

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, 1 July 2013 at 10.05am
(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 Welcome again 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 Today we start on a new and important part of the
8 public hearings of this inquiry.
9

10 While the public hearings to date have concentrated on
11 the conduct of police officers, this second limb of the
12 inquiry focuses on the conduct of church officials of the
13 Maitland-Newcastle diocese in relation to certain police
14 investigations, including, in particular, whether such
15 church officials hindered or cooperated with such
16 investigations.
17

18 I intend to make some introductory remarks before
19 inviting senior counsel assisting, Ms Lonergan, to provide
20 an opening address. After that, I will take the
21 appearances for parties authorised to appear at the public
22 hearing.
23

24 The Special Commission of Inquiry was established
25 pursuant to letters patent dated 21 November 2012 and
26 25 January 2013 issued in the name of the Governor of New
27 South Wales and in accordance with the Special Commissions
28 of Inquiry Act 1983. It followed the broadcast of a report
29 on the ABC's Lateline program on 8 November 2012.
30

31 In that television program, a senior police officer,
32 Detective Chief Inspector Fox, made certain statements
33 regarding the alleged covering up of child sexual abuse by
34 Catholic priests, including Father Denis McAlinden and
35 Father James Fletcher.
36

37 Both McAlinden and Fletcher had been priests of the
38 Maitland-Newcastle diocese. Each is now deceased.
39 Detective Chief Inspector Fox made certain allegations,
40 said to be based on his own experience, that the Catholic
41 Church had covered up child sexual abuse by priests to
42 protect the good name of the church and that it had
43 hindered police investigations into such alleged child
44 sexual abuse by alerting offenders, destroying evidence and
45 relocating priests.
46

47 The terms of reference for the inquiry require me to

1 inquire into and report upon two broadly stated matters:

2

3 (i) First, the circumstances in which Detective Chief
4 Inspector Fox was asked to cease investigating relevant
5 matters and whether it was appropriate to do so. This
6 first part of the terms of reference has been the subject
7 of public hearings of the inquiry held over a three-week
8 period in Newcastle during May and June 2013;

9

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

19

20 The public hearings dealing with this second limb of
21 the inquiry's terms of reference commencing today in
22 Newcastle will continue for about three weeks. The
23 expression "relevant matters" is defined in the terms of
24 reference as meaning:

25

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

34

35 It is appropriate that I make some opening remarks relating
36 to the second term of reference. To some extent, they
37 reflect sentiments that I have expressed previously in
38 formal sittings of this inquiry. Nonetheless, it is
39 important to reaffirm such matters, including, in
40 particular, for the benefit of persons present in the
41 courtroom today from the Hunter region who may have been
42 deeply affected by some of the matters touched on by this
43 inquiry.

44

45 The sexual abuse of children is abhorrent. It has a
46 devastating and long-lasting effect on victims and their
47 families and on the community generally. It should not be

1 tolerated or condoned by any modern society. It can be
2 very difficult for children to speak out about sexual
3 abuse. When they do, the collective responsibility to take
4 action weighs heavily on all. The sexual abuse of children
5 should no longer be a crime for which the conspiracy of
6 silence continues to degrade.

7
8 Child sexual abuse by a priest involves a gross breach
9 of trust of the highest magnitude. It breaches the trust
10 of the victims and their families in a manner that is
11 reprehensible and may cause irreparable harm.

12
13 The diocese of Maitland-Newcastle has a very troubled
14 history regarding issues of child protection and the sexual
15 abuse of children. This includes sexual abuse committed
16 against young children by certain priests of the diocese,
17 two of those priests were Denis McAlinden and James
18 Fletcher.

19
20 Both of these persons are named in the inquiry's terms
21 of reference. Each has been recognised, including by the
22 diocese, as having committed sexual abuse against children
23 across extended periods of time whilst serving in or
24 incardinated to the Maitland-Newcastle diocese.

25
26 Denis McAlinden is regarded as having a history of
27 sexual offending against children over four decades. Many
28 persons identifying themselves as victims of McAlinden have
29 come forward over time. McAlinden died in late 2005. In
30 June 2010, McAlinden was publicly described by the then
31 bishop of the Maitland-Newcastle diocese, Bishop Michael
32 Malone, as having been a predator who should have been
33 dealt with earlier.

34
35 James Fletcher was ultimately convicted and sentenced
36 in New South Wales in 2004 of having committed nine
37 offences relating to the sexual abuse of a minor who had
38 been an altar boy. The sentencing judge described these
39 offences as involving a gross and inexcusable breach of
40 trust. Over time, a number of other victims of Fletcher
41 have come forward, including to this inquiry.

42
43 Following the conviction of Fletcher in December 2004,
44 the then bishop of the Maitland-Newcastle diocese issued an
45 apology to the victims and the victims' families for the
46 pain and suffering caused by the criminal actions of Father
47 Fletcher. Fletcher died in gaol in January 2006.

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In the circumstances described, there can be little doubt that McAlinden and Fletcher were sexual predators, who, utilising their positions as priests of the diocese, separately committed heinous offences against vulnerable young children.

An additional matter may be noted. Both in public pronouncements, including on the Lateline program, and in private hearings before this inquiry, Detective Chief Inspector Fox has made statements referring to the experience with particular instances of alleged covering up of child sexual abuse and hindering of police investigations by church officials. To the extent that they fall within the terms of reference, these matters are being examined by the inquiry.

However, while the allegations raised by Detective Chief Inspector Fox on the Lateline program form part of the backdrop of the establishment of the inquiry, the inquiry's investigations, which have been underway since late last year, have necessarily extended beyond the particular instances raised by Detective Chief Inspector Fox.

Further, to the extent that statements made by Detective Chief Inspector Fox relate to matters that fall outside the terms of reference, those matters have been referred to the national Royal Commission into Institutional Responses to Child Sexual Abuse for their consideration.

While the inquiry's terms of reference focus upon matters related to McAlinden and Fletcher and associated police investigations, this inquiry is acutely aware that there have been victims of priests other than McAlinden and Fletcher. Today I acknowledge those victims and their families and the pain and suffering they endure daily. I trust and expect that their voices will be heard in other forums.

This inquiry continues to provide an important opportunity for persons, including those who hold or held positions within the Catholic Church, to come forward and provide information to the inquiry about relevant matters that occurred in the past. This opportunity remains open, even as the public hearings of the inquiry continue.

1 I encourage such persons to come forward and to contact the
2 Commission's staff, who will continue to make themselves
3 available to receive such information as required.
4

5 This inquiry will continue to look at matters that
6 occurred principally in the past. In doing so, while there
7 may be some important aspects that are regarded as
8 immutable, some care may need to be taken about necessarily
9 judging events of the past solely by today's knowledge and
10 standards.
11

12 It is also appropriate to mention three further
13 matters at the outset: first, the inquiry has been
14 carrying out its investigations since late last year. This
15 has involved the undertaking of a substantial amount of
16 work in respect of both the first and second terms of
17 reference. More than 70 summonses for production of
18 documents have been issued to over 35 related persons and
19 organisations. Approximately 100,000 pages of documents
20 have been produced and reviewed. Further summonses for
21 production may be issued as required.
22

23 In addition, as part of its investigations, the
24 inquiry has conducted in excess of 120 compulsory private
25 hearings, conferences and interviews with relevant persons,
26 including church officials and police officers. The
27 inquiry has also been acutely aware of the need to ensure
28 that victims of McAlinden and Fletcher who can provide
29 relevant information have been able to be heard as part of
30 the inquiry process.
31

32 In addition to meeting with victims and their families
33 and conducting numerous private hearings, conferences and
34 interviews, the inquiry has held a number of information
35 sessions at a dedicated location at Wallsend. This has
36 proved to be a useful means by which information relevant
37 to the inquiry's investigations has been obtained.
38

39 Secondly, as I have already mentioned, the present
40 inquiry, by its amended terms of reference, is authorised
41 to, and has established arrangements for, referral and
42 sharing of evidence, information and knowledge coming to
43 the attention of the inquiry which fall outside the scope
44 of the terms of reference but which may be of relevance to
45 the national Royal Commission into Institutional Responses
46 to Child Sexual Abuse.
47

1 The national Royal Commission was established pursuant
2 to letters patent issued by the Governor General on 11
3 January 2013 under the Commonwealth Royal Commissions Act
4 1902. The terms of reference of the national royal
5 commission are broadly stated. Consistent with its terms
6 of reference, the Royal Commission can look at, among other
7 things, any private or non-governmental organisation,
8 including a religious organisation such as a diocese, that
9 is or was in the past involved with children and to
10 consider the institutional responses to allegations and
11 incidents of child sexual abuse and related matters.
12

13 This inquiry has been able to utilise its
14 information-sharing procedures to refer a substantial
15 quantity of material received from a number of different
16 sources, including from Detective Chief Inspector Fox, for
17 examination and investigation by the Royal Commission and
18 will continue to do so as appropriate.
19

20 Thirdly, as I have indicated, a significant focus of
21 the inquiry's work has been with dealing with victims of
22 past sexual abuse by McAlinden and Fletcher and with
23 victims' families. The inquiry will continue to adopt the
24 practice of using pseudonyms to protect the identity of
25 particular persons, including victims and family members
26 who may give evidence or otherwise be referred to in
27 evidence or in documents before the inquiry.
28

29 The use of such pseudonyms has regard to important
30 matters such as the sensitivities of victims and family
31 members and, in particular, to the protection of their
32 privacy. It is expected that counsel and witnesses will
33 also use designated pseudonyms when referring to victims
34 and victims' families. I also intend to make
35 non-publication orders regarding the names of such persons
36 or any matters that would tend to identify them.
37

38 A further matter of importance should be made clear.
39 On occasion, the inquiry has taken, and will continue to be
40 required to take, evidence in camera; that is, without the
41 media or the general public present.
42

43 Under the Special Commissions of Inquiry Act I am
44 authorised to take evidence in camera where it is
45 considered desirable to do so. This may be the case for a
46 number of reasons and no adverse inference should be drawn
47 from the fact that a person may give all or part of his or

1 her evidence in camera.

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Thus, for example, while recognising the need to accord procedural fairness to relevant parties who are authorised to appear, I can take evidence in camera from victims and from other persons who may already have suffered severely because of the offending conduct of McAlinden or Fletcher. In many cases, the witnesses may be unable or unwilling to give evidence other than in such circumstances.

Similarly, evidence may be taken in camera so as not to prejudice by pre-trial publicity any potential future criminal proceedings or to influence evidence that any witnesses might give at such proceedings. Persons who give evidence in camera in such circumstances may not themselves be facing potential criminal proceedings, but may be important witnesses in potential proceedings.

As I have previously stated, in circumstances where I am commissioned to inquire into particular matters which relate to allegations of concealment by members of the Catholic Church of sexual abuse of children and the subsequent cooperation of church officials with relevant police investigations I do not make orders for the holding of in-camera hearings lightly.

However, the necessity for such procedures arises primarily due to both the sensitivities of victims and the fact that the present inquiry was announced against the background of an existing police investigation - Strike Force Lantle - into alleged concealment of sexual offences by Catholic Church officials.

This inquiry must not compromise any potential future criminal proceedings in any way. I am confident that the necessity to proceed in this manner will be well understood by all.

Before embarking on the public hearing for this second term of reference, I wish to make a comment about my ultimate role under the Special Commissions of Inquiry Act 1983 in providing a report to the governor. Under that Act, I am required to report to the governor in connection with the subject matter of the Commission and, in particular, to report as to whether there is or was any evidence or sufficient evidence warranting the prosecution

1 of a specified person for a specified offence.

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Further, under the Act, I am permitted in the report to make such recommendations relating to the publication of the whole or any part of the report as I, as Commissioner, think proper. As presently advised, I intend recommending to the Governor that the major part of my report dealing with matters other than relating to in-camera hearings, be made public as soon as practicable after the report has been properly considered.

Matters relating to in-camera hearings will likely be included in a separate volume of the report. It may be expected that publication of this part of the report would be deferred, having regard to the course of any potential criminal proceedings or any decisions as to such potential proceedings that might be made by the appropriate authorities.

However, I can indicate my provisional view is that I anticipate recommending to the Governor that, at an appropriate time, my report be made public in yet entirety.

Ms Lonergan?

MS LONERGAN: Commissioner, the second term of reference requires you to examine carefully the conduct of church officials as defined in relation to certain identified police investigations.

As you stated earlier, Commissioner, this term of reference requires us to examine whether, and the extent to which, officials of the Catholic Church facilitated, assisted or cooperated with police investigations of relevant matters, including whether any investigation has been hindered or obstructed by, amongst other things, the failure to report alleged criminal offences, the discouraging of witnesses to come forward, the alerting of alleged offenders to possible police actions or the destruction of evidence.

A "relevant matter" for our purpose is:

Any matter relating directly or indirectly to alleged child sexual abuse involving Denis McAlinden or James Fletcher, including the responses to such allegations

1 *by officials of the Catholic Church (and*
2 *whether or not the matter involved, or is*
3 *alleged to have involved, criminal*
4 *conduct).*

5
6 In order to examine these important questions, we need
7 to identify those police investigations.

8
9 Commissioner, we anticipate that the evidence will
10 show that there were four relevant police investigations
11 that were addressing these relevant matters. The first
12 three were operative between October 1999 and 2005, and
13 then Strike Force Lantle, which commenced in 2010 and
14 related specifically to allegations of concealing offences
15 by Catholic Church officials.

16
17 Three of these investigations related to McAlinden.
18 We expect that the evidence gathered by this inquiry will
19 show that the Maitland-Newcastle diocese, as an
20 institution, had extensive knowledge dating back to the
21 1950s of the serious risk posed to children by McAlinden.

22
23 I now go on to mention some matters of significance.
24 Documents in the possession of the Maitland-Newcastle
25 diocese show that, in 1953 to 1954, McAlinden sexually
26 abused a child, who we will refer to as [AE]. Her parents
27 told the then bishop and an assistant priest of the abuse.

28
29 In the early 1990s, [AE] and her husband also told
30 their local parish priest about the abuse. It should be
31 borne in mind at that time McAlinden was still a priest of
32 the Maitland-Newcastle diocese.

33
34 In October 1999, [AE] made a formal statement of
35 complaint to the Catholic Church and, on 8 October 1999,
36 she attended a police station and made a formal complaint
37 and statement to the NSW Police. We will return to this
38 matter when discussing the first police investigation as
39 the officer to whom she made her complaint is now Inspector
40 Watters, who will be giving evidence later today.

41
42 I turn now to another victim of McAlinden, a boy who
43 was five to nine years old when he was abused by McAlinden
44 in Singleton and we will refer to this boy as [ABC]. This
45 boy, during one of his first confessions to his parish
46 priest at Singleton, disclosed that abuse. This boy was
47 given penance, apparently for his sin and being abused by

1 that priest.

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1 appropriate treatment be made for McAlinden, but there are
2 no documents within the material provided to this
3 Commission by the diocese that showed that treatment was
4 sought or obtained for McAlinden at that time.

5
6 Some sections of this very significant letter written
7 to Bishop Clarke are worth extracting. Monsignor Cotter
8 wrote this:

9
10 *While I was away in Sydney for our talk, a*
11 *further deputation (led by a young*
12 *solicitor) came to Newcastle with other*
13 *charges against Father Mac. In my absence*
14 *Father Coolahan saw them. These charges*
15 *have to do with 'de sexto' in an unusual*
16 *way but I think not extremely serious.*

17
18 And this:

19
20 *The 'de sexto' business. Father Mac has an*
21 *inclination to interfere (touching only)*
22 *with young girls - aged perhaps 7 to 12 or*
23 *so. The furore cause[d] by striking the*
24 *boy about the head in the presence of the*
25 *whole class caused the girls to give the*
26 *other information to their mothers which*
27 *they had till then withheld.*

28 *On examination, this is found to be*
29 *factual. Having dealt with the people,*
30 *I had a long session with Father Mac at the*
31 *presbytery.*

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

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

43
44 Finally this:

45
46 *Last night we had a further meeting*
47 *of consultors and agreed to accept Father*

1 *Mac's resignation and fill the parish by*
2 *promoting Father A Brady senior curate at*
3 *present at Raymond Terrace, in a situation*
4 *in which we are already down three. The*
5 *point is that I would still say that we*
6 *recommend Father Mac to Bishop Thomas*
7 *provided of course the Bishop is told*
8 *something of all this background. The*
9 *reason why Father wants to go so very much*
10 *now is because it will afford a good*
11 *cover-up for his resigning the parish. The*
12 *priests and his own family, most of whom*
13 *live in Sydney, will not wonder because his*
14 *desire to go to Geraldton a few years ago*
15 *was well known.*

16
17 I can comfortably anticipate notwithstanding all that
18 material, McAlinden went on to have contact with children
19 in various locations both within and outside the
20 Maitland-Newcastle diocese and he continued to commit
21 sexual abuse upon some of those children.

22
23 Back in October 1976, McAlinden applied for, and
24 received, permission to work for a period in the diocese of
25 Kerema in Papua New Guinea. Documents we have obtained
26 from the Maitland-Newcastle diocese show the Maitland
27 Clergy Central Fund of the diocese paid for a one-way
28 ticket for McAlinden's travel to New Guinea.

29
30 In June 1981, there was a letter written by
31 Bishop Clarke to the Bishop of Geraldton recommending
32 McAlinden for loan to the Geraldton diocese. In writing,
33 Bishop Clarke referred to problems with McAlinden in 1976,
34 but stated:

35
36 *These problems are over now. I would*
37 *really think he is worth a try.*

38
39 McAlinden subsequently arrived in the Geraldton diocese in
40 October 1981.

41
42 In response to a letter dated 9 January 1988 from
43 Bishop Kalisz of Wewak, in New Guinea, inquiring as to
44 McAlinden's character, Bishop Clarke stated in his letter
45 in reply that allegations were raised in 1987 about
46 McAlinden's behaviour with small girls, but that the
47 investigation by the Church proved inconclusive.

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Bishop Clarke stated:

In view of these allegations, in his own opinion, it would be unwise for him to continue to work in this Diocese.

That is, the diocese of Maitland.

Moving now to early 1993, events prompted Bishop Leo Clarke to recall McAlinden, who was at the time working in West Australia.

Father Brian Lucas, from the Sydney archdiocese, interviewed McAlinden. I anticipate that the weight of the evidence will show that, at this time, McAlinden made some admissions regarding having sexually abused a number of small children and young children.

Documents obtained by the Commission from the diocese also show that, in February 1993, Bishop Clarke issued an administrative decree formally withdrawing McAlinden's faculties as a priest in light of the serious allegations that had been made concerning his behaviour.

We anticipate evidence will suggest that a plan was made for McAlinden to be sent overseas to England at or around that time.

Records will show that, on 23 March 1993, McAlinden left Australia to travel to England and Ireland.

Stepping back slightly in time, in September 1991, McAlinden had been charged in Western Australia with indecent dealings with a 10-year-old girl, which was conduct that had occurred back in the 1980s. In July 1992, McAlinden was acquitted of those charges.

Having heard of those charges and the acquittal in West Australia, in 1992, [AL], who is another victim of McAlinden, disclosed to a Sister Redgrove that McAlinden had abused her when she was between 8 and 12 years old. Sister Redgrove instigated a meeting so that [AL] could disclose this abuse, and there was a meeting attended by Sister Redgrove, Father Lucas and Monsignor Hart from the Maitland-Newcastle diocese.

1 In October 1995, [AL] was asked to sign a formal
2 statement for the church reporting that abuse.

3
4 She was not asked to sign a formal statement reporting
5 that abuse when she was initially interviewed some year or
6 two before.

7
8 Letters obtained by this Commission show that there
9 was a series of correspondence between McAlinden and the
10 diocese in 1993, and again in 1995, some of which referred
11 to McAlinden having admitted that he had abused children.
12

13 In 2002, another victim - and we call her [AC] -
14 disclosed via the Towards Healing program that had been set
15 up by the Catholic Church that she had been sexually abused
16 by McAlinden when she was 7 to 11 years old. When she made
17 her statement to a person engaged to take her complaint,
18 she made it clear that she wanted her complaint to be used
19 to corroborate any other complainant who took their matter
20 to the police and she made this additional comment in
21 writing. This information was not made known to the police
22 by the diocese or any other church officials at that time.
23 We expect that evidence from Inspector Watters, later
24 today, will show that he found out this detail himself and
25 made contact with [AC] at that time, that is, in 2005.
26 I anticipate the inquiry will hear that, in August 2002,
27 when she first had interface with the Maitland-Newcastle
28 diocese about her complaint about McAlinden, [AC] was
29 informed by Bishop Malone that McAlinden had a known
30 history of child abuse and a file you couldn't jump over.
31

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

35 First, a letter from Bishop Clarke to Father
36 McGuinness, who is a priest in the United Kingdom, dated
37 April of 1993. That is about the time McAlinden was flying
38 to the United Kingdom.

