

SPECIAL COMMISSION OF INQUIRY
INTO MATTERS RELATING TO THE POLICE INVESTIGATION OF
CERTAIN CHILD SEXUAL ABUSE ALLEGATIONS IN THE CATHOLIC
DIOCESE OF MAITLAND-NEWCASTLE

At Newcastle Supreme Court
Court Room Number 1, Church Street, Newcastle NSW

On Monday, 6 May 2013 at 10.00am
(Day 1)

Before Commissioner: Ms Margaret Cunneen SC

Counsel Assisting: Ms Julia Lonergan SC
Mr David Kell
Mr Warwick Hunt

Crown Solicitor's Office: Ms Emma Sullivan,
Ms Jessica Wardle

1 THE COMMISSIONER: Good morning, ladies and gentlemen,
2 and welcome to the public hearings of the Special
3 Commission of Inquiry into matters relating to the police
4 investigation of certain child sexual abuse allegations in
5 the Catholic Diocese of Maitland-Newcastle.
6

7 I intend to make some introductory remarks about
8 certain matters, before inviting senior counsel assisting,
9 Ms Lonergan, to provide an opening address.
10

11 After that, I will take the appearances from parties
12 authorised to appear at the public hearing.
13

14 The Special Commission of Inquiry was established
15 pursuant to letters patent dated 21 November 2012 and
16 25 January 2013, issued in the name of the Governor of New
17 South Wales and in accordance with the Special Commissions
18 of Inquiry Act 1983.
19

20 It followed the broadcast of an ABC television report
21 on the Lateline program on 8 November 2012, in which a
22 senior police officer, Detective Chief Inspector Peter Fox,
23 made certain statements regarding alleged child sexual
24 abuse by Catholic priests, including Father Denis McAlinden
25 and Father James Fletcher, who are both now deceased, who
26 had been associated with the Maitland-Newcastle diocese.
27

28 Detective Chief Inspector Fox referred to what he
29 believed to be the covering up of such conduct by the
30 Catholic Church, including the relocation of offending
31 priests and, in what he suggested was an attempt to protect
32 the good name of the church, the apparent hindering of
33 associated police investigations into such alleged child
34 sexual abuse.
35

36 During that same broadcast, Detective Chief Inspector
37 Fox also made certain statements to the effect that he had
38 been ordered by senior police to cease investigating
39 certain matters, and had been directed to hand over his
40 files in relation to those matters for reasons unknown to
41 him.
42

43 The terms of reference for the inquiry require me to
44 inquire into and report upon the following matters:
45

- 46 1. *the circumstances in which Detective*
47 *Chief Inspector Peter Fox was asked to*

1 *cease investigating relevant matters and*
2 *whether it was appropriate to do so --*

3
4 which can be described as the first term of reference;
5 and --

6
7 2. *whether and the extent to which*
8 *officials of the Catholic Church*
9 *facilitated, assisted or cooperated with*
10 *Police investigations of relevant matters,*
11 *including whether any investigation has*
12 *been hindered or obstructed by, amongst*
13 *other things, the failure to report alleged*
14 *criminal offences, the discouraging of*
15 *witnesses to come forward, the alerting of*
16 *alleged offenders to possible police*
17 *actions, or the destruction of evidence.*

18
19 That is the second term of reference.

20
21 The expression "relevant matters" is defined in the
22 terms of reference as meaning.

23
24 *any matter relating directly or indirectly*
25 *to alleged child sexual abuse involving*
26 *Father Denis McAlinden or Father James*
27 *Fletcher, including the responses to such*
28 *allegations by officials of the Catholic*
29 *Church and whether or not the matter*
30 *involved, or is alleged to have involved,*
31 *criminal conduct.*

32
33 The public hearings of the inquiry, scheduled for this
34 week and the following week, are directed at the first term
35 of reference. The Commission will hold separate public
36 hearings in June and July in Newcastle in relation to the
37 second term of reference.

38
39 On 13 February 2013, the inquiry's public proceedings
40 were formally opened in Sydney. On that occasion, I made
41 some opening remarks relating mainly to the second term of
42 reference, certain of which I now wish to repeat.

43
44 I do so in particular for the benefit of those who are
45 present in the courtroom today, from the Hunter region,
46 which has been so deeply affected by some of the matters
47 investigated by this inquiry.

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First, children are inherently vulnerable and innocent. The sexual abuse of children is abhorrent. It exploits their vulnerability, irreparably damages their innocence and casts a shadow over their whole lives. It can be very difficult for children to break their silence about sexual abuse, and when they do, the collective responsibility to take action weighs heavily on all.

Further, the perpetrators of such child sexual abuse, including in a clerical context, will often hold positions of trust in relation to the child. When sexual abuse is committed by those in positions of trust and authority, it is even more abhorrent. The commission of such acts of sexual abuse always involves a reprehensible betrayal of the faith and trust placed in that person by the child and the child's family.

Secondly, the diocese of Maitland-Newcastle has had a very troubled history regarding issues of child protection and the sexual abuse of children perpetrated by persons associated with the diocese, including certain priests.

Two of those priests were Father Denis McAlinden and Father James Fletcher. Both of these persons are named in the Commission's terms of reference. Each has been recognised, including by the diocese, as having committed sexual abuse against children whilst serving in or incardinated to the Maitland-Newcastle diocese.

Father Denis McAlinden is regarded by many as having a history of sexual offending against children over four decades, many persons identifying themselves as victims of Father McAlinden have come forward over time. Father McAlinden died in 2005. In June 2010, Father McAlinden was publicly described by the then Bishop of Maitland-Newcastle diocese as having been a predator who should have been dealt with earlier.

Father James Fletcher was ultimately convicted and sentenced in New South Wales in 2004 of having committed nine offences relating to the sexual abuse of a minor who had been an altar boy. The sentencing judge described these offences as involving a gross and inexcusable breach of trust. Over time, a number of other victims of Father Fletcher came forward.

1 Following the conviction of Father Fletcher in
2 December 2004, the then Bishop of Maitland-Newcastle
3 diocese issued an apology to the victims and the victims'
4 families for the pain and suffering caused by the criminal
5 actions of Father Fletcher. Father Fletcher died in gaol
6 in 2006, in January of that year, from natural causes.

7
8 A third matter of importance should be noted. A
9 number of persons who have identified themselves as victims
10 of Father McAlinden or Father Fletcher have information
11 that is relevant to the inquiry and have come forward to
12 provide that information since the announcement of the
13 inquiry. I have previously encouraged and continue to
14 encourage these people to contact the inquiry, so that
15 their voices may be heard, and so that steps can be taken
16 to consider the information that may be available.

17
18 It has rightly been said that child sexual abuse is no
19 longer a crime in which the conspiracy of silence continues
20 to the grave.

21
22 Fourthly, this inquiry provides an important
23 opportunity for persons who held relevant positions within
24 the Catholic Church to come forward and provide information
25 to the inquiry about the events that occurred in the past.
26 Conceivably, this may include information both as to the
27 good and the bad that occurred in the past, including, if
28 it be so, an acknowledgment that things could well have
29 been handled differently and better. I have previously
30 encouraged and continue to encourage any person who may
31 have relevant information to come forward and provide it to
32 the inquiry.

33
34 Fifthly, this inquiry will principally look at matters
35 that occurred in the past. In doing so, while there may be
36 some important aspects that are regarded as immutable, some
37 care may need to be taken about necessarily judging events
38 of the past solely by today's knowledge and standards.

39
40 I now take the opportunity to mention some further
41 matters by way of introduction.

42
43 First, as is now well known, after the establishment
44 of the present Special Commission of Inquiry, a national
45 Royal Commission into Institutional Responses to Child
46 Sexual Abuse has been established. The national Royal
47 Commission was effectively established on 11 January 2013,

1 pursuant to letters patent issued by the governor general
2 on 11 January 2013 under the Commonwealth Royal Commissions
3 Act 1902. The terms of reference of the national Royal
4 Commission are broadly stated.

5
6 Consistent with its terms of reference, the Royal
7 Commission can look at, among other things, any private or
8 non-governmental organisation, including a religious
9 organisation such as a diocese, that is, or was in the
10 past, involved with children, and to consider the
11 institutional responses to allegations and incidents of
12 child sexual abuse and related matters.

13
14 The present inquiry is authorised to and has
15 established arrangements for the referral and sharing of
16 evidence, information and matters coming to the attention
17 of the inquiry which fall outside the scope of the terms of
18 reference but which may be of relevance to the national
19 Royal Commission.

20
21 This inquiry has been able to utilise its procedure to
22 refer material received from a number of different sources
23 for examination and investigation by the Royal Commission
24 and will continue to do so as appropriate.

25
26 The inquiry has received from Detective Chief
27 Inspector Fox a large quantity of evidence and material
28 which, while falling outside the terms of reference of the
29 present inquiry, raises matters of significant importance.

30
31 This includes matters in relation to the general
32 manner in which the Catholic Church had dealt with child
33 sexual allegations. The evidence and material provided by
34 Detective Chief Inspector Fox has been referred to the
35 Royal Commission for further investigation and examination.

36
37 A significant focus of the inquiry's work has been
38 dealing with victims of past sexual abuse by
39 Father McAlinden and Father Fletcher and with victims'
40 families.

41
42 This leads me to the second matter of present
43 importance: the inquiry will adopt the practice of using
44 pseudonyms to protect the identity of particular persons,
45 mainly victims and family members, who may give evidence or
46 otherwise be referred to in evidence or in documents before
47 the inquiry.

1
2 The use of such pseudonyms has regard to the
3 particular sensitivities of victims and family members who
4 may already have suffered severely because of the offending
5 conduct of Father Denis McAlinden or Father James Fletcher.
6

7 It is expected that counsel and witnesses will also
8 use designated pseudonyms when referring to victims and
9 victims' families. I also intend to make non-publication
10 orders regarding the names of such persons or any matters
11 which tend would tend to identify them.
12

13 A final matter should be mentioned, although it will
14 have greater relevance to the hearings in June and July in
15 relation to the second term of reference. On occasion, the
16 inquiry may be required to take certain evidence in camera,
17 which means, of course, without access to the media or to
18 the general public. Under the Special Commissions of
19 Inquiry Act, I am authorised to take evidence in camera
20 where it is considered desirable to do so, including so as
21 to not prejudice by pre-trial publicity any potential
22 future criminal proceedings or influence evidence that any
23 witnesses might give at such proceedings.
24

25 In circumstances where I am commissioned to inquire
26 into particular matters which relate to allegations of
27 concealment by members of the Catholic Church of sexual
28 abuse of children and the subsequent cooperation of church
29 officials with relevant police investigations, I do not
30 make such orders lightly. However, the necessity for such
31 procedures arises primarily due to the fact that the
32 present inquiry was announced against the background of an
33 existing police investigation, Strike Force Lantle, into
34 alleged concealment of sexual offences by Catholic Church
35 officials. This inquiry must not compromise any potential
36 future criminal proceedings in any way.
37

38 Ms Lonergan.
39

40 MS LONERGAN: Was Detective Chief Inspector Fox asked to
41 cease investigating matters about alleged cover-ups of
42 church paedophilia in the Maitland-Newcastle diocese? If
43 so, why did that happen?
44

45 What were the circumstances in which Detective Chief
46 Inspector Fox was asked to cease investigating those
47 matters? What exactly was Detective Chief Inspector Fox

1 investigating in 2010 and where were his investigations up
2 to when he was asked, as he saw it, to cease and happened
3 over his material? Were these matters investigated or were
4 they shelved?

5
6 Were alleged cover-ups of child sexual abuse
7 allegations relating to the Catholic Church in the
8 Maitland-Newcastle diocese being properly investigated or
9 were they being put to one side as too complex or too
10 difficult?

11
12 These are the sort of questions I am sure are circling
13 the minds of people who have heard about or watched the
14 Lateline program in November last year, or persons who have
15 read Detective Chief Inspector Fox's open letter to the
16 Premier. They are very important questions. They strike
17 at the heart of the administration of justice and child
18 protection in this region. Although an inquiry into local
19 matters, the concerns are universal.

20
21 Shortly I will indicate what evidence I expect this
22 Commission will hear which will explore those questions.

23
24 Before looking at certain matters that may provide
25 some context for the evidence that I anticipate will be
26 given, it might be helpful, Commissioner, for the benefit
27 of those who are present in the courtroom, to set out a
28 little about the Commission's processes. First, my role as
29 counsel assisting you, along with Mr Kell and Mr Hunt, and
30 instructed by the Crown Solicitor's Office, is to present
31 fully and fairly relevant evidence that has been uncovered
32 in the course of the Commission's investigative phase.

33
34 Evidence of a more non-contentious nature may well be
35 dealt with by the tendering of witness statements. Where
36 necessary, the oral evidence - that is, what the witnesses
37 say here before you under oath - will be tested, so
38 Commissioner, you can determine what evidence is reliable
39 for the purposes of the final report that you are required
40 to prepare for the governor.

41
42 Various interested parties are represented here,
43 including in particular relevant to term of reference 1,
44 Commissioner, the NSW Police Force and Detective Chief
45 Inspector Fox. I expect on occasion, Commissioner, that
46 you may give legal representatives leave to ask questions,
47 and that is to clarify the evidence of particular witnesses

1 or to address matters that relate to their client's
2 particular interest in the subject matter of this inquiry.
3

4 Since the announcement of the inquiry in November last
5 year and following the public opening of proceedings in
6 February this year, much work has been done. The
7 Commission has conducted over 100 private hearings and
8 interviews and many thousands of pages of documents have
9 been obtained from church agencies and the NSW Police
10 Force, and these have all been closely reviewed. A large
11 number of statements have been sought and obtained and a
12 great deal of information has been provided on request,
13 without the need for a formal process, and indicative of a
14 high level of cooperation of those parties about whom the
15 inquiry is directing its efforts.
16

17 In other cases, compulsory processes have had to be
18 used in order to obtain information.
19

20 A number of persons have come forward with important
21 information and have been seen at the Commission's inquiry
22 information centre in Wallsend in March and April of this
23 year, and as recently as yesterday. Apart from oral
24 evidence, I expect that you, Commissioner, will ultimately
25 be required to consider and assess a great deal of relevant
26 documentary material that has been extracted from the
27 voluminous materials considered during the investigative
28 phase.
29

30 Our specific purpose over the next two weeks is to
31 examine the assertion by a senior police officer of
32 34 years experience that he was ordered to cease
33 investigating things that touch upon, firstly, the safety
34 of children; and, secondly, suspicions and allegations of a
35 cover-up by church officials of knowledge about this sexual
36 abuse of children by two priests who were incardinated
37 to the Maitland-Newcastle diocese. Their names are
38 Denis McAlinden and James Fletcher. From now, I will refer
39 to them as simply McAlinden or Fletcher.
40

41 By way of history, I anticipate the inquiry will hear
42 some evidence that despite documented knowledge of
43 allegations of sexual abuse as far back as 1976 and some
44 undocumented knowledge as far back as the mid-1950s being
45 held by the Maitland-Newcastle diocese in its records or
46 known to its personnel, it was not until late 1999 that any
47 complaint about McAlinden sexually abusing children was

1 conveyed to the NSW Police Force. That complaint,
2 Commissioner, was taken to the police by the victim, not by
3 the church.
4

5 I expect the evidence will reveal the police officer
6 took a statement detailing that particular sexual abuse of
7 that person by McAlinden - that abuse had occurred in the
8 1950s - and a warrant was issued for McAlinden's arrest on
9 1 December 1999. Shortly after that complaint had been
10 made to the police, it was acted on swiftly. However,
11 evidence suggests that McAlinden was not arrested as he
12 could not be found.
13

14 The inquiry will also receive evidence that in 1992,
15 McAlinden had been charged and acquitted of sexually
16 abusing a child in Western Australia in 1982. It is not
17 clear whether the NSW Police Force knew of the Western
18 Australian charges at the time they were dealing with the
19 1999 complaint.
20

21 The focus of the next two weeks, Commissioner, will be
22 on oral evidence from police officers, and that is because
23 of the examination of the matters relating to term of
24 reference 1. The Commission will commence with Detective
25 Chief Inspector Fox, who will, of course, give evidence
26 that is central to this inquiry's terms of reference. His
27 evidence now will focus on matters relevant only to term of
28 reference 1, and he will be recalled at the beginning of
29 the public hearings regarding term of reference 2 to give
30 evidence relating to those matters.
31

32 This inquiry will also hear evidence from Ms Joanne
33 McCarthy, a senior journalist with the Newcastle Herald,
34 regarding her role in bringing certain information to the
35 attention of the NSW Police and her subsequent interactions
36 with Detective Chief Inspector Fox and other police
37 officers. I expect this will be followed by the evidence
38 of other police officers or former police officers, and
39 this will be done broadly in chronological order in terms
40 of the sequence of events relevant to this inquiry.
41

42 By way of general background regarding McAlinden,
43 evidence obtained by this Commission suggests that
44 intelligence regarding a number of other complaints about
45 McAlinden - that is after 1999 - filtered through to the
46 NSW Police Force in the early 2000s. At that time it was
47 asserted by church officials that no one knew where

1 McAlinden was. The evidence is likely to reveal that, as a
2 result of matters being followed up by NSW Police in
3 relation to Operation Peregrine, which took place in 2005
4 and was an unrelated operation regarding looking at
5 outstanding warrants, that outstanding 1999 warrant for
6 McAlinden was actioned. Further investigations were then
7 undertaken by Detective Grono in Western Australia, who
8 ultimately located McAlinden in that state in September
9 2005. McAlinden was not extradited, due to significant
10 health issues. He was still living in Western Australia
11 when he died in November 2005.

12
13 I now turn to some observations regarding
14 investigations into Fletcher. In 2002 to 2004, Detective
15 Chief Inspector Fox successfully investigated and
16 prosecuted Fletcher for repeated sexual abuse of a boy,
17 aided by tendency evidence from another victim of Fletcher.
18 Certain aspects of the handing of that matter on the part
19 of the officials of the Maitland-Newcastle diocese were of
20 great concern to Detective Chief Inspector Fox, and that
21 matter and related matters will be explored in the term of
22 reference 2 public hearings that commence in June here
23 again in this court in Newcastle.

24
25 For now, this inquiry is likely to hear evidence from
26 Detective Chief Inspector Fox over the next few days that,
27 in 2004 to 2006, he sent reports to the police hierarchy
28 documenting his concerns in relation to a potential
29 paedophile ring operating in the Maitland-Newcastle
30 diocese. These reports were sent against a backdrop of
31 other police investigations into paedophile behaviour by
32 priests and associates of the Maitland-Newcastle diocese,
33 which are not the subject of this inquiry but are known as
34 and were known as Strike Force Georgiana, in terms of the
35 police side of those investigations.

36
37 Some broad background evidence will be given in
38 relation to those investigations by Detective Sergeant
39 Kristi Faber later in the next two weeks. This inquiry
40 understands that Detective Chief Inspector Fox had no
41 particular active role in that strike force.

42
43 I anticipate it will be established that by 2007,
44 Detective Chief Inspector Fox had been promoted to the
45 position of crime manager at the Port Stephens Local Area
46 Command, and some attention will be given to describing the
47 responsibilities of that position within the police

1 hierarchical structure.

2

3 Moving now to 2010, I expect that the evidence will
4 demonstrate that a series of events in the first half of
5 2010 activated particular interest in the issues relating
6 to McAlinden.

7

8 Certain confidential church documents were provided to
9 the press and were published in particular by
10 Ms Joanne McCarthy, who had over the years written a number
11 of newspaper reports raising issues regarding paedophilia
12 in the Maitland-Newcastle diocese. I anticipate that
13 Detective Chief Inspector Fox will give evidence that from
14 around early June 2010, he pursued certain investigations
15 that he kept confidential to himself, rather than logging
16 them through the usual police channels, and I expect that
17 he will explain why he took that course.

18

19 The evidence will show that in September 2010,
20 Detective Chief Inspector Fox was then allocated a matter
21 to investigate. It was a ministerial complaint regarding
22 certain concerns that at least one other priest knew or
23 ought to have known of Fletcher's offending conduct with
24 young boys at around the time it was occurring.
25 I anticipate that the inquiry will hear evidence that this
26 file, consisting of a complaint letter about these matters,
27 came to Detective Chief Inspector Fox the day he was to go
28 on leave for a month.

29

30 The evidence is likely to show that, whilst on leave,
31 Detective Chief Inspector Fox's office was searched for
32 this and any other material regarding church
33 investigations. It is anticipated that evidence will be
34 taken from him - that is, Detective Chief Inspector Fox -
35 regarding his reaction to that step having been taken and
36 there will be evidence from at least one of the officers
37 involved as to why that search was carried out.

38

39 I anticipate the Commission will hear evidence
40 relating to the establishment of the police investigation
41 known as Strike Force Lantle, which was directed to
42 investigate allegations of concealing of offences by clergy
43 formerly and/or currently attached to the
44 Maitland-Newcastle diocese.

45

46 Evidence available to the Commission suggests that on
47 12 October 2010 Detective Sergeant Kirren Steel, then of

1 the Newcastle Local Area Command, was allocated carriage of
2 that questions, with assistance from Detective Sergeant
3 Quinn and supervised by Detective Chief Inspector Taylor.
4 Evidence will be given regarding the circumstances
5 surrounding those matters.
6

7 Evidence will also be heard in relation to Detective
8 Chief Inspector Fox's attempts to contact Detective
9 Sergeant Steel to get their heads together on this
10 investigation, but for reasons which I expect the evidence
11 will explore, this never occurred.
12

13 I turn now to a significant date about which much
14 evidence will be given at this inquiry, and that is
15 2 December 2010. The inquiry will hear evidence from a
16 number of police officers about a meeting at Waratah police
17 station on that date. I expect that Detective Chief
18 Inspector Fox will give evidence that, as a consequence of
19 a direction given during this meeting by Superintendent Max
20 Mitchell, who was at the time the commander of the
21 Newcastle Local Area Command, Detective Chief Inspector Fox
22 perceived that he was removed from any investigative role
23 relating to child sexual abuse matters within the Catholic
24 Church.
25

26 There will be significant focus on what occurred at
27 that meeting and in the lead-up to it and what various
28 officers did after the meeting. Most officers attending
29 that meeting will be examined as to relevant events.
30

31 I anticipate the Commission will receive evidence
32 about the fact that, shortly after this meeting, the three
33 officers appointed to Strike Force Lantle went off work on
34 sick leave for a variety of reasons and did not return to
35 the NSW Police Force. In their place, the matter was
36 allocated to Detective Sergeant Little on 30 December 2010
37 and some limited public evidence will be given regarding
38 the progress of the investigation after that.
39

40 Commissioner, as you have indicated, this Commission
41 must not prejudice or compromise any future potential
42 criminal proceedings which might arise from either Strike
43 Force Lantle or any related investigations. There are good
44 reasons why some aspects of evidence relating to that
45 investigation must be taken in camera.
46

47 I anticipate there will be evidence about the degree

1 to which there was consultation with other police agencies
2 in moving Strike Force Lantle forward and I also expect,
3 Commissioner, that towards the end of the public hearing,
4 expert independent evidence will be called from a highly
5 experienced former Crown prosecutor regarding the quality
6 and sufficiency of the Strike Force Lantle investigation
7 that was completed by Detective Sergeant Little.
8

9 An important background issue relevant to the
10 circumstances we are exploring is that Ms McCarthy
11 continued to publish newspaper articles addressing Strike
12 Force Lantle and its subject matter and its progress.
13

14 I anticipate that there will be evidence from some
15 police officers to the effect that there was some initial
16 concerns as to confidentiality related to the Strike Force
17 Lantle investigation and that to protect the integrity of
18 that important investigation, steps were taken to avoid
19 further information being leaked to the press.
20

21 I anticipate that the Commission will receive evidence
22 that in late March 2012, Superintendent Gralton, the
23 commander of Newcastle Local Area Command, confirmed with
24 Detective Chief Inspector Fox that the directions
25 purportedly given to him on 2 December 2010 were to remain
26 in place.
27

28 In April 2012 there were some exchanges between
29 Detective Sergeant Little, his supervising officer
30 Detective Inspector Parker and Detective Chief Inspector
31 Fox regarding the Strike Force Lantle investigation.
32 I expect evidence will be given about those matters.
33

34 The evidence will show that by late 2012, Detective
35 Chief Inspector Fox was so concerned about events as he saw
36 them and what he regarded to be the absence of any obvious
37 investigation that he ultimately participated in an
38 interview on Lateline on 8 November 2012.
39

40 As part of that program, police were invited to
41 respond to matters as raised by Detective Chief Inspector
42 Fox on Lateline, and Assistant Commissioner Carlene York,
43 the Northern Region commander, formally responded to the
44 following effect:
45

46 1. Strike Force Lantle was established to ensure a
47 thorough and coordinated investigation was undertaken in

1 relation to the matters raised.

