

**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 Thursday, 1 August 2013 at 10.40am
(Day 21)

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 MS LONERGAN: My apologies to those at the bar table and
2 those also present in court for the late start this
3 morning. Given this is the last day of the public sittings
4 in Newcastle, as inevitably happens, a number of matters
5 have arisen that had to be dealt with before we commenced
6 this morning and will have to be dealt with.

7
8 There are two transcript corrections, helpfully drawn
9 to my attention by Mr Skinner. One is on page 2264 at line
10 42, it reads "that's a whole extra set-up from the
11 administrative", it should read "that is a whole extra step
12 up".

13
14 THE COMMISSIONER: Yes, that's agreed.

15
16 MS LONERGAN: On page 2261, line 11, the exhibit number
17 should be 60 rather than 50.

18
19 The other matter is it has been drawn to my attention
20 by Mr Gyles that there is an issue regarding a particular
21 report in the media which is in Mr Gyles' submission and it
22 appears to be a submission correctly drawn to the attention
23 of those who assist you. There has been unbalanced
24 reporting of the evidence of Ms Keevers. Mr Gyles seeks to
25 address you in more detail on that matter.

26
27 MR GYLES: Can I hand up a copy of the relevant article
28 from yesterday's Newcastle Herald. Despite, Commissioner,
29 often feeling as though what happens in this inquiry and
30 what is reported the following day can be a parallel
31 universe, we have resisted the temptation of raising such
32 matters and we only do so because this is something we
33 regard as a seriously slanted and biased reporting of the
34 events yesterday. It is also a matter of importance
35 otherwise.

36
37 You will see the headline "Choice of cops or cash"
38 whether or not Mr Kirkwood himself was responsible for
39 that - he probably wasn't - but that's typical of what we
40 have seen in terms of what might be described as
41 sensationalised criticism of the church personnel,
42 officials and procedures, often. All, of course, having
43 impact on reputations of the institution and the procedures
44 of the individuals concerned.

45
46 One possible imputation of a headline like this is
47 that people, survivors, victims, are being paid off not to

1 go to police. The difficulty with the use of headlines
2 like that is, as you would appreciate, Commissioner, that
3 some people might read the headline, roll their eyes and
4 move on without getting to the detail. It is a mischievous
5 headline in the extreme when one looks at the evidence on
6 this issue and the way in which these claims are dealt
7 with.

8
9 In that respect, for the benefit of both the press and
10 the public gallery, so there is no confusion about the way
11 these things are handled, the first point is where a
12 Towards Healing complaint is made, and compensation is one
13 of the remedies that is sought, namely, the allegation
14 which is the subject matter of the complaint has to be
15 investigated, obviously. That's the first point.

16
17 The second point is where there is a police
18 investigation on foot or anticipated, the church cannot
19 conduct its own investigation, because in doing so, it can
20 hinder or detrimentally impact the police investigation.
21 We see Mr Harben's client Bishop Malone having been
22 continuously criticised in the press for the last ten years
23 for what is described often as tip-offs and the like in
24 terms of a visit that he has told you, Commissioner, he
25 regarded as a pastoral visit to one of his parish priests.

26
27 MS LONERGAN: I don't like to interrupt my learned friend.

28
29 THE COMMISSIONER: Yes, we might be straying --

30
31 MR GYLES: I will move on. The point is that if a victim
32 decides to go the police, there is a timing issue in terms
33 of dealing with a Towards Healing complaint. It is not a
34 quick choice of cops or cash. Where there is no police
35 investigation, that is not anticipated, and there is no
36 impediment upon the church processing a Towards Healing
37 complaint, that happens. The difficulty there is that as
38 soon as someone doesn't go to the police, there is then
39 some inference that people are being discouraged from doing
40 so, because the church doesn't want the police involved.

41
42 THE COMMISSIONER: And the compensation aspect muddies the
43 waters further.

44
45 MR GYLES: Yes, but on any view these complaints have to
46 be investigated.