39 Second, a letter from Bishop Clarke to a Father
40 Brambilla in May 1993, and we will come to a bit more
41 detail about that in a minute.

42 Third, there was an insurance proposal form completed
43 by Bishop Clarke in November 1993, and again I will come to
44 that.

45 Fourth, there was a letter from Bishop Clarke to
46 Bishop Bantigue dated May 1995. He was a bishop in the
47 Philippines where McAlinden was seeking to work later in

1 1995.

2 Fifth, there is a letter from Bishop Clarke to Father
3 McAlinden dated October 1995 and a reply from McAlinden to
4 Bishop Clarke about a week later.

5

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

9

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

25

26 I now turn to the October 1995 letter that Bishop
27 Clarke wrote to McAlinden, who was at that time in Western
28 Australia. The letter is addressing a canon law process
29 which had been commenced by the diocese. This is what
30 Bishop Clarke says:

31

32 *The resolution of the problems associated*
33 *with your ministry has been a concern for*
34 *me for some time ... I beg you, for the*
35 *sake of souls and the good of the Church,*
36 *to cooperate in this matter so that it may*
37 *be speedily resolved. A speedy resolution*
38 *of this whole matter will be in your own*
39 *good interests as I have it on very good*
40 *authority that some people are threatening*
41 *seriously to take this whole matter to the*
42 *police.*

43

44 In November 1994, Bishop Clarke wrote to
45 Bishop Bantigue in the Philippines refusing to release
46 McAlinden to be incardinated to the diocese of San Pablo
47 stating that McAlinden knew why, but giving no details to

1 the bishop.

2

3 About six months later Bishop Clarke seems to have had
4 a change of heart. He wrote to Bishop Bantigue again, this
5 time informing him of the accusations and admissions that
6 McAlinden had sexually abused children.

7

8 Later in the same month Bishop Clarke wrote to the
9 Apostolic nunciature in Manila, to Franco Brambilla,
10 advising him of these admissions made by Father McAlinden
11 and requesting that he intervene to prevent McAlinden from
12 working as a priest in the Philippines because of concerns
13 raised by [AL] about his conduct with children in
14 Maitland-Newcastle.

15

16 I now turn to the police investigations. The first
17 formal police investigation of relevant matters commenced
18 in October 1999 when [AE] attended Maitland police station
19 and made a formal complaint to then Senior Constable Mark
20 Watters. Her complaint related to multiple serious sexual
21 abuses of her in the 1950s when she was about 11 years old.

22

23 We will hear evidence from now Inspector Watters
24 regarding the progress of that investigation. The
25 investigation processes including a warrant being issued
26 for McAlinden's arrest in December 1999. We expect that
27 the evidence will show that attempts to find McAlinden in
28 that time did not result in an arrest.

29

30 We also anticipate that evidence will be heard and
31 documents tendered that show in 2005 a warrant for
32 McAlinden's arrest was reactivated by a police review
33 process after having laid dormant for some five years. We
34 expect the evidence will show that there was then some
35 contact with church authorities which led to identification
36 of other victims of McAlinden who had, by then, come
37 forward under the church's Towards Healing protocol in
38 those intervening years.

39

40 As indicated earlier, Commissioner, we anticipate one
41 significant matter is that one of those victims, [AC],
42 specifically requested that her complaint be used to
43 corroborate or support any other McAlinden victims who come
44 forward, and despite her wish being clearly expressed in
45 writing to the church official who took her complaint, this
46 request was not conveyed to police. We expect Sergeant
47 Watters will give some evidence about how he came to know

1 about [AC] in August 2005 and what steps he took to involve
2 her in the action being taken in 2005.

3
4 We also expect the evidence to show that, in late
5 2005, McAlinden was located in Western Australia. This
6 information was provided to NSW Police by Ms Keevers, who
7 then worked in a child protection control for the
8 Maitland-Newcastle diocese.

9
10 An extradition warrant seeking his return from West
11 Australia was not ultimately enforced as, by that time,
12 McAlinden was in the final stages of cancer and died two
13 months later. A statement has been tendered addressing
14 this issue authored by a Western Australia police officer,
15 Detective Senior Constable Grono.

16
17 The question to be examined in relation to the
18 investigation by Inspector Watters was whether the
19 officials of the Catholic Church facilitated, assisted or
20 cooperated with his investigative tasks; or, alternatively,
21 whether they hindered or obstructed in any way, and this
22 will be examined in the evidence that will be taken over
23 the next few weeks, Commissioner.

24
25 The second investigation relating to McAlinden
26 commenced in 2001, when another woman came forward and made
27 a formal report to police about him. She alleged that she
28 had been sexually assaulted by McAlinden in 1977 when she
29 was four years old.

30
31 We expect the evidence to show that there was, at that
32 time, insufficient information as to the current
33 whereabouts of McAlinden to progress the matter.

34
35 The officer managing that investigation was a Sergeant
36 Flipo. She directed some inquiries to the
37 Maitland-Newcastle diocese which resulted in her being
38 informed that they did not know where he was.

39
40 She made some further inquiries and we expect evidence
41 will be given about those by Sergeant Flipo next week.

42
43 We also expect that the evidence will show that the
44 matter remained in abeyance for some period and there was
45 no connection made between Sergeant Flipo's investigation
46 and the one that had been commenced by Detective Watters in
47 1999 until quite close to McAlinden's death in late 2005.

1
2 The question of cooperation of officials of the
3 Catholic Church will be examined in relation to this
4 investigation of this matter as well.
5

6 I now move to the third investigation which is
7 the investigation by Detective Chief Inspector Fox of James
8 Fletcher.
9

10 This investigation commenced in May 2002 and initially
11 related solely to multiple and violent sexual assaults
12 committed by Fletcher on a boy, who we will refer to as
13 [AH]. Ultimately, two other men complained of being
14 sexually abused by Fletcher as well when they were young
15 and came forward to assist in the further investigation and
16 prosecution of Fletcher.
17

18 Fletcher was convicted of all counts of those multiple
19 violent sexual assaults on [AH] in November 2004.
20

21 We expect Detective Chief Inspector Fox will give
22 evidence tomorrow and, over the following day, or two days
23 if necessary, he will give evidence of various incidents
24 that occurred during his investigation which concerned him
25 and led to his opinion that his efforts to investigate were
26 in fact being hindered and obstructed. These allegations
27 will be examined.
28

29 Finally, I move to Strike Force Lantle. Information
30 was provided to the NSW Police in about April or May 2010
31 which ultimately led to the setting up of Strike Force
32 Lantle. This strike force's terms of reference required it
33 to examine alleged concealing of child abuse offences on
34 the part of various Catholic Church officials.
35

36 This investigation was conducted, in the main, by
37 Detective Sergeant Jeffrey Little with supervision by
38 Detective Inspector Parker.
39

40 Evidence regarding the church's cooperation or
41 otherwise with this investigation will be taken in camera
42 so as not to prejudice any further steps which may be taken
43 in relation to the Strike Force Lantle investigation.
44

45 Commissioner, having considered the evidence of
46 the police witnesses who had, at varying times, conduct
47 of relevant investigations, as identified in terms of

1 reference 2, I anticipate that later this week, we will
2 then proceed to hear evidence from various church officials
3 starting with the former Bishop of Maitland, Bishop Malone,
4 followed by other officials of the Maitland-Newcastle
5 diocese and other church officials.
6

7 Before we hear initially from Inspector Watters,
8 Bishop William Wright of the Maitland-Newcastle diocese
9 will be called to give some short evidence and that will
10 take place after the morning-tea adjournment.
11

12 THE COMMISSIONER: Is it appropriate we take that
13 adjournment now, Ms Lonergan?
14

15 MS LONERGAN: Yes, thank you, Commissioner.
16

17 THE COMMISSIONER: I will take the adjournment now.
18

19 **SHORT ADJOURNMENT**
20

21 THE COMMISSIONER: May I take the appearances.
22

23 Mr Gyles?
24

25 MR L GYLES SC: May it please you, Commissioner, I appear
26 with my learned friend Ms Single, instructed by Makinson &
27 D'Apice, for the diocese of Maitland-Newcastle
28

29 MR P SKINNER: Commissioner, I appear for Father Brian
30 Lucas, with your leave, instructed by Carroll & O'Dea,
31 solicitors.
32

33 MR T CAVANAGH: Commissioner, my name is Cavanagh,
34 solicitor. I appear, by leave, for Monsignor Hart.
35

36 MR S HARBEN SC: I appear for Bishop Malone, together with
37 my learned friend Mr McMahon, instructed by Carroll &
38 O'Dea.
39

40 MS J NEEDHAM SC: Commissioner, I appear with my learned
41 friend Mr Doherty and instructed by Iles Selley of Adelaide
42 for the Archbishop of Adelaide, Philip Wilson.
43

44 MR M COHEN: If the Commissioner pleases, with your
45 continuing leave, I appear for Detective Chief Inspector
46 Fox, instructed by Mr Greg Willis, solicitor.
47

1 MR P GOGARTY: Good morning, Commissioner. With your
2 leave, Commissioner, I appear on my own behalf.

3

4 MS M GERACE: Commissioner, I appear for [AJ] instructed
5 by Clinch Long Letherbarrow Solicitors. With your leave,
6 could I seek leave for Michael Stanwell to be represented
7 at these proceedings?

8

9 THE COMMISSIONER: Yes, that authorisation is granted,
10 Ms Gerace.

11

12 MR P SAIDI: Commissioner, I appear on behalf of the
13 Commissioner of Police and, of course, the NSW Police Force
14 together with the individual police officers being called
15 to give evidence.

16

17 MR B BICKFORD: Commissioner, my name is Bickford.
18 I appear for Ms Elizabeth Doyle, with your leave,
19 instructed by Carroll & O'Dea.

20

21 THE COMMISSIONER: I grant that authorisation. Thank you
22 Mr Bickford.

23

24 MS LONERGAN: I call Bishop William Wright.

25

26 <WILLIAM WRIGHT, sworn: [11.35am]

27

28 <EXAMINATION BY MS LONERGAN:

29

30 MS LONERGAN: Q. Bishop Wright, you've prepared a
31 statement that you wish to read out to those present in
32 court?

33 A. That is correct.

34

35 As Bishop of Maitland-Newcastle, I wish to make an
36 unreserved apology on behalf of the diocese to all those
37 who have suffered as a result of acts or omissions by
38 members of the diocese in relation to the matters before
39 this Special Commission of Inquiry.

40

41 My apology must begin with an acknowledgment of the
42 wrongs done. I acknowledge that two men, Denis McAlinden
43 and James Fletcher, now deceased, but once priests of the
44 diocese, repeatedly committed acts of sexual abuse of
45 children. I acknowledge that these sexual predators used
46 their position in the diocese to gain access to these
47 children and to conceal their acts.

1
2 I acknowledge that the children, so abused, sometimes
3 suffered further hurt when they were not believed because
4 the offender was the priest. I acknowledge that when
5 matters were reported, church authorities sometimes failed
6 to act, or to act effectively, either to support abused
7 children and their families or to ensure that other
8 children were protected from abuse by those offenders in
9 the future.

10
11 I acknowledge that victims of McAlinden and Fletcher
12 and their families sometimes also suffered from the
13 attitudes and actions of some in the church community
14 towards them when they told their stories.

15
16 I acknowledge that the abuse perpetrated by McAlinden
17 and Fletcher, exacerbated on occasion by the failures of
18 church leaders, caused real and enduring harm to those
19 children who were abused, to their families, and to many
20 others who have been affected by this sorry history in
21 their community.

22
23 I am totally committed to the care and nurturing of
24 children in safety and in love. I find the willful harming
25 of children for personal sexual gratification abhorrent.
26 I feel outraged and disgusted at the sexual assault of
27 children by men who betrayed their positions of trust,
28 their sacred calling, and the basic tenets of our Christian
29 faith.

30
31 And so as Bishop, I apologise unreservedly on behalf
32 of the diocese to those who suffered abuse, to their
33 families and friends, and to all who have subsequently been
34 harmed by the unfolding of these matters.

35
36 My apology is intended to express the deep sorrow of
37 the Catholic community that such things ever happened to
38 people in our church; also our desire that the victims now
39 have the chance to tell their stories with confidence of
40 acceptance and are able to obtain justice, to the extent
41 that that is possible; also our commitment to assisting
42 those who were abused, as best we can; and our ongoing
43 commitment to doing all in our power to protect children
44 from such abuse now and in the future.

45
46 I am not currently in a position to comment on the
47 specifics of the facts relating to McAlinden and Fletcher,

1 nor the management of their matters by leaders of the
2 Maitland diocese or other persons in the wider Catholic
3 Church or the police. I was not in the diocese at the
4 times these events occurred and until I became Bishop,
5 I had no personal knowledge of these matters.
6

7 These issues are rightly for the Special Commissioner
8 to address and to investigate and I, for my part, approach
9 those investigations with an open mind.
10

11 To both police involved in Strike Force Lantle and
12 counsel assisting the Special Commissioner, I have and will
13 continue to direct all diocesan personnel to provide all
14 possible hospitality and logistical support to facilitate
15 access to any relevant records held by the diocese and to
16 endeavour to make the diocese and all its constituent
17 services as transparent as possible to ensure that all
18 relevant material comes to light.
19

20 I welcome public inquiries such as this Commission of
21 Inquiry and the forthcoming national Royal Commission. It
22 is my hope that, beyond establishing the facts of what has
23 happened in the past and contributing to child protection
24 regimes now and in the future, such inquiries will
25 contribute substantially to raising community awareness of
26 the damage done by child sexual abuse.
27

28 I hope that this increased community understanding of
29 the problem will help reduce the sense of isolation that
30 has been experienced by victims of abuse and the reluctance
31 that still exists in the broader community to report abuse
32 whenever, wherever it occurs.
33

34 I and the diocesan leadership team are committed to
35 the safety, welfare and well-being of children. Bishop
36 Michael Malone was determined that past wrongs and errors
37 were not repeated, and I have continued to commit
38 significant and ongoing resources to Zimmerman Services,
39 which is a specialist child protection unit within the
40 diocese, reporting to statutory authorities investigating
41 allegations of abuse, and providing innovative personalised
42 healing and support services to people affected by a
43 history of child sexual abuse in the diocese.
44

45 With those remarks, I thank the Special Commission of
46 Inquiry for undertaking this vital work.
47

1 THE COMMISSIONER: Thank you, Bishop Wright, most
2 sincerely, for your assistance to date and your sentiments
3 this morning. Thank you.
4
5 MS LONERGAN: Bishop Wright will be recalled at the end of
6 evidence in this public hearing, probably at the third
7 week, so, Commissioner, could Bishop Wright be excused?
8 Yes.
9
10 THE COMMISSIONER: Yes, thank you, Bishop Wright.
11
12 THE WITNESS: Thank you, Commissioner.
13
14 <THE WITNESS WITHDREW
15
16 MS LONERGAN: I call Detective Inspector Mark John
17 Watters.
18
19 MR SAIDI: Commissioner, could it be noted that this
20 witness, in giving evidence, is seeking the protection of
21 section 23.
22
23 THE COMMISSIONER: Of course, that is noted. Thank you,
24 Mr Saidi.
25
26 <MARK JOHN WATTERS, sworn: [11.45am]
27
28 MS LONERGAN: Commissioner, could it be noted, for the
29 benefit of those in the back of the court, that when
30 Detective Inspector Watters gives his evidence unwillingly,
31 there is no suggestion that he is not willing to assist the
32 Commission. It is simply a formal statement of
33 protection.
34
35 THE COMMISSIONER: Thank you, Ms Lonergan.
36
37 <EXAMINATION BY MS LONERGAN:
38
39 MS LONERGAN: Q. Is your full name Mark John Watters?
40 A. Yes.
41
42 Q. You are a detective inspector of the NSW Police Force?
43 A. Yes.
44
45 Q. And currently serving in which squad?
46 A. At the SPG Dog Unit.
47

1 Q. Detective inspector, you prepared, with the assistance
2 of your lawyers, two statements to assist this Special
3 Commission of Inquiry?

4 A. Yes.

5

6 Q. One has been converted to an affidavit dated 14 May
7 2013 and the other is a statement dated 19 June 2013. I'm
8 just going to hand those up for you and a copy for the
9 Commissioner. First of all, if you wouldn't mind looking
10 at your affidavit of 14 May 2013 and just confirming that's
11 your signature on page 7 of the affidavit?

12 A. Yes, it is.

13

14 Q. You'll notice that there are some redactions in the
15 statement which are there to remove the identity of various
16 victims of sexual abuse who you have dealt with. Other
17 than those redactions, are the contents of that affidavit
18 true and correct?

19 A. Yes.

20

21 Q. The same in relation to your statement of 19 June,
22 again, can you confirm that's your signature on page 5 of
23 that statement?

24 A. Yes.

25

26 Q. And again, subject to redactions that remove the
27 identities of various persons, are the contents true and
28 correct?

29 A. Yes.

30

31 Q. You'll also note, with the 19 June statement, that two
32 of your annexures have been removed. I'll lead some
33 evidence from you about those particular annexures, but,
34 for the moment, if you wouldn't mind mentally noting that
35 they have been removed because they consisted largely of
36 identifying details of victims and persons with whom you
37 made inquiries as part of your investigation?

38 A. Okay, yes.

39

40 Q. First of all, you were attested a police officer in
41 June 1987?

42 A. Yes.

43

44 Q. And you performed general duties for a year before you
45 moved into criminal investigations at Cessnock?

46 A. That's right.

47

1 Q. You did that for about seven years; is that correct?
2 A. Yes.
3
4 Q. Then you transferred to the region crime squad drug
5 unit in 1995 and performed work there for a couple of
6 years?
7 A. Yes.
8
9 Q. In 1997, you went back to general duties in Maitland
10 performing investigations in the Lower Hunter Local Area
11 Command?
12 A. Yes.
13
14 Q. In 2000, after a short stint at the Sydney Olympics,
15 you went back to the Lower Hunter Local Area Command and
16 performed further investigative duties?
17 A. Yes.
18
19 Q. In 2003, you were transferred to Brisbane Waters Local
20 Area Command?
21 A. Yes.
22
23 Q. And in 2005, you worked at the Lower Hunter Local Area
24 Command as officer in charge of Kurri police station?
25 A. Yes.
26
27 Q. In terms of normal police process, when you transfer
28 out of a particular local area command that has conduct of
29 a particular investigation, does that investigation go with
30 you to a new local area command or does it stay where it
31 was initially reported or commenced?
32 A. It just depends on what stage it is up to. If it is a
33 current investigation, you may retain it, or if it is a
34 suspended matter where you've taken out a warrant for
35 someone's arrest or if someone's whereabouts were unknown,
36 that would remain with the command and may be looked at by
37 someone else.
38
39 Q. Relevantly to the matter that we're dealing with
40 today, you commenced an investigation relating to McAlinden
41 in late 1999 and can we take it from your answer that when
42 you transferred out of the Lower Hunter Local Area Command,
43 the investigation stayed with that local area command?
44 A. Yes.
45
46 Q. Thank you. In your work as a detective, you set out
47 in paragraph 7 of your statement the types of

1 investigations that you carried out. You include in those
2 sexual assaults as well as other indictable offences. Had
3 you - other than this particular investigation we're about
4 to come to relating to [AE] - carried out any sexual
5 assault investigations regarding priests or religious
6 persons and children, or was this your first --

7 A. Many with children, but no others with priests or
8 members of the Catholic Church.

9
10 Q. I should also lead from you that you were promoted to
11 senior sergeant in 2007 and inspector in 2008?

12 A. Yes.

13
14 Q. I'm going back to 1999, and you deal with this in your
15 statement. I want to lead you through some aspects of your
16 statement for the benefit of those in court so they can
17 understand what the investigative tasks were that you
18 undertook once this lady, [AE], came in to see you.

19
20 You say in paragraph 8 of your statement that [AE]
21 came in to Maitland police station and spoke to you about
22 an assault, a sexual assault, that had been perpetrated
23 upon her by McAlinden in 1953. First of all, is there any
24 impediment to police investigating sexual assaults that
25 happened 40 or more years ago? By "impediment", I mean
26 does that mean you're not allowed to investigate them?

27 A. No, the matter is still classed as we can still take
28 action. It hasn't been statute barred or finalised and
29 yes, we can still - besides the obvious impediments about
30 the length of time and --

31
32 Q. And the difficulties associated with that?