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2. Detective Chief Inspector Fox was the crime manager at Port Stephens Local Area Command and it would be unusual for a crime manager from a neighbouring local area command to work on a strike force in another local area command, particularly one like Newcastle City Local Area Command, where there were already two detective inspectors overseeing the investigation.

3. Detective Chief Inspector Fox had been informed that the strike force would be fully investigating the allegations.

4. Detective Chief Inspector Fox was consulted on numerous occasions and asked to provide information to assist the investigation.

I expect the Commission will hear evidence from Detective Chief Inspector Fox that the first he knew that these were the reasons he was asked to cease investigating, as he saw it, was when these answers were published as part of the Lateline program on 8 November 2012.

Commissioner, it is expected that Assistant Commissioner York's evidence will focus on those matters and other decisions made by her in establishing Strike Force Lantle.

The focus of the following two weeks will be upon exploring the evidence to find answers to the kinds of questions I raised at the start of this opening. This will assist you, Commissioner, to fulfil the obligations with which you are charged in relation to term of reference 1 of this inquiry.

To commence that process, Commissioner, after a short adjournment, appearances will be taken and I will commence the oral evidence, first calling Detective Chief Inspector Peter Fox.

THE COMMISSIONER: Thank you, Ms Lonergan. I will take a half-hour adjournment. Ordinarily, for the next two weeks, we will take an adjournment at a later time, from 11.30 to perhaps 12.00, but today I will adjourn for 30 minutes.

SHORT ADJOURNMENT

1
2 MS LONERGAN: Commissioner, you may wish to take formal
3 appearances before I call Detective Chief Inspector Peter
4 Fox.
5
6 MR L GYLES SC: May it please you Commissioner, I appear
7 for the diocese of Maitland-Newcastle.
8
9 MR P SKINNER: Commissioner, I seek leave to appear for
10 Father Brian Lucas. To my left is my instructing
11 solicitor, Ms Harris.
12
13 MR R McILWAIN: My name is McIlwaine, I have previously
14 been granted leave to appear for Mr Brad Tayler and
15 Mr Justin Quinn. I also, at a convenient time, have a
16 document to produce today, in answer to a notice served
17 upon my client.
18
19 THE COMMISSIONER: Thank you, Mr McIlwaine. That is a
20 statement by Mr Tayler, is it?
21
22 MR McILWAIN: That is correct.
23
24 THE COMMISSIONER: It will be admitted into evidence at an
25 appropriate time.
26
27 MR W ROSER SC: Commissioner, I appear with Mr Saidi for
28 the Commissioner of Police. There is also a list of
29 witnesses to be called. It may be easier if I read out
30 those numbers: number 4, Detective Inspector Watters;
31 5, Detective Inspector Waddell; 6, Detective Inspector
32 Townsend, number 8, Inspector Matthews; number 9, Detective
33 Inspector Jacob; 10, Detective Superintendent Kerlatec;
34 11, Detective Faber; 14, Assistant Commissioner York;
35 15, Assistant Commissioner Mitchell; 16, Detective Chief
36 Inspector Wayne Humphrey; 17, Detective Inspector Parker;
37 18, Superintendent Galton; and 19, Detective Sergeant
38 Little. Thank you, Commissioner.
39
40 THE COMMISSIONER: Thank you, Mr Roser. Mr Cohen.
41
42 MR M COHEN: Commissioner, I appear for Detective Chief
43 Inspector Peter Fox and I am instructed by Mr Greg Willis,
44 who is here beside me,
45
46 THE COMMISSIONER: Thank you. I think we are done.
47

1 MR McILWAINE: Commissioner, perhaps we could deal with
2 the response to the notice on behalf of Mr Tayler. If
3 I could produce a statement dated 6 May 2013 under the hand
4 of former Detective Chief Inspector Brad Tayler. I produce
5 that and indicate it has been produced unwillingly,
6 pursuant to section 23 of the Act, in response to a notice
7 served upon Mr Tayler.

8
9 THE COMMISSIONER: Thank you, Mr McIlwaine. The basis of
10 the production is understood.

11
12 MR McILWAINE: If I might be then excused for the time
13 being.

14
15 THE COMMISSIONER: Yes. Thank you for your attendance.

16
17 MS LONERGAN: Commissioner, I call Detective Chief
18 Inspector Peter Raymond Fox. .

19
20 <PETER RAYMOND FOX, sworn: [11.25 am]

21
22 <EXAMINATION BY MS LONERGAN:

23
24 MS LONERGAN: Q. Could you please state your full name
25 for the record.

26 A. My full name is Peter Raymond Fox.

27
28 Q. You are a Detective Chief Inspector in the NSW Police
29 Force?

30 A. That's correct.

31
32 Q. Detective Chief Inspector Fox, you became a
33 probationary constable in June 1978?

34 A. Yes.

35
36 Q. You were promoted to detective in 1984?

37 A. Yes.

38
39 Q. You had 28 years at the frontline of criminal
40 investigations in New South Wales?

41 A. Yes.

42
43 Q. In May 2007, you were commissioned detective chief
44 inspector?

45 A. Yes.

46
47 Q. You were appointed the crime manager at the Lower

1 Hunter Local Area Command in May 2007?

2 A. Yes.

3

4 Q. Detective Chief Inspector Fox, could you, for the
5 benefit of the lay people in court, just outline very
6 broadly the ranks in the NSW Police Force so they can
7 understand who is senior to whom?

8 A. Of course. It has changed a little over the years,
9 with time frames, but effectively probationary constable,
10 you then progress to constable after your first year or 18
11 months now. Then constable first-class, which is one
12 stripe; senior constable, which is two stripes; leading
13 senior constable, which is two stripes and a bar. Then
14 sergeant, senior sergeant, which I think has been phased
15 out; inspector, chief inspector, which is effectively now
16 phased out, but those still holding the rank maintain it
17 until they retire. Then you progress to superintendent,
18 I think there is still a chief superintendent role,
19 assistant commissioner, deputy commissioner and
20 Commissioner.

21

22 Q. Thank you very much. Detective chief inspector, in
23 May 2007 and up to the time you took leave from the police
24 force, as I understand it, in the middle of 2012, you
25 completed the role as crime manager at the Lower Hunter
26 Local Area Command initially and then moved to another
27 local area command?

28 A. Yes, I was moved for disciplinary reasons initially to
29 Newcastle, and then I was moved for the same reasons to
30 Port Stephens. I have had an apology and that disciplinary
31 reason removed since, but that was the reason for those
32 moves.

33

34 Q. None of those matters are relevant to the matters
35 before the Commissioner today?

36 A. No, not at all.

37

38 Q. We will try to confine the evidence to the particular
39 matters the Commission is examining.

40 A. Sorry.

41

42 Q. Also, while we are on that note, Detective Chief
43 Inspector Fox, in the witness box with you is a list of
44 pseudonyms and, as discussed with you prior to you getting
45 into the witness box, you and I will both try and use those
46 pseudonyms at any time if we need to refer to any victims
47 of Fletcher or McAlinden.

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Detective chief inspector, what is the role of crime manager in broad terms?

A. I could go through the departmental description, which would probably confuse most people, but effectively, as a crime manager there is generally one at every command; Newcastle is an exception, where I think, somewhere around mid-2011, they installed two, which is I think the only command that does so. Effectively, the crime manager's role is to manage the investigation of crime, quite simply, the overseeing of every criminal investigation within the command. You do that, of course, through your supervising detective sergeants and sergeants. So it doesn't mean that you look at every one individually.

Also it encompasses the direct management of a number of specialist areas, particularly the detectives' office, also what we refer to as the Os, that is the licensing officers, domestic violence liaison, all of those very specific individual officers, as well as the intel section, and you are directly answerable to the commander, which is the rank of superintendent.

Q. In that role, from your description, there is a significant amount of supervision of more junior officers required?

A. Yes.

Q. I now want to return to the circumstances in which you first became involved in any investigations in relation to McAlinden. I will ask you to reach out to your right and there should be a volume of material with "Volume 1" on the front of it. Do you have a recollection that in 1999 you had some involvement in relation to a victim of McAlinden?

A. Yes, more so in a supervisory capacity. One of my detectives, Detective Mark Watters --

Q. Before you turn to those documents, you were starting to state a recollection in terms of being a supervising officer.

A. Yes. As a supervising officer at Lower Hunter based at Maitland, one of my detectives, Detective Mark Watters, had a woman attend the station and that woman made a complaint of having been sexually abused as a child from as early as the 1950s by a priest, Denis McAlinden.

Q. Did you interview to that lady yourself?

1 A. No, I did not.
2
3 Q. If you turn to tab 1, detective chief inspector, that
4 victim of McAlinden's will be referred to as [AE]. You see
5 behind tab 1, detective chief inspector, there is a
6 document copied that has some information regarding
7 Mr McAlinden on it --
8 A. Yes.
9
10 Q. -- and the name Watters as the case officer
11 A. Yes.
12
13 Q. Also there is a page behind that with some handwriting
14 on it. Does any of your handwriting appear on those pages?
15 A. No. It's got my name on the second page, but none of
16 that is my writing.
17
18 Q. Are you able to describe briefly what those documents
19 appear to be
20 A. They appear to be photocopies of a beige-coloured
21 manila folder that is generally used for storage of the
22 hard-copy paperwork of a particular brief. On the outside,
23 of course, is recorded the offence, the name of the alleged
24 offender, the case officer and various numbers that assist
25 in filing that particular matter.
26
27 Q. Behind tab 2, detective chief inspector, there is an
28 event report. Would you mind having a look at that and
29 advising whether that document assists or reveals any
30 details about your role in the investigation of the
31 complaint by victim [AE]
32 A. That is the original, what we refer to as a COPS
33 event, an event that is used to record every single crime
34 within the state of New South Wales. Initially, reports
35 are recorded on this system with the name of the offenders,
36 victims, the particulars and nature of the offence.
37 Although the second page, of course, does record my name as
38 having assisted in creating part of that document in 2005.
39
40 Q. That entry on 28 October 2005, could you assist the
41 Commissioner with the origin of that annotation to that
42 report?
43 A. Basically, it just gives an indication that
44 information had been obtained as a result of Operation
45 Peregrine 2 that the offender - that is, Father Denis
46 McAlinden - had been located residing in Western Australia.
47

1 Q. If you look at tab 3, there is a letter by Detective
2 Senior Constable Watters, dated 8 October 1999, directed to
3 the bishop's chancery at Newcastle, requesting some
4 information regarding McAlinden. Do you see that?

5 A. I do.

6
7 Q. Did you have any role in preparing or requesting that
8 letter to be sent, on your recollection

9 A. No. I'm aware of it being sent. I know that it was
10 prepared by Detective Mark Watters. Obviously, myself, as
11 his direct supervisor, I was aware that he was going to
12 make inquiries with the Maitland-Newcastle diocese as to
13 the location of Father Denis McAlinden. But I don't recall
14 actually seeing this report. Mark would have - I would
15 assume - said to me, "I'm going to try to find out where he
16 is," hence the resulting report there.

17
18 Q. If you now turn to tab 5, behind that tab there is, on
19 Police Service letterhead, what appears to be a request to
20 Centrelink, dated October 1999 and it appears to be asking
21 for information about where McAlinden is located. Do you
22 see that document?

23 A. I do.

24
25 Q. Are you able to assist the Commissioner as to what the
26 purpose of that document is?

27 A. That would have been to ascertain from Centrelink if
28 Denis McAlinden was receiving any benefits. My
29 understanding was the church had indicated that they had no
30 idea where he was, or it was unsure where he was.
31 Obviously someone would need financial resources to
32 maintain a livelihood, and hence the inquiries with
33 Centrelink to see if Denis McAlinden was accessing any
34 Centrelink benefits, to try to locate him.

35
36 Q. Detective chief inspector, are you able to recollect
37 whether any positive response was received to this request
38 for information?

39 A. No. I know from all the inquiries made around that
40 time, he was unable to locate him.

41
42 Q. Behind tab 6 there is a warrant for the arrest of
43 McAlinden, dated 1 December 1999. Did you have a role in
44 having that warrant taken out?

45 A. Again, a similar role, in that Mark speak to me about
46 it. At that stage the suspicion was that he was either
47 residing in England or Ireland. We discussed the

1 possibility of extraditing McAlinden back to Australia if
2 he was located. To facilitate that, we made a decision
3 that Mark should take out, in this case, a first instance
4 warrant for one of the crimes - mind you, there were many
5 crimes by McAlinden alleged by the victim [AE], but the
6 warrant was only taken out for one of those crimes, simply
7 to serve the purpose for extradition.

8
9 Q. At the time this warrant was taken out in December
10 1999, what was your rank and station?

11 A. I was a detective sergeant at Maitland.

12
13 Q. In effect, supervising Detective Watters?

14 A. Yes.

15
16 Q. Who was a more junior rank at that time?

17 A. Yes. Mark and I had worked together for probably a
18 decade before that on and off.

19
20 Q. Have you got a recollection that a passenger alert
21 form or a passenger alert process was discussed with
22 Detective Watters at the time you were supervising him in
23 1999 or shortly after?

24 A. Yes. Unfortunately the system isn't anything what it
25 is today, but Mark did create a PASS alert, so he informed
26 me, to try to warn us if McAlinden was overseas and did
27 arrive back in the country.

28
29 Q. Are you able to say now whether the PASS alert was
30 actually formally put in place by the Department of
31 Immigration or whatever its title was back in 1999?

32 A. I couldn't tell you. All my knowledge was, Detective
33 Watters advised me he had contacted them to initiate that.
34 I, of course, assumed that it had occurred.

35
36 Q. The warrant we have just been looking at was taken out
37 as a trigger to put on the PASS alert, was it, rather than
38 to actually take that next step of extradition, are you
39 able to say?

40 A. It probably served a number of purposes, of course,
41 and the PASS alert would have been one of those many,
42 because you do require something of that nature to be in
43 existence. Of course, it gave us something to arrest him
44 if he arrived interstate or we located him overseas
45 pre-extradition. So it can serve a multiplicity of
46 purposes.

47

1 Q. The PASS alert operating correctly, would that have
2 led to notification formally coming to police regarding
3 McAlinden entering or leaving the country, is that how it
4 worked?

5 A. It should have, yes. That was my understanding.
6 I have, of course, since learned that unfortunately, for
7 whatever reason, it failed to do that.

8
9 Q. You are not able to give any particular background
10 evidence as to why that may have occurred?

11 A. Only hearsay from what Mark has told me.

12
13 Q. We won't worry about hearsay as Detective Watters will
14 be called to give evidence later this week.

15
16 Detective Chief Inspector Fox, do you remember at one
17 point, some months after the initial complaint was made by
18 [AE], that she withdrew the complaint or modified the
19 complaint?

20 A. I did speak to [AE] myself a number of times, and of
21 course through Detective Watters. She was extremely
22 traumatised by the abuse and reporting it and at various
23 stages I believe she was hesitant and at one stage did
24 withdraw it, and I may be wrong, but I thought she again
25 initiated it later on. That's not uncommon, of course,
26 with victims of this nature. But yes.

27
28 Q. The procedure in the police department when a victim
29 of alleged sexual assault withdraws a complaint, does that
30 mean the investigation is then at an end or not
31 necessarily?

32 A. No, not at all. It's totally up to a victim of any
33 sexual abuse to give the acknowledgment when they feel they
34 are prepared to proceed with the matter. Just to give, by
35 way of example, there are many steps that the police
36 department can actually take without proceeding to criminal
37 charges. It may well be that a victim simply wants to make
38 a report of the crime, to be recorded on the COPS event,
39 simply as a record. They may not be up to proceeding
40 further at that stage. It is up to them, always up to
41 them. They may elect to even go so far as providing a
42 statement, which, as in annexure 1, can be filed away and
43 they may give instructions, "I'm not ready yet, I'm not up
44 to going into court and giving evidence, I'm seeing a
45 counsellor," whatever. But at any stage they can turn
46 around and say, "I'm now ready, I now feel capable of
47 jumping in the witness box and giving evidence." That is a

1 very difficult step, as I think we all would appreciate,
2 and it really has to be the victim's say-so when they are
3 ready to do that.

4

5 Q. At the time we are looking at, late 1999, you were the
6 supervisor of Detective Watters, at what station was it
7 again, what local area command?

8 A. Maitland.

9

10 Q. Did you then move to a different local area command or
11 station and thus no longer supervised Detective Watters,
12 and if so when?

13 A. No. My recollection then is that we - there were
14 supposed to be three sergeants there. It boiled down that
15 I was the only remaining detective sergeant there in charge
16 of the office.

17

18 Q. You stayed in Maitland?

19 A. I stayed in Maitland.

20

21 Q. Until what date, roughly?

22 A. To November/December 2004, when I went back to
23 Cessnock.

24

25 Q. Detective Chief Inspector Fox, if an alleged
26 perpetrator dies, does the police investigation die with
27 them and thus the file is closed, or what is the procedure?

28 A. Obviously it depends on the circumstances. If they
29 are the sole offender, there is actually what's referred to
30 as a COPS case, which is electronically attached to the
31 original event. That case would normally be closed. It
32 can be reopened to be examined at a later period of time,
33 but normally, if the offender is dead and it can't be
34 pursued, the case can be closed. But it remains on our
35 system forever. The crime is always there recorded. If,
36 for any reason, it needs to be reinitiated, it can be.

37

38 Q. Detective chief inspector, behind tab 10 there is a
39 police document that refers to a Senior Constable Flipo
40 having received similar information regarding McAlinden.
41 Do you see that?

42 A. Yes.

43

44 Q. She was an officer at Lake Macquarie?

45 A. That's so, Jacqui Flipo, yes.

46

47 Q. Did you have any role in relation to this aspect of

1 reports about McAlinden's conduct?
2 A. Not at that time. Later, yes, but not at that time.
3
4 Q. When you say later, when did you become involved again
5 in matters relating to McAlinden?
6 A. In earnest, in 2010, and at that time - just checking
7 the witness list here, trying to find [AF]. I did have a
8 number of contacts with [AF] in 2010.
9
10 Q. In 2005, it appears from the document we are looking
11 at before, what you called the COPS document behind
12 tab 3 --
13 A. The event, yes.
14
15 Q. -- where you made an entry on 28 October 2005, is it
16 correct to say it appears that you were given certain
17 information regarding the location of McAlinden and so you
18 recorded that on the COPS report?
19 A. Is that tab 3?
20
21 Q. Sorry, tab 2.
22 A. Yes, it doesn't make it clear there whether I have
23 updated that on the case or the event, but they are
24 interchangeable in their links. But yes, I have --
25
26 Q. Was it your practice, Detective Chief Inspector Fox,
27 to make an entry in that type of record on the day you
28 received the information that you have recorded?
29 A. Generally speaking. It obviously depends on the
30 volume of work you have got on. But best practice is, of
31 course, to do it on that day.
32
33 Q. Could you turn to tab 17. Sorry to jump around, but
34 it is just to get the chronology.
35 A. I understand that.
36
37 Q. First of all, a preliminary question: were you aware
38 of Operation Peregrine being conducted, that checked out
39 old outstanding warrants in 2005?
40 A. Yes.
41
42 Q. Did you have any particular role in conducting that
43 operation?
44 A. To some degree I did. The police department was
45 becoming concerned at the large number of outstanding
46 warrants. It had been a back area where there was concern
47 that a lot of offenders may have fled the country or been

1 arrested and the warrant not executed or they had passed
2 away. What the operation was partly designed around is
3 culling all those outstanding ones and finding out whether
4 they needed to remain in place.

5
6 Q. Behind tab 17, Detective Chief Inspector Fox, is a
7 Centrelink document that appears to be dated 27 June 2005.
8 Could you explain the purpose of that document and what it
9 appears to have found out about McAlinden?

10 A. It gives an address in Wannanup in Western Australia
11 for Denis McAlinden.

12
13 Q. Did you have any particular involvement with attempts
14 to extradite McAlinden or anything to do with his arrest in
15 Western Australia?

16 A. No, he wasn't arrested. I didn't become aware he was
17 there. I have since been - I will allow Detective Watters
18 to explain that, but I could sum it up saying that we both
19 independently came to information around the same time that
20 he was in a Catholic care facility in Subiaco in Perth and
21 he was suffering the final stages of cancer. I actually
22 organised for police to also attend there, and they
23 confirmed that his condition was such that it was
24 impossible to remove him from that hospital.

25
26 Q. When you say they confirmed that his condition meant
27 he wasn't able to be removed from hospital, was that a
28 report directed specifically to you, or do you know from
29 subsequent events that's what happened?

30 A. No, I initiated that. I made a phone call to a police
31 officer over in Subiaco who travelled out there - I don't
32 recall the name off the top of my head. I also spoke to a
33 member of the nursing staff to make doubly certain.

34
35 Q. If you turn to tab 19, which is a series of emails
36 between Mark Watters and Rosanna Harris in August 2005, if
37 you would leaf through those, did you have any role in the
38 sending of those emails and that series of inquiries in
39 August 2005 or not?

40 A. No. I don't believe so.

41
42 Q. Detective chief inspector, do you recollect having
43 some conversations with [AE] regarding other victims that
44 she was aware of, other victims of McAlinden?

45 A. I do.

46
47 Q. Did that lead you to carry out any particular

1 investigative steps and, if so, when?

2 A. Yes, in, I believe it was late 2002, Detective Watters
3 had been - around that time he had either been advised or
4 shortly thereafter in early 2003, took up a promotion to a
5 uniformed sergeant's position at Gosford and, of course,
6 would be leaving the Maitland command and also the
7 detective's role. I had knowledge obviously of the
8 McAlinden investigation, so I effectively became the
9 over-sighter of that investigation from that time.

10

11 Q. Did you take any more formal statements from [AE]?

12 A. No, I did not. I kept in contact with her and her
13 husband over a period of time.

14

15 Q. Did something she said lead you to make the decision
16 that you needed to interview persons of the
17 Maitland-Newcastle diocese?

18 A. Not so much interview, but one of the discussions
19 I had with her, in her trying to, I suppose, assist in
20 supporting her allegation against McAlinden, is that she
21 had heard a rumour, off memory from a girlfriend, that the
22 church knew of two other victims of McAlinden, and she said
23 that the former bishop may know about that. That was
24 Bishop Leo Clarke.