47

1 THE COMMISSIONER: By someone.

2

3 MR GYLES: By someone. The difficulty with the appearance
4 of people not going to the police is the reason why we see
5 in the protocol that the importance of encouraging people
6 to go to the police is identified by or borne out by what
7 we saw yesterday in the appendix to the 2003 Towards
8 Healing protocol where it is necessary for someone who
9 chooses not to go to the police to say this:

10

11 *The ... Church has strongly urged me to*
12 *take my complaint to the police ... It has*
13 *been carefully explained to me that any*
14 *process the Church establishes cannot*
15 *compel witnesses, subpoena documents ...*
16 *[and the like]. It cannot impose the same*
17 *penalties as a criminal court. Aware of*
18 *those limitations, I still state that I do*
19 *not wish to take my complaint to the*
20 *police ...*

21

22 THE COMMISSIONER: Perhaps you might remind the inquiry of
23 what year that clause introduced?

24

25 MR GYLES: It was introduced in 2003. That's the other
26 difficulty with the report. In terms of the process, that
27 is why that happens. So far as the evidence is concerned
28 in terms of encouragement to go to the police, the evidence
29 on that issue of a number of people is that victims are
30 encouraged to go to the police as the best solution.

31

32 Ms Keevers says that what she encouraged people to do.
33 We know in 1997 Bishop Malone was encouraging victims to do
34 that.

35

36 MS LONERGAN: I rise to interrupt my learned friend. I
37 don't mean to be rude. We are dealing with a particular
38 allegation about a particular report and, in my respectful
39 submission --

40

41 THE COMMISSIONER: A particular witness's evidence.

42

43 MS LONERGAN: -- the right way to deal with it from this
44 stage would be to take those in court to the evidence which
45 occurred at pages 2179 and 2180 of the transcript yesterday
46 where it appears the article has not dealt with the
47 entirety of the evidence and, in particular, has not dealt

1 with the clause identified by Ms Keevers as being the
2 matter she is referring to in a certain part of her
3 statement and, therefore there is, a lack of balance, it
4 appears, in the reporting of her evidence in effect about
5 that issue.

6
7 THE COMMISSIONER: Yes.

8
9 MR GYLES: I am getting to a point, and I'd like the
10 opportunity to do it.

11
12 THE COMMISSIONER: Yes, Mr Gyles.

13
14 MR GYLES: It's an important issue for this reason:
15 Commissioner, you'll hear from Ms O'Hearn shortly. She is
16 a thoroughly decent and compassionate person who is dealing
17 on a day-to-day basis with victims. She will tell you,
18 Commissioner, that one of the difficulties with victims is
19 obtaining their confidence - their confidence in the
20 church, because they are people who have been abused. That
21 is a significant threshold to pass over.

22
23 This sort of reporting, when it questions the whole
24 process in this way, makes it even more difficult for those
25 who are taking up the opportunity to take advantage of the
26 processes that are being offered - it makes it even more
27 difficult not only for the victims to have confidence in
28 the process and more difficult for Ms O'Hearn and those
29 sort of people when the integrity of this is questioned in
30 this way - in way which is very unfair. I'll go to the
31 particular article. You'll see the difficulties of it are,
32 that, first, in the first paragraph, it is put - this was
33 dealt with very fairly and fully by Mr Hunt yesterday -
34 I raised it with him and he dealt with it in a way which
35 was entirely satisfactory to me, so I didn't need to ask
36 any questions about it.

37
38 The first paragraph indicates there is this choice of
39 one or the other. Now, that is not the evidence. The
40 second point is it is said that Ms Keevers was giving
41 evidence concerning matters when she was assisting
42 Bishop Malone. Her evidence was that she was directing her
43 evidence to when she was at Centacare in 2003 and 2004.
44 That was before she was employed in her role at Zimmerman
45 House.