33 A. -- people's memories. Yes.

34
35 Q. Do you recollect meeting this particular lady and the
36 circumstances in which you took the statement? I don't
37 want you to go into any details of what you recollect, but
38 do you recall the occasion?

39 A. Yes.

40
41 Q. Do you remember whether this lady said what prompted
42 her to come in and talk to you?

43 A. She had been encouraged by the church.

44
45 Q. You've got a strong recollection that that was the
46 origin of her coming to the police station?

47 A. Yes.

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Q. You note in paragraph 9 of your statement that she brought with her a document that she'd prepared with the assistance of an official of the Catholic Church and she gave you a copy of that, and it is annexed to your statement, annexure B. It is headed "Statement of complaint". Do you see that?

A. Yes.

Q. In terms of the information contained in it - and I don't need you to go into any detail about the content of the actual sexual abuses - in terms of the content of it, was the preparation of that document helpful for you in terms of being the investigative officer having these details already set out for you?

A. Yes.

Q. On the second page of the statement of complaint, there's a box about a third of the way down which asks whether the particular person making the complaint has notified the police and whether or not she intends to notify the police. Do you see that box on the second page of the complaint?

A. Yes.

Q. Had you seen a form like this before in your duties as a police officer?

A. That was the first time.

Q. And do you see above those two questions there's this comment:

I have been advised that if my complaint involves criminal behaviour, I retain the right to make my complaint to the police at any time.

A. Yes.

Q. As a serving police officer, do you think that's a good thing or a bad thing to have in a document of this nature where someone has come forward to, in this case, the Catholic Church to complain about having been sexually abused?

A. That's a good thing.

Q. Did you have a discussion in any more detail with this

1 lady as to exactly what the official of the Catholic Church
2 told her in terms of coming to see you or have I exhausted
3 your recollection in terms of what you remember about that?
4 A. Besides the other document that she gave me that
5 prompted her to go to the church, it's in my further
6 statement --

7

8 Q. We'll come to that.

9 A. Okay.

10

11 Q. Your recollection is that she brought another document
12 with her that prompted her to go to the church. It might
13 be good to turn to that now, if that's convenient. If
14 everyone could go to your statement of 19 June 2013, and
15 I think you may be referring to annexure A to that
16 document?

17 A. Yes.

18

19 Q. Do you see that's a counselling and support services
20 operation that was, at that time, funded by the Catholic
21 diocese of Maitland-Newcastle? Is that a reasonable
22 summary of the document that she brought with her?

23 A. Yes.

24

25 Q. From your point of view, as a serving police officer,
26 do you see advertisements of that nature as a good thing in
27 terms of people being prepared to or encouraged to report
28 matters such as sexual abuse to the police?

29 A. Yes.

30

31 Q. A helpful thing?

32 A. Yes, very helpful, yes.

33

34 Q. Turning back to your larger statement, and we'll keep
35 going through that if you don't mind, in paragraph 10 you
36 mention that you prepared a COPS event in relation to the
37 events that this lady reported to you and you've annexed
38 that to your statement. Before we turn to that document
39 and also your annexure C, which we'll come to, annexure A
40 is an entry in your duty book where you made various
41 records dated 11 - I'm sorry, it is a bit obliterated in my
42 copy. On the left-hand side, there are a number of entries
43 in annexure A. Do you see that, the extract from your duty
44 book? I'm now looking at the first larger affidavit. Yes,
45 that's the one.

46 A. Yes.

47

1 Q. Are you able to assist with the date at the top of the
2 copy you have?
3 A. I think it may be 8 October 1999.
4
5 Q. If we go back and look at the text of your statement,
6 you say in paragraph 8 that it is a copy of your duty book
7 for 8 October?
8 A. Yes.
9
10 Q. In that entry, you say that you obtained the statement
11 from [AE]. You made a - it looks like "Create COPS".
12 C-O-P-S?
13 A. Yes.
14
15 Q. -- in the third line. Can you explain what that
16 means?
17 A. "COPS" is an abbreviation of the Computer Operated
18 Police System, which is the online system that police use
19 to record matters that have been reported to us in ongoing
20 investigations and that's accessed throughout the sate.
21 All other police can see that.
22
23 Q. Is that a reference to the event report that you made
24 that's annexure D to your statement, or some other entry?
25 A. That was in relation to this matter.
26
27 Q. But the event report that you've annexed to your
28 statement, annexure D, is that, in effect, a COPS entry?
29 A. Yes.
30
31 Q. You go on to say what appears to be "Make inquiries
32 with Catholic Church and apply for Telstra check." Do you
33 see that?
34 A. Yes.
35
36 Q. Are you able to recollect now what inquiries you made
37 with the Catholic Church at the time?
38 A. Just through some - my memory has been prompted
39 through some records I kept at the time.
40
41 Q. So the inquiries you made with the Catholic Church and
42 the recollection that was prompted, was it in the nature of
43 a phone call or a letter or a fax, or what do you recall?
44 A. All three. I started with a phone call making some
45 telephone calls, inquiries. As it was with a lot of
46 organisations, they wanted a written request for
47 information, because you could be anyone on the telephone,

1 and I prepared a report requesting the information I wanted
2 in a letter, a report form, that I signed, which I also
3 faxed to the church.
4

5 Q. Can we have a look at your annexure D and see to what
6 extent that assists in informing us of the nature of the
7 inquiries you made on 8 October. I understand annexure D
8 is the event report that you have already mentioned you
9 prepared on 8 October?

10 A. Yes, the COPS event, yes.
11

12 Q. Then you outline certain details regarding the
13 particular sexual assault that [AE] had suffered?

14 A. Yes.
15

16 Q. There is no need to read out the details of it. Do
17 you see, in what appears to be the last paragraph above the
18 line of asterisks, the following:
19

20 *The Catholic Church at Newcastle have been*
21 *spoken to and the priest is still alive and*
22 *living in the Newcastle area. He is*
23 *currently out of the country and due to*
24 *return in the next few weeks. He is not*
25 *currently working as a priest due to other*
26 *alleged incidents such as this, but there*
27 *has been no formal complaint received by*
28 *the Police.*
29

30 Do you see that?

31 A. Yes.
32

33 Q. Are you able to recollect, first of all, whether that
34 entry or that part of that entry was made on the same day
35 as the rest of it; that is, 8 October 1999?

36 A. I'm fairly certain it was.
37

38 Q. And if it was made on a different day, would there be
39 some sort of different date appearing above that particular
40 part of the entry, in the normal course?

41 A. The COPS system did change at a later stage where,
42 once a narrative was written, it was locked in. At that
43 time, you could change your narrative, but I don't know
44 if - when the system became locked. I think it was perhaps
45 in the mid-2000s.
46

47 Q. Is that entry, appearing as it does as part of your

1 8 October events report, consistent with your memory that
2 you actually made some inquiries on the same day as this
3 lady coming in and giving you a statement?
4 A. Yes.
5
6 Q. I know this is difficult 14, 15 years later, but are
7 you able to recollect who you spoke to at the Catholic
8 Church at Newcastle?
9 A. I believe it was - I'd better check the list of names.
10 I do recall the person's name, yes. I made a record of it
11 on the orange envelope.
12
13 Q. The person was a person employed at the Catholic
14 Church?
15 A. Yes.
16
17 Q. Was it a male or a female?
18 A. It was a male.
19
20 Q. Are you able to recollect whether you phoned the
21 chancery office or some other part of the
22 Maitland-Newcastle diocese's services?
23 A. From a document, I believe it was the chancery at
24 Newcastle.
25
26 Q. And you believed that because that's to where you
27 directed your letter of the same date, which is annexure E
28 to your affidavit?
29 A. Yes.
30
31 Q. You don't put any particular name on the letter which
32 is annexure E. You just directed it to "bishop's
33 chancery". Are you able to assist with whether it was sent
34 by fax or to whom the actual letter was directed, given the
35 quite sparse address on the top left of annexure E?
36 A. I believe it was faxed.
37
38 Q. Did you make any particular plan regarding the
39 information that is included in your report to the effect
40 that "This particular person is not currently working as a
41 priest due to other alleged incidents such as this"? Did
42 you make a plan as to what else you would find out about
43 that?
44 A. I searched the COPS system to see if there was any
45 record on the police system and then I made an inquiry with
46 the Catholic Church.
47

1 Q. Where you say, "There's been no formal complaint
2 received by the police", that's something you found out by
3 following through an appropriate search of the COPS system?
4 A. There was nothing else on that matter. He was
5 recorded, but with a driver's licence but that was the only
6 matter.

7
8 Q. But the distinction I'm making is that extra bit of
9 information about "no formal complaint received by police"
10 is a reflection of your search, not something you were told
11 by the Catholic Church; is that right?
12 A. Yes.

13
14 Q. Thank you. I'm going to hand up to you a yellow
15 envelope. Because it has a number of phone numbers and the
16 identity of various people on it, I'm going to ask that you
17 don't read any of that material out at this stage.
18 A. Yes.

19
20 MS LONERGAN: I should tender it as a confidential
21 exhibit, Commissioner.

22
23 Q. I will tender it once you've identified it as the
24 document that you've been talking about. Just have a look
25 at that yellow envelope, please. Is that the
26 investigator's envelope cover that you've been referring
27 to?
28 A. Yes.

29
30 MS LONERGAN: Commissioner, I tender that as a
31 confidential exhibit.

32
33 THE COMMISSIONER: Thank you, Ms Lonergan. That document
34 will be admitted and marked confidential exhibit U.

35
36 **CONFIDENTIAL EXHIBIT #U ENVELOPE RE DENIS McALINDEN**
37 **"OFFENCE - CARNAL KNOWLEDGE - COPS EVENT E8026529" BY MARK**
38 **WATTERS**

39
40 MS LONERGAN: Q. We were just looking at annexure D,
41 which is your event report. You'll see under that line of
42 asterisks, and we've just been looking at the comment above
43 that line of asterisks --
44 A. Yes.

45
46 Q. -- there's some further information which appears to
47 relate to matters attended to later and a reference to

1 "Operation Peregrine". May we take it that's not an entry
2 that was made in 1999?
3 A. No.
4
5 Q. Was that an entry you made or was that made by
6 somebody else?
7 A. No, I made that.
8
9 Q. We'll come back to the circumstances in which you made
10 that entry, but is it correct that that was in 2005 - so
11 some years later?
12 A. Yes.
13
14 Q. When you look at that particular page on its own - and
15 I appreciate there's a more complete copy of this
16 particular event report later in your materials - do you
17 see at the bottom of the page it does suggest, on the face
18 of it, that the entry was created by Peter Fox from Central
19 Hunter. Do you see that at the bottom of annexure D?
20 A. Yes.
21
22 Q. Can you assist with why it looks like that?
23 A. I have a feeling that may be the continuing next page.
24 It might be the next narrative.
25
26 Q. But you're confident that the part about Operation
27 Peregrine was written by you?
28 A. Yes, I believe so.
29
30 Q. It does talk about yourself in the third person, if it
31 was written by you. That doesn't lead you to believe it
32 was written by somebody else?
33 A. That was a practice I would do because if another
34 police officer was reading that, if you said "The OIC will"
35 or "I will", well, then they've got out to another screen
36 to work out who that - who they're talking about.
37
38 Q. To work out who that is?
39 A. Yes.
40
41 Q. That would be the usual practice you would follow, to
42 refer to yourself as the person with whom certain other
43 matters were going to be taken up or pursued?
44 A. And because that date with "Peter Fox, 28 October
45 2005", these investigations for Peregrine were done in
46 August 2005.
47

1 Q. Just outline briefly, for the benefit of those at the
2 Bar table and in court, what Operation Peregrine was about?

3 A. There were a number of matters within the police
4 system where warrants had been taken out, such as police
5 like myself. At that time the practice was you would make
6 some inquiries to try and locate people. But, like myself,
7 you get transferred and a lot of matters were laying in
8 abeyance that weren't being followed through.

9
10 Peregrine was instigated to have dedicated police
11 search all the warrant holdings in different commands to
12 try and locate people to take further action against them.
13 They were the more serious matters of indictable offences,
14 armed robberies, sexual assault, break, enter and steals.

15
16 Q. The sexual assault as outlined to you by [AE] was
17 indictable offence?

18 A. Yes.

19
20 Q. We'll come back to more detail about Operation
21 Peregrine and what steps you took shortly. Could you just
22 have a look at annexure E, which is your letter that you've
23 given evidence to the effect of a recollection that you
24 faxed it to the bishop's chancery at Newcastle. You'll see
25 in your letter you talk about [AE] having come in and made
26 a formal statement and that she also outlined that her
27 mother and father were told by her about the sexual
28 assaults and this was brought to the attention of the
29 bishop. Did you make any inquiries with the bishop in 1999
30 as to whether he was the bishop in place at the time these
31 events occurred? Are you able to recollect?

32 A. Not from my memory, no.

33
34 Q. Are you able to recollect whether you made inquiries
35 as to whether it was a new bishop or a different bishop
36 from the 1950s? It may seem obvious that it wouldn't be,
37 but are you able to recollect?

38 A. No, I can't.

39
40 Q. You do, however, ask in paragraph 4 of your letter
41 whether there's any record of a letter allegedly sent to
42 [AE]'s family by the bishop about the incident. You also
43 note that both the parents of [AE] were, by that time,
44 deceased and they didn't seem to have a copy of the letter,
45 according to [AE]. Are you able to assist with whether you
46 ever received a copy of the letter from the diocese?

47 A. No, I didn't.

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Q. Do you recall having any other conversations with the diocese once this letter had been actually sent, such as a conversation where there was reference made to the contents of this letter?

A. I spoke to a person, whose name has been redacted, on the telephone regarding that letter.

Q. That person was an employee of the diocese, as you understand it?

A. Yes.

Q. Is that the person referred to as [UR60] on the next paragraph?

A. Yes.

Q. And that person was most helpful and stated that he had no recollection of any conversation with [AE]'s parents?

A. Yes.

Q. And that he would have remembered a conversation of that nature?

A. That's what he told me when I spoke to him on the telephone, yes.

Q. That implies, doesn't it, that you had a conversation with that particular person prior to sending this letter on 8 October.

A. Yes.

Q. Is that your usual practice, that you ring around and do as much as you can, hot on the heels of a complaint of this nature?

A. Yes, I - like exactly that, I did some - a number of inquiries before I sent the letter to try and bring together some inquiries made over the telephone.

Q. Was that swift action and those inquiries dictated by the severity of the offence or is that just your usual police practice as at 1999?

A. I guess it's like strike while the iron is hot. I might have had some spare time and, at that time, all detectives were carrying perhaps 10 or 12 cases, so I might have had the time on that day to spend as much time as I could on that, as well as it was a serious matter, of course, as well.

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Q. A serious matter of course because.

A. When I - I guess you become personally involved. [AE] was very, very upset and relating something that happened to her as a child and, at a personal level, I particularly wanted to see the matter through.

Q. It became clear to you, did it, from the conversation you recorded on your event report, that this particular priest was still alive and living in the Newcastle area?

A. Yes.

Q. Did you have any particular concern about the fact that this priest had allegations of this nature made against him and was still living in the Newcastle area?

A. Yes.

Q. And what were those concerns?

A. Well, in my experience, from other matters, that people don't stop at one.

Q. You have recorded in your second-last paragraph of your letter to the diocese, annexure E:

Police also request any assistance that may be offered with the current whereabouts of Father McAlinden.

Are you able to say whether you have you got any reply from the diocese that gave you that information prior to August 2005, which we'll come to shortly?

A. At the time I got - there was - the information I got verbally was that he was overseas and I didn't get anything written or any further correspondence from that time until 2005.

Q. You mentioned at the end that you can be contacted on the "above numbers" or your personal mobile number?

A. Yes.

Q. Was that your usual practice to provide your personal mobile number to organisations with whom you make inquiries about the whereabouts of a particular alleged offender?

A. No, it wasn't, but I guess that I was trying to emphasise the fact that I was pretty keen to get anything I could, and I still have that current telephone number as of today, so --

1
2 Q. I'll go back to the text of your statement, inspector.
3 You say in paragraph 12 of your statement that you can't
4 recall having received a response from the bishop's
5 chancery, but that you believe you may have received a
6 response because you've got a telephone number that you
7 didn't otherwise have. That's your belief, is it?
8 A. I've re-looked at that matter and that was my belief
9 that I have, since that time, been able to find some
10 further information that assisted my memory.
11
12 Q. That further information that assists your memory,
13 does that cause you to revisit your belief that you had at
14 the time you made this statement, that you received that
15 phone number from the diocese?
16 A. Yes.
17
18 Q. What is your current belief as to where you received
19 the information?
20 A. It was more recently I checked the police computer
21 system again and there was a driver's licence listing an
22 address at Garden Suburb.
23
24 Q. So it is now your belief that you used that address to
25 carry out further inquiries?
26 A. Yes.
27
28 Q. And that you weren't necessarily given any information
29 from the diocese regarding the location of McAlinden?
30
31 MR GYLES: I object to that question. The witness just
32 said he did get information from the diocese about the
33 location of McAlinden.
34
35 MS LONERGAN: I take my friend's point. I will withdraw
36 that question and ask the question I meant to ask.
37
38 Q. In addition to what you've already described, did you
39 receive any other information from the diocese to assist in
40 locating McAlinden?
41 A. Well, apart from they would ring me if they became
42 aware of his whereabouts, yes.
43
44 Q. You had no reason to expect that they would not do so?
45 A. Oh, I had every expectation that they would, yes.
46
47 Q. The conversations that you had with the representative

1 of the diocese - or was there more than one? There was the
2 male that you referred to in your letter. Was there
3 another person you spoke to as well from the diocese?
4 A. There was [UR60] that I spoke to.
5
6 Q. [UR60]?
7 A. Yes.
8
9 Q. Was there anybody else you spoke to at the diocese,
10 such as a clerical person or receptionist?
11 A. There was the person whose name is written on the back
12 of that orange envelope, the male person that I spoke with.
13
14 Q. That's in addition to [UR60]?
15 A. Yes.
16
17 Q. Were your conversations with that person cordial and
18 helpful --
19 A. Yes.
20
21 Q. -- from their point of view?
22 A. Yes. They were.
23
24 Q. And from the attitude evidenced to you in their
25 conversations, they were prepared to assist you in your
26 inquiries?
27 A. That's what they told me at the time, yes.
28
29 Q. Have a look at annexure F. You talk about this
30 particular document in paragraph 12 of your statement. You
31 say that it is a document setting out an inquiry you made
32 in relation to a particular phone number you were given and
33 the results of those inquiries. Was it usual police
34 practice at the time to see if you could track down a
35 person by use of a former phone number or current phone
36 number that they had?
37 A. Phone number and address, yes.
38
39 Q. So you had an address in terms of just a town, but no
40 more detail than that, according to annexure F?
41 A. Yes.
42
43 Q. And you followed through that inquiry on 8 October?
44 A. Yes.
45
46 Q. Then if you have a look at the next form document,
47 which appears to be an inquiry that was faxed to West

1 Australia - is that right?
2 A. I might just get you to indicate which one that is.
3
4 Q. Yes. The first page of annexure F seems to be a
5 Telstra inquiry with that phone number which I won't read
6 out.
7 A. Yes.
8
9 Q. Then if you turn over, there looks to be another
10 Telstra inquiry or, indeed, it may be the same request
11 except with some information on it, also dated 8 October
12 1999. Do you see it's got the reference number 8784 in the
13 top right corner?
14 A. Yes.
15
16 Q. So you see there are what appear to be fax
17 transmission reports on the top of that page?
18 A. Yes.
19
20 Q. Does that suggest that you forwarded that request
21 interstate or received information from interstate?
22 A. That was the fax going out and I've got the reply back
23 on 14 October, back from our intelligence section.
24
25 Q. The name of the holder of the phone service at that
26 time has been redacted out. You'll see the letters [UR44]
27 and [UR45]. Do you see that?
28 A. Yes.
29
30 Q. You don't need to look up the identity of those
31 persons, but the term "UR" is something this Commission
32 uses where that person is unrelated to anything which we're
33 examining on the Special Commission of Inquiry. Is the
34 position that those persons were then the current owners of
35 that particular phone number, so that inquiry hit a dead
36 end there?
37 A. That's right, yes.
38
39 Q. Did you call those persons and ask whether they knew
40 McAlinden?
41 A. Yes.
42
43 Q. Is it your recollection they didn't know him?
44 A. No, they had no recollection who he was.
45
46 Q. On the next page of annexure F is a Centrelink
47 request. Again, is that a format that police use to

1 determine the current address of any perpetrator or person
2 they need to interview?
3 A. If they were on some form of benefit, yes.
4
5 Q. Did someone tell you that this particular person was
6 likely to be on benefit?
7 A. I think I just deducted that. I couldn't imagine a
8 priest's pension being well enough to survive on its own,
9 so --
10
11 Q. So you determined that it would be a good idea to do a
12 Centrelink request?
13 A. Yes.
14
15 Q. And the other option there is a Medicare request or an
16 Australian Taxation Office request. There's no cross next
17 to "Medicare request". Was there any reason you didn't
18 think a Medicare request would give you any useful
19 information?
20 A. Oh, Centrelink has proved the most successful, in my
21 experience.
22
23 Q. I don't want you to read out the address on that
24 actual document, but was that an address that you had been
25 provided with by the diocese, are you able to say?
26 A. No, that address came from the police Roads and
27 Traffic Authority, for a driver's licence at that time.
28
29 Q. Was the driver's licence current at the time you made
30 this inquiry or was it an older one?
31 A. It was current.
32
33 Q. Annexure G seems to be a letter written to Centrelink.
34 Was that part of your inquiry to find out information about
35 the location or current address of McAlinden?
36 A. Yes.
37
38 Q. Was it the usual practice that that had to be done by
39 way of letter as well as the form that you've completed?
40 A. It had to fit a form of offence that was a serious
41 matter for them to access their records at Centrelink - so,
42 yes.
43
44 Q. Down the bottom, that's your signature, is it, as duty
45 officer, or is that somebody else's?
46 A. No, that's - it had to be authorised by a commissioned
47 officer, Peter Matthews. My signature is just above that.

