forward and made a formal report to police about him. She alleged that she had been sexually assaulted by McAlinden in 1977 when she was four-years-old.
49. We expect the evidence to show that there was, at that time, insufficient information as to the current whereabouts of McAlinden to progress the matter.
50. The officer managing that investigation was a Sergeant Flipo. She directed some inquiries to the Maitland-Newcastle Diocese, which resulted in her being informed that they did not know where he was.
51. She made some further enquiries and we expect evidence will be given about those by Sergeant Flipo next week.
52. We also expect that the evidence will show that the matter remained in abeyance for some period and that there was no connection made between Sergeant Flipo's investigation and the one that had been commenced by Inspector Watters in 1999 until quite close to McAlinden's death in late 2005.
53. The question of cooperation by officials of the Catholic Church will be examined in relation to this investigation of this matter as well.
54. I now move to the third investigation which is the investigation by Detective Chief Inspector Fox of James Fletcher.
55. This investigation commenced in May 2002 and initially related solely to multiple and violent sexual assaults committed by Fletcher on a boy, who we will refer to as AH.

Ultimately, two other men complained of being sexually abused by Fletcher as well when they were young and came forward to assist in the further investigation and prosecution of Fletcher.

56. Fletcher was convicted on all counts of those multiple violent sexual assaults on AH in November 2004.
57. We expect Detective Chief Inspector Fox will give evidence tomorrow and over the following day, or two days if necessary. He will give evidence of various incidents that occurred during his investigation, which concerned him and led to his opinion that his efforts to investigate were in fact being hindered or obstructed. These allegations will be examined.
58. Finally, I move to Strike Force Lantle. Information was provided to the NSW Police in about April or May 2010, which ultimately led to the setting up of Strike Force Lantle. This Strike Force's Terms of Reference required it to examine alleged concealing of child abuse offences on the part of various Catholic Church officials.
59. This investigation was conducted, in the main, by Detective Sergeant Jeffrey Little with supervision by Detective Inspector Parker.
60. Evidence regarding the Church's cooperation or otherwise with this investigation will be taken *in camera* so as not to prejudice any further steps, which may be taken in relation to the Strike Force Lantle investigation.
61. Commissioner, having considered the evidence of the Police witnesses who had, at varying times, conduct of investigations of the "relevant matters" as identified in Terms of Reference 2. I anticipate that later this week we will then proceed to hear evidence from various Church officials starting with the former Bishop of Maitland, Bishop Malone, followed by other officials of the Maitland-Newcastle Diocese and other Church officials.
62. Before we hear initially from Inspector Watters, Bishop William Wright of the Maitland-Newcastle Diocese will be called to give some short evidence and that will take place after the morning tea adjournment.

ENDS