25

26 Q. What steps did you take?

27 A. I had to see Bishop Clarke in relation to two other
28 matters.

29

30 Q. Another matter?

31 A. To two other matters, yes. It was an informal sort of
32 process, where I drove down to where he had retired at
33 Eleebana, and I spoke to him in his flat there for probably
34 five minutes. After I finished discussing the other
35 matters, I then asked him did he know anything about two
36 other women being sexually abused by Denis McAlinden. He
37 told me no, and then suggested that I contact the current
38 bishop, Michael Malone.

39

40 Q. Did you take any formal notes of this discussion with
41 Bishop Clarke or former Bishop Clarke?

42 A. I did not. I wish now that I had. At the time it was
43 simply to ask if a rumour was true. It was one or two
44 questions, and he basically said, "I don't know anything
45 about it." We had no more than that, because I only had it
46 third-hand from [AE]. It was one of those conversation
47 conversations where you tuck it in the back of your mind.

1 I was more fixed on the other two prominent matters that
2 I spoke to him about.
3
4 Q. You attended to talk to Bishop Clarke with another
5 officer?
6 A. Yes.
7
8 Q. That was Detective Ann Joy?
9 A. Yes.
10
11 Q. Did you direct Ann Joy to take any notes of that
12 exchange?
13 A. No, I didn't.
14
15 Q. Did you then attend on Bishop Malone and ask him any
16 questions about the knowledge of the diocese in relation to
17 McAlinden's offending history?
18 A. In all honesty, I don't recall. I don't think I did.
19 I may have. But simply because the assertion from [AE] was
20 that a former bishop had knowledge, I thought, if he
21 doesn't know - because it was supposed to have occurred
22 before his time - I thought the current bishop probably
23 won't know. It may have been an error on my part in
24 hindsight, of course.
25
26 Q. Clarke did suggest that you discuss it with the
27 current bishop, didn't he?
28 A. He did.
29
30 Q. Can we take it there is no note about any discussion
31 with Malone on that issue?
32 A. That's true.
33
34 Q. From the answers you have given this morning, may we
35 take it there was no formal investigation being conducted
36 by you about McAlinden up to about early 2010, when certain
37 things occurred?
38 A. No formal, as in I did not actively get any more
39 statements or anything. Obviously from the start of 2003,
40 until I learnt that he had died, it was one of those, if
41 you like, suspended briefs, where had he turned up, I would
42 have been only too happy to go get him. But other than
43 that, I didn't have any more real involvement until 2010.
44
45 Q. In relation to your last answer, is it correct to
46 understand that you mean you would have wished to apprehend
47 him or be involved in the apprehending of him, but you

1 weren't carrying out any other active investigative steps
2 in relation to other victims or other matters involving
3 McAlinden?

4 A. Yes.

5
6 Q. I am turning now to Jim Fletcher. Just briefly, so
7 those in court and the Commissioner can understand the
8 start and finish of your investigations in relation to
9 Fletcher, as we understand it, in June 2002 certain
10 information came to you regarding Fletcher having abused a
11 boy?

12 A. Yes.

13
14 Q. You took some investigative steps then to interview
15 that young man?

16 A. Yes, I did.

17
18 Q. Is it fair to say it was a difficult statement to
19 complete?

20 A. I have said to people, and I don't back away from it,
21 it was the most difficult statement I have ever had to
22 take.

23
24 Q. Was that because the victim was - explain briefly why
25 that was the case?

26 A. The nature of the sexual abuse that occurred was of
27 the most horrid nature. Dreadful, dreadful crimes and
28 probably some of the worst I have ever encountered, and the
29 fact that the young man was so traumatised, he had
30 attempted suicide prior to seeing me, and he wasn't up to
31 providing me with a statement. As I mentioned, I have
32 never pushed a victim to provide a statement until they are
33 ready, and I think that's always important. And I told him
34 so. The first thing I organised was for counselling.

35
36 He was going through a very difficult time and I was
37 dealing predominantly through his mother and a counsellor
38 with him. He attempted suicide again in late 2002 and was
39 hospitalised. I think it's been publicly reported that
40 I spent some time with him there on one of my days off,
41 just explaining that, "Mate, don't feel under pressure from
42 this police investigation. If you don't want to do the
43 statement, if you don't want to go any further, don't feel
44 under pressure to do that." I think that put him much more
45 at ease, there was no time frame on it, and we actually
46 commenced his statement much later, after his discharge
47 from that hospital.

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Q. The investigation and prosecution process led to a successful conviction of Fletcher in November 2004?

A. Yes.

Q. That process was assisted by other victims of Fletcher coming forward to provide information?

A. Two other victims came forward in that, one of whom is here today, and they were of very big assistance in that matter.

Q. Whilst you were investigating Fletcher, did you have occasion to take statements from some church officials from the Maitland-Newcastle diocese?

A. Many.

Q. Did you have any particular concern in relation to certain events that were conveyed to you during that investigation in terms of what certain persons did at Maitland-Newcastle diocese?

A. Yes, I did.

Q. Could you outline what those concerns were, in broad terms?

A. In broad terms, much of what was stated here earlier today is that I observed what I believe - I suppose as a police officer at that stage of many years experience - to be collusion amongst a number of clergy. There was --

Q. Can I just break that down. When you say "collusion," are you referring to a particular action that the then Bishop Malone took in relation to Fletcher?

A. Partly Bishop Malone but also other clergy. There was - my major concern, of course, was that Fletcher was warned by the church that I was investigating.

Q. Can you outline when that occurred?

A. That occurred only in the days - just a few days after the victim came in to see me, I think the next day or two.

Q. Prior to you having any opportunity to complete the --

A. Yes, that was in June 2002, it was either on - I think the 4th, around about 4 June.

Q. Did you have a concern that that warning somehow affected the investigation that you were to undertake?

A. Of course it did. It gave him foreknowledge that

1 there was a complaint. Unfortunately, at that very same
2 meeting, they not only told him who - that he was being
3 investigated but who had actually complained. In my view,
4 that gave him the opportunity to dispose of evidence and --
5 Q. Detective chief inspector, we will pursue those
6 matters further in term of reference 2.

7 A. Yes, I understand.
8

9 Q. At the moment I am just establishing with you the
10 parameters of the investigations you were completing at the
11 time.
12

13 Can I ask you this: Did you, as part of your
14 investigation of Fletcher, formally investigate any
15 official of the Catholic Church of Maitland-Newcastle
16 diocese at that time?

17 A. Yes. I contemplated very seriously at that stage
18 whether there was sufficient evidence to charge Bishop
19 Michael Malone with hindering of a police investigation.
20

21 Q. Let's examine that a bit further. When I use the term
22 "formally investigate", does that mean that you were
23 carrying out a formally recognised investigation into
24 Bishop Malone or was it more a side effect of the Fletcher
25 matter?

26 A. It was more of a side effect. I was utilising
27 statements from other clergy and the victim's mother in
28 that process. At a later stage I spoke to a member of the
29 DPP and discussed the possibility of whether or not we
30 should charge Bishop Malone or other alternatives.
31

32 Q. That discussion with the DPP solicitor was an informal
33 one?

34 A. Yes, it was.
35

36 Q. You didn't at any time, did you, take a formal
37 interview from Bishop Malone relating to any allegations in
38 relation to his conduct specifically

39 A. No. He - I know from documents I have seen that he
40 obviously obtained some legal advice at the time, but I did
41 obtain a statement from him where that was canvassed, but
42 he wasn't formally interviewed as such.
43

44 Q. Those matters were canvassed in the context of your
45 investigation of Fletcher?

46 A. Yes.
47

1 Q. Was there any point during the investigation of
2 Fletcher that you officially cautioned any official of the
3 Maitland-Newcastle diocese in relation to their conduct
4 A. Only Fletcher.

5

6 Q. In relation to the informal discussions with the DPP
7 solicitor, did you take any notes of those discussions?

8 A. No. As I said, it was an informal discussion and
9 the decision was reached that we would be better using
10 Bishop Malone as a witness, as opposed to a defendant, if
11 you like. It was an informal one, which I suppose must go
12 on every week between police and the DPP, and I took on
13 board some of the arguments and a decision was agreed at,
14 that we wouldn't pursue that matter. I don't think I made
15 any note on that. I'm not certain, but I don't think
16 I did.

17

18 Q. So can we take it there was no formal brief, for
19 example, prepared for the DPP addressing Bishop Malone's
20 conduct?

21 A. No, I would say it would have consisted of a number of
22 the statements and material I had. It certainly didn't
23 progress to a full brief so far as a covering sheet or
24 other documents that would normally accompany it.
25 Technically it wasn't a formal brief and as it turned out,
26 there wasn't a need to put one together.

27

28 Q. When you say it would have consisted of various
29 documents that you have outlined, that is a reference to
30 your brief in the Fletcher prosecution; is that correct?

31 A. Yes, I would have utilised - much of the material would
32 have been crossed over.

33

34 Q. We want to be very clear, at no stage did you prepare
35 a second brief, extracting some of that material from the
36 Fletcher prosecution, to make it into a brief regarding
37 allegations or exploring allegations against Bishop Malone?

38 A. Yes.

39

40 Q. After the Fletcher conviction and the appeal, the
41 appeal by Fletcher which was unsuccessful, and also an
42 application for special leave to the High Court, which was
43 also unsuccessful on the part of Fletcher, is it correct to
44 say you didn't carry out any further investigative steps
45 regarding Bishop Malone or anybody else until 2010?

46 A. Yes.

47

1 Q. By "anybody else", I mean anybody else at the
2 Maitland-Newcastle diocese?

3 A. Yes.
4

5 Q. Is it fair to say that from the time of Fletcher's
6 conviction up to March 2010, you weren't carrying out any
7 active steps to investigate any concealment --

8 A. Sorry, 2000?
9

10 Q. From the time of the conviction of Fletcher, up to -
11 and I am just giving you a time parameter - March 2010, is
12 it correct to say you weren't carrying out any active steps
13 to investigate any allegations or suspicions of concealment
14 on the part of officials of the Catholic Church of
15 Maitland-Newcastle?

16 A. Yes.
17

18 Q. In March 2010 you received a phone call from an
19 offsider of Assistant Commissioner Carlene York. Could you
20 outline for the Commissioner what that call was about?

21 A. That was a telephone call that, if I could describe
22 it, coming out of the blue from a staff officer at the
23 regional office, Tracy Chapman. It was just a very short
24 call, just asking me if I had any knowledge of cover-up
25 within the Catholic Church. And I explained to Tracy
26 Chapman, or Inspector Chapman, that I did. I relayed part
27 of that information in a fairly succinct conversation.
28 I also provided two intelligence report numbers, which
29 I looked up on the computer screen whilst we were talking,
30 and mentioned that I had submitted two reports to a former
31 task force to investigate my concerns, around about
32 2004-05, from memory.
33

34 Q. Was part of that telephone call asking you about
35 whether you were actively investigating any of those
36 matters?

37 A. No.
38

39 Q. That's not consistent with your recollection?

40 A. No, I took that call just simply as an inquiry to see
41 what I knew about those sorts of matters.
42

43 Q. At the time of that phone call, did you know about any
44 other officers in the region investigating anything to do
45 with the Catholic Church and local diocese of
46 Maitland-Newcastle?

47 A. I knew there were a number of investigations going on

1 in the Lake Macquarie command, but I wasn't involved in any
2 of those.

3

4 Q. At some time you had a conversation with a Troy Grant?

5 A. Yes.

6

7 Q. What was his rank at the time you had the conversation

8 A. I think he was still a - I'm not certain of his rank.

9 He may - Troy was in a different location. I had known

10 Troy for many years, when he was a young constable at

11 Maitland, and I know that he progressed through the ranks

12 to inspector at Dubbo. But I'm guessing around that time

13 he may have been a sergeant. But I may be wrong, I'm not

14 certain.

15

16 Q. Do you recall what led to you have a conversation with
17 him about matters relating to child abuse allegations in
18 the Catholic Church?

19 A. Yes. As I was investigating the Fletcher matter,

20 I became aware of other paedophile clergy. Father Vincent

21 Ryan had already been convicted of sexually abusing altar

22 boys in the adjoining parish to Fletcher. I became aware

23 of, through witnesses over a period of time, that the two

24 seemed to have a connection and, of course --

25

26 Q. I am going to stop you there. Troy Grant was the
27 officer investigating the Ryan matter; is that correct?

28 A. Yes, that's correct.

29

30 Q. Is that why you spoke to him?

31 A. Yes, sorry.

32

33 Q. Are you able to put a year in terms of when you had
34 this conversation or conversation?

35 A. I believe it was the latter half of 2002. It

36 certainly wouldn't have been any later than the early half
37 of 2003.

38

39 Q. At the time you were working on the Fletcher
40 investigation?

41 A. Yes.

42

43 Q. What did Troy Grant say to you in relation to the way
44 the Catholic Church managed these matters of sexual abuse?

45 A. We had a quite lengthy discussion. Troy expressed to

46 me a lot of concerns of problems he encountered with the

47 Catholic Church. I suppose, to put it in context, I had a

1 view at that stage, even though I'm not Catholic myself --
2 Q. I am going to stop you there. I just want to focus on
3 your conversation with Troy Grant, not your opinions at
4 this stage, Detective Chief Inspector Fox. So what did
5 Troy Grant say to you?

6 A. He told me he believed the crimes of Vincent Ryan were
7 concealed by other clergy. He was - even then, although it
8 had been a number of years since - extremely upset at the
9 fact that Father Cotter fully knew of the crimes of Vincent
10 Ryan and many more boys were sexually abused after that
11 knowledge and Cotter had not reported that to the police.
12

13 Q. By way of background, was it the position that there
14 was a brief prepared, to your knowledge, in relation to
15 Cotter, who was then a monsignor, I believe, but that
16 prosecution wasn't pursued?

17 A. I understand the DPP declined to pursue that, yes.
18

19 Q. Monsignor Cotter has now passed away?

20 A. Yes.
21

22 Q. Did Troy Grant say anything to you regarding the
23 assistance or otherwise he was given by other police
24 officers, including senior officers, when he was
25 investigating matters of sexual abuse of children on the
26 part of the Catholic Church?

27 A. He was highly critical of some senior police at
28 Newcastle, in what he perceived to be attempts to hinder
29 his investigation, and being anything but assisting.
30

31 Q. Did he say when these attempts to hinder his
32 investigation occurred?

33 A. During the course of his investigations, I think Ryan,
34 off memory, was charged in '95 or '96. At the time
35 I believe Troy Grant was attached to the regional crime
36 squad at Newcastle, and these events occurred in the
37 lead-up, whilst he was still trying to get statements and
38 interview victims, prior to charging Vince Ryan.
39

40 Q. What did he say the hindrance was that he encountered?

41 A. He continually complained that he was being given
42 other substantive investigations and being asked to go on
43 trips and complained a number of times that this wasn't
44 allowing him to fully investigate the Ryan matter. Troy
45 expressed to me concern that he felt a lot of this was
46 deliberate.
47

1 Q. By "deliberate", what did he say was the deliberate
2 nature of this hindrance?

3 A. Basically it wasn't allowing him to travel to
4 interview and take statements from various victims; it was
5 dragging out the investigation to a time frame that wasn't
6 conducive to a prompt investigation. And it was during one
7 of those conversations - that was the first time I can
8 honestly say I ever heard the term used - that he referred
9 to them as the Catholic Mafia, that is --

10

11 Q. By "them", who was he referring to, as you understood
12 it?

13 A. He was referring to what he perceived to be police
14 that he felt were aligned to the Catholic Church, that were
15 attempting to discourage, if I can put it that way,
16 investigations into clergy.

17

18 Q. When you say it discouraged investigations into
19 clergy, you have outlined that the matters that Troy Grant
20 complained much to you were that he was given other duties
21 which took up his time. Is that the discouragement that
22 was the subject of your conversation with him?

23 A. Yes. He said that it was abnormal, that no one else
24 encountered that sort of behaviour and he felt that it was
25 specifically directed towards him because of his
26 investigation.

27

28 Q. Did he identify which superior officers, as he saw it,
29 or as he conveyed to you, were interfering with his
30 progressing these investigations?

31 A. He did. He named two officers, both of whom at the
32 time were at the Northern Region regional crime squad who
33 were sergeants. I'm a little hesitant to actually say the
34 names, only for the reason that I'm not absolutely certain.
35 I know that he definitely named two individuals to me.

36

37 Q. If you are not certain, they ought not be named. So
38 thank you for that rider. Any other matters of relevance
39 to this inquiry that you discussed with Troy Grant?

40 A. Yes. I discussed with him the possibility of a
41 paedophile ring or cover-up network operating within the
42 Maitland-Newcastle Catholic diocese.

43

44 MR GYLES: Your Honour, I object to the question. Your
45 Honour needs to differentiate between direct evidence and
46 evidence, and your Honour is obviously dealing with
47 evidence in this inquiry which is likely to be admissible

1 in civil proceedings. Mr Fox is telling us about what
2 Mr Grant told him. Your Honour will hear from Mr Grant.
3 The evidence at the moment is of very little weight,
4 without hearing from Mr Grant, and we are hearing talking
5 about something which is potentially outside the terms of
6 reference, so, in my respectful submission, one needs to be
7 careful about that.

8
9 MS LONERGAN: Commissioner, I accept my learned friend's
10 position and I withdraw the question.

11
12 THE COMMISSIONER: Thank you, Ms Lonergan.

13
14 MS LONERGAN: Q. Detective Chief Inspector Fox, if you
15 could turn to tab 14 of the materials in the witness box
16 with you, you mentioned earlier in your evidence that you
17 drew to the attention of Officer Chapman a number of
18 reports that you prepared.

19 A. Yes, I did.

20
21 Q. This is an intelligence report headed "Child sexual
22 abuse". Is that one of the reports that you drew to her
23 attention?

24 A. I repeated that intelligence number to her over the
25 telephone, so that she could print it up at her end or look
26 at it or do whatever she so elected.

27
28 Q. Behind tab 16, there is another intelligence report
29 that appears to have been authored by you?

30 A. Yes, it is.

31
32 Q. Was that the second intelligence report you drew to
33 her attention?

34 A. I believe so.

35
36 Q. Were there other reports or summaries that you
37 prepared for the police department regarding the subject
38 matter?

39 A. Yes. In, I think it was late 2005, somewhere around
40 about there, I typed up two reports. The first one I sent
41 off with basically the information contained in both of
42 these intelligence reports, asking that it be directed to
43 the State Crime Command for a full investigation of the
44 potential of a cover-up or a paedophile network within the
45 Maitland-Newcastle diocese. It wasn't just - at that stage
46 I had started to link a lot more priests, for various
47 reasons.

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Q. I'm going to stop you there. With State Crime Command, can you outline what State Crime Command's role is?

A. I realise there are probably some experts going to give evidence from that area. Effectively, my understanding of their role is they are a specialist area. Within State Crime Command there is a Sex Crimes Squad that specifically, obviously, investigates crimes of a sexual nature when it starts to get beyond the resources and the expertise of a local area command. So once it starts to become big, they will either, number 1, take it over, or, short of that, they will provide assistance sometimes in manpower, analysts or sometimes consultants.

Q. The two intelligence reports that we have just been looking at, behind tabs 14 and 15, are they, in effect, a request to investigate or do they have some other role?

A. No, they were effectively intelligence reports. On both of those, you will see a notation there where I have disseminated a copy of both of those to the State Crime Command. I wanted them to have both those reports, obviously, to go through it.

The later report that I put in was specifically to go to the State Crime Command Sex Crimes unit, requesting that consideration of a task force, because at that stage many other priests in the area were being charged, and in my view as a detective, there seemed to be a significant problem that needed to be addressed. So I actually asked for consideration to put together a task force at that stage to investigate these crimes.

Q. When we say "at this stage", are we talking about 2006 or earlier?

A. I can't be specific. I know I have already told this Commission that unfortunately I don't have a copy - I didn't retain a copy of those reports. I submitted the second one, and to the best of my recollection, they were submitted late 2005/early 2006 when I was based at Maitland.

Q. Have you, since submitting those reports, carried out any searches within police documents to see if you can locate those reports?

A. Yes. I actually caused inquiries later on, I telephoned two public servants at Maitland police station

1 and I had them - I think I travelled over there and went
2 through the TRIM, what we refer to as the TRIM system, to
3 try to locate those reports, and they weren't able to
4 locate any reference to them.

5

6 Q. Do you remember when you took that step?

7 A. I think it was not long after I got the call from
8 Inspector Chapman.

9

10 Q. March 2010, some time after March 2010?

11 A. Yes.

12

13 Q. May I ask: what is the usual procedure when a request
14 for investigation of the nature you have described is sent
15 to the Sex Crimes Squad? Would you expect to have some
16 sort of response to that request?

17 A. Without meaning to be funny, it does take some time
18 quite often to get a response back from there. I think
19 most police encounter that, but that's par for the course.
20 I would have expected to hear back from them probably
21 within certainly three or six months. But I never heard
22 anything back.

23

24 Q. Did you follow up?

25 A. At that stage, I had been relocated and obviously
26 promoted and was doing a different job, but no, I did not.

27

28 Q. Did you direct your report or request for
29 investigation to any particular person at State Crime
30 Command?

31 A. No, it was - it went through the chain of command.
32 Any report that is submitted generally it was - I believe
33 the headings I would have put at the bottom for it to go
34 through was: crime manager; commander, that is at
35 Maitland; region, for the ops manager; and then to the
36 commander of State Crime Command; and then to the officer
37 in charge at Sex Crimes.

38

39 Q. Is the way the procedure goes that each person is
40 directed to should sign off with their opinion about what
41 should happen with the matter or --

42 A. Generally, yes. When it comes through, a lot of the
43 time those bosses will say, "Supported and forwarded for
44 consideration", or something of that nature, but generally
45 that is the way they go.

46

47 Q. Is the end result that the matter should come back to

1 you in some way, shape or form that shows you what happened
2 with your request?

3 A. Not always. You may get the report back, but most of
4 the time it would result in contact at some stage, of
5 someone saying, "Listen, we will come up sit down and
6 discuss this with you and go over and see what needs to be
7 done."
8

9 Q. After the time you say you submitted these reports or
10 requests for investigation, did you become aware that
11 various investigations were in fact taking place into those
12 types of matters in the area you were working, such as
13 Strike Force Georgiana?

14 A. Yes, from my understanding they weren't investigations
15 into what I was asking in those reports; they were specific
16 investigations into more crimes that were becoming known of
17 allegations of Maitland-Newcastle diocese clergy sexually
18 abusing children. And more and more of those were
19 surfacing through that period, which I felt would have
20 given even greater weight again to the reports I had
21 submitted.
22

23 Q. Given that, did you think to follow it up with your
24 commanding officer or the Sex Crimes Squad or anyone else?

25 A. I do recall, before he left Maitland, I had some - it
26 was certainly around the time, the latter time that I was
27 dealing with Father Fletcher, I had some conversations with
28 Inspector Rob Baker.
29

30 Q. You say it was about the time you were working on the
31 Fletcher investigation; is that the timing we are talking
32 about?

33 A. It was towards the end of it. It may have been after
34 he was convicted and during the appeal process. I actually
35 discussed with Inspector Baker, and he was quite supportive
36 of the idea, that we try to do something a bit more
37 significant. But it was an informal conversation, I should
38 add, probably over a cup of coffee.
39

40 Q. Not the subject of any formal recording by Baker that
41 you have seen?

42 A. I don't know.
43

44 Q. In a situation where an officer forms a view that an
45 investigation should be commenced into a particular subject
46 matter, what is the usual procedure by which that matter is
47 progressed?