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Q. I understand. That's because these inquiries aren't made as a matter of course; you have to have a particular reason for pursuing that confidential information about a potential witness or perpetrator?

A. Yes.

Q. Does the person that you pursue the information about have to be suspected of a criminal offence to go through this path or can it also be a witness?

A. Generally offenders or suspects, yes.

Q. There you set out some details about the nature of the offence. Is that to indicate the importance of locating this particular suspected offender?

A. And to fit their criteria so they could access their records, yes.

Q. Are you able to say whether you received any reply to that request that you made on 11 October 1999?

A. I don't remember. I don't believe I did because it would have been in the envelope if I had.

Q. So your usual practice in terms of keeping together requests and papers and statements relating to a particular criminal investigation is to store it all together in that yellow envelope that we've tendered as a confidential exhibit?

A. Yes.

Q. There is one thing I should have taken you to, just to confirm for the benefit of those who don't have a copy of your statement: annexure C to your statement is a formal police statement that you took from [AE] on 8 October 1999?

A. Yes.

Q. In paragraph 15 of [AE]'s statement, she sets out some details regarding her mum and dad going to the bishop's house in Newcastle, the big house on the hill, and she sat in the car while her mum and dad went in to see the bishop?

A. Yes.

Q. Why did you include that detail in her statement?

A. In matters like this, you would often look for what we call as police corroboration, because often offences happen when there are only two people present - the offender and the victim - so we look for other matters to corroborate

1 what the complaint is. Something like that would be very
2 important as far as some form of corroboration that other
3 people's memories would corroborate what [AE] had told me.
4

5 Q. Was that why, amongst other reasons, you were asking
6 the diocese whether they had any record of the letter that
7 [AE] said was sent to her parents?

8 A. Yes.
9

10 Q. Annexure I to your statement, which you talk about in
11 paragraph 18 of your statement, is a case report. Can you
12 outline the difference between a case report and an event
13 report?

14 A. The starting point for all reports to police is a COPS
15 event, an event report. Then, if you're going to carry out
16 more further investigations, a case is created within the
17 COPS event. So the case is where you can put a lot more
18 information and it's a bit of a closed system that other
19 police don't have access to.
20

21 Q. With the case report, navigating through where it
22 started, should we turn back to the page that's numbered 26
23 in the bottom right corner?

24 A. Yes.
25

26 Q. That seems to be the first entry, and the one that was
27 made by you with an event reference number on the right
28 side of it?

29 A. Yes.
30

31 Q. In handwriting under it is "8 October 1999 Watters";
32 is that your writing?

33 A. That's my writing, yes.
34

35 Q. You have written that on there to delineate which bits
36 you wrote and which bits others wrote?

37 A. Yes.
38

39 Q. You did that at the time you prepared your statement
40 for the Commission or you'd done it before?

41 A. It was when I spoke with the solicitors representing
42 the police.
43

44 Q. Do you see on page 27 of your statement you've written
45 next to the part that deals with Operation Peregrine the
46 words "Update 28 July 2005". Did you interrogate the
47 system in some way so that you knew that was the correct

1 date when you made that entry?
2 A. Yes.
3
4 Q. It marries up with the entry about halfway down the
5 page next to the word "Actions", where it says, "discussed
6 to see if she wants to go ahead with..." and then it says
7 P-R-O-S-E, but we can assume that's prosecution?
8 A. Yes.
9
10 Q. That's dated 28 July 2005?
11 A. Yes.
12
13 Q. I should have asked you this earlier, but when you
14 initially interviewed [AE], did you do this with any other
15 officer present or did you just do it yourself?
16 A. Her husband was present.
17
18 Q. You were, in effect, the officer in charge of the
19 investigation relating to her complaint?
20 A. Yes.
21
22 Q. Did Detective Chief Inspector Fox have a role in that
23 part of your work?
24 A. He was my supervisor at the time.
25
26 Q. Do you recollect discussing [AE] with him at that
27 time, late 1999?
28 A. It would have been in terms of, as my supervisor,
29 telling him everything that I was doing.
30
31 Q. You will see in the page we're looking at, which is
32 page 27 of your statement, just above halfway down the
33 page, there's the word "Case N-A-R-R"; is that "Case
34 narrative"?
35 A. Yes.
36
37 Q. And then this appears:
38
39 *[AE] contacted me this date and has now*
40 *made a retraction statement and does not*
41 *want any further police investigation, as*
42 *the matter was giving her too much stress.*
43
44 A. Yes.
45
46 Q. Next to that in your handwriting I believe is:
47

1 2 February 2000 Watters.

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A. Yes.

Q. There's a "C" event number there. Does the "C" event number mean you logged that in the COPS system, that there had been this change to the circumstances?

A. The "C" relates to a case narrative as opposed to an event narrative.

Q. When you say that she made a retraction statement, by that do you mean, given what you say afterwards about the matter giving her too much stress, that [AE] didn't say "I've made it up. It is all untrue", but just that she couldn't cope with continuing on with the police action?

A. That's correct; the matter was true, but she wanted to stop the police action.

Q. Did she come and see you about this or was it a phone call, or are you unable to say?

A. I believe it was a phone call.

Q. In your experience, does that happen on occasion when people are dealing with historical sexual offences, that they find it difficult to withstand the process or delays in terms of determination of these types of matters?

A. Yes.

Q. Did you ask her whether there was any particular reason motivating her action or did you just take it at face value?

A. I did know that she had some other health issues and this was compounding those health issues.

Q. Did you ask her, or did she tell you that she'd had any interface with the Maitland-Newcastle diocese about the matters she'd raised in her police statement or statement of complaint to the diocese? By "interface", I mean other discussions or interface with other persons at the church?

A. Not that I'm aware of.

Q. You will see that, on page 26 of your statement, there's a couple of entries which appear to have next to them a date and the word "Fox" written?

A. Yes.

1 Q. Does that mean you have interrogated the system and
2 worked out those entries had been put in by Detective Chief
3 Inspector Fox?

4 A. Yes.

5

6 Q. The first one in time seems to be 28 October 2005?

7 A. Yes.

8

9 Q. Is that right?

10 A. Yes.

11

12 Q. The additional narrative is:

13

14 *Information from Helen Keevers is that the*
15 *priest sought in this matter is suffering*
16 *from Cancer - possible terminal. He could*
17 *now be found at ...*

18

19 And then there's an address and a phone number for
20 Ms Keevers?

21 A. Yes.

22

23 Q. And a record that that lady then worked at the
24 Catholic Church child abuse unit?

25 A. Yes.

26

27 Q. Given the date, October 2005, are you able to assist
28 with what you had been doing, if anything, prior to October
29 2005 in relation to [AE]'s complaint and/or McAlinden's
30 location?

31 A. When Operation Peregrine was instigated in June-July
32 2005, they were able to do a Centrelink check and located
33 McAlinden living in Western Australia. They generated a
34 report and would have searched the police computer system
35 and saw that I was the officer in charge of the matter from
36 1999 and had taken out a warrant for his arrest. They
37 contacted me in the form of a report suggesting that
38 I would make further investigation with that further
39 information as to his location.

40

41 Q. At that time, because of your transfer to other
42 locations, can we take it that you did not have direct
43 access to the investigation file at that time?

44 A. It had been archived, yes.

45

46 Q. So you sought that file, did you, so you could do some
47 further things in relation to the new information that had

1 come to hand?

2 A. Yes.

3

4 Q. I should have asked you this earlier, but annexure H
5 to your statement is a warrant that was issued by you on
6 1 December 1999?

7 A. Yes.

8

9 Q. And it was specifically in relation to [AE]'s
10 complaint?

11 A. Yes.

12

13 Q. The usual course with warrants of that nature, how
14 were they then pursued in terms of location of the
15 offender, given that all that's on it is a last-known
16 address?

17 A. It goes on to the police computer system and any
18 interaction with police, such as stopping for a random
19 breath test perhaps, or coming across the person, or if
20 there's other police investigating the matter, they would
21 see that there's a warrant in existence and would contact
22 me if I was still within the police.

23

24 Q. At the same time or shortly after this, do you recall
25 organising for a PASS alert to be put in place relating to
26 McAlinden?

27 A. Yes.

28

29 Q. You deal with that in your second statement in a bit
30 more detail. Could you just outline for the benefit of
31 those in court the role of a PASS alert and why you applied
32 for one in this particular case?

33 A. A PASS alert is a passenger alert system. When you go
34 through immigration, when you're flying out the country,
35 they run the passport from the machine, and a PASS alert
36 would alert that the person was wanted on a warrant. What
37 would happen is they would detain the person, contact the
38 Federal Police, and then, perhaps the same day or the next
39 day, contact me with the NSW Police to come and arrest the
40 person.

41

42 Q. Authorities at the airport are able to detain a person
43 from leaving the country based on a PASS alert?

44 A. The PASS alert had to be backed up by the warrant.
45 They couldn't detain. There's different levels of a PASS
46 alert, but with a warrant in existence, that would be
47 detain and hold.

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Q. A warrant for an offence of the nature of the one you've executed the warrant for, would that be a detain and hold type of offence?

A. Yes.

Q. And with a PASS alert, as at 1999 and 2000, if we can just look at that period to start with, would that have the effect of preventing, or that action you've referred to having been taken if the person was leaving the country or coming in - both?

A. Both, yes.

Q. Are you able to assist with whether the PASS alert in relation to McAlinden was in fact made operative or not?

A. From more recent inquiries it appears that had it hadn't actually been enacted.

Q. Are you able to say why that happened?

A. It appears it may have been an administrative breakdown, perhaps partially my fault, perhaps the system. We used to use fax machines, because it was prior to emails. This was perhaps one of one or two at that time I had ever done, so it was a new process to me. I believe I faxed the form away thinking "Okay, happy days, it's in place", but more recent inquiries appears that it wasn't in place.

Q. In the normal course, how long would a PASS alert last if you put it in place in late 1999?

A. For six months.

Q. Six months. Then at the end of six months, is there a renewal requirement or does it lapse or what happens?

A. It lapses, which I only found out, I guess, more recently as well.

Q. Were you under the impression at the time that you put a PASS alert on and it stays operative until you take it off?

A. Yes, I thought it was in perpetuity, yes.

Q. Did you discuss with anyone supervising you about how to go about putting the PASS alert on and how it should be managed?

A. I would have discussed it with Peter Fox as my supervisor, yes.

1
2 Q. Do you have any particular recollection of the
3 discussion or you're just surmising it would have been
4 Peter Fox because he was your supervisor at the time?
5 A. Probably surmising, as my supervisor, that I would
6 discuss all my current matters and matters that I was going
7 to suspend if I couldn't take it any further.
8
9 Q. You were a senior constable at the time?
10 A. Yes.
11
12 Q. Detective Chief Inspector Fox, what rank was he in
13 late 1999?
14 A. A detective sergeant.
15
16 Q. Did you have any other detective sergeants supervising
17 you at the time?
18 A. Yes. There was Detective Sergeant Mitchell and
19 Detective Senior Sergeant Pollock.
20
21 Q. Is it possible you discussed the matter with either of
22 those gentlemen?
23 A. Yes.
24
25 Q. By "that matter", I mean the PASS alert procedure.
26 When I say "discuss that matter", I just want to confine
27 your answer to the PASS alert procedure?
28 A. I could have, yes.
29
30 Q. You may well have?
31 A. Yes.
32
33 Q. Just before we leave annexure I, which is the case
34 report, are there any other entries there of yours relating
35 to the [AE] complaint?
36 A. The last entry appears to be, in July 2005.
37
38 Q. And that's the one we've already looked at?
39 A. Yes.
40
41 Q. Is that right?
42 A. Yes.
43
44 Q. That just talks about what action was going to be
45 taken relating to Operation Peregrine?
46 A. Yes.
47

1 Q. Were you the officer responsible for taking that
2 action at that time in July 2005?

3 A. Yes.

4

5 Q. Did you have any line of command to Detective Chief
6 Inspector Fox at that time or did he have any supervisory
7 role of you at that time?

8 A. No.

9

10 Q. So your supervisor at that time was DCI Humphrey, is
11 that right, or are you not able to say?

12 A. Yes. He was technically in charge of all
13 investigations as the crime manager, but my actual line
14 supervisor as such was Inspector Peter Matthews.

15

16 Q. You say in your entry that we've just been looking at,
17 28 July 2005 that further inquiries were made with the
18 victim in this matter regarding prosecution or not. She
19 said she would like to discuss it with her husband over the
20 weekend and would discuss it further with you on Monday.
21 Then you make this comment:

22

23 *If the victim decides to go ahead, then*
24 *further discussion will be held with Crime*
25 *Manager Humphrey.*

26

27 Do you see that?

28 A. Yes.

29

30 Q. Was that because further action would require some
31 sort of interstate involvement given the offender was
32 located in Western Australia?

33 A. That's right, yes.

34

35 Q. And to take out an interstate warrant, you would need
36 your supervisor to okay that course?

37 A. Yes.

38

39 Q. Now, in paragraph 19, you talk about how Operation
40 Peregrine prompted certain warrants to be pursued and
41 you've given a bit of evidence about that. Do you see
42 annexure J to your affidavit contains a request to
43 Centrelink with some information about McAlinden in June
44 2005?

45 A. Yes.

46

47 Q. That predates the information from Ms Keevers which

1 came, as I understand the evidence, in August 2005? Does
2 that accord with your recollection?

3 A. Yes.

4

5 Q. This information that's contained in annexure J
6 referred to a current address. There's no need to state
7 the address, but was that the address at which McAlinden
8 was ultimately located?

9 A. Yes.

10

11 Q. So your action regarding further pursuit of McAlinden
12 didn't wait or didn't need to wait for the information that
13 came from the diocese. You were proceeding based on the
14 information obtained by Peregrine; is that right?

15 A. Yes.

16

17 Q. Annexure K to your statement is a recommendation that
18 came from Operation Peregrine with some details about the
19 location of McAlinden for you to pursue?

20 A. Yes.

21

22 Q. And that's dated 29 June 2005?

23 A. Yes.

24

25 Q. You did do certain things to pursue McAlinden?

26 A. Yes.

27

28 Q. We will come to those now. In paragraph 22 of your
29 statement, you talk about having a communication with a
30 lady - I shouldn't say "a lady" - a person called
31 Pat Brown?

32 A. Yes.

33

34 Q. Was that a male or female?

35 A. Female, I believe.

36

37 Q. That person worked for something called the
38 Professional Standards Office of the Catholic Church?

39 A. Yes.

40

41 Q. Who told you that that was a person who might be able
42 to assist you with some information?

43 A. I just rang the Catholic Church back to see if there
44 was any more information. What I was doing was trying to
45 get some further information to support my extradition
46 application to travel to Western Australia.

47

1 Q. Was that because you had got the information back in
2 1999 that this perpetrator may have had similar offences,
3 at least known to the Catholic Church although not to the
4 police?

5 A. Yes.

6

7 Q. Is there any reason why you didn't pursue those
8 matters back in 1999? I think you may have already
9 answered this question, so forgive me if I'm going over old
10 ground. Was there any reason why you didn't pursue it with
11 the Catholic Church back in 1999?

12 A. What my general practice was in those days was to
13 arrest the person and then get further information
14 following the arrest.

15

16 Q. With an extradition application for an interstate
17 removal of a person, is it helpful to have further offences
18 rather than just one?

19 A. Yes.

20

21 Q. So that would increase your prospects of being able to
22 extradite an alleged perpetrator?

23 A. Yes.

24

25 Q. In annexure L, you set out an application for the
26 extradition of McAlinden?

27 A. Yes.

28

29 Q. I don't need you to go into any details about what
30 else you've included in there regarding McAlinden's known
31 offending history, but if I can just take you through it
32 this way: you found out information regarding someone
33 called [AC]?

34 A. Yes.

35

36 Q. You mention that about halfway down the first page of
37 the extradition application. You found out about [AC] from
38 talking to the Professional Standards Office. Was that the
39 position?

40 A. Yes.

41

42 Q. There's also a further complainant [AF] that you refer
43 to. Do you see that?

44 A. Yes.

45

46 Q. And [AF], how did you find out about her, are you able
47 to say?

1 A. When I got my orange folder back out of archives,
2 I started looking on to the police computer system and
3 I saw that, when I had suspended the matter in early 2000,
4 subsequently another person had come forward and made a
5 report to Lake Macquarie police.
6

7 Q. Were you able to get into contact with [AF] or did you
8 simply state the information that was already available to
9 the police in the form of an existing police record?

10 A. I didn't speak with [AF] but I spoke with
11 Jacqui Flipo.
12

13 Q. Jacqui Flipo was the officer managing [AF]'s
14 particular complaint against McAlinden?

15 A. Yes.
16

17 Q. By the time you prepared the application for
18 extradition, which was, it appears, September 2005, you had
19 already interviewed [AC]?

20 A. Yes.
21

22 Q. Did you have any conversations with anyone at the
23 Catholic diocese of Maitland-Newcastle about your intention
24 to extradite McAlinden?

25 A. I don't think so, no.
26

27 Q. If you have a look at annexure M to your statement,
28 which is a series of emails between you and Rosanna Harris.
29 Rosanna Harris was an employee of the Professional
30 Standards Office of the Catholic Church; is that right?

31 A. Yes.
32

33 Q. She was of assistance in providing you with
34 information regarding McAlinden?

35 A. Yes.
36

37 Q. I think, if we turn to the last email, which is on
38 page 44, and correct me if I've got this wrong, but it
39 looks like you received a message from a Pat Brown and then
40 it's got, "CP&SCS"?

41 A. Yes.
42

43 Q. That person, as you understood it, worked for the
44 Professional Standards Office of the Catholic Church?

45 A. I believe they're a police officer now. Just by the
46 telephone number, there is an Eaglenet, which is an
47 internal police telephone number.

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Q. Does it appear that Pat Brown actually gave you some information to the effect that it may be worth while contacting Michael Salmon at the Catholic Church Professional Standards Unit?

A. Yes.

Q. Is that the origin of that?

A. Yes.

Q. Then you appear to have sent a email, if you turn to the previous page, page 43, to the PSO, Professional Standards Office?

A. Yes.

Q. And that you've got a warrant out for the arrest of McAlinden and that you were hopeful to speak to any victims and let them know you were going to Western Australia to interview McAlinden?

A. Yes.

Q. You also asked whether they had any records relating to complaints about McAlinden?

A. Yes.

Q. At that time - that is, August 2005 - was that standard practice by that time that you could contact the Professional Standards Office and obtain information regarding, potentially, other victims of a perpetrator or obtain other information from the Professional Standards Office about a perpetrator, an alleged perpetrator?

A. The information I got from the police officer in our intelligence section said I could contact them.

Q. Did you know that before you spoke to Pat Brown, that you could go about things that way and get information from the Catholic Church Professional Standards Office in that way?

A. No. Like as per my previous inquiries were directed to the chancery, I didn't know about the Professional Standards Office.

Q. Was this the only Catholic priest allegation of sexual abuse that you had been dealing with at that time, August 2005?