46
47 There is a quotation of the transcript where Mr Hunt

1 is recorded as putting to her the either/or situation -
2 either go to the police or Towards Healing. What is
3 reported is Ms Keevers saying, "That is how I understood
4 it", but the next question is:

5
6 *Q. Was it your view in terms of the way*
7 *this operated that if someone elected to go*
8 *to the police in preference to, at that*
9 *point, advancing a matter through Towards*
10 *Healing, once the police processes were*
11 *complete, that person could elect to then*
12 *exercise Towards Healing rights?*

13
14 The answer:

15
16 *They certainly could return then.*

17
18 The question which was directly relevant to the headline
19 was not included. That is obviously our primary concern
20 and the reason that I've taken the time this morning to
21 raise it with you.

22
23 The other difficulty with the article in the following
24 paragraph is that it is said:

25
26 *Mr Hunt told the inquiry the situation in*
27 *this regard was amended in the 2010 version*
28 *... which advises the Church "strongly*
29 *urges" people to go to the police.*

30
31 What he was referring to was the 2003 version.

32
33 I apologise for taking perhaps more time than
34 Ms Lonergan might have thought appropriate, but it is a
35 matter considered to be very important by the church in
36 terms of fair reporting of this issue. Obviously a certain
37 amount of damage may have been done but it is very, very
38 important that people have confidence in the likes of
39 Ms O'Hearn and what's being done to assist these victims.

40
41 THE COMMISSIONER: An article of this nature does have the
42 capacity, I can see, to undermine that public confidence in
43 Zimmerman Services. Ms Lonergan?

44
45 MS LONERGAN: I would not want it to be thought that
46 I thought Mr Gyles took an inappropriate amount of time.
47 It's a very appropriate matter to raise. I simply was

1 directing the matter back to the particular harm relating
2 to the particular reporting of Ms Keevers' evidence
3 yesterday. I certainly make no comment at all about my
4 friend raising it. I consider it most appropriate that it
5 be raised and I agree that it is an unfair and unbalanced
6 reporting of the evidence from Ms Keevers.

7
8 Can I add that Mr Hunt also tendered the particular
9 document from which the quote was taken. That particular
10 document was made available to members of the press
11 yesterday evening. It is expected that the members of the
12 press will access those documents when evidence has been
13 taken about them to ensure their reporting accurately
14 reflects the documents the witnesses have been taken to.

15
16 THE COMMISSIONER: Even a temporary choice does not arise
17 until the person has signed the clause that says "The
18 Catholic Church has strongly urged me to take my complaint
19 to the police."

20
21 MS LONERGAN: That's right, Commissioner. Mr Gyles is
22 most proper to have raised the issue.

23
24 THE COMMISSIONER: Mr Gools, if I may say so, with
25 respect, you have comprehensively dealt with the answers to
26 each paragraph in that reporting. I can only say that
27 I agree that if Ms Keevers answer "That's definitely how
28 I understood it" to be reported, it would only be fair for
29 the following exchange to be included to give the balance
30 to that report. The error to say that it was amended in
31 2010, when in fact the clause took effect in 2003, is a
32 very important matter when reporting on the operations and
33 dealings of Zimmerman Services.

34
35 I just put that on the record and perhaps an
36 expectation that something in the nature of a correction
37 might be published in the very near future.

38
39 MS LONERGAN: I've just been instructed by Ms Sullivan,
40 special counsel, to note for the record that there will be
41 contact made with the particular author and some
42 discussions had about how best to remedy the situation.

43
44 THE COMMISSIONER: Thank you, Ms Lonergan. Thank you,
45 Mr Gyles, for raising it.

46
47 MR GYLES: Thank you, Commissioner.

1 MR KELL: Commissioner, I call Jason Robbs.

2

3 MR ROSER: While Mr Robbs is being called, Commissioner,
4 I take an application under 23.

5

6 THE COMMISSIONER: Yes, certainly, that is granted,
7 Mr Roser.

8

9 MR KELL: There is no statement from Mr Robbs, but there
10 is a diary entry that has been circulated this morning.

11

12 <JASON SCOTT ROBBS, affirmed: [10.56am]

13

14 MS McLAUGHLIN: Commissioner, Mr Robbs can be seated, but
15 he is to give evidence in relation to a matter raised that
16 concerns my client about which evidence was given on
17 Friday. I seek a prospective non-publication order at this
18 stage. It is hard, particularly without a statement
19 although I have been given some information by my friend
20 Mr Kell, as to what the nature of Mr Robbs's evidence might
21 be.