1 A. Obviously, once - when the report arrives down at Sex
2 Crimes, it's generally allocated to either an inspector,
3 I would imagine in this case, with the nature of what
4 I had, and then contact initiated, probably directly by
5 phone and then a sit-down discussion as to what there
6 actually is, whether or not it really needs a task force or
7 whatever at that stage. But I would have imagined at first
8 it would have been - you would have crawled before you
9 walked. It may have been that we do some preliminary
10 inquiries to ascertain whether there was enough of a basis
11 there to set up a full task force.

12
13 Q. And that's a standard procedure in the police, to
14 carry out some preliminary investigations to determine what
15 the next step should be?

16 A. Yes, when it was based on the type of report that
17 I was submitting, yes.

18
19 Q. Because of the complexity of material that you wanted
20 covered?

21 A. That's right, and to sort of see how far it should go,
22 and if it starts to branch out and grow legs, obviously you
23 then make the decision to ramp it up and to allocate more
24 resources and to put a bigger effort into it.

25
26 Q. When you prepared these reports and sent them on, what
27 was your position?

28 A. At that stage, I was a detective sergeant.

29
30 Q. Was the procedure that, as a detective sergeant, you
31 needed to show that report to your senior officer before it
32 could be disseminated to or forwarded to the state Sex
33 Crimes Squad or not?

34 A. Yes. Generally speaking, most of the time those
35 reports - you know, internally in a police station there
36 are pigeonholes where you deliver mail to the crime
37 manager, the commander or the finance manager or whoever it
38 may be. But I submitted those reports and placed them in
39 the crime manager's tray, which was my direct chain of
40 command, from there to obviously go through that other
41 process I mentioned earlier.

42
43 Q. Given you are not confident about the precise dates
44 the reports were prepared, are you able to say who your
45 crime manager would have been at the time you submitted
46 those reports or not?

47 A. I'm not absolutely certain. I do recall Rob Baker,

1 the crime manager I spoke to, left the police force around
2 that time.

3

4 Q. But you are not able to say whether he was the person
5 who was in the chair at the time the report was submitted?

6 A. I don't think he was. I think it occurred after, and
7 I do remember Mr Gralton coming up for a brief period
8 around then. He was certainly at Maitland and would have
9 known about the Fletcher matter, because I think that was
10 all over the media when he was at Maitland --

11

12 Q. Again you are unable to - I'm terribly sorry.

13 A. It may have been - he was only there for a short
14 period and I believe his position was taken up by Detective
15 Chief Inspector Wayne Humphrey.

16

17 Q. It may have been either of those officers who were
18 your commanding officer at the time, you are just unable to
19 say?

20 A. That's true.

21

22 Q. Was there any other possible person who was in that
23 role who it may have gone through?

24 A. Unless somebody else was relieving, but they are the
25 only two I'm aware of at that time. Yes, and probably -
26 I don't think Mr Gralton was there for all that long and
27 I recall there was quite some months between me submitting
28 the two reports.

29

30 Q. Can we take it from your evidence that you don't
31 recollect any particular discussions with any of those
32 senior officers about what was happening with your report
33 and request for investigation?

34 A. No, that's around the time also that I was -
35 relocated. I was actually out at Cessnock at that stage.

36

37 Q. Detective Chief Inspector Fox, is it fair to say that
38 the information that you passed on in those reports were
39 suspicions but no evidence?

40 A. That would be fair to say. There were links.

41

42 Q. As you saw them?

43 A. Yes. I think they were fairly good links, a lot of
44 them, but not necessarily all. But I think the - sitting
45 back, and I have been a detective for quite some years, and
46 when you are starting to get not just one or two but the
47 numbers of clergy in a very small area being charged with

1 the same sorts of crimes, I don't even think you need to be
2 a police officer to sort of say, "Hang on, there's
3 something going on here, we need to have a harder look at
4 this."

5

6 Q. So they were suspicions that you wanted investigated
7 but no evidence?

8 A. That's right.

9

10 Q. The State Crime Command, and that is the Sex Crimes
11 Squad, carry out investigations into matters that don't
12 necessarily disseminate information about them to other
13 parts of the police force; that's correct, is it not?

14 A. That can occur, yes.

15

16 Q. On occasion, investigations of that nature are
17 deliberately kept confidential, aren't they?

18 A. Yes.

19

20 Q. That's because - well, outline for the Commissioner
21 why that's a wise move, keeping those sorts of
22 investigations confidential.

23 A. It varies, of course. But you don't want some aspects
24 of inquiries hindering the investigation and also, at the
25 same time, of course, alerting potential suspects.

26

27 Q. Local area command, the ones other than the ones you
28 are working in, carry out investigations that are not
29 revealed to you; that's correct, isn't it?

30 A. Yes.

31

32 Q. Again, that may be the similar sort of consideration
33 you have just outlined, that it is important to keep those
34 investigations confidential?

35 A. It may be.

36

37 Q. I am going to ask you some questions about Officer
38 Sean McLeod. At some time in 2010, you had some
39 discussions with him. Are you able to assist the
40 Commissioner with when those conversations took place?

41 A. Predominantly around April 2010.

42

43 Q. Where did you have the conversation?

44 A. Detective McLeod was stationed at Charlestown in the
45 Lake Macquarie command. He came to Maitland - sorry, to
46 Raymond Terrace, where I was stationed, to prefer some
47 additional charges against a priest, who I believe we can't

1 name. His name is still being suppressed. I understand he
2 has now been convicted of a number of paedophile offences,
3 but has more trials.

4

5 Q. Was he part of Strike Force Georgiana, Officer McLeod,
6 are you able to say or not?

7 A. I believe so.

8

9 Q. You had a conversation with McLeod. Did he tell
10 you anything about materials he had been given by
11 Joanne McCarthy at that stage or not?

12 A. Yes, he did. He indicated that Joanne McCarthy had
13 provided a substantive amount of documents to him, and it
14 appeared that there was --

15

16 Q. I will just stop you there. He made a comment to you
17 about what he thought those documents showed?

18 A. He was quite excited about them, yes.

19

20 Q. Did he show those documents to you?

21 A. No.

22

23 Q. Are you able to recollect whether you read any reports
24 in the local media about the materials that he discussed
25 with you at around about that time or not?

26 A. Yes, I did.

27

28 Q. Did those newspaper reports seem to be about the same
29 things he showed you?

30 A. Some of them, yes.

31

32 Q. Did you make any plans with Officer McLeod about
33 future investigations?

34 A. Plans?

35

36 Q. Did you talk to Officer McLeod about you and he
37 together investigating matters further or anything of that
38 nature?

39 A. No, I did not, no. He was seeking my knowledge and
40 assistance to provide information to him about McAlinden
41 and Fletcher. I know I similarly gave him the same
42 intelligence reports, told him about the files that I had
43 submitted, and I'm not certain, I may have given him one or
44 two documents and advised him that - he actually asked if
45 I had any objection to him going to collect the McAlinden
46 and Fletcher investigations from Maitland and going through
47 them.

1
2 Q. Those Fletcher and McAlinden investigations were
3 closed investigations, stored at Maitland police station,
4 were they?
5 A. I believe so.
6
7 Q. Was this conversation with Officer McLeod close to the
8 time he ceased working as a police officer?
9 A. No, this was all prior, obviously.
10
11 Q. Was it many months before or --
12 A. It was only a couple of months before.
13
14 Q. So about April 2010; are you able to put an accurate
15 time?
16 A. I'm not certain of the date he ceased working, whether
17 it was late May/June 2010, somewhere around there.
18
19 Q. Was your understanding of your discussion with him
20 that he was formally investigating the matters that he
21 discussed with you?
22 A. Yes.
23
24 MR SKINNER: Is that formally?
25
26 MS LONERGAN: Yes, formally.
27
28 Q. Did he describe to you who his commanding officer was
29 in relation to that investigation?
30 A. I believe it was Detective Inspector David Waddell.
31
32 Q. Did McLeod tell you that or have you inferred that?
33 A. No, that's what he told me.
34
35 Q. Did you have a conversation about the progress of the
36 investigation or was it very early stages, or what do you
37 recollect?
38 A. It was very early stages. I know that he was, as
39 I said, quite excited about the information - as I suppose
40 good investigators get - and quite passionate about
41 pursuing it.
42
43 Q. At that time, were you actively carrying out any
44 investigation into allegations or suspicions of cover-up of
45 child sexual abuse in the Maitland-Newcastle diocese?
46 A. I shared my thoughts with him, but no, I wasn't.
47

1 Q. What happened that made you go down that path? What
2 prompted you to go down that path to start investigating
3 those matters?
4 A. Well, there were a number of things, but predominantly
5 I received a telephone call, from memory, in early June
6 2010 from Joanne McCarthy.
7
8 Q. Do you know why she called you? I'm sorry, did she
9 tell you why she called you?
10 A. She did. She telephoned me because she had been
11 dealing with a victim of Denis McAlinden. I'm just trying
12 to find the --
13
14 Q. Is it [AJ]?
15 A. It is, yes. She had been talking to [AJ] about her
16 particular - her own sexual abuse at the hands of Father
17 Denis McAlinden.
18
19 Q. Was your understanding that [AJ] had come forward to
20 Joanne McCarthy?
21 A. Yes, it was.
22
23 Q. Continue.
24 A. But I think what was - you know, not trying to lower
25 that crime, but there was a lot more information this
26 woman, as a witness and a victim, had about the handling of
27 child sexual abuse behind the scenes.
28
29 Q. Did Ms McCarthy tell you that?
30 A. She did.
31
32 Q. On 8 June 2010, you were given or sent a series of
33 emails by Ms McCarthy - and I will take you to those, they
34 are behind tabs 42 to 47 of the material in front of you.
35 Are you able to say what prompted these emails being sent
36 to you by Ms McCarthy?
37 A. Yes. Ms McCarthy explained to me that she had been
38 trying to get [AJ] to speak to police for quite some time,
39 and she was extremely reluctant. She didn't trust the
40 church and she didn't trust the police force or large
41 organisations. Through those discussions, she said - from
42 what Ms McCarthy said to me, was that she told me the only
43 police officer she will speak to is Peter Fox.
44
45 Q. "She" being the victim [AJ]?
46 A. Yes.
47

1 Q. Did Ms McCarthy tell you how [AJ] knew your name?
2 A. Yes. She said that she had friendships with a number
3 of other victims' families, not necessarily of McAlinden,
4 but she said they all spoke highly of my work, and the
5 victim care aspect, and she more or less inferred from that
6 that she felt that someone of that nature, she would be
7 prepared to talk to.

8

9 Q. Then on 8 June - you can look at tabs 42 to 47 - a
10 series of emails were sent to you by Ms McCarthy. Did you
11 ask for her to send you that material? I will give you a
12 moment to look at it.

13 A. I think it was more along the lines of: those
14 documents may assist me, if I was prepared to get the
15 statement from [AJ].
16

17 Q. Are you able to say whether any of the documents that
18 she sent through to you were the same as the ones that
19 Officer McLeod showed you?

20 A. Officer McLeod never showed me any documents.
21

22 Q. No; he just told you about them?

23 A. He told me about them. I would guess that some of
24 them were the same, but I'm only guessing that, but he's
25 never told me that.
26

27 Q. No, don't guess, thank you. Could you leaf through
28 those quickly and then answer this question: did you
29 decide, once you had seen this material, that you would
30 carry out an investigation of your own into the matters
31 raised in the material?

32 A. No. At that stage, it was more so a request for me to
33 simply obtain a statement from [AJ]. I hadn't made my mind
34 up how I would treat it, because really I hadn't heard what
35 she had to say. What I decided to do was I would get a
36 statement from her and then make a determination, based on
37 the content of that, as to what should occur.
38

39 Q. Is it correct to say then that until you interviewed
40 [AJ], you hadn't formed an intention that you would carry
41 out your own investigations into this subject matter that
42 is set out in the attachment to the emails behind tabs 42
43 to 47?

44 A. Yes.
45

46 Q. When did you form a view that you would investigate?

47 A. After I had finished getting the statement from [AJ],

1 which - there would be a date on her statement, I would
2 imagine, but I think it was July, and I don't know whether
3 this Commission will allow me to state other reasons, but
4 because of what was in her statement and other things that
5 came to my knowledge through that period of time concerning
6 Detective McLeod, I decided that I would continue to
7 investigate that.

8
9 Q. Let's talk about the things that came to your
10 attention concerning Detective McLeod. Were those concerns
11 communicated to you by Officer McLeod?

12 A. Yes.

13
14 Q. Are you able to place them in time as being conveyed
15 to you prior to this series of emails on 8 June or was it
16 after?

17 A. I believe it was after. I'm fairly confident it was
18 after.

19
20 Q. If you turn to tab 42, you see there is an email from
21 Ms McCarthy annexing a sample of what is purported to be
22 the handwriting of Philip Wilson?

23 A. It is, and of course signed by a Philip Wilson.

24
25 Q. Do you recollect why you were being sent that?

26 A. Because there are other documents with Philip Wilson's
27 signature, that would have been of assistance to compare.

28
29 Q. Did you ask for that to be sent or it just came with
30 the others?

31 A. No, I think it was after a telephone discussion, where
32 Joanne McCarthy said, "I've actually got some other
33 handwriting that I definitely know is his, that you can
34 compare it to, to see if it's the same signature." It was
35 on her suggestion to me. Obviously I didn't know about the
36 documents before she forwarded them, or that she had other
37 writing of his, but I think it was on that basis that she
38 sent them to me.

39
40 Q. Did Ms McCarthy say anything to you about any other
41 police officers, to her knowledge, investigating those
42 matters set out in the material attached to those emails,
43 that is tabs 42 to 47?

44 A. She did. She was finding it very difficult to have -
45 the names were mentioned to me at that stage by
46 Joanne McCarthy were Detective Chief Inspector Brad Tayler
47 and Detective Chief Inspector Dave Waddell.

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Q. You are confident they are the names she mentioned as at 8 June?

A. Yes. In short, she was basically saying that --

Q. I'm going to stop you there. We want to be a bit specific about these conversations, rather than "in short, she was saying". If you could not paraphrase and try to repeat what it was she told you.

A. As close as I can, and I don't profess that I will get them word perfect all these years later, is - and I don't think we spoke about them both in conjunction, but singly, she said, "Brad Tayler does not want to investigate this. He wants it to go away."

Q. Did she tell you the basis for her knowledge to that effect?

A. She said she had had some communication with him, both directly by telephone and via email and had forwarded him --

1
2 Q. I'm going to stop you there. Ms McCarthy will be
3 called, so there's no need to take that matter further.
4 But you understand her basis to be a conversation she had
5 had with Officer Tayler?
6 A. Or a series, yes.
7
8 Q. Or a series of conversations, thank you. The other
9 person you referred to as being an officer allocated to the
10 investigation of those matters?
11 A. Yes, Detective Inspector Dave Waddell. I don't think
12 she had anywhere near the amount of contact with Inspector
13 Waddell, from memory.
14
15 Q. As in she did not tell you that she had had
16 conversations with Detective Waddell?
17 A. No, I believe she did.
18
19 Q. You believe she did?
20 A. I'm not as clear on that. If it was, it was certainly
21 maybe only one or two, but I'm not certain on that so
22 I don't want to commit myself to that.
23
24 Q. Can I ask you this: Did you form an impression from
25 your discussions with Ms McCarthy at about that time that
26 officers allocated to the investigation of those matters -
27 that is the matters set out in the annexures behind tabs 42
28 to 47 - were not going to investigate those matters?
29 A. From what she told you and also from what Detective
30 McLeod had told me.
31
32 Q. Who did you ask, if anyone, about whether an
33 investigation was taking place in relation to those
34 matters?
35 A. Detective McLeod.
36
37 Q. What did he tell you?
38 A. He told me he was ordered to cease investigating that
39 matter and to hand over all his documentation.
40
41 Q. Did he tell you who said that to him?
42 A. He told me Detective Waddell. He was quite bitter
43 about it. The nature of the conversation was, I think,
44 something along the lines, "What do you think you're going
45 to do with this?" And --
46
47 Q. I'm going to cut across you there, Detective Chief

1 Inspector Fox. You weren't present for any conversation
2 between --
3 A. No, I was not.
4
5 Q. -- McLeod and his senior officer?
6 A. No. All I can say is he was very upset.
7
8 Q. "He", being McLeod, conveyed to you that he was upset
9 about the decision?
10 A. Yes.
11
12 Q. Did you yourself have any conversations with
13 Detective Waddell about the intentions in relation to
14 investigating these matters?
15 A. Yes.
16
17 Q. When did you have a conversation or conversations with
18 him?
19 A. It was after I had finished the statement from [AJ],
20 probably in August/September 2010.
21
22 Q. As at 8 June 2010, when this material was sent through
23 to you, you had no reason, did you, to suspect that they
24 would not be investigated at that time, that is 8 June
25 2010?
26 A. No, I hadn't formed that view then, no.
27
28 Q. In relation to the conversation or conversations with
29 Detective Waddell, did you record the details of those
30 conversations in your duty book or any other location, at
31 the time?
32 A. I believe I would have made a notation in my diary.
33
34 Q. What was the conversation you had with
35 Detective Waddell?
36 A. I spoke to Detective Waddell over the telephone and
37 I also spoke to Sergeant Steve Rae.
38
39 Q. Let's just focus on the Wardell conversation on the
40 phone. You say that was some time in July/August 2010; is
41 that correct.
42 A. August/September.
43
44 Q. August/September 2010, thank you. What was the
45 conversation?
46 A. I asked him if it was going to be investigated,
47 because Sean McLeod had told me that the matter was only

1 going to be reviewed and not investigated. He attributed
2 that phrase to Detective Inspector Waddell.

3

4 Q. For the clarity of terminology, a review, what does a
5 review mean?

6 A. Basically just looked at and an assessment made as to
7 whether or not something should go further.

8

9 Q. So the fact that a projected investigation is going to
10 be reviewed isn't a problem in itself, is it?

11 A. No, it was only, I suppose, the line he said after
12 that. I didn't believe, based on what I had already seen,
13 that Detective Waddell would discard it, and that was the
14 reason for my call, was to ensure that someone was going to
15 look at this and doing a lot more with it.

16

17 Q. Did you ask Detective Waddell whether someone was
18 looking at it and investigating it?

19 A. He told me that he had sent the documents and reports
20 to the region office and he believed it was going to be
21 looked at by Detective Steel at the Newcastle command.

22

23 Q. Were there other conversations you had with
24 Detective Waddell at around about that time, or we are just
25 talking about one conversation?

26 A. No, I think it was only the one conversation, because
27 he had made it fairly clear to me that his command would
28 not be investigating the matter.

29

30 Q. Did he say why?

31 A. No.

32

33 Q. At this stage are you able to say whether, to your
34 knowledge, Officer McLeod had left the police force or was
35 on sick leave?

36 A. I believe, from what Detective McLeod said to me, he
37 became extremely distressed after this and left the police
38 force on sick report and has since been disengaged.

39

40 Q. At the time you had this conversation with
41 Detective Waddell, are you able to say whether those events
42 had already occurred, that is that Officer McLeod had left
43 the force? Don't worry if you are not able to say.

44 A. When I spoke to Detective Inspector Waddell, Detective
45 McLeod had already gone off sick.

46

47 Q. In that conversation, Detective Waddell told you it

1 had been allocated; is that correct?
2 A. Yes. He gave me the name of - he said Detective Steel
3 at Newcastle.
4
5 Q. Did you then have a conversation with Detective Steel
6 at that time?
7 A. I attempted to. I made some phone calls to speak to
8 either her or her crime manager, Detective Chief Inspector
9 Brad Tayler, but neither were there, and as a result
10 I think it was on 16 September I sent her an email.
11
12 Q. Are you able to place in time those attempts to
13 contact Officer Steele in terms of the email you sent on
14 16 September? Was it just the week before or a day before?
15 A. Yes, it would only have been in the week before. It
16 certainly wasn't in a longer period.
17
18 Q. Did you have any discussions with Officer Tayler, or
19 you just were unable to contact him?
20 A. He wasn't - I left a message and I wasn't able to
21 locate him. I wasn't able to locate Detective Steel, and
22 it was actually the very day, it was my last day before
23 I started annual leave, so I sent an email and said,
24 effectively, "Can we have a chat about this when I get
25 back? This is the date I arrive back off leave. Can we
26 sit down and talk about it then?"
27
28 Q. Officer Tayler, what was his position at the time, was
29 he the crime manager?
30 A. He was the crime manager of the Newcastle City
31 Command.
32
33 Q. His allocation to the investigation, did that mean he
34 would be the officer in charge of the investigation over
35 Officer Steele?
36 A. I would have imagined so.
37
38 Q. I am going to ask you to look at a document, stepping
39 back slightly in time, behind tab 48. It is an email from
40 you to Suzanne Smith. First of all, Detective Chief
41 Inspector Fox, I want to ask you a question about the email
42 address it was sent from. Is that your work or your home
43 email? You see in the top line [email address supplied]?
44 A. No, it was sent to my work email, but I later on
45 forwarded that entire document off to my home address.
46
47 Q. So the annotation on the right side at the top,

1 12 June 2012, is the date you forwarded that email to
2 yourself at home?

3 A. Yes.

4
5 Q. Why did you forward that email to yourself at home in
6 2012?

7 A. By that stage I had become very concerned about the
8 police handling of this investigation and I wanted to
9 take - to secure as many of these documents about that
10 matter as I could.

11
12 Q. Are you able to recollect whether you deleted this
13 particular email off your work email?

14 A. In a period of time, I did delete a number of emails,
15 many of which I regret, because I believe they would have
16 been very useful. But for reasons that I was later on
17 given a direction not to have contact with certain persons
18 and to cease investigating, I didn't want the police force
19 to know that I had these, and deleted them.

20
21 Q. You deleted these from your work email address, is
22 that what we are talking about, or your home email?

23 A. My home email. I'm not sure whether I deleted them
24 off my work email or not; they may still be there.

25
26 MS LONERGAN: Commissioner, could I request a
27 non-publication order in relation to the email address on
28 this document?

29
30 THE COMMISSIONER: Yes.

31
32 MS LONERGAN: It doesn't arise just yet, but if the
33 request could be noted to that effect that now.

34
35 Q. You see in the text of the email to Suzanne Smith, you
36 made this statement:

37
38 *I would need a legitimate police purpose to*
39 *make inquiries with a retired priest.*

40
41 It seems to be a response to an email from Ms Smith of the
42 day before, 7 June 2010, which raises questions about where
43 Fletcher lived and also Philip Wilson. Are you able to say
44 why Ms Smith was corresponding with you at that time?

45 A. Yes. It was not necessarily concerning - well, it
46 wasn't concerning any of the material I was discussing with
47 Joanne McCarthy; it was a separate inquiry that was -

1 I'll just make sure I'm allowed to say the person's name -
2 I don't want to make an error here.

3

4 Q. Can we deal with it this way: you were looking at --

5 A. It was concerning another victim of James Fletcher.
6 It was surrounding the possibility of cover-up and
7 collusion by other members of the Maitland-Newcastle clergy
8 of crimes surrounding Fletcher.

9

10 Q. Was that person Peter Gogarty?

11 A. Yes.

12

13 Q. There is no pseudonym for Mr Gogarty.

14 A. Thank you. I wanted to be safe.

15

16 Q. Thank you and your care with that is greatly
17 appreciated.

18

19 Why was Ms Smith contacting you, do you know?

20 A. Obviously because I had investigated Fletcher.

21

22 Q. When you say, "I would need a legitimate police
23 purpose to make inquiries with a retired priest", what do
24 you mean by that?