A. Yes.

1 Q. So you hadn't had any previous contact with the
2 Professional Standards Office in any other role or
3 capacity?
4 A. No.
5
6 Q. And you hadn't been looking at sexual abuse
7 allegations about any official of the Catholic Church
8 prior?
9 A. No.
10
11 Q. Did you find your contact with the Professional
12 Standards Office helpful and forthcoming, or otherwise?
13 A. Yes, very forthcoming. They sent me through documents
14 and contact details of other people.
15
16 Q. An email of 1 August 2005 from Ms Harris suggests that
17 she confirmed the PSO held three files relating to
18 McAlinden. Do you see that?
19 A. Yes.
20
21 Q. I don't want you to read the rest of it out, but it
22 notes that one complaint didn't go to a formal complaint
23 under Towards Healing but the other two did?
24 A. Yes.
25
26 Q. Do you see that?
27 A. Yes.
28
29 Q. Then you pursued some other matters with her including
30 whether [AC] ever reported her matter to the police or
31 required any police investigation. Why did you ask that
32 question specifically?
33 A. Because I couldn't see anything on our computer system
34 that she had ever reported it to police.
35
36 Q. Was there anything said that you recollect by the
37 person from the Professional Standards Office to lead you
38 to the belief that she may have taken the matter to the
39 police?
40 A. Only from the email to say they can change their mind
41 at any point in time, so --
42
43 Q. All right. When you say "can change their mind at any
44 point in time", you're talking about Ms Harris's email to
45 you later on 1 August where she outlines how Towards
46 Healing works?
47 A. Yes.

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Q. In terms of them being able to report to the police?

A. Yes.

Q. Ms Harris actually raises with you, it appears in this email, the following:

... she also specifically stated --

This is [AC] --

that her experience could be used in corroboration should other complaints of criminal behaviour be made against McAlinden.

Do you see that?

A. Yes.

Q. Was that the first time that you were made aware that [AC] was prepared to offer that support for any other complainant?

A. Yes.

Q. Was that information that, as a police officer, was helpful in pursuit of your investigation and/or arrest of McAlinden?

A. Yes, absolutely, yes.

Q. Would it have been helpful to have had that information earlier in terms of your investigation that you were conducting?

A. Yes, it would have been.

Q. If that information had been volunteered to you in 2002, would that have led to you changing the progress or taking any different steps in the investigation of [AE]?

A. As I'd taken out the warrant and it was lying in waiting, as such, if something had prompted, like further information coming through, I would have taken a bit more of a vigorous look to try to locate the person McAlinden.

Q. Turn to the previous page, which is page 42 of your statement. You mention on 1 August at 5.33pm that you've been in touch with [AC] and spoken with her. So it looks like on the same day you started this chain of emails, you've actually made contact with [AC] already?

1 A. Yes.
2
3 Q. And she was going to think about what she wants you to
4 do and to digest the information that McAlinden had been
5 located. Do you recall this conversation with [AC]?
6 A. Yes.
7
8 Q. Did she tell you anything further about her interface
9 with the Catholic diocese of Maitland-Newcastle, in
10 particular about police assistance or cooperation? If you
11 can't remember anything, please just say so.
12 A. Just the process she'd been through, that's all.
13
14 Q. There's a further email in the email trail we've been
15 looking at from Ms Harris on 2 August to you where she
16 mentions that the process of the Professional Standards
17 Office is to contact complainants to let them know police
18 are investigating other matters, whether they've been
19 through Towards Healing or not. Did you know prior to
20 receiving that piece of information from Ms Harris that
21 that was an information source or contact source available
22 for other complainants against perpetrators or alleged
23 perpetrators of the Catholic Church?
24 A. I'm sorry, can you say that again?
25
26 Q. That was a terrible question. I'll start again.
27 Prior to seeing that email from Ms Harris, did you know how
28 the Professional Standards Office worked?
29 A. No, I had no idea.
30
31 Q. Did you know that they sometimes had information on
32 their systems which could assist investigations you were
33 carrying out where it involved priests of the Catholic
34 Church?
35 A. Yes, she told me that, in the email dated 1 August,
36 there was other people, yes
37
38 Q. That was news to you at that time?
39 A. Yes.
40
41 Q. Can we take it from your earlier answers, that you
42 hadn't had to go down that path in terms of any Catholic
43 Church related perpetrators before?
44 A. Never had, no.
45
46 Q. The information in the email of 2 August, about
47 halfway through the email from Ms Harris, includes mention

1 of [AL] and an [AK] where they had minimal information
2 because those particular persons had indicated that they
3 were not willing to speak to the police about it?

4 A. Yes.

5

6 Q. Do you see that? I don't want you to tell me the
7 details of what you found, if anything, about those
8 particular two persons, but did you contact those two
9 persons - and just have a look at the pseudonym list if you
10 wouldn't mind - [AL] and [AK]? Don't tell me the content
11 of any conversation you had with them, but just whether you
12 contacted them?

13 A. No, I didn't contact them.

14

15 Q. Inspector, the date that appears in that entry
16 regarding [AL] and [AK] was that the allegations were made
17 in 1999. Do you see that?

18 A. Yes.

19

20 Q. And then you see a little further down, there's a
21 comment:

22

23 *A copy of the information provided by the*
24 *then PSO Director to the then CPEA on*
25 *24 August 1999 is attached.*

26

27 Do you see that?

28 A. Yes.

29

30 Q. Do you remember now what was attached? Don't tell me
31 the content of what was attached, but do you remember
32 whether it was a report or a note or what was attached
33 regarding [AL] and [AK]? If you don't remember, please say
34 so?

35 A. No, I don't remember.

36

37 Q. Did you form an understanding based on what you were
38 told in this email by Ms Harris that [AL] and [AK] were not
39 prepared to talk to you about matters anyway?

40 A. That's right.

41

42 MR GYLES: While my friend is on that topic, it might be
43 helpful to identify what the CPEA is. I'm not sure whether
44 my learned friend has done that.

45

46 THE COMMISSIONER: Yes, thank you.

47

1 MS LONERGAN: Q. Was the CPEA the Child Protection
2 Enforcement Agency?
3 A. Yes, part of the police, yes.
4
5 Q. Was that a precursor to the Sex Crime Squad of the
6 State Crime Command, in effect?
7 A. Yes.
8
9 Q. Was that an organisation that at this time, at least,
10 to your knowledge, collected intelligence regarding alleged
11 perpetrators of, amongst other things, sexual abuse of
12 children?
13 A. Yes.
14
15 Q. You contacted Pat Brown at the CP&SCS. Was that part
16 of the same unit or something different?
17 A. I think CP is Child Protection and Special Crime
18 Services, I think, but I don't know if they were the same
19 or not.
20
21 Q. So that would be another version of the same sort of
22 thing as the CPEA --
23 A. Yes.
24
25 Q. -- does that sound reasonable? Did you know in 2005
26 that that body, or those bodies, could be a source of
27 information regarding other victims of sexual abuse on the
28 part of Catholic priests, or anyone for that matter?
29 A. Yes.
30
31 Q. Did you understand there to be a type of
32 intelligence-gathering process that may allow you as a
33 police officer to get details to go back and investigate
34 historical allegations of sexual abuse?
35 A. Yes.
36
37 Q. Did you understand at the time that some of that
38 information at least came directly from the Professional
39 Standards Office --
40 A. I didn't know that at the time, no.
41
42 Q. -- of the Catholic Church? Did you come to learn that
43 that was the arrangement?
44 A. Yes, through these emails, yes.
45
46 Q. In paragraph 21, you talk about having a further
47 discussion with [AE] about what she wanted you to do given

1 that McAlinden's whereabouts had been ascertained and that
2 she wanted some time to think about her position?

3 A. Yes.

4

5 Q. That's not unusual in your experience with victims of
6 sexual assault?

7 A. I like to give them a bit of control and - you know.

8

9 Q. In paragraph 23, you talk about your conversation with
10 [AC] and her preparedness to make a statement that could
11 assist as a cooperative witness for [AE]; is that the
12 position?

13 A. Yes.

14

15 Q. Did you talk to [AC] about whether the events that
16 happened to her at the hands of McAlinden were in fact
17 criminal offences, do you recollect?

18 A. Yes, I did.

19

20 Q. And she still wished to be corroborative of another
21 person as opposed to bringing her own charges, on your
22 understanding?

23 A. That's right.

24

25 Q. Was the type of information she provided potentially
26 helpful for any prosecution that you may have proceeded
27 with against McAlinden?

28 A. Yes.

29

30 Q. And why is that?

31 A. It outlined a - well, it was a criminal offence, but
32 like you said, she didn't want to progress with it, and
33 I took a statement from her and she was prepared to give
34 evidence.

35

36 Q. Her being prepared to give evidence, how was that
37 evidence helpful in terms of securing a conviction of
38 McAlinden potentially?

39 A. It just goes to investigative practices that you would
40 show what police call as grooming and, like similar fact
41 evidence, whereas it corroborates [AE] in that the offence
42 happened to her on her own, but the offence with [AC] was a
43 similar thing, so it goes in support of each other.

44

45 Q. You used the term "grooming". Annexure Q to your
46 statement is a letter that [AC] provided you that was
47 written to her by McAlinden. Is the content of that letter

1 a type of grooming behaviour?
2 A. Yes. It takes a number of forms. There's letters
3 like that; there's interest, contact, like as in the
4 statement from [AE], the driving in the motor vehicle, like
5 a lot of interest, I guess, coming from a priest in those
6 days would have - in a small girl's mind would have made
7 them feel important.

8

9 Q. In your statement, you refer under the heading
10 "Application for extradition of McAlinden", to having made
11 some further inquiries about the precise whereabouts and
12 having a conversation with a Detective Senior Constable
13 Grono, in Western Australia, and you mentioned that in
14 paragraph 28 of your statement?

15 A. Yes.

16

17 Q. Is that the usual practice that you'd talk to an
18 officer in the location near where the perpetrator had been
19 located?

20 A. Yes.

21

22 Q. Detective Grono advised you that he had been to see
23 McAlinden and that McAlinden was suffering from advanced
24 cancer and only had a short time to live?

25 A. Yes.

26

27 Q. And you recall that conversation?

28 A. Yes, very strongly, yes.

29

30 Q. Detective Grono told you that McAlinden said that he
31 had been advised by McAlinden word to the effect, "I beat a
32 charge in Western Australia and I'll beat this one too."

33 A. Yes.

34

35 Q. You recall that statement, do you?

36 A. Very, very clearly, yes.

37

38 Q. Why is that? Why do you recall it?

39 A. It just made me angry, the gall of the man to suggest
40 that, you know, so --

41

42 Q. Then afterwards you had a conversation with [AE] about
43 what had happened?

44 A. Yes.

45

46 Q. And she indicated to you in her conversation the
47 following: that if McAlinden was dying of cancer, then he

1 could be dealt with by a higher authority.

2

3 A. Yes.

4

5 Q. Again, you recall that particular statement by that
6 lady?

7 A. Yes.

8

9 Q. And she communicated to you that she didn't wish the
10 matter to continue, given that circumstance?

11 A. Yes.

12

13 MS LONERGAN: Commissioner, is that a convenient time?

14

15 THE COMMISSIONER: Yes, thank you, Ms Lonergan. We will
16 resume at 2 o'clock.

17

18 **LUNCHEON ADJOURNMENT**

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1 **UPON RESUMPTION:**

2

3 MS LONERGAN: Q. Inspector, would you assume you're on
4 your former oath?

5 A. Yes.

6

7 Q. I want to ask you a question about something that
8 happened before the luncheon adjournment, and that was the
9 identity of Pat Brown. Do you recall that, in your
10 statement in paragraph 22, you have mentioned that you
11 thought your communication with Pat Brown was via the
12 Professional Standards Unit of the Catholic Church. Do you
13 see that in paragraph 22 of your first affidavit?

14 A. Yes.

15

16 Q. To be absolutely clear, you now wish to correct
17 paragraph 22 to the effect that you are now confident that
18 Pat Brown was a police officer?

19 A. That's right, yes.

20

21 Q. You prepared a second statement, with the assistance
22 of your lawyers, dated 19 June 2013?

23 A. Yes.

24

25 Q. Do you see in paragraph 5 of that statement, you
26 mention that [AE] came to the Maitland police station on
27 9 October 1999?

28 A. Yes.

29

30 Q. You, I take it, wish to correct that to 8 October
31 1999?

32 A. That's correct, yes.

33

34 Q. We're going to deal with that statement briefly,
35 inspector. You annexed to this statement as annexure A an
36 advertisement which appeared in the print media and you've
37 given some evidence to the effect that understood this to
38 be the prompt for [AE] coming in to see you?

39 A. Yes.

40

41 MS LONERGAN: Before we go into a bit more detail about
42 that statement, I should tender both statements
43 Commissioner. The first being the affidavit dated 14 May
44 2013.

45

46 THE COMMISSIONER: Yes, the witness's affidavit of 14 May
47 2013 will be admitted and marked exhibit 47.

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EXHIBIT #47 AFFIDAVIT OF DETECTIVE INSPECTOR WATTERS DATED 14/05/2013

MS LONERGAN: And the second statement as well, Commissioner I might as well tender that.

THE COMMISSIONER: Exhibit 48. Thanks, Ms Lonergan.

EXHIBIT #48 STATEMENT OF DETECTIVE INSPECTOR WATTERS DATED 19/06/2013

MS LONERGAN: Q. The article we were looking at before, the extract from the newspaper, you've written various things around that. These are the notes that you made when you carried out certain early inquiries regarding the [AE] complaint?

A. Yes.

Q. In paragraph 7 of your statement, you confirm that fact. Can we take it that they were done on or around the day she complained as opposed to in the weeks or months or year after?

A. Yes, around that day, on 8 October.

Q. In paragraph 16 of your statement, you mention that you have recollection of contacting a Mr Stanwell. Do you see that?

A. Yes.

Q. May we take it that you didn't carry out any particular formal interview with Mr Stanwell at that time?

A. No, it was just a telephone conversation.

Q. In paragraph 19 to paragraph 23 of your statement, you deal with your interrelationship with Detective Chief Inspector Fox in terms of the process of this particular investigation. You've already given evidence that your recollection is that you would have discussed the progress of the investigation with him at the time he was your senior officer. I want to ask you whether you recall discussing in late 1999 or early 2000 the possibility of extraditing McAlinden from England or Ireland if he was located with Detective Chief Inspector Fox?

A. I may have. I have no independent recollection of that.

1 Q. Was that something that you thought about doing, you
2 personally, if McAlinden was in fact in England or Ireland?
3 A. It could have been in passing, if I was to locate an
4 exact location for him.
5
6 Q. Do you recall at the time or around about the time you
7 swore the warrant, that is December 1999, any discussions
8 with Detective Chief Inspector Fox regarding there being
9 many more offences relating to McAlinden that you knew
10 about at that time?
11 A. No, I don't remember that.
12
13 Q. Do you recall in 2002 having any discussion with
14 Detective Chief Inspector Fox to the effect that he was in
15 contact with [AE]?
16 A. No, I don't remember that.
17
18 Q. And as at 2002, were you still working in an area
19 where you would have had access to this particular
20 investigation brief?
21 A. Yes, I was still in the Lower Hunter command.
22
23 Q. Did you still, in effect, have conduct of that
24 investigation?
25 A. In particular with regard to that matter, yes.
26
27 Q. In relation to the evidence that you gave in early
28 2000 that [AE] got in contact with you and said she didn't
29 want to pursue the matter at that point, what's the status
30 that the investigation then takes on where a victim, in
31 this case of sexual abuse, doesn't want to proceed with the
32 matter? Does the matter become automatically suspended or
33 completed or how is it dealt with within the police system?
34 A. Technically, it should have been finalised, but I had
35 sort of a quiet confidence in my own ability, that if I was
36 to locate him, I might - may be able to suggest to [AE]
37 that she could proceed with the prosecution, so as such, it
38 was - the case was suspended, but, in my mind, I had a
39 belief that I may be able to persuade her to go ahead with
40 the prosecution.
41
42 Q. Could I get you to turn to page 28 of the June 2013
43 statement. Do you see that page is part of an event
44 report - I'm sorry, it is part of a case report, more
45 correctly, that we've been looking at that was commenced by
46 you in 1999?
47 A. Yes.

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Q. Do you see on page 28, there's a series of entries under the words "Case history" and "Administrative action"?

A. Yes.

Q. What can we tell from that case history in terms of Detective Chief Inspector Fox's role in the investigation on or after 27 December 2007? Do you see it's got next to that date "Finalise case". Do you know what was happening --

A. Which date, sorry?

Q. 27 December 2007, so it is halfway down that list under "Administrative action"?

A. Just one or two entries lower than that, to put a comment on a case, you need to open a case to put comments on it, so if I could indicate the date, "26/09/2007, Reopen case".

Q. Yes?

A. You need to reopen it and then there's further comments have been added in that September and December of 2007.

Q. And they were added by Detective Chief Inspector Fox?

A. Yes.

Q. And is that unusual to have another officer add comments to a case report that you've commenced or is that standard police practice?

A. No, that's pretty common, yes.

Q. Do you see in the case narrative next for 26 September 2007, on page 26 of your statement, the comment that:

Watters contacted and indicated he had not withdrawn the matter but intended to. He by [sic] advised by myself the POI was suffering terminal cancer in 2005 and confirmed this via WA Police.

A. Yes.

Q. It says:

He also spoke to the victim and informed her of this and she confirmed she did

1 *not wish* --

2

3 It says "swish", but I assume that means "wish" --

4

5 *to pursue the matter?*

6

7 A. Yes.

8

9 Q. Does that prompt any recollection of a discussion you
10 had in 2007 with DCI Fox's about [AE]'s investigation?

11 A. We may have spoken to each other about it, but I don't
12 independently recollect that.

13

14 Q. Turning back to page 28 again, just to understand how
15 the investigation status may have altered, if it did, do
16 you see the third-last entry under "Administrative action"
17 is in February 2000, "Suspend case" --

18 A. Yes.

19

20 Q. -- authorised by you? You have already given evidence
21 you had a personal belief that you may be able to
22 reactivate should the perpetrator be located. Does that
23 entry in the police records have any particular
24 significance in terms of other police taking action, for
25 example, on any warrant or PASS alert that may be in place
26 at that time?

27 A. If other police were to come across, say, in this
28 instance, McAlinden, with the case being suspended they
29 would see that, for whatever reason, it had been
30 temporarily parked. So they would certainly be able to
31 contact me to find out what the story was, with it being
32 suspended as opposed to being finalised. "Finalised" means
33 that nothing more is going to be done with it; but
34 "suspended" just indicates that that is a temporary thing.

35

36 Q. The investigation could be accessed and pursued on any
37 line of inquiry should certain material come to light?

38 A. Yes.

39

40 Q. Do you see next to the date 26 September 2007, above
41 "Investigation, complete case", there's "Finalise case.
42 Refused. Inspector Peter Fox." Do you see that? Yes.

43

44 Q. Are you able to assist with what that entry means?

45 A. That the matter might have still been - some further
46 narratives might have been added to the case.

47

1 Q. Do you see there's actually four actions taken on
2 26 September 2007, according to this particular report, all
3 on 26 September and all by Inspector Peter Fox. Do you see
4 that?

5 A. Yes.

6
7 Q. "Add police employee role"; what does that mean?

8 A. By adding yourself to a case, then you can put
9 narratives, create actions, access all of the - because it
10 is semi-closed, unless you've got access to the case, he
11 could access all of the information in the case and add
12 narratives.

13
14 Q. Can I take it that's usual police practice, that you
15 need to "add police employee role" before you can add to
16 the narrative?

17 A. Yes.

18
19 Q. There's nothing unusual or suspicious about anybody
20 carrying out that action when they're adding to the
21 narrative of a history of an investigation or event - I'm
22 sorry, case report?

23 A. No, that's quite proper.

24
25 Q. Thank you. You say in paragraph 21 of your statement
26 that you didn't have any particular interface that you
27 observed between [AE] and Detective Chief Inspector Fox,
28 but is it your evidence that you may well have just
29 discussed the case with him, on occasion, rather than any
30 particular investigative role being performed by Detective
31 Chief Inspector Fox?

32 A. Yes.

33
34 Q. In paragraph 22, you state that you weren't aware and
35 it wasn't made known to you by anyone at the time - that
36 is, 2005 - that Detective Chief Inspector Fox was carrying
37 out any inquiries of his own in relation to the [AE]
38 matter. Are you able to state whether you had any
39 conversations at all with DCI Fox in 2005 about [AE]'s
40 matter or extradition of McAilinden or any matter touching
41 on that?

42 A. There may have been, but not to my recollection. It
43 may have just been in passing that the matter had surfaced
44 and I was going to try and get him in Western Australia.

45
46 Q. In paragraph 23, you talk about having a recollection
47 of speaking with DCI Fox in passing and on an informal

1 basis where he indicated he was looking at matters to do
2 with the Catholic Church. You thought that was 2006 and
3 2007 or somewhere around that time?