22

23 Notwithstanding that, it will touch on matters that
24 were the subject of a non-publication order on Friday. For
25 that purpose I seek a prospective order at this point,
26 again to be looked at again at the conclusion of the
27 witness's evidence. It may be that it's of no weight or
28 only relevant to certain aspects of it, but I'm concerned
29 to protect --

30

31 THE COMMISSIONER: Or favourable to your client.

32

33 MS McLAUGHLIN: Perhaps, that's quite correct.

34

35 THE COMMISSIONER: Mr Kell, what do you say?

36

37 MR KELL: Commissioner, it would be open to you to make a
38 temporary order to hold the position until the conclusion
39 of Mr Robbs' evidence. At an appropriate time, which may
40 be after morning tea, it will also be necessary for counsel
41 assisting to perhaps revisit the application of
42 non-publication orders relating to this area
43 generally, given --

44

45 THE COMMISSIONER: It doesn't seem to be an area that can
46 be discretely hived off into one section.

47

1 MR KELL: Yes, and to ensure that there is a consistency
2 with evidence that has been released, for example.

3

4 THE COMMISSIONER: In that case, I am disposed to accede
5 to your question, Ms McLaughlin and then we will revisit it
6 at the conclusion of Mr Robbs' evidence.

7

8 MS McLAUGHLIN: Thank you, Commissioner.

9

10 <EXAMINATION BY MR KELL:

11

12 MR KELL: Q. Your full name is Jason Scott Robbs?

13 A. Yes.

14

15 Q. You are presently an officer with the Australian
16 Bureau of Statistics?

17 A. Yes, I am.

18

19 Q. From 1998 to 2008 you were a serving officer with the
20 NSW Police Force?

21 A. From 1988 to 2008, yes, I was.

22

23 Q. You left with the rank of detective senior constable?

24 A. I did, yes.

25

26 Q. You had attachments during that period of time,
27 principally within the Lower Hunter command?

28 A. I did.

29

30 Q. And you did work in general duties?

31 A. Yes.

32

33 Q. Highway patrol?

34 A. Yes.

35

36 Q. And criminal investigation?

37 A. Yes.

38

39 Q. As at 2003 you were based at the Maitland detectives
40 office?

41 A. Yes.

42

43 Q. That's within the Lower Hunter Local Area Command?

44 A. It is.

45

46 Q. As at December 2003 you held the rank of senior
47 constable?

1 A. Yes, I did.
2
3 Q. Were you a detective at that stage?
4 A. No, I wasn't a designated detective. I think the term
5 we used back then was plain clothes senior constable.
6
7 Q. You subsequently became a detective?
8 A. I did, yes.
9
10 Q. When was that?
11 A. I tried to find my certificate last night. I have
12 moved house. As I explained before I couldn't find it, but
13 I am assuming it would be somewhere 18 months past that
14 date, two years.
15
16 Q. 2004 or 2005, you were designated as a detective?
17 A. Somewhere around that date, yes.
18
19 Q. I want to ask you about a particular attendance that
20 took place in late December 2003.
21 A. Yes.
22
23 Q. As at that time you were at the Maitland detectives
24 office?
25 A. Yes.
26
27 Q. Who was your immediate supervisor at that time?
28 A. It would have been Chief Inspector Fox.
29
30 Q. At that time did he hold the rank of chief inspector
31 or was he --
32 A. No, at that stage I think he was still detective
33 sergeant.
34
35 Q. I want to show you a duty book entry which has been
36 provided today. I'll hand up a copy for the witness and
37 the Commissioner. This has been provided by the NSW Police
38 Force today. Is it the case, Mr Robbs, that you yourself
39 do not have copies of any notebooks or duty books from your
40 time as an officer?
41 A. No, they would have been left there when I left the
42 Police Service and should have been - I would assume -
43 filed as per police procedure.
44
45 Q. Could I ask you to look at that document. Do you
46 identify that as one of your duty book entries?
47 A. It's my handwriting, yes.