25 A. She was trying to ascertain whether or not some senior
26 members or senior clergy had specific knowledge of the
27 crimes of Fletcher, because of their activities at the
28 time. I didn't feel at that stage that there was
29 sufficient to make police inquiries, and as much as
30 I probably would have liked to, I didn't feel that there
31 was sufficient to justify me doing that as a police
32 officer.

33

34 Q. So you didn't do that at that time

35 A. No. Well, I didn't do that at any time.

36

37 Q. In your evidence earlier, Detective Chief Inspector
38 Fox, you mentioned having a discussion with an Officer Rae.

39 A. Yes.

40

41 Q. Are you able to place that in time, in terms of the
42 conversation you had with Officer Waddell in
43 August/September, was it earlier or later?

44 A. No, it was pretty well the same time. It may have
45 been the same day, but it was certainly only within days of
46 that, because I spoke to both of them. Actually - no, the
47 way that transpired, I do recall. I spoke to Sergeant Rae

1 at Raymond Terrace police station, in person, I believe.
2 When he mentioned that to me in the prosecutor's office,
3 because he had some knowledge of the matter, that actually
4 caused me to make the phone call to Detective Waddell.
5

6 Q. What was the content of your discussion with Officer
7 Rae? First of all, was he a police prosecutor at the time
8 or was he serving in a different role?

9 A. No, he was bouncing back and forward a fair bit. He
10 was relieving in a role at the region office, but he was
11 also returning to Raymond Terrace on the odd occasion for
12 obviously some duties that he had there that necessitated
13 his personal attendance. At that stage, his office door
14 was directly opposite my office door.
15

16 Q. What was the content of your discussion with him?

17 A. I'm not sure how the subject came up, but I became
18 aware from talking to him that region had sent a file to
19 Newcastle City to investigate cover-up within the Catholic
20 Church.
21

22 Q. From what Officer Rae told you, were you able to
23 identify that as the material that Officer McLeod had been
24 given by Ms McCarthy, or not?

25 A. It seemed likely, yes. That's why I decided to make
26 the phone call to Detective Waddell, to make certain of it.
27

28 Q. What did Officer Rae tell you about what was happening
29 with the investigation that prompted you to make the call
30 to Waddell?

31 A. He didn't tell me very much about it. It wasn't a
32 long conversation; it was just basically that he knew a
33 file had been sent there. It had gone from Dave Waddell
34 down through the region down to Newcastle. It was actually
35 his suggestion that I speak to Dave Waddell to find out
36 exactly what was going on. He wasn't able to tell me or
37 had knowledge of, for one reason or the other, the full
38 details.
39

40 Q. Did Officer Rae say anything to you to the effect that
41 the matter would not be investigated?

42 A. No, he gave me the impression that it wouldn't be a
43 big investigation, from the conversation I had; it would
44 only be something short and small. You know I can't
45 remember the exact words, but that was the impression the
46 conversation left me with, and I was keen to find out,
47 because obviously at that stage I was aware of much more,

1 and I thought, well, if it's going to be small, it's
2 probably going to be a lot bigger now if I speak to them
3 and tell them what I've got.
4

5 Q. Is it fair to say Officer Rae had no mandate over what
6 decisions would be made as to what would be investigated?

7 A. I don't believe so. Well, I don't know is the answer
8 to that.
9

10 Q. I'm sorry, I put the questions with a double negative.
11 Did Officer Rae, having the role he did as a police
12 prosecutor, have any decision-making power as to how this
13 investigation would be managed or progressed?

14 A. No, I don't believe so. He's an absolute brilliant
15 police prosecutor, but I wouldn't have expected he would
16 have expertise in the investigation aspect. He wasn't
17 purporting to have; he was basically saying, "That's where
18 it's gone to basically be assessed a bit more."
19

20 Q. More than that, it's not his decision as to whether --

21 A. That's right.
22

23 Q. Could you have a look at tab 49, going back a little
24 in time. This is an email from you to Suzanne Smith of
25 22 June. At this stage - that is on 22 June - had you
26 decided to carry out your own investigation into the clergy
27 abuse allegations of cover-up?

28 A. I still hadn't finished the statement from [AJ] at
29 that stage. This was something separate, concerning -
30 obviously, another concerning matter concerning clergy. At
31 that stage I was curious whether the two investigations
32 would at some point merge.
33

34 Q. By "two investigations", what are you talking about?

35 A. The information that I was being provided by [AJ],
36 I was already then aware that the name of - I don't know if
37 there is a problem with me saying the name of the clergy
38 member.
39

40 Q. No, there's no problem with that.

41 A. The matter I was getting information about from [AJ]
42 concerned Archbishop Philip Wilson of Adelaide, and this
43 information that was coming in from a totally separate
44 media source was concerning the same clergy member in
45 another alleged - well, another then confirmed paedophile
46 priest, and obviously I was thinking, well, jeez, if these
47 people are starting to cover up, if they have, their

1 involvement is starting to unfold in a number of matters
2 now.

3

4 Q. Did you see yourself as carrying out investigative
5 tasks at this stage, 22 June?

6 A. It's one of those awkward relationships. I know some
7 members of the police force might want to criticise me over
8 it, but a lot of the time the media have got bloody good
9 access to sources. I didn't have this information, nor, to
10 my knowledge, did anyone else in the police force.

11

12 Suzie Smith of the ABC had, from wherever - and
13 I never asked her - obtained this information, and of
14 course I was quite interested to receive that and know the
15 outcome of it, because it may have implicated Archbishop
16 Philip Wilson in something - I'm not saying it would but it
17 may have - and if that was going to unfold, obviously I was
18 taking an interest.

19

20 Q. But for all you knew at the time, somebody may have
21 been investigating this within the police force but keeping
22 it confidential? That's a possibility, isn't it?

23 A. Lots of things are possible.

24

25 Q. I'm only asking about that particular matter as being
26 a possibility. Is that a possibility or not?

27 A. Anything is possible.

28

29 Q. But is the matter I have raised, because of police
30 procedure and the need to keep things confidential, doesn't
31 that mean that's a possibility? ?

32 A. I probably didn't think it was likely. I thought it
33 was very unlikely.

34

35 Q. In the bottom paragraph of the email, Detective Chief
36 Inspector, you use the term "still working on WA". What
37 are you referring to there?

38 A. Western Australia.

39

40 Q. What were you doing looking at inquiries at Albury and
41 Geraldton and Bunbury?

42 A. I was looking at involvement of - after Father Denis
43 McAlinden sexually abused a number of victims in New South
44 Wales, he was moved interstate by the church to Western
45 Australia, and I had been put in contact - I think it was
46 through Joanne McCarthy, I don't want to be certain about
47 that - with one or two people in that state that had

1 information about Denis McAlinden's conduct over there, and
2 also surrounding the charge that he was acquitted of in
3 that state, but other potential victims in that state.
4

5 Q. Why were you pursuing those matters on 22 June or
6 around that time?

7 A. Really at this stage, although I'm saying it wasn't an
8 official investigation, I was becoming excited by the
9 prospect that this now started to be coming together,
10 albeit from an unusual source, in that it was two separate
11 journalists from totally different outlets, but I was
12 obviously marrying a lot of what they were giving me up
13 with my own past history and investigative experience, and
14 I felt that something was starting to come together.
15

16 Q. Is it fair to say that the material that you were
17 being given were suspicions that you wished to further
18 investigate?

19 A. Some of it was more than suspicion. Some of the
20 documents were quite alarming in their nature, and I think
21 it took it way past suspicion.
22

23 Q. Did you discuss with your superiors your wish to
24 commence an investigation into these matters that had come
25 to your attention via Ms Smith and Ms McCarthy?

26 A. I don't know if I'm able to say so but I had a very
27 good reason why I did not do that.
28

29 Q. Why didn't you?

30 A. (Answer subject to suppression order).
31
32
33
34
35
36
37
38

39 MR ROSER: I object to this, Commissioner. There is no
40 basis from this witness to say that. My understanding of
41 the evidence is that McLeod says there's a police officer
42 of the 14,000 police officers who may have known [NP], and
43 this witness then says, because he has a hatred for that
44 particular person, puts that name, and he's going to give
45 evidence in relation to that. There is no substance for
46 this evidence to be given.
47

1 MS LONERGAN: Commissioner, I'm not examining the
2 substance of it being a true statement or even a reasonable
3 statement. What I'm examining is Detective Chief Inspector
4 Fox's --

5
6 THE COMMISSIONER: Reasons.

7
8 MS LONERGAN: -- suspicions or worries or concerns, as
9 high or low as they may be considered by others, as to why
10 he ought not let anybody know he was carrying out that
11 investigation. I'm not for a minute suggesting there was
12 any truth in these assertions or concerns, but simply that
13 this officer held those concerns. That's as far as I wish
14 to take that question, Commissioner.

15
16 MR ROSER: I still adhere to my objection. If you are
17 against me, then I would ask for a non-publication order in
18 relation to the name of this particular person, because
19 this particular witness has a propensity to destroy people
20 with no substance.

21
22 MR COHEN: I object to that comment. That is entirely
23 unfair and should not be made.

24
25 THE COMMISSIONER: I note the time, Ms Lonergan.

26
27 Perhaps the question of pursuing the answer to the
28 question might be left until 2 o'clock.

29
30 MS LONERGAN: Commissioner, for the assistance of both my
31 learned friends, could I suggest this course, and discuss
32 it with them over the luncheon adjournment: that that
33 exchange or that evidence that has come from Detective
34 Chief Inspector Fox be put to one side - I don't know if we
35 can have it struck from the record, but I will examine that
36 further over the luncheon adjournment - and that there be a
37 non-publication order in relation to all of it, that last
38 exchange, and I should also ask for a non-publication order
39 in relation to the publication of the home email address of
40 Detective Chief Inspector Fox.

41
42 THE COMMISSIONER: Yes. I will certainly make both of those
43 non-publication orders, that is in relation to the home
44 email address of Detective Chief Inspector Fox and his
45 answer to your last question.

46
47 I will adjourn until 2 o'clock, ladies and gentlemen,

1 and I should also indicate to you that it is proposed to
2 sit until 4.30 this afternoon, if that is not inconvenient
3 to any of the parties.

4
5 LUNCHEON ADJOURNMENT

6
7 UPON RESUMPTION

8
9 THE COMMISSIONER: Ms Lonergan, I think we will just
10 continue now.

11
12 Q. Detective Chief Inspector Fox, you understand you are
13 bound by your former oath?

14 A. Of course.

15
16 MS LONERGAN: Q. Detective chief inspector, prior to
17 the luncheon adjournment, I was asking some questions
18 regarding the investigation that you supervised back into
19 1999 in relation to victim [AE]?

20 A. Yes.

21
22 Q. You will recall I asked some questions regarding
23 whether the investigations of that nature stop when a
24 perpetrator dies or a complaint is withdrawn?

25
26 Can I ask you this question: was there a process at
27 that time in the police force where briefs were suspended?

28 A. Yes, there is.

29
30 Q. How would that come about?

31 A. Well, there still is, as far as I know. There are a
32 number of options at the end of an investigation, where the
33 electronic COPS case can be either suspended or finalised -
34 I won't go into the other options, but they are the primary
35 two. Suspended basically means you can suspend a matter.
36 For argument's sake, in the case of McAlinden, where we are
37 of the belief he is overseas, we have done everything we
38 can here and are just waiting to find him, that may well be
39 suspended so it is not on the system, and once he is
40 located, it is activated again.

41
42 Q. Do you recall whether there was a suspension put on to
43 the McAlinden matter in 2002?

44 A. May have been. It wouldn't be unusual for that. But
45 of course that doesn't mean that it's finalised. There's a
46 very big difference between suspended and finalised.

47

1 Q. Is there a process for a review of suspended matters,
2 or was there in the early 2000s?
3 A. A review of them, as in - there are various procedures
4 that it can go through. This one was picked up primarily
5 because of a review process that involved the checking of
6 the warrants, et cetera. Of course, as soon as - if it
7 turns out that McAlinden turns up in Perth or wherever,
8 that's activated and becomes a current case again.
9
10 Q. But at station level, is there a way that these types
11 of suspended matters are reviewed on a regular basis?
12 A. Not really, no.
13
14 Q. Do you remember being involved in a decision to
15 suspend the matter about McAlinden in 2002 in your role as
16 supervisor to Detective Watters?
17 A. I don't recall, but it wouldn't be unusual if I did.
18
19 Q. Can we take it from your answer that you have no
20 particular recollection of that decision --
21 A. No, I don't.
22
23 Q. -- or the process?
24 A. That's true.
25
26 Q. Before the luncheon adjournment you gave some evidence
27 regarding the conversation you had with Troy Grant, who
28 I think you said was a sergeant at the time?
29 A. No, I'm not certain of his rank at the time.
30
31 Q. Have you had an opportunity to read the statement
32 prepared by Troy Grant in April this year, for the purposes
33 of this Special Commission?
34 A. No, I haven't.
35
36 Q. I want to suggest that Troy Grant says that he had no
37 hindrance or obstruction from police concerning his
38 investigations
39 A. That's not my recollection.
40
41 Q. That's not your recollection. He also said he had no
42 reason to discuss with you any hindrance or obstruction
43 regarding his investigation on the part of police officers
44 because there was none?
45 A. No, I clearly remember the conversation and I'm
46 surprised he would say that, because I have a very positive
47 recollection of that conversation, because obviously it

1 concerned me at the time. And, as I said, I recall it
2 primarily because it was the first time I had heard the
3 phrase "Catholic Mafia" used.
4

5 Q. Are you confident in your recollection that the phrase
6 "Catholic Mafia" was used in relation to the police, as
7 opposed to being used in the context of a comment about
8 officials of the Catholic Church?

9 A. No, I don't remember him saying too much more about
10 the church. It may have been incorporating both. But I -
11 because of the nature of the conversation, what he had said
12 about the officers at Newcastle, I took it to mean that's
13 what he was referring to.
14

15 Q. When you say that it may have been incorporating both,
16 is it fair to say that your recollection of the
17 conversation is not perfect?

18 A. No, no. What I'm saying is when he used that term, it
19 may have extended to be inclusive of clergy/police. I have
20 probably walked away with the impression that it
21 predominantly related to police, because of the way it was
22 raised, not that I had misstated the conversation.
23

24 Q. I may have asked you this, but just to double-check:
25 You made no notes of the conversation at that time?

26 A. I wouldn't have recorded that anyway. It was a
27 conversation over the phone where he was just talking very
28 casually about the - we had worked together for a while and
29 that's the conversation that I suppose two police just
30 generally have. It wasn't as if it was important evidence
31 that was somehow going to be used or expanded upon.
32

33 Q. And it wasn't a formal complaint to you regarding how
34 he had been treated in terms of his investigation?

35 A. No. Well, the way I perceived it is that certainly it
36 wasn't a complaint, in that he was sort of saying, well,
37 they can justify what happened because that may be
38 perceived in the normal course of police duties. Someone
39 can argue, "That's not really what it was intended to do;
40 if it did, we are sorry about that." So it was not a
41 complaint as such, but he was - I do recall the
42 conversation quite clearly and I have no doubt about it.
43

44 Q. Can you turn to tab 50 in volume 1 that you have with
45 you in the witness box. You will see that is an email from
46 you to Joanne McCarthy, dated 22 June 2010.

47 A. Yes.

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Q. I will give you a moment to have a look at the text of that email.

First of all, why are you corresponding with Ms McCarthy?

A. At this stage, Joanne McCarthy was basically the genesis of how Lantle came into being. She was also the individual that steered each and every one of the witnesses to come forward to police, that I was aware of, that I had dealings with, and basically she was a major source.

Q. Just to clarify, you weren't working on Lantle at that time, were you?

A. Lantle wasn't in existence at that time.

Q. Is there any particular requirement as a police officer to limit material you provide to the media in terms of active steps in an investigation that you are carrying out as a police officer?

A. It wasn't so much - that may be a misconception of it. I wasn't looking at anything and I didn't see that anything was being provided to Joanne McCarthy. Really, I didn't have anything that I was providing; it was more the other way around. All the information - this whole thing emanated from what she had already obtained.

Q. But what I'm asking you is whether there's any police requirement or protocol or procedure that sets out the circumstances in which police officers should and should not have contact with the media about investigations they are conducting?

A. There's a police media policy. To put that into context, the media policy, I suppose, is when you may have a murder or an armed robbery and the media turn up to report on it. You know, this - I think most people would agree - is an extremely unusual situation, where that certainly wasn't the case. It was a situation where - Joanne McCarthy may have been a bricklayer or - perhaps not with her build - any other vocation, but she happened to be a journalist and the fact that it was a journalist providing this information, I didn't view I should be treating her differently to another source that was able to assist.

Q. If you look at the text of your email of 22 June, is it fair to say that you are telling her what investigative

1 steps you are carrying out, as opposed to her telling you
2 what information she has for you? Do you see that second
3 paragraph there?

4 A. Yes. I suppose if you want to cut it down and sort
5 of say, okay, how was this actually operating:
6 Joanne McCarthy - and I don't shy away, and I actually said
7 it to other police - had a vast amount of information, far
8 more than what any of the police holdings were.

9

10 Q. I am going to interrupt you, because my question is
11 quite a specific one. It is about the second paragraph of
12 your email there. What I want to suggest to you is the
13 text of that second paragraph suggests that you are
14 actually telling Joanne McCarthy what investigations you
15 are doing, as opposed to her giving you information. Do
16 you agree with that or not?

17 A. No.

18

19 Q. So what does the second paragraph mean, when you say:

20

21 *I am gradually working through all that you*
22 *sent, as my wife will testify. I am*
23 *progressing with [AJ] and this may be very*
24 *promising.*

25

26 Doesn't that indicate that you are revealing to Ms McCarthy
27 investigations that you are carrying out?

28 A. No, because basically everything that [AJ] was telling
29 me had already been told to me by Joanne McCarthy. It
30 is simply saying that I am progressing with her, and
31 I think this was obviously at some stage through me
32 obtaining her statement, because it actually took quite
33 some time to type her statement, through a number of
34 sittings. But by me saying that it's progressing well,
35 I don't feel that I'm doing anything - that simply says
36 what it means.

37

38 Q. Do you still say that at this stage you weren't
39 carrying out any investigation on behalf of the police, be
40 it a private investigation that you kept to yourself, or
41 any other kind of police investigation?

42 A. The investigation - well, when does it become an
43 investigation? I suppose, at the end of the day, someone
44 could suggest that perhaps from the moment [AJ] came in and
45 sat down with me, or perhaps at the time Joanne McCarthy
46 first telephoned me, it becomes an investigation, but at
47 what point of time and how do you define that, I suppose.

1 I'm not trying to be evasive there, but I'm still in an
2 information gathering stage, if I can put it that way. I'm
3 wanting to confirm from [AJ] much of what was being told to
4 me by Joanne McCarthy, and I need to get that independently
5 from [AJ] herself. Simply saying that "I'm progressing
6 with [AJ] and this may be very promising," I don't see any
7 problem with that.

8
9
10 As I said, virtually everything in [AJ's] statement
11 was told to me over the phone from Joanne McCarthy, but of
12 course that's hearsay and I need to be able to confirm
13 that.

14
15 Q. The statement you took from [AJ], was that done by
16 [AJ] attending the police station?

17 A. Yes.

18
19 Q. In the third paragraph you say:

20
21 *There have been a few things going on*
22 *behind the police scenes that concern me a*
23 *bit that I'll discuss with you later.*

24
25 A. Yes.

26 Q. This is 22 June 2010. Can you refer to those events,
27 first of all without - just refer to those events in
28 outline, so that we can determine whether they are relevant
29 for our examination or not.

30 A. In outline, it's the events that were being relayed to
31 me by Sean McLeod.

32
33 Q. That you have already given evidence about?

34 A. Yes.

35
36 Q. Did you tell Ms McCarthy about them? You mentioned
37 here in this email that you were going to?

38 A. She, I believe, was already aware of them.

39
40 Q. If you turn to tab 52, do you have that email of
41 23 June from you to Ms McCarthy? ?

42 A. Yes, I do.

43
44 Q. You see in the second paragraph there, you make this
45 statement:

46
47 *Can you impress upon her I am hoping to*

1 *match her to one of eight anonymous*
2 *McAlinden victims I have become aware of in*
3 *the past week that the church knew about.*

4
5 What are you doing there, Detective Chief Inspector Fox, if
6 not following through chains of inquiry in relation to
7 McAlinden victims?

8 A. No, that's what I'm doing.

9
10 Q. That is? So you are investigating in relation to
11 possible concealments by church officials, aren't you?

12 A. Well, I'm trying to gather information to see whether
13 that's in fact what's occurring, yes.

14
15 Q. But do you still say you haven't made the decision to
16 investigate yet, or do you think by this stage you have
17 actually crossed that line?

18 A. It's one of those grey areas. As I said, when does it
19 become an investigation? It may well have by that stage.
20 I'm a fair way progressed through getting - was it June or
21 July? June - through getting the statement from [AJ]. As
22 I'm gathering more information there, [AJ] is telling me a
23 lot more names, and as I'm progressing through that, at the
24 same time Joanne McCarthy was also contacting me, saying,
25 "I've just had another victim contact me, do you know about
26 this one?", et cetera, et cetera.

27
28 I was regarding Joanne McCarthy more at that stage as
29 a source, if you like. Yes, she's a journalist, but she
30 was a very good informant. The fact is, whether the police
31 force or anyone likes it or not, people trusted her. I'm
32 still sure she's got an enormous amount of contact with
33 victims and their families and at that stage it was so much
34 more superior than any of the holdings the police force
35 had. Simply to say, "No, we don't like her. Send her away
36 because she is an journo," I would have been deeply
37 concerned if that's the attitude that was taken.

38
39 Q. Had you by this stage discussed the investigative
40 steps you were taking with anyone other than
41 Joanne McCarthy and your wife - and obviously those persons
42 you were interviewing?

43 A. I don't believe so.

44
45 Q. Can you turn to tab 53. I want to ask you some
46 questions about the email from you to Ms McCarthy, another
47 one dated 23 June. I want to ask you a question about the

1 title "NP" at the top of it. Do you see the initials NP
2 before the text of the email?
3 A. Yes.
4
5 Q. What does that signify
6 A. No problem.
7
8 Q. No problem?
9 A. Yes. Sorry, just with young children, I have been
10 learning their language.
11
12 Q. At the time you were crime manager, is there any
13 reason why you didn't enlist the assistance of other
14 officers at your local area command into the matter that
15 you were pursuing?
16 A. Yes.
17
18 Q. And what is that, or what are those reasons?
19 A. I didn't trust the police environment at that stage.
20
21 Q. The usual procedure on commencing an investigation of
22 this nature, where a number of statements need to be taken
23 or you had in mind pursuing a number of lines of inquiry,
24 is there a formal system by which this investigation is
25 logged into the police system in the usual course?
26 A. Normally what I would have done - some police do it
27 before they get a statement, some may do it after they get
28 a statement from a victim - is to create what is called a
29 COPS event, that is the event system I spoke about earlier
30 where a particular crime is recorded on the system.
31
32 Q. Is there a continuing modelling into that system of
33 events that are part of the investigation process?
34 A. What would have transpired, I would imagine, from
35 there, is that normally - again, going back to what I said
36 earlier - a case is created out of that if it is deemed
37 necessary for an ongoing inquiry, and that case is
38 regularly updated as the investigation progress. There are
39 other systems that you can switch on to, but I don't want
40 to confuse everyone just yet.
41
42 Q. You didn't use any of those systems with this
43 particular investigation?
44 A. No, I did not.
45
46 Q. Behind tab 56A, I just want to ask you one question
47 about the statement - nothing about the detail or content

1 of it - but it indicates that, on 29 June 2010, you took or
2 completed a statement from [AK], victim [AK]. Why did you
3 take that formal statement? It is behind tab 56A.