4 A. Yes.

5
6 Q. Can I ask you: is that a general conversation about
7 matters to do with the Catholic Church as opposed to
8 anything specific regarding McAlinden or are you unable to
9 be as dogmatic as that about it?

10 A. No, it was in particular about McAlinden in that I had
11 not withdrawn the warrant after his death and Detective
12 Chief Inspector Fox said he was going to fix that up and
13 there was also the orange envelope, when I'd retrieved it
14 from archives, I'd thought I'd sent it back into archives,
15 and he was asking the location of that with the original
16 statements and documents because it couldn't be located in
17 archives or at Maitland.

18
19 Q. Thank you. Detective inspector, you understand that
20 the matter that we're looking at in this Special Commission
21 of Inquiry is the extent to which officials of the Catholic
22 Church assisted or cooperated with investigations or,
23 alternatively, hindered or obstructed them. What do you
24 say in relation to your personal experience of officials of
25 the Catholic Church in terms of your investigation?

26 A. Well, during my telephone calls in 1999, yes, they
27 offered information and it wasn't like I said, "No, I'm
28 sorry, we can't give you any information", and that's - as
29 a result I sent that - the letter through and faxed things
30 through.

31
32 In those early days, though, it was fairly cursory,
33 sort of - like, at a lower level, my inquiries. I wasn't
34 actually going to the chancery knocking on the doors asking
35 for documents; it was more I was focused on McAlinden at
36 that stage. But any conversation I had with them, I found
37 them helpful and it wasn't it like a wall put up saying,
38 "Oh, no, we can't tell you anything", or "It's not our
39 protocol", they spoke to me quite freely.

40
41 Q. What about in 2005, in relation to your interface with
42 the Professional Standards Office? I should make it clear
43 that this Commission is looking at cooperation of officials
44 of the Catholic Church generally, not just confined to the
45 Maitland-Newcastle diocese, so how would you describe your
46 interface with the Professional Standards Office of the
47 Catholic Church in 2005?

1 A. It was great. I guess there was a quantum leap with
2 the police technology where we had the email system between
3 1999 and 2005 and it was great to be able to - I could get
4 documents straight away and contact and, you know, it was
5 very good.

6
7 Q. I think you've already given evidence on this issue,
8 but just to be absolutely sure, had you been advised by the
9 Professional Standards Office earlier than 2005 when you
10 contacted them off your own bat that there were other
11 victims of McAlinden and details about those other
12 offences, would you have been able to use that information
13 in your investigations earlier than you otherwise did?

14 A. Yes.

15
16 Q. Just to clarify it, did you ever receive information
17 from the Maitland-Newcastle diocese indicating to you when
18 McAlinden was expected back in the country?

19 A. No.

20
21 Q. And did you ever receive any information from the
22 Maitland-Newcastle diocese providing any more updated
23 address for McAlinden excluding the matter noted on the
24 records by Detective Chief Inspector Fox that was received
25 from Ms Keevers in 2005?

26 A. No.

27
28 Q. If you had encountered any hindrance or lack of
29 cooperation by those you spoke to in your investigation,
30 you would have no qualms in informing the Commission
31 accordingly?

32 A. Yes, of course I would, yes.

33
34 Q. So can we take it that you did not encounter any
35 hindrance or obstruction in terms of matters you were
36 pursuing?

37 A. No.

38
39 Q. And by that, I mean hindrance or obstruction by
40 persons from the Catholic Church?

41 A. No, I didn't have any hindrances, no.

42
43 MS LONERGAN: Those are my questions, Commissioner.

44
45 THE COMMISSIONER: Thank you, Ms Lonergan.

46
47 Yes, Mr Gyles?

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<EXAMINATION BY MR GYLES:

MR GYLES: Q. Detective inspector, in relation to the last matter or a matter you were taken to recently by my learned friend about the involvement of DCI Fox in your work, I think you distinguished between two periods, one being the 1999 period when he was your supervisor?

A. Yes.

Q. And the 2005 period, when you describe it in your affidavit as being your investigation under the supervision of Detective Chief Inspector Humphrey?

A. Yes.

Q. You make the point in relation to the 2005 investigation that he, DCI Fox, did not play a part in your investigation at that time?

A. Yes.

Q. At the time that he was your supervisor in 1999, you tell us that he did not play a part in that in your investigations at that point either; that's the case, is it?

A. Well, no, in 1999 I was certainly discussing with him this matter and all my current cases, yes.

Q. But, apart from on a reporting basis, you say in paragraph 20 of your second affidavit that he was not directly involved in the investigations. Is that an accurate statement?

A. Not directly carrying out the functions himself, but was giving me advice, yes.

Q. I see, thank you. You were asked some questions about circumstances where a complainant withdraws a complaint --

A. Yes.

Q. -- tells you they don't want to go forward?

A. Yes.

Q. You say that, in those circumstances, technically the matter should have been finalised?

A. Yes.

Q. That was your evidence, wasn't it?

A. Yes.

1
2 Q. When a matter is finalised, as it technically should
3 be, in that circumstance, is it the case that a new
4 investigation will commence if the complainant comes back
5 and says that they would like to proceed?
6 A. More a resurrection of the old one as opposed to a new
7 investigation, so the documents are still there. It would
8 be resurrected.
9
10 Q. Whether the investigation has been finalised in that
11 way or has been suspended, the investigation, for all
12 intents and purposes, is not continuing - that's the
13 position, isn't it - until the complainant indicates a
14 willingness to go forward with that complaint?
15 A. Yes.
16
17 Q. You have said that [AE] came to see you on 8 October
18 1999. Do you recall that?
19 A. Yes. It wasn't me particularly. She just came to the
20 counter of the police station as such, yes.
21
22 Q. As a consequence of coming to the counter, you were
23 the person who she was relevantly put in contact with?
24 A. Yes.
25
26 Q. And you, as you've told us, took a statement from her?
27 A. Yes.
28
29 Q. She told you she had been encouraged by the church to
30 come forward and you said that that was something that was
31 helpful and of assistance to you?
32 A. Yes.
33
34 Q. It was also of assistance to you, you said, that she
35 was able to bring a document to you which indicated the
36 factual basis of the circumstances of the complaint?
37 A. Very helpful, yes.
38
39 Q. And it also was a document which recorded her
40 willingness to go to the police in connection with that
41 complaint?
42 A. Yes.
43
44 Q. Do you have your affidavit there?
45 A. Yes.
46
47 Q. Would you go, please, to annexure C of the affidavit.

1 You will see at paragraph 17 - what we see at annexure C is
2 the statement that was taken by you on 8 October of [AE]?
3 A. Yes.
4
5 Q. If you go to paragraph 17 of that statement, we see
6 that [AE] deals with her memory in connection with a
7 possible receipt of a letter from the bishop. Do you see
8 that?
9 A. Yes.
10
11 Q. And that's something that you asked the chancery about
12 in your follow-up letter; do you recall that?
13 A. Yes.
14
15 Q. What [AE] indicates in this paragraph is that, as an
16 11-year-old girl, [UR60] came to her house - she recalls
17 that - with another priest and talked to her parents?
18 A. Yes.
19
20 Q. And she says that she hid, but she overheard some of
21 the conversation that they had?
22 A. Yes.
23
24 Q. Do you see that? And she said that she remembers her
25 father saying something about receiving a letter from the
26 bishop?
27 A. Yes.
28
29 Q. And doesn't remember anything else being said at that
30 meeting?
31 A. Yes.
32
33 Q. This was an 11-year-old girl at the time, and you were
34 taking her statement about 45 years later?
35 A. Yes, I'm not really good at maths - so, yes.
36
37 Q. As to whether or not there in fact was a letter
38 received from the bishop has to be a question of some
39 doubt, doesn't it, in those circumstances?
40 A. Well, that's what she told me, that she'd been through
41 her mother and father's property after they both died
42 looking for that letter. So, in her mind, she believed
43 that there was one.
44
45 Q. The fact that it wasn't in her parents' belongings
46 might suggest that there never was a letter.
47

1 MR COHEN: I object. This is far too speculative in my
2 respectful submission, Commissioner.
3
4 THE COMMISSIONER: Thank you, Mr Cohen. I think it is a
5 reasonable question.
6
7 THE WITNESS: I guess I believed there was one because
8 I asked the bishop's chancery if they had a copy of it.
9
10 MR GYLES: Q. But you were doing the right thing; the
11 possibility of there being a letter from the bishop had
12 been raised with you and you were asking for confirmation
13 or asking whether there was a copy available?
14 A. Yes.
15
16 Q. The question whether there in fact was a letter in the
17 first place, it is hardly compelling evidence, is it, that
18 an 11-year-old girl, who was hiding hearing one part of a
19 conversation, which may have been her father saying
20 "I would like to receive a letter from the bishop", is not
21 particularly strong evidence of it if one was seeking to
22 prove that there was a letter in the first place. You
23 would agree with that, wouldn't you?
24 A. Well, I believe what [AE] told me, if that helps.
25
26 Q. But you would agree with me that whether in fact there
27 was a letter from the bishop, which was subsequently not
28 produced, is a real question, isn't it? There's a real
29 issue about that?
30 A. No, I don't believe so, if she told --
31
32 Q. There may well, can I put to you, not have been a
33 letter from the bishop at all, at that point?
34 A. Well, I was proceeding on the belief that there was
35 one.
36
37 Q. I'm not being critical of you proceeding on that
38 basis.
39 A. Sure, yes.
40
41 Q. All I'm putting to you is that it is far from certain
42 that there was in fact a letter in the first place.
43
44 MR COHEN: I object to that question. That's not a fair
45 basis, given the evidence that has already fallen from the
46 witness that he believed what was put --
47

1 THE COMMISSIONER: The question can be asked. The witness
2 says he believes what was put, but it is far from certain,
3 surely, Mr Cohen. I will allow it, Mr Gyles.

4
5 MR GYLES: May it please you, Commissioner.

6
7 THE WITNESS: Sorry, could you ask it again.

8
9 MR GYLES: Q. What I'm suggesting to you is that it was
10 far from certain that there ever was a letter in the first
11 place, in the circumstances in which you were told about
12 it?

13 A. Look, I don't know if there was or if there wasn't,
14 but --

15
16 Q. Thank you. Could you then, please, go to annexure D
17 of the statement. Annexure D, you'll recognise as the COPS
18 entry. You've told us that your recollection is this was
19 an entry that was made by you on 8 October 1999?

20 A. Yes.

21
22 Q. Your attention was drawn to that part of it which is
23 above the line of asterisks where it is said that:

24
25 *He --*

26
27 ie, Father Denis McAlinden --

28
29 *is not currently working as a priest due to*
30 *other alleged incidents such as this, but*
31 *there has been no formal complaint received*
32 *by Police.*

33
34 A. Yes.

35
36 Q. Your recollection is that that was something that you
37 were told by the church upon inquiries made at that time?

38 A. Yes.

39
40 Q. You would agree with me that that was information that
41 was relevant to your investigation, wasn't it?

42 A. Yes.

43
44 Q. And it was something that was of assistance to you to
45 know?

46 A. Yes.

47

1 Q. You told us that it wasn't your practice to progress
2 those leads or follow up that information until you had
3 effected an arrest generally?
4 A. Yes.
5
6 Q. Certainly, it was information that was of assistance
7 in the investigation going forward?
8 A. Yes.
9
10 Q. Could you then, please, go to the next annexure, which
11 is annexure E. You told us that the circumstances of this
12 letter were to confirm the verbal inquiries you'd made of
13 the church?
14 A. Yes.
15
16 Q. You thought that was an appropriate thing to do, to
17 follow up in writing?
18 A. Yes.
19
20 Q. One of the things we see you're not following up at
21 this point is the subject matter of the entry that I just
22 took you to, which was the other alleged incidents?
23 A. Yes.
24
25 Q. And that was something you were leaving for another
26 time; is that the case?
27 A. Yes.
28
29 Q. But you knew the church was telling you there was some
30 corroborative evidence or possible corroborative evidence
31 of other similar incidents?
32 A. From my memory, the verbal conversation I had with the
33 person was, "Oh, okay." It was like a - "Oh, okay, yes,
34 there's some other stuff about - with that." It was like
35 almost a type of passing comment that I made a note of to
36 follow up at a later time, yes.
37
38 Q. You noted it because it was something that was
39 potentially important?
40 A. Yes.
41
42 Q. One of the things that you were following up was the
43 letter which I've already asked you some questions about.
44 A. Yes.
45
46 Q. Despite the request you made for the letter, you don't
47 recall having received it?

1 A. No.
2
3 Q. After 8 October, you made further inquiries which
4 ultimately gave rise to the issuing of the warrant, didn't
5 you?
6 A. Yes.
7
8 Q. And those inquiries, I think you've told the
9 Commissioner, with the likes of [UR60] and others from the
10 church were open and helpful?
11 A. Yes.
12
13 Q. And ultimately, you got yourself into a position where
14 you thought you had sufficient material to have a warrant
15 issued for the arrest of Father McAlinden?
16 A. And as well as to take the investigation off my
17 current list of investigations that it couldn't be
18 progressed at that stage.
19
20 Q. The circumstances were: the first one was the issuing
21 of the warrant and then the subsequent suspension of the
22 investigation?
23 A. Yes.
24
25 Q. Agreed?
26 A. Yes.
27
28 Q. As far as the issuing of the warrant was concerned,
29 this was obviously a very serious case?
30 A. Yes.
31
32 Q. You knew there was some corroborative evidence
33 available if the case was to be progressed?
34 A. Yes.
35
36 Q. Can we take it that would you have done your darnedest
37 to locate Father McAlinden to seek to have the warrant
38 served?
39 A. Yes.
40
41 Q. And done that vigorously in whatever way you could?
42 A. Yes.
43
44 Q. This was such a serious allegation?
45 A. Yes.
46
47 Q. You have notes of a telephone number from Western

1 Australia; agreed?
2 A. Yes.
3
4 Q. Your recollection is that that is information that did
5 not come from the church but came from a search based on
6 the driver's licence of McAlinden?
7 A. My recollection was that a search on the driver's
8 licence was an address at - in a Newcastle suburb and
9 I made a telephone inquiry with that suburb, with that
10 address.
11
12 Q. So far as McAlinden's whereabouts were concerned, the
13 information the church gave you was that they thought he
14 was out of Australia and in Ireland?
15 A. Yes.
16
17 Q. Thank you. You tell us in your affidavit that,
18 because of a lack of success in your inquiries as to
19 McAlinden's whereabouts, you suspended the case?
20 A. Yes.
21
22 Q. The suspension of the case, as I think you told me a
23 little while ago, meant that the investigation was
24 effectively closed until he was able to be located?
25 A. Yes.
26
27 Q. Could you go, please, to annexure I of your statement.
28 This is the full version of the COPS - you can assume this
29 is the full version of the COPS report. If you go to the
30 third page of it, we see an entry made by you on 2 February
31 2000. Do you see that?
32 A. Yes.
33
34 Q. Is the handwriting your handwriting?
35 A. On the - in the paragraph, yes.
36
37 Q. You've identified that as being the day - the fact
38 that you made an entry and the day you did it?
39 A. Yes.
40
41 Q. The entry itself says two things. The first thing it
42 says is that [AE] has contacted you on 2 February and has
43 now made a retraction statement. Do you see that?
44 A. Yes.
45
46 Q. And does not want any further police investigation?
47 A. Yes.

1
2 Q. As the matter was giving her too much stress?
3 A. Yes.
4
5 Q. You've told us in your statement that, prior to
6 2 February, you had suspended this investigation because of
7 a difficulty in locating McAlinden; right?
8 A. Yes.
9
10 Q. Because of the second part of this entry, that was
11 technically at that point the investigation should have
12 been finalised, agreed, because the complainant was telling
13 you that she didn't want to take her complaint forward?
14 A. Like I said before, I believed that, if and when
15 McAlinden was located, I could persuade her to reconsider
16 what she had told me.
17
18 Q. But, in any event, at this point, there were two
19 reasons for the suspension of the investigation, weren't
20 there?
21 A. One was that I couldn't locate McAlinden; that was the
22 primary reason.
23
24 Q. But the record you're making here is that she doesn't
25 want any further police investigation?
26 A. Yes.
27
28 Q. And in the end, that's a matter of choice for her,
29 isn't it?
30 A. Yes, that's right.
31
32 Q. But the other thing you've said here is that she has
33 made a retraction statement?
34 A. Yes.
35
36 Q. That's something of a different character, isn't it?
37 A retraction statement is where someone is retracting
38 something they have previously said?
39 A. In police terms it meant that it was like not so much
40 the retracting of what they'd said, but more in terms of we
41 call it a retraction statement, but it was retraction of
42 the criminal process as such. So it is a retraction of the
43 criminal process, not what was in the original statement.
44
45 Q. I see.
46 A. It was like a police term that we could call it a
47 retraction statement, but it was more the retraction of the

1 criminal process more than what they had said.
2
3 Q. Thank you. The entry above that is an entry where we
4 jump forward until 28 July 2005?
5 A. Yes.
6
7 Q. That was when the investigation was reinvigorated by
8 McAlinden's name coming up under the searches that were
9 being done by Operation Peregrine?
10 A. Yes.
11
12 Q. You make an entry on 28 July indicating that you'd
13 told the victim that McAlinden had been located. So the
14 first of your problems had been resolved in terms of this
15 investigation?
16 A. Yes.
17
18 Q. And the question then was what [AE]'s position was
19 about taking it forward: agreed?
20 A. Yes.
21
22 Q. So, as far as that matter is concerned, she said she
23 would like to discuss it with her husband over the weekend
24 and would discuss it with you on the Monday?
25 A. Yes.
26
27 Q. There's no entry on the Monday as to what she said to
28 you about her willingness to take this forward. Is it the
29 case that she didn't come back to you --
30 A. Oh, no, she --
31
32 Q. -- on that issue?
33 A. No, she wanted to progress, but I haven't recorded
34 that.
35
36 Q. I see. Thank you. Could you go to the previous page.
37 There is an entry that's about halfway down the page as
38 being information from Helen Keevers. Do you see that --
39 A. Yes.
40
41 Q. -- indicating that McAlinden was suffering from
42 cancer, possibly terminal, and giving an address where he
43 could be located. Do you see that?
44 A. Yes.
45
46 Q. And also giving contact details for Helen Keevers or
47 the Catholic Church child assault unit, do you see that?

1 A. Yes.
2
3 Q. That was relevant information for the investigation,
4 wasn't it?
5 A. Well, not to me because I already knew that.
6
7 Q. But information as to the address of McAlinden was
8 something that was - it was information worth having,
9 wasn't it?
10 A. I'd already sent Detective Grono to his address in
11 Busseilton, yes.
12
13 Q. But if you didn't have the address up to this point,
14 certainly you would have been interested to know that
15 address, wouldn't you?
16 A. Yes.
17
18 Q. Could you then, please, go forward to annexure L.
19 This is, in a way, the consequence of the reinvigoration of
20 the investigation, which was the application for the
21 extradition of McAlinden to New South Wales to meet these
22 charges; agreed?
23 A. Yes.
24
25 Q. In support of that application for expedition, you've
26 put forward a summary of [AE]'s complaint?
27 A. Yes.
28
29 Q. And you've already made reference to [AC] and to [AF]?
30 A. Yes.
31
32 Q. Do you see that? You were aware at this point of [AL]
33 and [AK], weren't you?
34 A. I'll just have to --
35
36 Q. Perhaps if you follow on --
37 A. [AL], [AK], yes.
38
39 Q. If you go two pages on, that, I think, will indicate
40 that you did?
41 A. In the email trail, yes.
42
43 Q. Can we take it that the reason that you did not
44 include [AL] and [AK] in this application was that it was
45 your understanding that they had not made a formal
46 complaint to the police about the incidents concerning
47 them?

1 A. It was that they didn't want to be contacted by
2 police.

3

4 Q. Yes, thank you. Could you then, please, go forward to
5 annexure M, which is the email trail which led to
6 information being provided to you by the professional
7 services unit of the church. If we start at the second
8 last page of that annexure, which is the email from
9 Pat Brown to you of 1 August 2005.

10 A. Yes.

11

12 Q. I think after lunch you told us that Pat Brown was
13 another police officer in the CP&SCS?

14 A. Yes.

15

16 Q. Is Pat Brown a male or female?

17 A. I don't remember.

18

19 Q. In any event, Pat Brown told you that it might be
20 worthwhile contacting Michael Salmon at the Catholic Church
21 Professional Standards Unit and gave you the details?

22 A. Yes.

23

24 Q. I think you've told the Commissioner that you were
25 very impressed with your dealings with the professional
26 services unit, as indicated by this email trail?