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Q. That's an entry from 30 December 2003?

A. The date indicates that, yes.

Q. Perhaps if you can read out - there are certain parts that have been redacted that don't relate to this matter - what you've written in that entry?

A. Yes. It's got there:

On duty 8am --

which is underlined usually in red --

Maitland Detectives Office.

Then the redaction is taken out:

Out [Lower Hunter] 101 --

which is a call sign for the detectives vehicle --

Detective Sergeant Fox to Presbytery in

William Street, Raymond Terrace.

Speak with Priest Des?

Return to Raymond Terrace station re

[enquiry]. Then return to Maitland

[police] station.

I've got a meal taken between 12.30 and 1, also underlined in red. Underneath the next redacted piece, it's got:

Off duty 6pm.

Q. I want to ask you some questions about your recollection of the attendance that is noted there.

A. Yes.

Q. First of all I want to ask you before you went on this attendance out that's noted, can you recall the circumstances how that came about?

A. No, I don't actually. I initially thought I was at Raymond Terrace police station at that point in time, but my duty book indicates I was still at Maitland.

Q. When you say you initially thought you were at Raymond Terrace, that was before you received your duty book entry today?

1 A. Yes, I thought I was at Raymond Terrace before I saw
2 this, this morning. As you can appreciate, we used to work
3 Cessnock, Maitland and Raymond Terrace and we often used to
4 change around quite a bit. But I recall being back at
5 Raymond police station that day, so I initially thought
6 I was actually stationed at Raymond Terrace at that time.
7 Sorry.

8

9 Q. That is all right. Your evidence is you don't
10 recollect the circumstances leading up to you going on that
11 attendance out?

12 A. No.

13

14 Q. You don't recall being asked by anyone to attend?

15 A. No, I don't recall. I do recall going there, but
16 I don't recall the circumstances.

17

18 Q. We'll come to that. The attendance itself was in the
19 morning, was it?

20 A. I've got in my duty book as some time between - it
21 would be between 8am and 12.30 when I took a meal.

22

23 Q. The reference to "LH 101" is a police car?

24 A. "LH" stands for Lower Hunter and detective vehicles
25 starts with a 100 series number - we had 100 to 105.

26

27 Q. Is it the position that you've got some recollection
28 independent of this note of the attendance at the
29 presbytery --

30 A. Yes.

31

32 Q. And you've got some recollection of parts of the
33 conversation, but you don't recall most of the conversation
34 in "I said/He said" type fashion?

35 A. No, I don't.

36

37 Q. Would that be a fair description?

38 A. It would be fair to say that, yes.

39

40 Q. You've driven to the presbytery with Detective Fox;
41 was that the case?

42 A. Yes.

43

44 Q. Do you recall arriving at the presbytery?

45 A. I can recall walking on to, I think it's like a front
46 verandah area and we were met at the door by a male person,
47 who I assumed was the person we were going to speak to. Do

1 you want me to proceed?
2
3 Q. The male person was the priest that you spoke to?
4 A. Yes, it was.
5
6 Q. Is that the person that you've identified in your duty
7 book as "priest Des?" ?
8 A. Yes. We moved to a room.
9
10 Q. Just pausing there. Did either you or Detective Fox
11 speak to the person that answered the door?
12 A. I can't remember the conversation, but it would have
13 been Detective Fox.
14
15 Q. He was your supervisor and your senior officer?
16 A. Yes.
17
18 Q. You can't recall what was said at that stage?
19 A. No.
20
21 Q. What happened next?
22 A. I think we went into, like, a lounge room-type area or
23 a reception-type area, something like that, and I remember
24 sitting on a chair. I think Detective Fox was on to my
25 left and the priest chap was in front of or directly sort
26 of opposite us.
27
28 Q. Just pausing there, before we get to the conversation
29 inside the room, do you recall having any discussion - if
30 you don't, that's fine - with Detective Fox on the journey
31 to the presbytery regarding the purpose of the visit?
32 A. No, I don't remember the actual journey in the car.
33
34 Q. You're not saying it didn't happen but you just don't
35 recall it?
36 A. I just don't recall it, no, I'm not saying --
37
38 Q. That's all right. We're asking you about events
39 ten years ago?
40 A. Yes, almost ten years.
41
42 Q. You've since left the Police Force?
43 A. I have.
44
45 Q. You've put these as another chapter of your life, in
46 one sense?
47 A. I have, yes.