4 A. I am just seeing who [AK] is, sorry. Because the
5 statement I obtained from [AJ] then led on, because she
6 raises [AK] and [AL], who were also victims. [AJ] was
7 aware of them, and a number of others that she raised
8 through the course of that. Of course, I wanted to,
9 I suppose, as any good investigator does, corroborate that
10 [AJ] wasn't just talking off the top of her head that,
11 there was corroborative evidence to support what she was
12 saying; hence I ended up pursuing the statement from her,
13 yes.

14
15 Q. Does the date denote the date it was signed, are you
16 able to say, 29 June 2010?

17 A. I don't - sorry, have I got the statement from [AK]?

18
19 Q. Yes, it is behind tab 56A.

20 A. Sorry, I am looking at tab 56. Yes, at the top it
21 says, yes, 29 June 2010.

22
23 Q. So that was your usual practice, to date it the day it
24 was signed, are you able to say?

25 A. No.

26
27 Q. So that date may signify what, the first day you
28 started?

29 A. In this case it would, but that's not always the
30 practice. Because I know I took her statement on that one
31 day - I'm sorry, if I may clarify - sometimes, as I have
32 mentioned, [AJ]'s statement, I may take that over a period
33 of time. I think I may have had four or six days where
34 I had her in. I would not always date that on the front,
35 I would probably try to make some acknowledgments,
36 "Statement commenced on whatever", but it may not be signed
37 for three or four weeks. As with the statement of [AH],
38 I think that took us much longer, but you try to denote
39 when you started the statement and you have a record of
40 when you actually get it signed at the end.

41
42 MS LONERGAN: Commissioner, there is a suppression order
43 made in relation to the name just mentioned and the
44 pseudonym [AH] substituted.

45
46 THE COMMISSIONER: Yes, thank you. That will be done.

47

1 MS LONERGAN: Q. Detective Chief Inspector, was that the
2 first statement, the one you are looking at behind tab 56A,
3 that was completed in 2010 when you were reactivating your
4 McAlinden-related inquiries?
5 A. The statement from [AK]?
6
7 Q. Yes.
8 A. I thought I completed the one from [AJ] first.
9
10 Q. We will come to that.
11
12 Turn to tab 58, please. Do you see that is a letter
13 dated 19 July 2010 to [AF]?
14 A. Yes.
15
16 Q. You have noted:
17
18 *As you didn't have any dealings in that*
19 *regard, I won't bother you further.*
20
21 That is in the second paragraph. That is in reference to.
22
23 *... your investigation is confined to the*
24 *failure of the church to act when told of*
25 *these.*
26
27 Do you see that in the first paragraph?
28 A. Sorry, I am just checking who [AF] is. Yes.
29
30 Q. Is it fair to say that you were, by this stage,
31 investigating in the full sense, given the terminology you
32 have used in that email?
33 A. I would agree, by this stage, yes. I had obtained
34 statements from [AK] and [AJ]. They were corroborative of
35 each other, very much so, and I would suggest that from
36 that time, I probably had formed the view, yes, this needs
37 to be investigated, there are concerns here.
38
39 Q. At tab 59, you see the second paragraph there you
40 noted you had completed [AJ's] statement --
41 A. Yes.
42
43 Q. -- and that it took 29 hours? That's on 22 July 2010.
44 That comment in the second paragraph of that email suggests
45 that, by that stage, the evidence you had collected in
46 terms of the investigation you were by then doing, was
47 [AJ]'s statement, as well as the statement that we have

1 just been looking at from victim [AK]?
2 A. Sorry, can you run that one past me again?
3
4 Q. Yes. By that stage, with the email that you have
5 forwarded to Joanne McCarthy on 22 July, it appears that
6 your investigation holdings consist of [AJ]'s statement, as
7 well as [AK]'s statement, because it is earlier in time?
8 A. Yes.
9
10 Q. Were there any other documents or holdings that you
11 had at that stage?
12 A. I'm not sure when I got the statement from --
13
14 Q. Mr Stanwell?
15 A. Yes, I'm just being safe. I am not sure of the date
16 when I obtained his, but they were the only three
17 statements I obtained in totality, so I don't know when the
18 date was, off the top of my head, when I finished this.
19
20 Q. We will turn to tab 61. You will see that is a
21 statement from Mr Stanwell. Is that the statement that you
22 arranged, dated 23 July 2010?
23 A. Yes, yes.
24
25 Q. Detective Chief Inspector Fox, you were saying earlier
26 in your evidence that you had discussions regarding your
27 investigation with Ms McCarthy, on the basis that she was
28 providing you information. Do you recall that evidence?
29 A. Yes.
30
31 Q. Would you agree with me that the email behind tab 59
32 suggests that you were actually updating McCarthy with the
33 progress of your investigation at that time?
34 A. Yes.
35
36 Q. Why were you doing that?
37 A. I saw no harm in it, in that McCarthy had formed a
38 fairly close bond with all the people I was getting
39 statements from, and they were in regular contact with her,
40 and it was quite evident to me that she would have been
41 aware of that as well. But also the fact that I was
42 viewing her as a complainant in these matters, in that she
43 was the first one to draw the police attention to it and
44 saying, "Is this going to become an investigation or not?"
45 I treated her the same as any other complainant, in that
46 I was saying, "Yes, this is where we are up to. We're up
47 to this point in the statement, and I've now got enough

1 concerns to say that we are progressing it."
2

3 I would have done that for - you know, it's not
4 unusual I did that, because I know that I give similar
5 briefings to most victims. I would have said to [BJ], when
6 I was getting statements off other victims, that she would
7 not have known. She would have known I was getting them,
8 but out of courtesy, you keep those people updated as to
9 the progress of that, saying, "This is where it is up to,"
10 not necessarily the nuts and bolts of it, but just giving
11 them a general appraisal, and I think that's quite common
12 practice.
13

14 Q. Were you not concerned that McCarthy would report
15 details of your investigations in the media?

16 A. No, McCarthy, from what she had been doing - you know,
17 if I had concerns, I have no doubt in the world, if I had
18 said, "Do not report this," I've got no concerns that that
19 would have appeared at all.
20

21 Q. But you don't say in that email, "Do not report this,"
22 do you?

23 A. I would have been - no, I don't, no, no.
24

25 Q. Did you have a conversation with McCarthy that led you
26 to believe that she wouldn't report anything without
27 further discussing it with you?

28 A. Yes.
29

30 Q. I am going to ask you some questions about discussions
31 you may have had with other police officers prior to
32 16 September 2010. 16 September 2010 is the date that you
33 sent the email to --

34 A. Kirren Steel.
35

36 Q. -- Kirren Steel. Prior to that time did any officer
37 at all ask you questions about any investigations you were
38 doing into the Catholic Church?

39 A. No.
40

41 Q. Were you at any stage asked to hand over documents by
42 Detective Humphrey - prior to 16 September 2010?

43 A. No one knew that I had it, so that's an impossibility;
44 it could never have happened.
45

46 Q. Do you recall Superintendent Haggett asking you any
47 questions, prior to 16 September 2010, about any

1 investigations you were doing into the Catholic Church?
2 A. I recall, and it absolutely definitely did not happen.
3
4 Q. If you had been asked by either of those officers
5 whether you were doing investigations into the Catholic
6 Church, would you have told them?
7 A. I don't know.
8
9 Q. As at 16 September 2010, did you maintain an intention
10 to keep your investigation into these matters private?
11 A. No.
12
13 Q. Was there some identifiable point where you changed
14 from the idea of keeping your investigation private to
15 sharing it?
16 A. Yes.
17
18 Q. Was that the information that you obtained on
19 16 September or some other event?
20 A. That was one of the catalysts for it, yes.
21
22 Q. What was it about the information you obtained on
23 16 September that made you change your approach? ?
24 A. I received a ministerial file that had been directed
25 to me from the State Crime Command Sex Crimes Squad, and
26 then through Superintendent Gralton at Central Hunter, for
27 me to conduct inquiries in relation to an alleged cover-up
28 of paedophilia within the Catholic Church.
29
30 Q. Did you know that ministerial file was coming to you?
31 A. No idea at all.
32
33 Q. You had no discussions with any officers of the police
34 before it arrived on your desk, as to it coming your way?
35 A. No, none.
36
37 Q. Can you swap volume 1 for volume 2 and look behind
38 tab 62.
39
40 Just take your time to look at the papers behind
41 tab 62, please.
42 A. Anything specific I should look at?
43
44 Q. I'm going to ask you some questions about it, so if
45 you could satisfy yourself about what's behind tab 62.
46 Have you done that?
47 A. Yes.

1
2 Q. Is that the ministerial file you recall receiving on
3 16 September or not?
4 A. I'm not sure if that's all the papers, but I believe
5 that they form part of it, yes.
6
7 Q. Are you able to assist with what other papers you say
8 you received that don't appear to be with that material?
9 A. There's no reference that I can see there. I recall
10 that the file mentioned an intel report, one of the intel
11 reports we referred to earlier today.
12
13 Q. One of your intel reports?
14 A. Yes. And also, from memory, the covering sheet that
15 goes with it, that was signed by Superintendent Galton,
16 and I believe Superintendent Kerlatec and a sergeant at Sex
17 Crimes, directing that the file should be directed to me.
18
19 Q. Superintendent Kerlatec, is he someone from the Sex
20 Crimes Squad within the State Crime Command?
21 A. Yes.
22
23 Q. Is he the boss? Was he the boss at that time?
24 A. I don't know. I remember he's a superintendent.
25 I don't know what rank is the boss there. He may well be,
26 but I'm not sure of the whole set-up down there.
27
28 Q. What would be the usual procedure in terms of
29 commencing an investigation of this nature? Just in terms
30 of the first step or two that you would take once it hits
31 your desk, were you not going on leave immediately?
32 A. The first step would have been to contact the authors
33 of those initiating letters that formed the basis for that
34 file and bring them in and really interview them and, in
35 all likelihood, get a statement.
36
37 Q. On this day, 16 September, you already knew, did you,
38 that Kirren Steel had been allocated investigation of what
39 may well have been related matters?
40 A. Yes.
41
42 Q. So you sent an email to her?
43 A. Yes.
44
45 Q. You also tried to contact her, I think your evidence
46 was this morning, but you were unable to reach her, by
47 phone?

1 A. I tried to telephone both Brad Tayler and
2 Kirren Steel, but was unsuccessful.
3
4 Q. If you look at your email behind tab 63, in the third
5 paragraph - you copied it to Stephen Rae, Anthony Townsend
6 and Charles Haggett?
7 A. Yes.
8
9 Q. First of all, was Stephen Rae the police prosecutor
10 you were referring to this morning?
11 A. Yes.
12
13 Q. Why have you copied him in?
14 A. Because, at that stage, he was still bouncing between
15 his office and the region office, relieving down there in a
16 role that had some degree of oversight over the church
17 matter.
18
19 Q. Oversight over whom?
20 A. Well, "oversight" might be the wrong term. Had some
21 knowledge of the investigation that was about to be
22 undertaken by Kirren Steel, might be a fairer way to put
23 it.
24
25 Q. Was he in the capacity of Kirren Steel's commanding
26 officer or supervisor?
27 A. I don't know.
28
29 Q. Anthony Townsend, why was he copied into the email?
30 A. He's the operations manager at region, who
31 I understood through part of the conversations I had with
32 Dave Waddell and Steve Rae, had assessed the file sent from
33 Lake Macquarie and - I don't think he made the decision to
34 send it to Newcastle, but I understand he did a report on
35 it that gave a number of alternatives. One of those is
36 that that is what should occur with it.
37
38 Q. I'm going to stop you there and ask you this: did you
39 know, as at 16 September 2010, that Inspector Townsend had
40 done a report in July about these matters?
41 A. I certainly hadn't seen the report. I would imagine
42 that he would have. I'd be surprised if he didn't. But
43 I definitely hadn't seen it, I've only seen it just
44 recently.
45
46 Q. So you did or didn't know as at 16 September 2010?
47 A. I didn't know.

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Q. What I want to work with is what you did actually know on 16 September, and I'm just trying to understand why Superintendent Townsend was included in the email, based on what you knew?

A. Well, any major operation that's going on in north region, as the operations manager, he should be made aware of what's going on. He's the one that's supposed to be the controlling factor that is the conduit to the region commander on any major criminal investigations occurring in the region.

Q. Wouldn't you expect him to already be aware that this matter had been allocated to Kirren Steel, given his position?

A. Well, that's why I cc-ed him in, so I could sort out exactly what was going on, and I was hoping - obviously I think this email was sent at - I was rushing around that day. I finish at 4.00 pm and it was sent at 3.35. I can imagine that - I think, as most police know or anybody, when you're about to go on leave, there's always two weeks worth of work you're trying to fix up all of a sudden. I speared the email off and I thought, "Hang on, I'm not going to get a chance to do any more with this until I get back," but I sent it to Kirren and I cc-ed all these other people, so they would all know what was going on.

Q. You wanted those people to know, didn't you, that you wanted to take part in the investigation that Kirren Steel had been allocated? Is that a fair way of looking at the email?

A. I don't know whether the email says that. I certainly had that - entertained that thought. I don't know if that is the purpose, though, of the email.

Q. Charles Haggett, was he your commanding officer at the time?

A. He was.

Q. So you copied him in, why?

A. Basically at that stage, I felt that - having received a ministerial file that had been directed to me from some very senior police, I mistakenly felt that no-one would then remove me from the investigation and that I would have an active role with it and I felt much more confident in then letting Superintendent Haggett know.

1 Q. Detective Chief Inspector Fox, could you turn in
2 tab 72 to the third page behind the tab, numbered page 274
3 at the bottom. It appears it may well be the document you
4 have been referring to as missing from the ministerial
5 papers that I drew your attention to earlier. You see it
6 is a memo from a Detective Sergeant McKey?

7 A. Yes.

8

9 Q. It seems to have a series of recommendations referring
10 something to you for investigation. Do you see that?

11 A. Yes.

12

13 Q. Does that assist you, looking at this document,
14 whether this is the document missing from the earlier
15 material?

16 A. Yes, it is.

17

18 Q. I am just working backwards again, just bear with me.

19

20 If you go back to tab 63, which is your email to
21 Detective Sergeant Steele, did you intend to reveal that
22 you had obtained other statements, in addition to the
23 material in the ministerial brief - if you'd managed to
24 contact Kirren Steel?

25 A. Yes.

26

27 Q. You see in paragraph 3 you talk about having a number
28 of statements concerning McAlinden? Is there any reason
29 why you haven't identified in more detail who the
30 statements are from? I appreciate that, at the bottom of
31 the paragraph, you talk about that you have spoken to
32 certain people, but is there any reason why you didn't
33 identify that you had statements and their date and/or
34 provide copies of those at that point?

35 A. Sorry, this is paragraph 3?

36

37 Q. Yes.

38 A. Sorry, if you just give me a moment, I'll just read
39 it.

40

41 Q. Yes.

42 A. I've read that now. The question is?

43

44 Q. Sorry, the question was a bit garbled. Let's approach
45 it this way. First of all, you say:

46

47 *I have a number of statements concerning*

1 McAlinden.

2

3 A. Yes.

4

5 Q. That is the statement at the beginning of the
6 paragraph. Those statements are: Michael Stanwell, [AL]
7 and [AK], as at that time?

8 A. Yes.

9

10 Q. Is there any reason why you don't make it clear that
11 the statements you are referring to are limited to those
12 three statements?

13 A. Sorry, I don't follow. Limited in what way?

14

15 Q. Well, you make the broad statement:

16

17 *I have a number of statements concerning*
18 *McAlinden.*

19

20 Do you see that?

21 A. Yes.

22

23 Q. Further down in the paragraph, you mention that you
24 spoke to Mike Stanwell, [AL] and [AK]. Is there any reason
25 why you don't actually list the evidence that you had in a
26 clear fashion or was it just the way you've dashed out the
27 email?

28 A. It wasn't - this email wasn't meant to be
29 comprehensive or, you know. A detailed work of art. It
30 was really just - the purpose of it was to initiate some
31 sit-down contact between Kirren Steel, myself and other
32 interested parties, when I returned back, to pool whatever
33 I had with whatever they were doing, and to actually see -
34 because, at that stage, I didn't know what the full charter
35 or exactly what investigation was going on at Newcastle.
36 So I wanted to bring Kirren Steel up to speed and say,
37 "Look, is yours going to run on this path?" I was assuming
38 it would, but I didn't know that.

39

40 Q. I understand that. So you would have had no problem at
41 all, would you, if Kirren Steel had rung you that day and
42 said, "Look, I've been asked to get all your statements.
43 Will you shoot them over to me." You would have been happy
44 to disclose the statements?

45 A. Yes, I would have been happy to, yes.

46

47 Q. So is there any reason why you didn't disclose them to

1 her and send them to her with this email?
2 A. No, hang on. No, sorry, I retract that, only for the
3 reason that I really wanted to know what she was
4 investigating, because I was making an assumption that she
5 was looking at this matter but I didn't know for certain.
6 So for that reason, no, I wouldn't have sent it to her. If
7 she had phoned me and said, "Listen, yes, that's definitely
8 what I'm doing," but obviously without being able to speak
9 to her, and I didn't know where she was and exactly whether
10 she was in fact doing it because, to my knowledge - I found
11 it unusual in that Kirren was a uniform sergeant, so I just
12 wanted to get my head around what was going on.

13
14 Q. In the final sentence of the paragraph we are looking
15 at, you say:

16
17 *I don't believe the main witness would not*
18 *be known to the church, police or media.*

19
20 First of all, can we just check that that's actually what
21 you meant to say there?

22 A. It sound terrible grammar, so I'm going to say
23 probably not.

24
25 Q. Can you just have a look at it and see what it is you
26 were referring to there:

27
28 *I don't believe the main witness would not*
29 *be known to the church, police or media.*

30
31 A. I probably would have - the word "not" probably should
32 not have been in there is how I interpret that.

33
34 Q. Is that referring to [AJ]?

35 A. Yes.

36
37 Q. Is there any reason why you didn't mention [AJ]'s
38 identity and the fact that you had a detailed statement
39 from her in that email?

40 A. Yes.

41
42 Q. And what was that?

43 A. [AJ] was terrified, I think would be probably a fair
44 word, and very frightened of who knew she had been in to
45 see the police. She was very concerned that this should
46 not be known by anybody in the church. She had a whole
47 list of reasons which to me sounded very valid, and she

1 also had expressed concerns about the police force.
2 Whether that was soundly based or not, she had expressed
3 that, and for that reason I really wanted to leave her name
4 out until I was sure where this was going.

5

6 Q. I understand. There is a small paragraph and then
7 there is another larger paragraph where you talk about
8 having got the TRIM file and you've identified it by
9 number?

10 A. Yes.

11

12 Q. You talk about broadly the subject matter of it. You
13 say:

14

15 *It refers to some matters I investigated in*
16 *addition to others that were looked at at*
17 *Lake Macquarie.*

18

19 Then you note it mentions your intel report.

20 A. Yes.

21

22 Q. You don't say anything there about having supplied to
23 State Crime Command other reports. Is there any reason why
24 you don't mention those there? I'm not suggesting there's
25 any problem with it; I'm just interested in why.

26 A. No, it's not the case that I was hiding that or -
27 I didn't know whether - you know, I didn't see how that
28 would enhance the email or suggest anything to it. I just
29 didn't see the need to put that in there.

30

31 Q. You then went on leave for a month?

32 A. Yes.

33

34 Q. Can we take it you had no discussions with
35 Sergeant Steel in your leave period?

36 A. I was overseas, so I had no discussions with anyone
37 really, outside my immediate family who were with me.

38

39 Q. You returned from leave on 18 October; is that right?

40 A. Yes.

41

42 Q. Something happened on the day you arrived back?

43 A. Yes.

44

45 Q. What was that?

46 A. More or less as soon as I arrived at work, one of the
47 public servants who is now retired, she came to me and she

1 asked if she could speak to me.
2
3 Q. And what did she say?
4 A. Do you wish me to name her or to --
5
6 Q. Yes, I think it's fine for you to name her - unless
7 you would rather not.
8 A. Miriam White, she came to my door, I think as
9 I normally do - she said, "Can I talk to you in private?"
10 She shut the door. I think I cracked some sort of a joke
11 and I said, "I'm sorry, Mim, but I'm married." She sat
12 down and what she said to me is that, "Are you doing some
13 sort of an investigation on the Catholic Church?" And
14 I sort of looked at her and I thought - Mim usually sits in
15 the office directly opposite me, and I remember thinking,
16 "How do you know that?"
17
18 Q. Is there any reason why Mim would have seen your email
19 to Detective Sergeant Steel?
20 A. No, no.
21
22 Q. Then what did she say?
23 A. She said, "Don't tell anyone, but when you were on
24 leave, Charlie Haggett and Wayne Humphrey came up here.
25 They got the key to your office and they searched it from
26 top to bottom through every filing cabinet and the
27 drawers," and she said, "It didn't look right." And
28 I said, "You're kidding" - something along those lines.
29 She said, "Please don't tell them I told you, but," she
30 said, "I felt very uneasy with what they were doing." She
31 said, "They were looking for something to do with the
32 Catholic Church." She actually said they asked her, "Do
33 you know if he's working on anything to do with the
34 Catholic Church?" And she said, "No, I think you should
35 ask him." So --
36
37 Q. And - I'm sorry.
38 A. She said something along the lines, "No, I think you
39 should ask him.", and she said, "Whatever it was they were
40 looking for, they didn't find."
41
42 Q. Where were your papers regarding the investigation
43 that you had been doing?
44 A. They were locked in my office safe.
45
46 Q. In the police premises but locked in the safe?
47 A. In my office. I had a safe in my office and I had

1 secured them in that safe before I went on leave because
2 I was concerned about something exactly like this
3 occurring.
4

5 Q. Wasn't the position, though, at the time you sent your
6 email to Sergeant Steel that you were prepared to share
7 that information with relevant officers?

8 A. Exactly.
9

10 Q. One of the persons who you copied into the email was
11 your commanding officer Haggett?

12 A. I wanted him to know about it, yes. I didn't want to
13 share it with him.
14

15 Q. If you turn to tab 71, you will see that is an email
16 from you to Joanne McCarthy dated 18 October. I want you
17 to read that email to yourself and tell me when you've
18 finished reading.

19 A. Yes.
20

21 Q. First of all, why were you providing that information
22 to Joanne McCarthy?

23 A. Because when I learnt that information of what was
24 occurring, that coupled with knowledge that I can't give,
25 I understand, before this Commission, but also coupled with
26 the information provided to me by Detective McLeod and also
27 what I had been told by Joanne McCarthy, I had a very, very
28 uneasy feeling about what was going on behind the scenes,
29 and I started to very seriously distrust some very senior
30 police with this particular matter.
31

32 You know, in all my years of policing, I've never
33 heard of police getting into another senior officer's
34 office and turning it upside down trying to find a very
35 sensitive brief like this. It's totally unprofessional.
36 I was only five days away from returning from annual
37 leave - why it couldn't have waited for five days. And the
38 fact that Superintendent Haggett and Chief Inspector Wayne
39 Humphrey to this day have never ever told me that that
40 happened - the only reason I have knowledge of it is that
41 Miriam White had told me.
42

43 Q. You state in your email that as soon as you arrived
44 Superintendent Haggett asked you to hand over all
45 documentation you had gathered on any church conspiracy
46 matter.