27 A. Yes.

28

29 Q. They were very forthcoming with information about
30 other complaints which had been made?

31 A. Yes.

32

33 Q. They were certainly of assistance to you in what you
34 were doing to have this information?

35 A. Yes.

36

37 * Q. This was the means by which you found out about
38 [AC], [AE], [AL] and [AK]?

39 * A. Yes.

40

41 MS LONERGAN: Commissioner, I object to this line of
42 questioning just to seek a point of clarity. As I
43 understand the position, Mr Gyles is instructed to act for
44 the Maitland-Newcastle diocese. I didn't apprehend him to
45 also be retained for the Professional Standards Office.
46 I'm not raising that to be difficult, but to clarify for
47 the record the extent of his retainer as it may be relevant

1 in later questioning as to how other witnesses from that
2 organisation are approached.

3
4 MR GYLES: I appear for the diocese, but I don't appear
5 for this organisation, if that needs clarification.

6
7 THE COMMISSIONER: Thank you, Mr Gyles. Carry on then,
8 please.

9
10 MR GYLES: Thank you. I hadn't got very much more to go,
11 can I say, Commissioner. I'm not sure I got an answer to
12 that question. Did I? Could that question be read back. .

13
14 THE COMMISSIONER: Yes, Mr Gyles.

15
16 (Question and answer marked * read)

17
18 MR GYLES: Q. That was obviously information that was
19 both helpful and of assistance to the work you were doing
20 on this case, wasn't it?

21 A. Yes.

22
23 Q. You were asked some questions about a hypothetical
24 situation which was if you had been told in 2002 that [AC]
25 had been a person who was available to corroborate or to
26 possibly provide corroborating evidence against McAlinden
27 and what that would have meant to you - do you remember
28 that?

29 A. Yes.

30
31 Q. At that point in time, as at 2002, there were two
32 significant difficulties with this information, weren't
33 there?

34 A. In what way?

35
36 Q. The first one was you didn't know where McAlinden was?

37 A. In 2002?

38
39 Q. Yes.

40 A. No, I wasn't actively searching for him at that time,
41 no.

42
43 Q. But the position with this investigation, as at 2002,
44 was that it had been suspended?

45 A. Yes.

46
47 Q. And it had been suspended for two reasons, one I think

1 you say more important than the other, but certainly there
2 were two reasons for it. The first reason was that
3 McAlinden was not able to be located and the second was
4 that the complainant was not prepared to proceed with it at
5 that point?

6 A. Yes.

7

8 Q. You already knew, didn't you, that the church had
9 already told you that there were other possible leads
10 available to you if and when McAlinden was charged to seek
11 corroborating evidence?

12 A. Yes.

13

14 Q. In the hypothetical situation of you being told that
15 there was someone else of that character, that would have
16 been comforting to you in terms of the prospects of
17 achieving a conviction in due course, but of itself wasn't
18 of great significance, was it, where you had a situation
19 where the investigation was suspended and you already had
20 the means by which you were likely to be able to get
21 corroborating evidence?

22

23 MS LONERGAN: I object, Commissioner. I don't understand
24 the question. I don't know if the witness does. There
25 seems to be too many propositions in it.

26

27 MR GYLES: I don't want to waste time over whether it is a
28 question that's able to be understood or not.

29

30 Q. As at 2002, this investigation had been suspended,
31 hadn't it?

32 A. Yes.

33

34 Q. As at 2002, you knew that there was likely to be
35 available corroborative evidence if McAlinden was able to
36 be found and if the complainant was prepared to go forward?

37 A. In 2002?

38

39 Q. Yes.

40 A. I guess it - maybe I could answer it this way: the
41 other - it was almost in passing in 1999, when I heard
42 about the other people, but I had a concrete - well, like,
43 a statement from [AE]. When I became aware in 2005 of the
44 statement that was made in 2002, it would raise the
45 expectation for police to have put some more resources in,
46 when there's people who have made statements, to push a bit
47 harder to try to locate McAlinden, if that assists.

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Q. But that's something --

A. But it is hard to say what would be in my mind in 2002 when I didn't know about it.

Q. It's a difficult question, isn't it, because you had a serious allegation and a situation you regarded as very serious concerning McAlinden anyway?

A. Yes.

Q. You were relying upon the processes, such as they were, to try to find him?

A. Yes.

Q. This information, while helpful, can I suggest, wouldn't have been of incredible significance to you in circumstances where this was the sort of information you probably thought you would be able to get anyway?

A. Yes, I don't get that. I don't quite - sorry. I think from my reaction in 2005, where he was identified, was the effort I put in then would be an indication of what I would have done if I'd had that information in 2002 perhaps.

Q. But what reinvigorated your interest in this investigation was that he had been found, and that was the most important thing for you, wasn't it?

A. That was the trigger at that time in 2005, yes.

Q. That's right. So, even if in 2002 you had been told about [AC] being around to provide corroborative evidence, you still had a significant problem, which was trying to locate this person?

A. But like I said, it would have certainly - when we've got more than one victim coming forward, it certainly would have alerted me and I would have informed my supervisor or someone, "Look, there's another victim come forward. I think we need to have a good hard look at this to work out if we can locate the person, to put some more resources into it to try to work out where he is or if there's any other people involved."

MR GYLES: I have no further questions. Thank you Commissioner.

THE COMMISSIONER: Thank you, Mr Gyles. Mr Skinner?

1 MR SKINNER: I have no questions.

2

3 THE COMMISSIONER: Mr Harben?

4

5 MR HARBEN: I have no questions.

6

7 THE COMMISSIONER: Ms Needham?

8

9 MS NEEDHAM: I have no questions.

10

11 <EXAMINATION BY MR COHEN:

12

13 MR COHEN: Q. In your larger document, the affidavit of
14 14 May, you have annexed materials, and indeed Mr Gyles of
15 senior counsel was just taking you to a number of elements
16 of that a moment ago.

17

18 MR GYLES: I'm having some difficulty hearing my learned
19 friend.

20

21 MR COHEN: I am so sorry. I'll start again, Commissioner.
22 I'm sorry about that.

23

24 Q. You have been taken, in your affidavit of 14 May 2013,
25 to annexure I, the longer extract of the case report. In
26 earlier evidence you have explained, as it were, how that
27 document is to be interpreted and, indeed, the handwritten
28 notations in the margin are your handwriting; that's so,
29 isn't it?

30

31

32 A. Yes.
33 Q. Those notations were appended by you when you were
34 considering what each of these narratives, case narratives,
35 actually mean; is that right? Looking at each paragraph
36 and deciding whether it was you or it was DCI Fox - is that
37 the way to look at it?

38

39 A. There's - on the system you can actually see who wrote
40 the narrative, but it doesn't - when you print it, it
41 didn't print it up on the document. So I just transposed
42 exactly what was on the system as to what those dates and
43 the author of the narratives are.

44

45 Q. So if you could have printed out the full system
46 material, there would have been just such a reference of
47 the type that you've appended by hand?

48

49 A. I tried to do that but, for whatever reason,
50 I couldn't do that on the system. That's why I had to do

1 the handwritten notes. The system would not recognise -
2 I couldn't get the narratives to print with the author's
3 name.

4

5 Q. To use a phrase adopted by Mr Hunt, it rebelled to
6 some extent, did it, against that outcome? It didn't allow
7 you to print up those particulars, but you have written in
8 what would be there if you were able to print it out of the
9 system correctly; is that so?

10 A. Yes.

11

12 Q. Does that mean, therefore, that the particulars
13 contained in the paragraph at page 26 of your statement,
14 with your handwritten notation "8 October 1999", relate to
15 activity undertaken by you; is that so?

16 A. Yes, above that handwritten note, it says "E" and the
17 reference number. That means that's from the event. That
18 was the event where it was created and then it's come
19 across into this case.

20

21 Q. Yes.

22 A. Yes.

23

24 Q. The case narrative of 28 October 2005 also on page 26
25 indicates material inserted by DCI Fox?

26 A. Yes.

27

28 Q. If you'd look at that material, I take it that that
29 means that he came to an understanding of the fact of
30 McAlinden being in Western Australia independently of you
31 but approximately at the same time that; is that a fair
32 comment?

33 A. Within about a month of each other, yes.

34

35 Q. And it was coincidental, but unplanned in that way?

36 A. Yes.

37

38 Q. I take it that when you actually had the opportunity
39 of discussing it with each other, you realised, "Oh,
40 goodness, we've got the same information from different
41 sources"; is that how you react?

42 A. I don't remember that, but possibly, yes.

43

44 Q. I take it that the source of the information that
45 DCI Fox relied on on 28 October 2005 was the lady
46 identified in that narrative, Helen Keevers?

47 A. Yes.

1
2 Q. Then, likewise, the case narrative identified, again
3 with your handwritten notation 26 September 2007, was
4 material inserted by DCI Fox?
5 A. Yes.
6
7 Q. That's the indication where he has a brief discussion
8 with Joanne McCarthy and indicates that the police can't
9 provide information; is that the one?
10 A. Yes.
11
12 Q. Could you assist perhaps me and the Commissioner.
13 You've put a handwritten narrative or handwritten entry
14 there, which is 23 November, I think, 2013 and crossed it
15 out.
16 A. Yes.
17
18 Q. Why did you cross that out?
19 A. Like I say, I was transposing from one part of the
20 computer system on to this document and on the first page
21 of annexure I was the correct date, that 23 November 2010,
22 and not that - not that narrative.
23
24 Q. So it is just a transcription error on your part which
25 you've removed?
26 A. Yes, yes.
27
28 Q. Therefore, if you look at page 25 of the statement,
29 the first page of annexure I, the reference to police
30 speaking to Sergeant Peter Gilmore of Subiaco police is a
31 reference to a discussion undertaken by DCI Fox?
32 A. Yes.
33
34 Q. Not by you?
35 A. No, I didn't do that, no.
36
37 Q. And, indeed, further entries going up the page - it is
38 a bit like an email chain and this goes to the most recent
39 time in the first and the most distant in time the last; is
40 that the way to read it?
41 A. That's right, yes.
42
43 Q. And therefore, going forward into time, entries of
44 also 26 September 2007 and then 23 November - I'm sorry
45 I can't read the handwritten notation 23 November, what
46 year is that?
47 A. 2010.

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Q. Those are all DCI Fox's conduct on this case?

A. Yes.

Q. You also gave some evidence, detective inspector, in the very early part of your answers given in response to the questions put to you by Mr Gyles - I'll endeavour to read back the question as accurately as I can, but I can't do that in the absence of the transcript - you were being asked about your situation in 2005 with respect to the McAlinden matter and also 2009 --

MR GYLES: 1999.

MR COHEN: 1999, thank you for that.

Q. You gave evidence you discussed matters in 1999 with DCI Fox; do you recall that?

A. Yes.

Q. You gave some evidence that he gave you some advice. What advice was that?

A. I think my answer was that we would discuss all my cases and he would suggest things, if needed. It was my - my common practice in those days, we would have, like, a case conference over a coffee with all my current matters and I would say, "Look, this matter, I can't get it to go any further and I'm going to take a warrant out", or he may have suggested "Take a warrant out and take a passenger alert", or I suggested it, I can't really remember, but that was, I guess, a consensus or the line of where the investigation went.

Q. So it was a question or occasion of sitting down and considering what the options were, if something was a little difficult or requiring a little bit of consideration of future steps and, between the two of you, considering those matters and coming to a conclusion about a sensible way to move forward with it; is that right?

A. Yes.

Q. I take it that situation was helpful to you when you had those discussions?

A. It must have been because I took the warrant out and put the matter, suspended, so --

Q. I take it therefore that that step was with his, if

1 not blessing, certainly his approval and recommendation
2 that that was a sensible way to go?

3 A. Yes.
4

5 Q. You also gave some evidence before the luncheon
6 adjournment when Ms Lonergan of senior counsel was leading
7 you through your evidence initially, and you were being
8 asked about the PASS alert system, if you recall that
9 evidence. You conceded, quite candidly, that there was an
10 error in the execution of the system and that perhaps
11 things had gone slightly awry contrary to your expectation.
12 Do you recall you gave some evidence about the
13 circumstances in which you discussed the mechanics of the
14 system with serious people. Do you recall that evidence?

15 A. Yes.
16

17 Q. I want to be sure about this and perhaps you can
18 correct me if I am wrong, but your evidence was that you
19 possibly had a discussion with Detective Sergeant Mitchell
20 at the time; is that right?

21 A. At that time I had - there were three detective
22 sergeants in the office, detective Sergeant Fox, Detective
23 Sergeant Max Mitchell and Senior Sergeant Alex Pollock.
24 I could have spoken with either one of the three.
25

26 Q. I take it then Detective Sergeant Max Mitchell is now
27 Assistant Commissioner Max Mitchell; is that right?

28 A. They're one and the same, yes.
29

30 Q. Do you have any independent recollection of who it was
31 that you may have discussed this with?

32 A. No.
33

34 Q. Do you recall discussing the mechanics of the system,
35 or was it simply a matter of asking, "Can I do this? Do
36 I have approval." Do you recall that?

37 A. I don't have an independent recollection. It might
38 have been, "Who has ever done a PASS alert and how does
39 that work", sort of.
40

41 Q. Sitting in the witness box, you can't do any better?

42 A. No.
43

44 Q. I understand. Thank you. You gave some evidence very
45 early in the piece, when you were first being led through
46 the evidence by Ms Lonergan, about giving your personal
47 mobile number and indicating that the number is the same

1 one then as it is now. Do you recall that evidence?

2 A. Yes.

3

4 Q. In giving that number out in the way you did at the
5 time, did you ever get a call on it back?

6

7 MR GYLES: I object. My learned friend Mr Cohen has
8 absolutely no interest in some broad-ranging
9 cross-examination of this witness. I accept that, to the
10 extent that this witness has engaged with DCI Fox, there
11 may be some relevant issues, but this issue seems to have
12 nothing to do with that and I am concerned that Mr Cohen's
13 role in TOR2 is not quasi contradictory generally.

14

15 THE COMMISSIONER: Yes. The difficulty is, Mr Gyles,
16 I think we've had an answer to the question, and I don't
17 expect you're going to take it any further, Mr Cohen.

18

19 MR COHEN: No, I'm not.

20

21 THE COMMISSIONER: Thank you, Mr Gyles.

22

23 MR COHEN: The difficulty is, in the absence of having
24 flags, I can't really take instructions easily from this
25 position. Could I just have a moment to check a number of
26 things.

27

28 THE COMMISSIONER: Yes, Mr Cohen.

29

30 MR SKINNER: Commissioner, may I be heard as well.
31 I support Mr Gyles 's objection. It is an objection or an
32 observation I had anticipated making on behalf of my client
33 at an appropriate time. Now perhaps is the time. We also
34 would be concerned if Mr Cohen, on behalf of Mr Fox,
35 considers his role here as a general interrogator. That
36 clearly could not be in the interests of his client or
37 pursuant to the leave to which he has been granted to
38 appear, in my submission.

39

40 THE COMMISSIONER: Yes. I certainly take on board your
41 objections, Mr Gyles and Mr Skinner. It is important for
42 us, so that we get through what we have to do, for parties
43 to be mindful of their particular clients and the
44 limitations of their briefs. I am sure that Mr Cohen is
45 mindful of that.

46

47 MR COHEN: Certainly, Commissioner. It was simply to

1 clarify what seemed to me to be an ambiguity. I have no
2 other questions.

3
4 THE COMMISSIONER: Thank you, Mr Cohen. Mr Gogarty?

5
6 MR GOGARTY: Commissioner, I rise to my feet with some
7 trepidation as to the extent of my interests in this matter
8 and the possibility that I'll shortly be surrounded by a
9 chorus of "I object", but we won't die wondering. I only
10 have a few questions for Inspector Watters.

11
12 MS LONERGAN: Commissioner, could I have a short chat to
13 Mr Gogarty?

14
15 THE COMMISSIONER: That didn't take long, Mr Gogarty.

16
17 MR GOGARTY: No, it didn't Commissioner. I wish I was as
18 psychic with the Lotto numbers.

19
20 (Ms Lonergan and Mr Gogarty confer)

21
22 THE COMMISSIONER: Ms Gerace, do you have any questions?

23
24 MS GERACE: No, thank you, Commissioner.

25
26 THE COMMISSIONER: Mr Bickford?

27
28 MR BICKFORD: No, Commissioner.

29
30 THE COMMISSIONER: I will just wait to come to you,
31 Mr Saidi.

32
33 MR GOGARTY: Thank you, Commissioner. I am sorry for
34 wasting your time. As I said, perhaps I'm psychic and
35 I think given that my specific interests probably relate
36 more to Father James Patrick Fletcher, I shall resume my
37 seat having made no impression on the stage whatsoever.

38
39 THE COMMISSIONER: Thank you, Mr Gogarty. Mr Saidi?

40
41 <EXAMINATION BY MR SAIDI:

42
43 MR SAIDI: Q. I want to get some background information
44 from you, if I may. Were you born a Catholic?

45 A. No.

46
47 A. Were you raised a Catholic?

1 A. No.
2
3 Q. Were you educated as a Catholic?
4 A. No.
5
6 Q. Do you have any current Catholic affiliations?
7 A. No. My sister went to a Catholic school for two
8 years, if that counts, but --
9
10 Q. All right, and I'm sure she paid her school fees too.
11 I want to take you back to 2005, if I may, and the annexure
12 to your statement of 19 June 2013. Could you go to, if you
13 don't mind, page 28, the bottom right-hand corner.
14 A. Yes.
15
16 Q. I just want to go back over part of this, if I may,
17 with you. Firstly, during the course of 2005 and going
18 back to that period, were you aware as to whether or not
19 Detective Chief Inspector Fox was undertaking any
20 investigation in relation to this matter?
21 A. Not to my memory, no.
22
23 Q. And the police records at that time, did they indicate
24 that the person who was the officer in charge of the
25 investigation was yourself?
26 A. Yes.
27
28 Q. Did that remain to be the case for anyone who checked
29 the records; that is, that the officer in charge was
30 yourself through to at least 2007?
31 A. All on the case it would have said that, yes.
32
33 Q. Indeed, it remained so to anyone who consulted the
34 notes or the police records beyond 2007; is that correct?
35 A. Beyond 2007?
36
37 Q. Yes.
38 A. If they drilled down, they would see that, that
39 I started the matter, yes.
40
41 Q. As the officer in charge?
42 A. Yes.
43
44 Q. During the period up to, I'll just pick the time frame
45 2007, for the moment, you weren't aware at any time that
46 Detective Chief Inspector Fox was conducting any
47 investigation in relation to the matter; is that so?

1 A. We did have some conversations in passing where he was
2 trying to find that orange envelope, but I didn't actively
3 know if he was investigating or not, no. I was working in
4 Sydney by then.

5

6 Q. If one then goes to the entries at page 26, and I'm
7 referring to the one which has the date on the right-hand
8 side of 26 September 2007?

9 A. Yes.

10

11 Q. That appears to refer to a conversation between
12 DCI Fox and yourself. Do you see that?

13 A. Yes, it does.

14

15 Q. Do you have a recollection of that conversation at
16 all?

17 A. Only that I know we did speak at times about this
18 matter, perhaps two or three times over a three to
19 five-year period.

20

21 Q. In terms of your application for extradition of a
22 warrant, did you make it known to DCI Fox at any time that
23 you had applied for a warrant prior to 2007?

24 A. In 1999, when I applied for the warrant, as my
25 supervisor, I would have told him that's what I was doing.

26

27 Q. What the extradition application that you had put
28 together?

29 A. I don't think I - no, I didn't speak to him about that
30 because my line of supervision then was through Detective
31 Chief Inspector Humphrey.

32

33 Q. Indeed, in terms of the line of supervision,
34 throughout the period of 2000 through to 2007, if one
35 looked at the police entries there - that is, the case
36 report - one would have seen that you were the officer in
37 charge with Mr Humphrey as your direct supervisor or crime
38 manager; is that so?

39 A. In 2000? I was in Sydney for the Olympics in 2000.

40

41 Q. If you look at page 27, the entry for 28 July 2005
42 there is a reference to "Crime Manager Humphrey"?

43 A. In 2005 he was, yes.

44

45 Q. I'll come back to the question. Anyone who looked at
46 the police records for that period would have seen that, in
47 terms of the investigation, you were the officer in charge

1 and Mr Humphrey was the relevant crime manager; is that so?

2 A. Yes.

3

4 Q. Mr Fox, at no time, was placed as either officer in
5 charge or having any role in the investigation up to that
6 point in time; correct?

7 A. No, that's right.

8

9 Q. If you go to page 28 for me again, if you would, you
10 became aware that Mr McAlinden - if I call him
11 Mr McAlinden, and I don't mean to be disrespectful in
12 referring to him in that way - you will see, when one looks
13 at the records there, at page 28, come 2007, you, for your
14 part, were aware that Mr or Father McAlinden had passed
15 away?

16 A. In, yes, like, September/October 2005.

17

18 Q. When one looks at the records for 2010, one can see
19 movement in terms of the police records system. Do you see
20 that?

21 A. Yes.

22

23 Q. I want you to have a look at that and particularly the
24 entries for 23 November 2010 where what appeared to have
25 happened is the case was reopened on the one day and
26 finalised on the very same day. Do you see that?

27 A. Yes.

28

29 Q. And that appears to have occurred via Inspector Peter
30 Fox?

31 A. Yes.

32

33 Q. As you sit there now, can you think of any reason from
34 a police operational point of view as to why it was
35 necessary to reopen a case on 23 November and finalise it
36 on the same day in circumstances where the alleged
37 perpetrator was dead?

38 A. It would only be in some reason that there was some
39 information to add that - only been a circumstance where
40 there may be some relevant information to add to a case.

41

42 Q. Is that the only reason you can think of?

43 A. The other part of it is that the case has been
44 transferred from one command - it looks like from one
45 command to another command, and you need to open the case
46 for that to happen. You need to open the case for it to be
47 transferred to another command.

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Q. Is another possible reason that if a police officer wants information relating to a case, he reopens it on the same day, obtains the information, and then closes it?

A. That's another option because you can't access the case unless you are linked as an employee on to the case.

MR SAIDI: Thank you.

MS LONERGAN: Commissioner, I have been asked to request a five-minute adjournment before I re-examine, please.

THE COMMISSIONER: All right. Thank you.

SHORT ADJOURNMENT

THE COMMISSIONER: Mr Gogarty?

MR GOGARTY: Thank you, Commissioner. Déjà vu.

<EXAMINATION BY MR GOGARTY:

MR GOGARTY: Q. I have just two questions, Inspector Watters.

A. Yes.

* Q. During your investigation which you suggested earlier commenced in 1999 and after [AE]'s complaint to you, did you ever come across any information or evidence that anyone representing the Catholic diocese of Maitland-Newcastle had ever communicated a concern about Denis McAlinden to the police?

A. There was no record on the computer system at all about that.

Q. Good, thank you. My only other question is: Do you have any sense from your investigations as to whether the Maitland-Newcastle diocese was attempting to find Denis McAlinden?

MR GYLES: I object for two reasons. The first reason is that Mr Gogarty is again not here otherwise than in a personal capacity and he is not here to address every possible issue. That's the first point.

THE COMMISSIONER: I am mindful of that, Mr Gyles. What is your other point?

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MR GYLES: The second point is the question is of no use to you anyway, Commissioner. It is a rolled-up question. It is unspecific. You have heard evidence for the best part of today, Commissioner, which deals with all the specifics in terms of the dealings that this witness can give evidence about, and a question which is so general is counterproductive, unnecessary and of no probative value and of no assistance to you, Commissioner, in my respectful submission.

MS LONERGAN: Commissioner, may I be heard in reply to the matter raised by Mr Gyles?

THE COMMISSIONER: Yes, Ms Lonergan.

MS LONERGAN: First of all, although Mr Gogarty appears in his right in relation to his own interests, those interests include, in a very general way, the perception or attitude of the Maitland-Newcastle diocese in its preparedness or otherwise to deal with matters touching on allegations of sexual abuse on the part of Fletcher or McAlinden, and that's our terms of reference that we're looking at, Commissioner.

One matter that is relevant to that - and there were only two questions - is that the second question was of a very discrete compass, if I may say. It related to the attitude of the diocese in terms of assisting or the attitude in relation to assisting an outside authority with locating somebody who was a known paedophile or at least somebody about whom allegations of paedophilia had been made. In my respectful submission, that question, which is the second of Mr Gogarty's two, ought to be allowed and it is not so general as to be not entirely unhelpful to you, Commissioner.

MR GYLES: Can I be heard, Commissioner?

THE COMMISSIONER: Yes, Mr Gyles.

MR GYLES: This is a question about what the diocese did in terms of making searches. This witness is not from the diocese. His knowledge, to the extent that he has any, would be secondary knowledge. We will hear from the diocese. Those are the people who can give the relevant evidence. This evidence is inadmissible whatever the

1 answer is, in my respectful submission.

2

3 THE COMMISSIONER: I understand your objection, Mr Gyles,
4 and I also am mindful that this witness can only give what
5 he heard, if he heard anything, about any attempts to
6 locate Father McAlinden. I take your point that there will
7 be other evidence from people who know perhaps better about
8 the answers to the questions, but I'm prepared to permit
9 the question and accept the answer on the basis that it is
10 this witness's knowledge and what was imparted to him from
11 the diocese.

12

13 MR GYLES: Can I make one further point. If this evidence
14 is given, we reserve the right in due course to say that it
15 should not become part of the evidence in the Commission
16 for the purpose of making findings. Commissioner, as you
17 would appreciate, evidence in this inquiry has to be
18 admissible in civil proceedings. This evidence is hearsay
19 and would not be admissible in civil proceedings.

20

21 THE COMMISSIONER: Thank you, Mr Gyles. I will allow the
22 question.

23

24 MR GOGARTY: Thank you, Commissioner.

25

26 Q. Inspector Watters, would you like me to put that
27 question to you again?

28

29 A. Yes, please.

30

31 Q. Do you have any sense of whether the
32 Maitland-Newcastle diocese, during the course of your
33 investigations - whether the diocese were making any
34 attempts to discover the whereabouts of Denis McAlinden?

35

36 A. Besides being helpful by talking with them on the
37 telephone, I never heard back from them.

38

39 MR GOGARTY: Thank you very much. I am sorry for the
40 kerfuffle, Commissioner.

41

42 THE COMMISSIONER: Not at all.

43

44 MR SKINNER: Before Ms Lonergan rises, could I have a
45 moment to speak to her?

46

47 THE COMMISSIONER: Yes, Mr Skinner.

(Ms Lonergan and Mr Skinner confer)

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<EXAMINATION BY MS LONERGAN:

MS LONERGAN: Q. Inspector, you were asked a question by Mr Gogarty that inquired as to your knowledge of whether the diocese of Maitland-Newcastle passed on information to the police. That was in effect the question that was put to you. Do you agree with that as an interpretation of the question or an assessment of the question that was put?

A. Yes, that was my understanding.

Q. You understand, don't you, that the material that was conveyed to you in the email series from the Professional Standards Office, which is annexure M to your affidavit, had its origins in information conveyed to the Professional Standards Office by the Maitland-Newcastle diocese?

A. Yes.

Q. You had that understanding because you know enough about the system there that the Professional Standards Office operates by receiving information from various diocese regarding what they know about sexual abuse allegations that have been conveyed to them, that is, the diocese or its staff, so that that can then be passed on to the Professional Standards Office?

A. To my understanding, yes.

Q. In relation to [AC], who you did actually take a statement from as part of the secondary aspect of your investigations, you learnt, did you not, that [AC] actually made a complaint via Towards Healing where part of her complaint was that she had interface with the then bishop of the diocese?

A. Yes.

Q. She told you that. To that extent the diocese were aware of [AC]'s interaction with you as a police officer?

A. I'm sorry, just repeat that one again?

Q. Yes. You learnt from [AC] that she had had some interface with Bishop Malone at the diocese?

A. Yes.

Q. Do you know whether [AC] also told the diocese that she was talking to you as a police officer and an investigating police officer?

A. From my memory of [AC], she was antagonistic towards

1 the church and I don't know whether she would have.
2 I don't have any knowledge if she did or if she didn't, but
3 - yes.

4
5 Q. All right. Are you able to say whether you have any
6 knowledge as to the methodology by which information about
7 allegations of sexual abuse that are provided to the
8 diocese filter down to the police, the NSW Police, or are
9 you not able to say?

10 A. No, just - I don't know.

11
12 Q. I want to ask you some questions relating to the
13 matters put to you by Mr Gyles on behalf of the diocese.
14 First of all, you were asked some questions about --

15
16 MR GYLES: Commissioner, I am sorry to interrupt my
17 learned friend. Can I deal with one matter arising from
18 those questions?

19
20 THE COMMISSIONER: Yes.

21
22 MR GYLES: I would respectfully submit that a
23 non-publication order should be made in respect of the
24 answer given to Mr Gogarty's first question. The
25 difficulty with that question is that the answer is
26 completely inconsistent with evidence that this witness has
27 given going to the information provided to him by the
28 church, which he has told you, Commissioner, that he was
29 very happy about in terms of the way he was dealt with,
30 both initially when he contacted the diocese on the phone
31 and then subsequently when further information was provided
32 to him where he learned about various victims who were able
33 to provide corroborative evidence with respect to the
34 investigation that he was doing. I am not sure whether the
35 witness misunderstood the question --

36
37 THE COMMISSIONER: Yes. I think his answer was there was
38 no record on the system about that, or words to that
39 effect; is that right?

40
41 MR GYLES: We know that there is. We know that the first
42 thing that happened was - as soon as he made contact - they
43 told him that there were other victims who might be able to
44 give evidence. That is on the system and that's evidence
45 which is relevant.

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47 THE COMMISSIONER: Yes.

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MR GYLES: We know that Ms Keevers in due course provided the address, perhaps not to this witness but it was on the system. We know that substantial evidence was provided by the professional services unit. Perhaps the witness doesn't understand that the question wasn't directed to that.

THE COMMISSIONER: Yes. Mr Gyles, what about this course? Would you be assisted if you were permitted to ask the witness some more questions arising from his answers to Mr Gogarty's questions?

MR GYLES: That's one way to deal with it but that may be an undue waste of time, because we have dealt ad nauseam with this topic and it seems that there must have been some misunderstanding given the evidence this witness has given.

THE COMMISSIONER: Ms Lonergan is on her feet. Will we see whether she's able to address any questions directed to cure the ills that you have raised?

MR GYLES: The ill I would wish to cure is that it is effectively the publication of that rolled-up answer. From what has happened previously, we know that the reporting of that sort of thing can be entirely misleading.

THE COMMISSIONER: It could become a headline in itself.

MR GYLES: Quite. There is a whole lot of evidence which goes to that.

THE COMMISSIONER: Yes.

MR GYLES: In any event, I would respectfully submit it is of no great probative value anyway in a rolled-up question like that, given the specific evidence you have heard, and it is really inconsistent with the whole tenor of this witness's evidence which has been, with all due respect, favourable in terms of communications when inquiries were made. He has very frankly said that they were dealt with and dealt with in a way which was very satisfactory to him.

THE COMMISSIONER: Yes. Thank you, Mr Gyles.

MR GYLES: That is my concern.

1 THE COMMISSIONER: Ms Lonergan, what do you say about a
2 non-publication order in relation to the first answer?

3
4 MS LONERGAN: I would oppose a non-publication order,
5 Commissioner, pending a reading back of the question and
6 the answer. The reason for that is I have a note of the
7 question that Mr Gogarty asked, which he has kindly sent
8 back to me, and it may be that in its delivery the emphasis
9 of the question was different. The question that is noted
10 seems to be a different one, that is an element of a
11 question about direct communications from
12 Maitland-Newcastle diocese staff to the police, as opposed
13 to information from the Maitland-Newcastle diocese getting
14 to the police by the professional standards office. There
15 is a distinction.

16
17 The usefulness of it in terms of the matters you have
18 to determine, Commissioner, may be hard to pin down, but if
19 I am to argue in favour of or against a non-publication
20 order about a question and answer, it would be of
21 assistance if the question and answer could be read back.

22
23 THE COMMISSIONER: Yes. We'll have that done, please.

24
25 (Question at page 96, line 27 to line 34 marked *read)

26
27 MS LONERGAN: It is very helpful having had that read
28 back, thank you, because there is an element of ambiguity
29 in the use of the term "anyone representing the Catholic
30 diocese of Maitland-Newcastle", and it may be Mr Gyles will
31 put another gloss on this, but I would apprehend his
32 objection to be a reasonable one given anyone representing
33 the Catholic diocese of Maitland-Newcastle, in the context
34 of the question, would have to include the Professional
35 Standards Office, based on the evidence this witness has
36 already given.

37
38 From that point of view, it seems to me that, with
39 respect to the question and answer, perhaps there's a bit
40 of a mismatch there, given the other evidence this witness
41 has given, which is borne of the lack of precision perhaps
42 in the question, no criticism of Mr Gogarty. I think use
43 of the term "representing" may well have been meant a
44 little more rigidly than perhaps it has been interpreted by
45 Mr Gyles and in fact myself. I don't know if that assists
46 Mr Gyles or whether he wants to be further heard.

47

1 MR GYLES: Nothing that I've just heard makes my position
2 any different. It would be entirely misleading and of no
3 public benefit for the answer to that question, given what
4 you've heard this afternoon, Commissioner, to be published.

5
6 THE COMMISSIONER: Inspector, did you have something to
7 say about the answer to your question?

8
9 THE WITNESS: My intention was to say at 1999, when
10 I received the complaint from [AE], there was nothing on
11 the computer system, was what my intention in that answer
12 was, not - certainly 2005 was completely different, but in
13 1999 there was nothing on the computer system with any
14 record from any person regarding Denis McAlinden. That was
15 my intention in that answer.

16
17 THE COMMISSIONER: Thank you, sir.

18
19 MS LONERGAN: Thank you, Commissioner.

20
21 Q. Inspector Watters, in your experience, do victims of
22 sexual abuse on occasion vacillate in wanting to go ahead
23 with the complaint and then not wanting to go ahead with
24 the complaint?

25 A. Almost universally, yes.

26
27 Q. Do you see your role as a police officer, and did you
28 see your role in 1999, as providing some support for the
29 victim in that vacillating process that sometimes occurs?
30 A. Yes.

31
32 Q. You have experienced, have you not, victims who say,
33 "No, I don't want to go ahead", at one point but then they
34 do want to go ahead?

35 A. Yes.

36
37 Q. In 1999 you had been a police officer for about
38 12 years?

39 A. Yes, 12 years.

40
41 Q. You had some experience in assessing the truthfulness,
42 or apparent truthfulness, of a statement of complaint made
43 to you?

44 A. Yes.

45
46 Q. You had developed by that time some skills in
47 assessing the veracity of a complaint being made by body

1 language, the manner in which a story is told and the like?

2 A. Yes.

3

4 Q. If a witness is not confident in their recollections,
5 you had by that stage, 12 years as a police officer, worked
6 out a way in which you would deal with evidence that did
7 not seem to be confidently told to you?

8 A. Yes.

9

10 Q. And on occasion, if it seemed to be lacking in any
11 sort of appropriate recollection or proper basis, you would
12 not put it in a police statement. Was that the position in
13 1999?

14 A. Can I just have that one again?

15

16 Q. Yes. If on your assessment the person was conveying
17 matters to you that were so lacking in any real
18 recollection or basis, that you would not include them in a
19 police statement?

20 A. Sometimes I would include it.

21

22 Q. In the case of [AE], did you form an impression as to
23 her truthfulness of the matters that she had told you of?

24 A. Yes, I believed her.

25

26 Q. You recall Mr Gyles put to you a series of questions
27 regarding the possibility that there was actually no letter
28 from the bishop provided to her parents?

29 A. Yes.

30

31 Q. You recall Mr Gyles asked you about that. He premised
32 those questions on the basis that she was about 11 years
33 old when these events occurred?

34 A. Yes.

35

36 Q. Could you have a look at annexure B to your long
37 affidavit. Do you see that's a statement of complaint that
38 [AE] had provided to the Catholic Church representative?
39 Do you see that?

40 A. Yes.

41

42 Q. On the third page of that complaint document, do you
43 see that [AE] has noted that she:

44

45 *... remembered that her parents made an*
46 *appointment with the current bishop of the*
47 *diocese of Maitland to discuss this matter.*

1 *Later the bishop sent her parents a letter*
2 *over this matter.*

3
4 Do you see that?

5 A. Yes.

6
7 Q. Did you rely to some extent on matters in that
8 complaint in terms of assessing [AE]'s consistency and/or
9 truthfulness as a witness when comparing it with what she
10 told you for her police statement?

11 A. Yes, that's almost exactly what had happened. I read
12 that, had a good understanding and then took her statement
13 and it's often the case that people will make mistakes if
14 they're telling lies as opposed to being consistent with
15 the truth.

16
17 Q. You can speak to a victim to see if he or she wants to
18 reactivate a matter after it had been suspended due to a
19 communication with you that they didn't feel up to
20 proceeding?

21 A. Certainly, yes.

22
23 Q. You did that with [AE] and explained options for
24 continuing the matter with her in 2005?

25 A. Yes.

26
27 Q. If you contacted her in 2002 with further information
28 and, in particular, further information that another
29 complainant who had suffered a similar type of abuse was
30 prepared to corroborate her complaint, you're just not able
31 to say whether [AE] would have said, armed with that
32 further information, "Yes, I want to go ahead with it," or
33 "No, I don't."

34
35 MR GYLES: Who is giving the evidence here? The witness
36 has given his evidence. There is nothing that arises. My
37 learned friend seems to be jumping into the witness box and
38 telling him what he would have done.

39
40 MS LONERGAN: Commissioner, I actually object to the tone
41 of that question, or the suggestion that I am giving
42 evidence, because I simply put a proposition to this
43 witness which is very similar to a proposition that my
44 learned friend put as to what would or wouldn't have
45 happened in 2002 if they'd found the location of
46 Father McAlinden.

1 THE COMMISSIONER: Yes.
2
3 MR GYLES: I apologise if my friend takes any offence, but
4 the point is that my learned friend dealt with this issue
5 when she asked her questions. I then cross-examined about
6 it and there's nothing which arises from the
7 cross-examination which requires further evidence to be
8 given on the same topic, particularly in a leading way.
9
10 THE COMMISSIONER: Yes. I think the question was, "You're
11 not able to say".
12
13 MS LONERGAN: That's right, which I would not have thought
14 was leading in one direction or the other. I was simply
15 establishing a state of perhaps some uncertainty as to what
16 would have happened in 2002, which I would have thought may
17 have assisted my learned friend's client's position.
18 However, I will proceed with a different question. I won't
19 waste any more time.
20
21 THE COMMISSIONER: Thank you.
22
23 MS LONERGAN: Q. You don't know, do you, inspector, what
24 McAlinden's state of health was in 2002?
25 A. No.
26
27 Q. You are therefore unable to assist the Commission with
28 what steps may have been taken for extradition - or
29 otherwise - of him in 2002?
30 A. No.
31
32 MS LONERGAN: That is the re-examination, Commissioner.
33
34 THE COMMISSIONER: Thank you very much, Ms Lonergan.
35 Thank you, detective inspector. I am sorry, Mr Gyles, did
36 you wish to ask any further questions?
37
38 MR GYLES: Could I just raise one matter in relation to a
39 non-publication order? At the moment there has been no
40 non-publication order, but I would like to ensure that to
41 the extent that there is reporting of the answer of the
42 first question, that it takes in the qualification that was
43 subsequently given by the witness as to what he meant.
44
45 THE COMMISSIONER: Yes, I would endorse that, Mr Gyles.
46
47 MR GYLES: The second point I would simply wish to make is

1 that as to the relevant facts as to what information was
2 provided by the diocese to the police is a matter that is
3 proved by looking at the relevant communications, not by
4 this witness's indirect evidence of that. In other words,
5 his evidence goes, so far as it does, to his knowledge of
6 that.

7
8 THE COMMISSIONER: That is all it goes to and that is
9 understood, thank you, Mr Gyles. Thank you
10 Detective Inspector Watters. You are excused. Thank you.

11
12 <THE WITNESS WITHDREW

13
14 MS LONERGAN: There has been a request for release of
15 exhibits 47 and 48, which are Detective Watters'
16 statements. I request that anybody who has an objection to
17 their release to the press should notify the Special
18 Commission of Inquiry staff by 4.30 today.

19
20 THE COMMISSIONER: Thank you, Ms Lonergan.

21
22 MS LONERGAN: Commissioner, given the time, I would
23 suggest that we start Detective Chief Inspector Fox's
24 evidence at 10 o'clock in the morning.

25
26 THE COMMISSIONER: Very well, Ms Lonergan. Thank you very
27 much, Ms Lonergan and counsel. 9.30 tomorrow?

28
29 MS LONERGAN: 10 o'clock.

30
31 THE COMMISSIONER: Thank you. 10 o'clock in the morning.

32
33 **AT 3.55PM THE COMMISSION WAS ADJOURNED TO**
34 **TUESDAY, 2 JULY 2013 AT 10AM**

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