47 A. Yes.

1
2 Q. Did you see a problem with that?
3 A. I wasn't happy about it.
4
5 Q. But given that you said you were happy to share your
6 information with the investigation process --
7 A. Yes.
8
9 Q. -- what would be the problem with getting the
10 information together and providing it to your commanding
11 officer so that it could be provided to the investigation
12 underway?
13 A. That wasn't how I perceived what was occurring. It
14 was - you know, you used the word "shared". But it wasn't
15 being shared; it was being removed.
16
17 Q. That's your perception, that's how you felt that
18 the request was?
19 A. I thought he made it pretty clear that's what it is,
20 yes. And ultimately that's an exactly what occurred.
21
22 Q. At that time that you came back from leave - and
23 I just want to make sure I've got this clear - at no time
24 before that search had you ever been asked to hand over any
25 material you had regarding this matter?
26 A. Absolutely not, never. I never had a report, there is
27 no an email, no one knew I had it. If anyone is saying
28 that, it's a lie.
29
30 Q. Can we take it from the forthrightness of that answer
31 that had you been requested for that information by an
32 officer who was carrying out the investigation, for
33 example, or supervising the officer carrying out the
34 investigation, that you would have had no problem handing
35 that material over to them?
36 A. I'm trying to be honest saying would I have had a
37 problem with it? It probably depends in the context of how
38 it was being handed he over.
39
40 Q. Let's try this scenario. Officer Steel rings and
41 says, "Let's sit down and chat about the matter" --
42 A. Yes.
43
44 Q. --"can you bring your statements and I'll give you my
45 statements and you show me yours"?
46 A. I have not a problem in the world with that, no dramas
47 whatsoever.

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Q. You would have given copies of them to her with no compunction - or not?

A. I may have concealed the name, just until I was a bit more sure of [AJ], simply because - and that was part of the undertaking I gave [AJ] as she was very concerned who got this. She trusted me. She - I know in my earlier evidence I explained it. Yes, I made first contact with her, but only after it was explained to me that I was the only one she would talk to, and I felt that it would be a betrayal of that trust to just hand that over willy-nilly. But certainly I was more than happy to share the context of what was involved in it with Detective Steel.

Q. Given your description of the role of crime manager that you gave this morning, would it be unusual for a crime manager to be involved in the frontline of an investigation of this nature, as opposed to a supervisory role?

A. Certainly it wouldn't be mainstream, but I wouldn't say unusual.

Q. Are there any special arrangements that have to be put in place so that a crime manager can be involved in the frontline of this kind of investigation?

A. No, a lot of the time it's left to discretion. There was certainly - and I think everyone who is listening to the evidence would be aware, there were special circumstances with this where [AJ] said that I was the only police officer that we would give it to. Whether people want to argue that out, but that was simply the fact. Then I'm in a position, do I do that? Of course I'm going to do that. I'm not going to say, "No, I'm a chief inspector, I'm not going to take your statement." I am aware of - if that's being suggested, I do know - I don't want to jump too far ahead - but I do know that after I was directed to hand everything else over, Detective Chief Inspector Brad Tayler went out and tried to get a statement off one of these other women. If they are saying, "Hang on, Peter Fox shouldn't be doing it," and they turn out the other week and they do it, I'm thinking - so, no, really, that's folly.

Q. Looking at the comment you last made, Detective Tayler, who you have mentioned, was a crime manager at the time that he, as you understood it, took a statement from a particular victim?

A. I think he tried to take a statement and he - I don't

1 know whether you want me to expand on that.

2

3 Q. No, there is no need for you to expand. I just want
4 to examine your comment and make sure I understand it. Is
5 your point that because Detective Tayler was a crime
6 manager and took a statement, therefore you should be
7 allowed to do the same?

8 A. I don't think there's a problem with it. I have no
9 problem with doing that. I think many crime managers have
10 got many statements, not just for critical incidents or
11 others, but certainly very high level investigations. Of
12 course, a lot of crime managers, like myself, had spent a
13 lot of years in criminal investigation, and we are
14 probably - you know, there's no substitute for experience,
15 and if I can put that forward, you know, I think that's
16 probably why in some cases - and I don't want to sound like
17 I'm building myself up there, but I've taken a hell of a
18 lot of sexual statements over my years.

19

20 Q. I just want to ask you a question about the text of
21 the email behind tab 71, to make sure I understand it. It
22 appears in the third and fourth paragraphs that you are
23 quoting from an email you received from Assistant Commander
24 Wayne Humphrey; is that right?

25 A. Sorry, this is tab?

26

27 Q. Tab 71, still in tab 71.

28 A. The last paragraph?

29

30 Q. It's in effect the third and fourth paragraphs. You
31 preface it with:

32

33 *I was handed an email from Wayne Humphrey,*
34 *(A/Commander - Newcastle). It refers to*
35 *the file I received before starting leave,*
36 *stating:*
37 *"That file and any associated documentation*
38 *should be collected and handed to*
39 *A/Inspector Quinn at Newcastle."*

40

41 A. Yes.

42

43 Q. Then:

44

45 *It goes on*
46 *I probably don't need to remind all*
47 *recipients of this email that this inquiry*

1 *has been the subject of much media inquiry.*
2 *(Mr Haggett, you might make the following*
3 *clear to DSC Fox).*

4
5 It then goes on about "Newcastle being the sole manager for
6 the investigation and any media strategy."

7
8 I just want to ask you some questions about what all
9 that means. You were given an email that stated those
10 matters?

11 A. I was physically handed an email by Superintendent
12 Haggett, but I was also sent a copy of it electronically.
13 I believe what I have done here is that where it says
14 there, "It goes on," and then - I should have done a double
15 inverted comma, but it's a single inverted comma - from
16 "I probably" to the end of the "DSC Fox)" is a direct copy
17 out of the email that was sent.

18
19 Q. There is nothing unusual, is there, about officers
20 being reminded about media interest in investigations that
21 are being carried out?

22 A. No.

23
24 Q. The comment requesting Superintendent Haggett make
25 that point clear to you appears to be directed to some
26 suspicion that you might be talking to the media. Is that
27 a reasonable way to read it?

28 A. Could be interpreted that way.

29
30 Q. You were in fact talking to the media about your
31 investigations, weren't you?

32 A. Yes.

33
34 Q. Then it goes on about "Newcastle being the sole
35 manager of the investigation and any media strategy."
36 There's no particular problem about that, is there, that it
37 is made clear which local area command will be managing the
38 investigation?

39 A. I didn't have a great - I was - you know, I won't make
40 a secret of the fact, I didn't know why that file was being
41 removed from me. I accept it when it says that. I've got
42 no more - I hadn't made any inquiries, so I don't know what
43 I was going to say about it, but, yes. I've got no drama
44 with that being commented upon.

45
46 Q. It's not unusual, is it, for a particular
47 investigation to be allocated to a particular local area

1 command so that it can be managed within that local area
2 command?
3 A. No.
4
5 Q. It's not unusual?
6 A. No.
7
8 Q. So you are agreeing with me?
9 A. Yes.
10
11 Q. I'm sorry about the double negative.
12
13 If you turn to tab 69, Detective Chief Inspector Fox,
14 I should have taken you to that first. My apologies. This
15 is an email dated 13 October 2010, subject "Strike Force
16 Lantle". Do you see that? ?
17 A. Yes.
18
19 Q. Just read that to yourself.
20 A. Yes.
21
22 Q. Is that the email you were talking about in your email
23 to Joanne McCarthy?
24 A. Yes.
25
26 Q. You don't appear to have been a nominated recipient of
27 that email. Do you know why that was?
28 A. No, I don't.
29
30 Q. What were the circumstances in which that email
31 was given to you? Was it given to you by Superintendent
32 Haggett or somebody else?
33 A. It was. A hard copy was given to me by Superintendent
34 Haggett, a short time after I learned from Miriam White
35 about Superintendent Haggett and Inspector Humphrey
36 searching my office, and I've got a feeling that - I'm not
37 sure whether I then received the electronic copy off
38 Mr Haggett or Mr Humphrey some time thereafter.
39
40 Q. You see in the second paragraph it says:
41
42 *That file and any associated documentation*
43 *should be collected and handed over to*
44 *Acting Inspector Quinn as soon as possible.*
45
46 A. Yes.
47

1 Q. You see how that email was directed to Commander
2 Haggett?
3 A. Yes.
4
5 Q. Did Commander Haggett talk to you about having looked
6 for that file in your office?
7 A. No, definitely not.
8
9 Q. Did you agree to provide your holdings to Commander
10 Haggett on this day, on 18 October?
11 A. I protested to the superintendent and I protested
12 fairly strongly. I asked to know why the file was being
13 removed from me, when it was actually directed to me by a
14 superintendent at the State Crime, and it had - he wasn't
15 able to tell me, other than make the comment, "Newcastle
16 and region have decided it's going to someone else." I've
17 got to say, Mr Haggett was one of those individuals that
18 never liked to be the bad guy, and contrary to Mr Roser's
19 comment earlier, I do not hate Mr Haggett.
20
21 MR ROSER: I object to this. He can answer the question.
22
23 MS LONERGAN: Q. I'm going to take this opportunity to
24 make a comment.
25 A. I think just --
26
27 Q. Detective chief inspector, please stop. It would be
28 very helpful if all witnesses and counsel kept to a minimum
29 comments of a personal nature, and if we focus on the
30 evidence, it will run a lot more smoothly.
31 A. I think if we all do that, we will all be happy.
32 Thank you.
33
34 Q. Detective chief inspector, did you perceive this email
35 as suggesting that you were also required to hand over the
36 statements you had taken independently?
37 A. No.
38
39 Q. So you read this email as only requiring you to hand
40 over the ministerial briefing?
41 A. That's what it says.
42
43 Q. At the time that you discussed this particular email
44 with Superintendent Haggett, did he raise with you that
45 there was also a request for any other statements you had
46 taken?
47 A. No.

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Q. You see the second paragraph - I am going to flick forward to tab 71 - you say:

As soon as I arrived, Superintendent Haggett asked me to hand over to him all documentation I had gathered on any Church conspiracy matter.

Do you see that?

A. Yes.

Q. You agree that, because you sent this email on the day this happened, it is more likely to be a more accurate version of events, isn't it?

A. Sorry, where? You are talking about paragraph 2 of the email of 13 October?

Q. No, I'm talking about the email behind tab 71, which is the email dated 18 October. Do you see what you said there in paragraph 2?

A. Yes.

Q. You see what you state there is that Superintendent Haggett asked you to hand over to him all documentation that you had gathered on any church conspiracy matter. Do you see that there?

A. Yes.

Q. Because you wrote this on the day it happened, it is far more likely to be accurate, isn't it, than your recollection now?

A. Yes.

Q. It is the position, isn't it, that you were asked to hand over all your stuff, not just the ministerial?

A. No.

Q. And why do you say that, given the content of the second paragraph of your email there?

A. Because Mr Haggett made it very clear, and I believe the email from Mr Humphrey makes it even clearer, that the church conspiracy matter, which was part of the title in the ministerial file, related to a church conspiracy. Now --

Q. I'm going to stop you there because I want to focus on

1 your own words in this email.

2 A. Yes.

3

4 Q. What you say there is not "asked me to hand over all
5 documentation on the church conspiracy matter"; it is "all
6 documentation I had gathered on the church conspiracy
7 matter"?

8 A. "On any church conspiracy matter".

9

10 Q. I am sorry, "on any church conspiracy matter". First
11 of all, you used the term "I had gathered", so that
12 suggests, doesn't it, that it is referring to information
13 other than the ministerial that came to you?

14 A. No, because if I take you back to the email, I might
15 be able to explain it more clearly there --

16

17 Q. No, I am focusing on your words for the moment. We
18 can come back to --

19 A. No, but they - sorry, but they relate --

20

21 Q. No, I am focusing on your words here, in your email of
22 18 October 2010.

23 A. Yes.

24

25 Q. Do you have that in front of you?

26 A. I do.

27

28 Q. What you say there is that Superintendent Haggett
29 asked you to hand over all documentation that you had
30 gathered on the church conspiracy matter.

31 A. Yes.

32

33 Q. That means, doesn't it, that he's referring to
34 material other than the ministerial complaints that came to
35 you?

36 A. No.

37

38 Q. Why do you say that?

39 A. Because - and I'm just trying to find the passage for
40 you - the email I received from Mr Haggett, which was sent
41 from Mr Humphrey, says quite specifically:

42

43 *That file and any associated documentation*
44 *should be collected and hand delivered to*
45 *Detective Acting Inspector Quinn as soon as*
46 *possible. Fox should be advised that he*
47 *will be contacted by Steele in due course*

1 relating to the information pertaining to
2 this investigation. Fox should not
3 initiate contact with Steel directly. All
4 contact should be through the crime manager
5 Newcastle.
6

7 The way I interpreted that is: hand over the ministerial
8 file, Steele will contact you about the other stuff you
9 have sent her, about those statements, because when I sent
10 that down there, I imagine - because I had already said in
11 the original email that I had the statements from those
12 three witnesses, without rattling off the initials. The
13 very next day, if those three statements weren't there and
14 they intended for that to form part of it, surely someone
15 would have said, "Hang on. Where are those three
16 statements?" No one ever did that. Noone ever asked me
17 for those at any stage and said, "Listen, you've got those
18 three statements mentioned in email to Steele, where are
19 they?" So I was more than happy that I had followed, to
20 the letter, exactly what they asked me for and no one
21 complained that anything was missing.
22

23 Q. Your email of 18 October 2010 suggests that you
24 understood that you were to hand over all documentation
25 that you had gathered, doesn't it?

26 A. My intention when I wrote those words is all
27 information - yes, you're - I can see how you are
28 interpreting it, but I'm --
29

30 Q. I'm just reading the words to you.

31 A. I know you are, but my intention was very clear: all
32 documents relating to the conspiracy matter. The heading
33 of the ministerial file was a conspiracy on the church.
34 They were the very words used. I handed over everything
35 attached to that file, the entirety, and I even did more.
36 I actually typed up a report trying to explain why I should
37 have been left in carriage of that matter, but at no stage
38 did Mr Haggett say, "Listen, where are those other
39 statements?" He knew I had them. I knew that he knew
40 I had them. If he wanted them, surely he would have said,
41 "Where are those statements, Foxy?" Mr Humphrey gets the
42 file the next day, he would have been on the phone and
43 said, "Where are those other statements?" Four days later,
44 five days later, a week later, it doesn't happen, a month
45 later, it doesn't happen, so they obviously got what they
46 asked for and that's what I gave them.
47

1 Q. Detective Chief Inspector Fox, you did get a call from
2 Detective Humphrey a few days after, didn't you - or the
3 next day?

4 A. Yes, the next day.

5

6 Q. What he said was, "Have you provided that file? Have
7 you provided that information I sought"?

8 A. Yes.

9

10 Q. It's clear, isn't it, given what you have written in
11 your email of 18 October to Joanne McCarthy, that you knew
12 what they wanted was all documentation you had gathered
13 concerning the church conspiracy matter?

14 A. No. No, that was definitely not my belief.
15 I believed they were taking the ministerial file and
16 everything associated with it. If he had said, "We want
17 the ministerial file and we want every other statement that
18 you have taken in relation to the other matter" - because
19 I saw them as separate matters. They weren't connected.
20 The stuff that was sent in the ministerial file did not
21 encompass any of the material that was in the statements.
22 They are totally separate.

23

24 Q. As I understand your evidence, Detective Chief
25 Inspector Fox, that means that in no way can that request
26 for that ministerial information be read as you being asked
27 to cease investigating what you were working on?

28 A. No.

29

30 Q. Because they didn't ask for that material?

31 A. That's absolutely right.

32

33 Q. So it's not at this stage that you say you were asked
34 to cease investigating?

35 A. No. As I said, I protested quite strongly. I felt
36 that was a very poor and bad decision. I don't know who
37 made that decision to take that file. I imagine it must
38 have been Mr Kerlatec, because when you have a
39 superintendent at State Crime making that call, for someone
40 else to --

41

42 Q. We won't imagine; we will stick to what you know. Did
43 anyone tell you who made the decision?

44 A. Mr Haggett said the decision was made at Newcastle
45 region. He didn't want to give me any names, but he
46 exonerated himself and said, "I had nothing to do with it,"
47 because he seen that I was quite irate and upset over it,

1 but he looked --

2

3 Q. Let's go about it this way. You were upset and you
4 used angry language, did you?

5 A. No, I didn't use angry language. I'm not
6 discourteous. Mr Haggett and I have always had a - we've
7 had some very strong disagreements, extremely, but --

8

9 Q. I am going to stop you there.

10 A. -- it's been cordial.

11

12 Q. I am going to stop you there. We are going to focus
13 on the facts only and remove the emotional content to the
14 extent we can.

15 A. You asked me about the language and I just wanted to
16 dispel that.

17

18 Q. Thank you. If you look at tab 72 and the document
19 behind it, please. In that document - and I want you to
20 read it to yourself and give a moment to think about the
21 contents of that. I'll let you do that and tell me when
22 you have done so.

23 A. (Witness does as requested).

24

25 MS LONERGAN: Commissioner, given we are going a little
26 later today, would it be convenient to take a five or
27 10-minute break, just to give Detective Chief Inspector Fox
28 a break and we can resume shortly?

29

30 THE COMMISSIONER: Yes, of course. Thank you, Ms
31 Lonergan.

32

33 **SHORT ADJOURNMENT**

34

35 MS LONERGAN: Q. Detective Chief Inspector Fox, before
36 that short break I was asking you to look at the document
37 behind tab 72. Is that a document that you prepared to
38 accompany the ministerial file to the officers who had
39 requested it?

40 A. Yes.

41

42 Q. You have had an opportunity to have a look at the text
43 of that document that you have prepared there?

44 A. Yes.

45

46 Q. It is dated 18 October 2010, so that's the day you
47 were requested to hand the material over?

1 A. Yes.

2

3 Q. There is no reference in there at all to the
4 statements you took from [AJ], [AL], [AK] or Mr Stanwell,
5 is there?

6 A. No.

7

8 Q. At the bottom of that first page you make this
9 statement:

10

11 *Much of this evidence relates to*
12 *conversations and inquiries conducted in*
13 *the early part of this decade. I would be*
14 *happy to provide statements or other*
15 *evidence from my earlier investigations if*
16 *deemed helpful.*

17

18 A. Yes.

19

20 Q. What evidence from your earlier investigations are you
21 talking about there?

22 A. I obtained statements from Monsignor Saunders,
23 Father Burston, Father Harrigan, Bishop Malone, also
24 related statements from various family members of Fletcher,
25 that all pertain to issues surrounding that.

26

27 Q. Those statements were obtained as part of the
28 investigation that you were doing into victim [AH]?

29 A. Predominantly, but also including [AB], and I should
30 also include there Mr Gogarty.

31

32 Q. You are not offering there, are you, any information
33 or access to the statements you took from [AJ], [AL], [AC]
34 or Mr Stanwell?

35 A. No.

36

37 Q. And why not?

38 A. They were a separate matter.

39

40 Q. A separate matter to the ministerial file?

41 A. Yes.

42

43 Q. And you did not want to hand them over at that stage?

44 A. Two reasons: number one, that they didn't belong to
45 the file, which is what was requested, and all associated
46 documentation; and number two is, I suppose this next step.
47 I was already concerned after learning of the search on my

1 office, and now this file was being taken and redirected,
2 for no reason that was explained to me; I got no other
3 reason than, "You'll just do it." I was able to come up
4 with a lot - in my belief, a lot of very logical, rational
5 reasons that as an investigator you would entertain, but
6 that was being discarded and the decision was just
7 basically, "The decision has been made." Actually I think
8 if you read the phone call I had the next day from
9 Mr Humphrey, he says virtually those words, you know
10 "You'll just do what you're told." But that's effectively
11 what it says. But I didn't relate - the file and the
12 statements, still, to my mind today, are two separate
13 matters. They both concern the church, but two separate
14 matters.
15

16 Q. Between that date and 25 October 2010, that's the day
17 that you prepared a fairly detailed report for the powers
18 that be on these matters --

19 A. 25th of?

20
21 Q. November.

22 A. Yes.
23

24 Q. Did you have any requests made to you to hand over
25 documents that you held in relation to any church
26 investigation, in addition to those we have just been over?

27 A. Just been over, as in with Saunders, et cetera?
28

29 Q. No, I'm terribly sorry, that's a reasonable comment
30 for you to make. No, I mean the ministerial file that you
31 returned to Detective Haggett or Superintendent Haggett?

32 A. No, there was no other - I received no other request
33 whatsoever. Again, I could probably go back to what I said
34 earlier, to substantiate that: you will find no record of
35 an email, a report, anything whatsoever. I never received
36 another request from anybody for another document until
37 I was called to the meeting on 2 December.
38

39 Q. Have a look at your email behind tab 77. It is dated
40 24 November 2010. You are attaching what appears to be a
41 draft report and asking McCarthy what she thinks of it.

42 A. Yes.
43

44 Q. Firstly, were you inviting McCarthy to make any
45 comments about the content of that draft?

46 A. I was actually - by this stage, I can make it very
47 clear that I was very, very concerned about the motives of

1 certain police.
2
3 Q. Now, I'm going to stop you there.
4
5 MR ROSER: Your Honour, I object to this.
6
7 MS LONERGAN: I'm stopping the witness, Mr Roser.
8
9 Q. I asked a very specific question, and you must focus
10 on my question, Detective Chief Inspector Fox.
11 A. Yes, I was.
12
13 Q. You were asking McCarthy --
14 A. Yes.
15
16 Q. -- for some comments about the content?
17 A. Yes was.
18
19 Q. Did she provide you with any comment about the
20 content? Just answer yes or no at this stage?
21 A. I don't remember.
22
23 Q. You then, on 25 November, submitted a report to senior
24 officers?
25 A. Yes.
26
27 Q. If you can look behind tab 78, behind your email to
28 McCarthy of 25 November is a report dated 25 November 2010.
29 A. Yes.
30
31 Q. You submitted that report to, at that stage,
32 Inspector/A Commander Matthews?
33 A. I submitted it to the Port Stephens commander.
34
35 Q. And that was Matthews?
36 A. It turns out it was Acting Inspector Matthews, yes -
37 sorry, Acting Commander Matthews.
38
39 Q. You discussed evidence the contents of it with Acting
40 Commander Matthews?
41 A. My recollection of it is I submitted the report and
42 then, at some point shortly thereafter, he called me into
43 the office to discuss it, yes.
44
45 Q. In the normal course, would a report or a request for
46 investigation of that nature be kept confidential within
47 the police force? In the normal course?

1 A. Yes.
2
3 Q. Why did you send a copy to McCarthy?
4 A. Because by that stage, I had very serious reservations
5 about what was going on, by the actions of certain police,
6 and I already had concerns, I suppose, much earlier with
7 what had been relayed to me by Detective McLeod and also my
8 own dealings, which I said I realise I can't comment on
9 here.
10
11 Q. Yes. Let's examine that. Your commander, or acting
12 commander at the time, appears to have accepted your
13 recommendations and supported them; is that correct?
14 A. Yes.
15
16 Q. So you had no reason to be concerned about Acting
17 Commander Matthews' activities in relation to your report?
18 A. I didn't have any concerns about Acting Commander
19 Matthews.
20
21 Q. If you turn back to the front of tab 78, where your
22 email to McCarthy appears, in the third paragraph of the
23 text of your email you say:
24
25 *As discussed, please keep the fact that you*
26 *have a copy of this report close to your*
27 *chest --*
28
29 A. Yes.
30
31 Q. --
32
33 *and let me know what unfolds.*
34
35 Why did you ask her to keep that secret?
36 A. I only wanted her to be aware of it. I didn't intend
37 for it to be known to anybody else. And I think, over a
38 period of time, I had built up a degree of trust with
39 Joanne McCarthy and I expected her confidence and that's
40 always been maintained.
41
42 Q. You say:
43
44 *And let me know what unfolds.*
45
46 What are you referring to there?
47 A. I'm not sure, but I think what - I could --

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Q. Don't hazard a guess if you don't actually recollect what you are referring to?

A. I would only - I'm sorry, I obviously had something specifically in mind. In fairness now, I don't recall exactly.

Q. Right at the end you make this comment:

Anyway, the die is cast, let the games begin.

What are you referring to there?

A. Basically, what I'm saying there is I had a lot of suspicions, and they were becoming much stronger than suspicions by this stage. And basically, by me putting that report in, I always realised that at some stage I would have to declare that I was taking those statements and conducting an investigation, because it was now getting to the stage where I would need assistance to take it further. So what I'm saying is, I'm now declaring my hand, the die is cast, let's see how they will react, because they will either cover this up or they will get behind it and give it a full shake and actually start to investigate it properly.

Q. At the time you sent that email to McCarthy you were aware, weren't you, that Strike Force Georgiana was pursuing certain investigations and prosecutions of sexual offences by clergy?

A. Yes.

Q. And they were Catholic clergy in the Maitland-Newcastle diocese? I don't want any details about it; I just want to know whether you were aware that that was being done

A. Yes.

Q. So there were at least some investigations into these types of matters going forward? ?

A. Yes.

Q. From the email that you were provided a copy of back on 18 October, which appears behind tab 69, you were told, weren't you, by virtue of that email that the matter was going to be investigated by Newcastle City Local Area Command, weren't you?

1 A. You're referring to the last sentence, I take it, in
2 paragraph 2?
3 Q. Are you looking behind tab 69?
4 A. Yes.
5
6 Q. It's the email you were given a copy of
7 A. Yes. I'm just wondering what part specifically out of
8 the whole email.
9
10 Q. The second-last paragraph. It makes it clear, doesn't
11 it, that the investigation is with Newcastle City Local
12 Area Command and that that command will be responsible for
13 the overall management of the investigation, the
14 investigative strategies and directions and any relevant
15 media strategy. Do you see that?
16 A. Yes, I do.
17
18 Q. So that's an email sent to a number of police
19 personnel, confirming that the matters you are worried
20 about are being investigated, is it not?
21 A. I took that - even though it fleetingly mentions the
22 other matter, that email predominantly centres around the
23 ministerial file.
24
25 Q. Why do you say that?
26 A. Because that's the email where I received the
27 instruction to hand that file over.
28
29 Q. You see it's headed "Strike Force Lantle" so it can't
30 be confined to the ministerial matter because at that point
31 the ministerial matter was with you, wasn't it? And it
32 wasn't called Strike Force Lantle?
33 A. I don't know. Did Strike Force Lantle - when did
34 Strike Force Lantle come into existence?
35
36 Q. Let me go about it this way: at the date this email
37 was written, which is 13 October 2010, was before you came
38 back from leave --
39 A. Yes.
40
41 Q. -- you were in possession of an ministerial file that
42 was not called Strike Force Lantle, was it?
43 A. No.
44
45 So what this email is talking about is an investigation,
46 not your ministerial file, but an investigation called
47 Strike Force Lantle. That's right, isn't it?

1 A. Well, I don't know.
2
3 Q. Well, that's what this email was?
4 A. Yes, but --
5
6 Q. No, let's just go on the information in here.
7 A. Yes.
8
9 Q. It's talking about something called Strike Force
10 Lantle, and you didn't know what Strike Force Lantle was or
11 what it was about, did you, at this time?
12 A. It may have been to investigate the ministerial file.
13
14 Q. That's not what I'm asking you.
15 A. No, I didn't know.
16
17 Q. You didn't know. So if there's an email that's
18 referring to an investigation called Strike Force Lantle
19 that's under the auspices of Newcastle City Local Area
20 Command, and that that command is going to be responsible
21 for the overall management of the investigation and
22 strategies, et cetera, why did you - I'll withdraw that.
23
24 What this email shows is that there was an
25 investigation separate to your ministerial file that you
26 had sitting in your office at the time that was being
27 undertaken by Newcastle City Local Area Command. Do you
28 accept that proposition?
29 A. Yes.
30
31 Q. Turning back to your email behind tab 78, and just
32 before considering that email again, you were made aware by
33 Superintendent Haggett, weren't you, that you were not to
34 be part of that investigation? That's right, isn't it?
35 A. Which investigation?
36
37 Q. Strike Force Lantle.
38 A. No.
39
40 Q. No?
41 A. No, that was never said to me, no.
42
43 Q. So when you say in your email behind tab 78, "Let the
44 games begin," what games are you talking about there?
45 A. Well, I had already seen what I - it is obviously a
46 colloquial expression, because there were already games
47 afoot where I saw that the original investigation was taken

1 off Sean McLeod; I was aware of a number of things from
2 what Joanne McCarthy had told me; and then the searching of
3 my office whilst I was on leave; and then directing me to
4 hand over the ministerial file, I had some - I had never
5 encountered in my 35 years of policing conduct like this,
6 and I really had very deep reservations about what was
7 going on, and I suppose most of us colloquially would refer
8 to it, "They're playing games here."
9

10 Q. Is it the position that the games were your games, in
11 that you were going to keep to yourself the statements that
12 you'd gathered to deliberately make difficulties for the
13 investigations that were going on?

14 A. No, because I had declared them, and that report that
15 I submitted on 25 November makes it very clear and I'm
16 telling them, "Listen, I have got these documents", and of
17 course they already knew that from the email I sent to
18 Kirren Steel. But what I was trying to say is, "Listen,
19 you've really got to start to look at this more seriously,
20 I've got these statements which I considered" - and still
21 do - "quite alarming in their content, and we really need
22 to start having a look at what's going on within this
23 diocese a hell of a lot more, so here it is. I've laid it
24 all on your lap. What are you going to do with it?"
25

26 Q. Behind tab 79 is a copy of your submission or report
27 dated 25 November 2010. You see there is a series of
28 recommendations or responses on the last page of the
29 report, which is page 329 in the bundle.

30 A. Yes. The last page?
31

32 Q. Page 329. Do you see those recommendations and
33 notations, Detective Chief Inspector Fox?

34 A. Yes, the handwritten ones, yes.
35

36 Q. Had you seen those handwritten notations before today?

37 A. The only one that I've seen before today is the one
38 under "Port Stephens Commander". I haven't read the
39 others. I haven't read them now.
40

41 Q. Before you read those to yourself, can I ask you this
42 question: do you recall being informed by anyone about the
43 decisions that were made about your report, this report
44 that we are looking at now?

45 A. No.
46

47 Q. No one got back to you to say, "This is all part of

1 Newcastle Local Area Command's investigation" or anything
2 of that nature?
3 A. Never happened.
4
5 Q. No verbal comment to you about, "That report's gone up
6 the line"?
7 A. No, even a year later, people - some people that were
8 involved in the investigation, I'm aware, were saying -
9 I know Detective Parker said to me, "I've never seen that
10 report." And there's an email, I believe, where I said,
11 "I can't believe that," and I actually emailed him a copy,
12 because he said he had never laid eyes on it.
13
14 Q. Let's not digress from the question about when you saw
15 it.
16 A. What I'm saying is no one got back to me about it.
17 I put that report in hoping it would have some impact and
18 no one responded.
19
20 Q. We can see, by looking at the notations on the report,
21 that it has been seen by a number of people. First of all,
22 the acting commander at the time, Acting Commander
23 Matthews?
24 A. Yes.
25
26 Q. The next entry is by Inspector Townsend, do you see
27 that, as operations manager of Northern Region?
28 A. Yes, I'm just reading them. Do you want me to read
29 them?
30
31 Q. Yes, read them to yourself, I'm sorry.
32 Yes, I've read them.
33
34 Q. You will see that the fourth notation, which appears
35 to be from the Commander Port Stephens - is that the way
36 I should read it?
37 A. It's signed by Charlie Haggett, yes.
38
39 Q. It says:
40
41 *Noted. I have informed Chief Inspector Fox*
42 *of this outcome.*
43
44 Do you see that?
45 A. Yes, it does.
46
47 Q. It's a little hard to read the date. Are you able to

1 make out that date?
2 A. I think it's 22nd of the 12th.
3
4 Q. Did Inspector Haggett inform you of the outcome?
5 A. No.
6
7 Q. In between the submission of your report that we have
8 just been looking at, on 25 November, and 2 December - so
9 we are looking at quite a short period --
10 A. Yes.
11
12 Q. -- about seven days? Did any officer contact you and
13 ask you to surrender or hand over any of your investigation
14 materials or documents?
15 A. The only contact I had in that time was on 1 December,
16 telling me to bring all those documents to a meeting the
17 next day at Waratah.
18
19 Q. Who was that contact from?
20 A. Superintendent Haggett.
21
22 Q. So did you collect your documents together to take to
23 the meeting?
24 A. Yes.
25
26 Q. How did you assemble them?
27 A. I basically just put the statements, hard copies of
28 the statements, all together in a manila envelope and
29 placed them to my desk to take.
30
31 Q. We are talking about the three statements from the
32 three victims we've referred to earlier and Mr Stanwell, or
33 other material?
34 A. And all other material that was forwarded to me by
35 Joanne McCarthy.
36
37 Q. Do you now have a recollection of the meeting on
38 2 December?
39 A. Oh, yes, I remember that meeting.
40
41 Q. Can you outline for the Commissioner what you
42 recollect occurred in the meeting?
43 A. I --
44
45 Q. First of all, can I ask you this: did you take that
46 manila envelope full of your statements to the meeting?
47 A. I omitted to take it. It was sitting on my desk and

1 I didn't grab it, and I organised for it to go down that
2 afternoon.

3

4 Q. Had someone emphasised with you that it was important
5 that you took that material to that meeting or was it just
6 a request?

7 A. It was just a request. Mr Haggett said, "Can you
8 bring all the statements and everything down to the
9 meeting."

10

11 Q. Go on as to what your recollection is?

12

13 A. He told me - obviously, I said, "What's the meeting
14 about?" He told me that we were going to discuss my
15 report, and crime agencies would be in attendance and we
16 would be looking at what we're going to do. To be honest,
17 I was delighted; I finally felt that something was going to
18 be initiated.

18

19 Q. Can I ask you, was that the conversation you had the
20 day before the meeting?

21

22 A. Yes, it was.

22

23 Q. Did you deliberately fail to take that material to the
24 meeting because you did not want to share that information
25 with those present?

26

27 A. No.

27

28 Q. Did you expect Detective Humphreys to be at the
29 meeting?

30

31 A. I was told he was going to be.

31

32 Q. Who else were you told would be there?

33

34 A. I was told it was going to be chaired by
35 Superintendent Max Mitchell.

35

36 Q. This is information that was conveyed to you by
37 Superintendent Haggett?

38

39 A. Yes.

39

40 Q. What else did he tell you?

41

42 A. Mr Haggett told me that he also would be there with me
43 to represent our command, and I believe he also mentioned
44 to me that Kirren Steel and Brad Tayler would be there.
45 I'm not sure if he said Justin Quinn would be present. But
46 in short, my assessment from that conversation was that it
47 was a sit-down discussion/conference, which is what I was
asking for all along, to lay on the table what everyone

1 had, and that was the whole goal of my email to
2 Kirren Steel on 16 October, to finally sit down with
3 everyone and have a round-table discussion.
4

5 Q. 16 September, I think you mean.

6 A. What did I say?
7

8 Q. You said October.

9 A. I've done it now. Thank you.
10

11 Q. That's all right. Did you have any discussions at all
12 with Detective Quinn prior to that meeting about these
13 matters?

14 A. Yes.
15

16 Q. What were those discussions, in short?

17 A. In short, I discussed with him exactly that: all of us
18 just sitting down together- and he was quite good about it,
19 very open to my suggestion. I said, "Mate, I've got some
20 fantastic stuff, this should really go places, it's going
21 to really ruffle some feathers." But I said, "We need to
22 sit down, I'll show you what I've got and you can talk to
23 me and we'll make a plan as to where we're going to take
24 this investigation.

25 Q. When did you have that discussion with Officer Quinn?
26 Is it Detective Quinn or detective inspector?

27 A. I don't know, I thought he was always a prosecutor.
28 I don't know if he was a detective at some stage in his
29 career.
30

31 Q. Not to worry, I will try to get the ranks correct.
32 I'm told he was a detective acting inspector at that time.

33 A. I don't know. I know he was a senior sergeant. He
34 had been a prosecutor as long as I'd known him. He may
35 have been a detective a long time ago.
36

37 Q. Is it your understanding that he was taking an active
38 role in the investigation or was he supervising?

39 A. Again, I don't want to put him down, but I took the
40 view that he would be supervising, simply because of his
41 background. As I said, I think that he had been a
42 prosecutor for a long, long time. But it wouldn't have
43 surprised me if he gave a hand and got some statements.
44

45 Q. When did you have this discussion with him?

46 A. It was only a day or two before the meeting of 2
47 December.

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Q. Did you have a perception that what would be happening at the meeting was sharing of information regarding what you had been investigating and what the police were going to further investigate?

A. Exactly.

Q. Did you have a perception that you would be placed into some sort of officer-in-charge role or supervisory role or what?

A. I would have - I'd be lying if I said that I didn't hope something like that would occur. I certainly expected active involvement, particularly concerning the statements that I had already obtained and the rapport I had built up with probably what would have turned out to be the most crucial witnesses. Whether I actually was given leadership of it, but certainly an active role, yes.

Q. Had you had any discussions with Detective Tayler about these matters prior to 2 December?

A. None at all.

Q. Not even a phone call, message, nothing?

A. No.

Q. What's your recollection of what occurred at the meeting?

A. When I arrived there, the first thing that surprised me is I looked around and there was no one there from state crime.

Q. Can we, at least at this stage, focus on events and what people said and did, as opposed to emotional responses, to start with, if you don't mind.

A. Okay. For the most part, Superintendent Matthews, I remember, was one end of the room. There were Justin Quinn, Kirren Steel, Charles Haggett, of course, myself, there was a constable there whom I don't know, and Brad Tayler.

Later on, probably two-thirds of the way through the meeting, Inspector Parker arrived, and right towards the very end, Inspector Townsend arrived.

Q. Did you notice any persons - first of all, were people around a table where you could all see each other?

A. Yes.

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Q. Did you notice anybody taking notes or minutes of the meeting?

A. Yes, I did. Hang on. There was - my understanding was that there was - the constable or detective, whom I don't know, it was my understanding he was to be taking notes, but I didn't see a lot of that happening.

Q. So your recollection is that you did not observe him taking a lot of notes, is that what you are saying?

A. He certainly made some. I remember thinking, it's certainly not detailed.

Q. Did you take notes yourself?

A. No, I was standing - I did take notes, as soon as I got back to Raymond Terrace, I took notes, but not at the meeting.

Q. You took notes back at Raymond Terrace, the same day as the meeting?

A. Yes.

Q. Are you absolutely sure that acting Superintendent Matthews attended?

A. Sorry, did I say that?

Q. You did.

A. No, he definitely wasn't there. Sorry, Superintendent Mitchell. Sorry if I said that.

Q. That's all right. Now continue with your recollection. And this is a recollection you have today? ?

A. Yes.

Q. All right.

A. My recollection was that Superintendent Mitchell, in short, was basically explaining that Newcastle was in charge and that's when I - it became clear that Lantle was going to be the investigation surrounding the material that Joanne McCarthy had provided, so basically out of the material that she brought forward- and I suppose in an indirect way that would now include the statements of the individuals I had gathered - was going to form the basis of Strike Force Lantle. That strike force, I was told, would consist of Kirren Steel, Justin Quinn and Brad Tayler.

Q. Did you make any submission to the meeting as to what

1 your role should be in relation to Strike Force Lantle?
2 A. Not at that stage.
3
4 Q. Why not?
5 A. I wasn't given the opportunity to speak at that stage.
6
7 Q. But you were given the opportunity to speak and
8 outline what investigations you had been carrying out,
9 weren't you?
10 A. Yes.
11
12 Q. All right, continue.
13 A. Probably shortly thereafter, I was then asked if I had
14 brought the statements down, this time formally - I had
15 been asked informally by Brad Tayler earlier. I was now
16 asked formally by Superintendent Mitchell and I explained
17 that I had left them on my desk. He told me to organise
18 for those to be brought down that day, which eventually
19 occurred.
20
21 He then asked me what my view on the matter was, and
22 I remember outlining my - quite extensively, and very much,
23 if I'm able to shorten it, much of what is contained in
24 that six-page report that I submitted on 25 November.
25 I said, you know, I then started to detail a lot more the
26 content and my projected ramifications of what was
27 contained in the statement of [JK]. At that meeting,
28 that's the first time - and I know I've used it in the
29 media since - but I described that statement that very day
30 as explosive.
31
32 Q. Was Detective Inspector Parker present when you
33 outlined those matters?
34 A. I don't believe so, no. He arrived after this.
35
36 Q. Did you make any comment as to what investigative
37 model should be set up to cover the matters raised by you?
38 A. Yes, very much so. I actually explained that through
39 the Hunter region - again, it's my perception, but
40 I suppose with a lot of years of experience - we keep
41 investigating old and often retired or dead clergy, many
42 years after the crimes, and I said, "It's actually time we
43 got on the front foot and started to do this in an
44 organised manner."
45
46 Q. Can I ask you to clarify what that would have meant in
47 terms of title of an investigation? Is that something in

1 the nature of a task force that you had in mind and
2 conveyed?

3 A. It would be. I know it's going to come across as
4 cynical, but I worked on a murder for two years by myself
5 that was referred to by the commanders as strike force sod
6 pod. Strike force - just attaching a name to something is
7 very much a media and a public affairs tool, often.

8
9 Q. What is the difference between a task force and a
10 strike force?

11 A. A task force is something much more substantive and
12 wide ranging. I felt that by this stage, we were getting
13 up to around 20 clergy in the Maitland-Newcastle diocese,
14 and I'm going, "Hello, anybody listening?" I think to most
15 people, it certainly has to Prime Minister Gillard, said
16 that something a bit more significant needs to be done.

17
18 MR ROSER: Your Honour, I object.

19
20 MS LONERGAN: Q . Detective Chief Inspector Fox, it would
21 be really helpful if you confine your comments to matters
22 that occurred in the meeting, and you will do that for me,
23 will you?

24 A. Sorry, I was just trying to describe that. But yes,
25 I take your point.

26
27 Q. Obviously you didn't talk about any of those things in
28 the meetings?

29 A. But --

30
31 Q. I'm going to stop you. You obviously didn't talk
32 about any of those matters - Julia Gillard?

33 A. No.

34
35 Q. Let's focus on what happened in the meeting. You
36 outlined that you would like a task force, as I understand
37 it, and a task force is a bigger, more concerted
38 investigation?

39 A. Yes. It's a serious investigation, obviously, put
40 together to look at something much more substantive and
41 serious.

42
43 Q. Was there any response given to that suggestion of a
44 task force?

45 A. Effectively there was no response, no. It wasn't said
46 no, it wasn't said yes, I might interpret it as ignored.
47 I didn't get a response back in relation to it.

1
2 Q. The people at the meeting, were they - did they appear
3 to be listening to you?
4 A. I believe one or two were.
5
6 Q. No, that's not what I'm asking. Did they appear?
7 A. Did they appear to be listening? Yes, there was quiet
8 in the room and no one was talking over me when I was
9 talking. But I suppose there's a difference between
10 listening and hearing.
11
12 Q. Always. However, were you advised about what was
13 planned in terms of ongoing conduct of the investigation?
14 A. No.
15
16 Q. Nothing at all?
17 A. No.
18
19 Q. You weren't told that the matter was going to be
20 investigated by Detective Steel with Detective Chief
21 Inspector Tayler and Constable Freney and Detective Senior
22 Sergeant Quinn?
23 A. Freney was never mentioned. But I was told, as I said
24 earlier, about the other three.
25
26 Q. Were you told anything about what your role in that
27 further investigation could be?
28 A. No.
29
30 Q. And were you asked to leave the meeting at a
31 particular stage?
32 A. Yes.
33
34 Q. And you did so?
35 A. Yes.
36
37 Q. You went back to your local area command and wrote
38 some notes that afternoon?
39 A. Yes.
40
41 Q. Did those notes - before we go to that, is there
42 anything else about that meeting that you recollect, that
43 you consider necessary to tell the Commissioner, in terms
44 of what was said or done at the meeting?
45 A. Yes. I was directed - everyone there was told by
46 Superintendent Mitchell that there was to be no contact
47 with the media, and I raised the subject of

1 Joanne McCarthy. My observation was that Superintendent
2 Mitchell became quite hostile, and said to me, "I am
3 directing you not to contact Joanne McCarthy again. All
4 contact with her will be through me." And he said, "I want
5 that noted in the minutes." I then protested and said -
6 I told him exactly how I felt about that, in that
7 Joanne McCarthy - I said along the lines of,
8 "Joanne McCarthy knows more about this than this entire
9 room put together. She has more witnesses, more contact
10 numbers." I said, "I don't know where she's got all the
11 documents that she's provided us," but I said, "She has
12 been the be-all and end-all of this, and you are stupid to
13 cut her out of the loop." I then said, "Can't we sign her
14 up to a confidentiality agreement, because I consider her
15 too valuable a resource?"
16

17 Q. Was a response given to that suggestion?

18 A. Mr Mitchell just then reinforced the direction to me,
19 "You are to have no further contact with her at all," and
20 he then said, "You are not to have any further contact with
21 the witnesses." I protested and said - tried to explain to
22 him that I had built up a degree of trust and rapport with
23 those witnesses, and that the major witness had
24 specifically sought me out, and I had spent so much time
25 with her, and I actually said, "These people have been
26 betrayed by an organisation in the Catholic Church, their
27 trust of the police is not great, if you do this to them it
28 will absolutely shatter them."
29

30 And I was basically pleading to remain in contact with
31 them, and I said - I was told by Mr Mitchell that I will
32 have no further contact. I said, "Well, I've at least got
33 to let them know that I've been ordered off this case," and
34 they then conceded that I would be allowed to contact the
35 witnesses.
36

37 Q. It was the position, wasn't it, that the request or
38 direction was given to all present that they were not to
39 speak to the media, including Joanne McCarthy? It wasn't
40 just confined to you, was it?

41 A. No. Early, yes, you are right, initially when it was
42 given. But what I'm saying is that --

43 Q. No, I don't need elaboration.

44 A. You are right, yes.
45

46 Q. You weren't the only one told, "You are not to speak
47 to the media," all present were told they were not to speak

1 to the media?

2 A. That is correct.

3

4 Q. You gave some evidence earlier today that
5 confidentiality of an investigation can be an important
6 matter, so that offenders are not alerted to the fact they
7 are being investigated?

8 A. It's a balance, yes.

9

10 Q. Was it the position that Superintendent Mitchell
11 actually stated that the reason that he was requiring that
12 nobody speak to the media was to control confidentiality in
13 relation to the investigation? Do you recall that being
14 stated?

15 A. I don't recall it. I'm not saying that it wasn't said
16 but I don't recall it.

17

18 MS LONERGAN: Is that a convenient time, Commissioner?

19

20 THE COMMISSIONER: Yes, it is. Thank you, ladies and
21 gentlemen, we will adjourn until 10.00 am tomorrow.

22

23 AT 4.18 PM THE COMMISSION WAS ADJOURNED TO
24 TUESDAY, 7 MAY 2013

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