1
2 Q. You're now being brought here today to be asked
3 questions about these events, so we understand and we want
4 to test aspects of your recollection.
5 A. Yes.
6
7 Q. You were invited into a room and you sat down?
8 A. Yes.
9
10 Q. Detective Fox sat down as well?
11 A. Yes, I think he was on my right.
12
13 Q. The priest, Father Des?
14 A. Father Des was opposite.
15
16 Q. Then do you recall the general topic of discussion,
17 and I'll ask you for some specific matters, but do you
18 recall what was discussed?
19 A. The general topic of the discussion was in relation to
20 some pornographic material.
21
22 Q. Just pausing there, what material do you recall,
23 pornographically or otherwise? Had you brought any
24 paperwork with you to the meeting?
25 A. No.
26
27 Q. Do you recall Detective Fox bringing any particular
28 paperwork of any sort?
29 A. I can't recall him bringing any paperwork, but every
30 police officer carries a notebook and a pen or a notebook
31 to make some notes.
32
33 Q. Do you recall any other material of any sort being
34 brought to the meeting?
35 A. No, I can't, sorry.
36
37 Q. So there was a discussion about the topic of
38 pornography?
39 A. Yes.
40
41 Q. Did you yourself take part in the discussion, or is it
42 fair to say that Detective Fox did most of the talking?
43 A. No, Detective Fox did the talking. I was, for want of
44 a better expression, mainly an observer.
45
46 Q. You don't recall yourself doing any of the talking?
47 A. No, I didn't.

1
2 Q. Other than to say hello?
3 A. Perhaps to introduce myself.
4
5 Q. Do you recall, doing the best you can now, what
6 Detective Fox had asked Father Des once you sat down in the
7 room inside the presbytery?
8 A. The basis of the conversation was in relation to some
9 pornographic material that was at the Lochinvar presbytery.
10
11 Q. You recall the subject matter being pornographic
12 material that had been at the Lochinvar presbytery?
13 A. Yes.
14
15 Q. Do you recall whether you had any of that material
16 with you at the time?
17 A. No, not to my recollection, we didn't have any. No.
18
19 Q. You don't recall that having been with you at the
20 time?
21 A. The actual material? No, I don't.
22
23 Q. Or samples of material?
24 A. No, I can't recall that.
25
26 Q. Would it be unusual in any way to bring samples of
27 pornographic material in a police car to attend on a person
28 where it wasn't a formal interview of any sort?
29 A. Well, I would think if it was a formal interview, it
30 would have been done at the police station, and an exhibit
31 or something, might have been produced during a formal
32 interview. That's what a normal police procedure, from my
33 recollection, would be. I can't recall any material of
34 that nature being shown to the police by Mr Fox, no.
35
36 Q. Do you think it would be the case that had there been
37 pornographic material brought in the police vehicle from
38 the police station to attend on a priest, that's something
39 that you would recall?
40 A. More than likely, yes.
41
42 Q. Your best recollection is there was no such material?
43 A. I can't recall any material, no.
44
45 Q. There was a discussion about pornographic material in
46 a presbytery?
47 A. Yes.

1
2 Q. Do you recall within that discussion the nature of the
3 material that was being described?
4 A. It's orientation you mean?
5
6 Q. Yes, to start with?
7 A. It was male homosexual pornography.
8
9 Q. Just so we can put it to one side, it wasn't a
10 discussion about child pornography in any way?
11 A. No.
12
13 Q. It was adult male pornography?
14 A. Yes, adult male, yes.
15
16 Q. Putting to one side its character, was there a
17 discussion as to the form of it, whether it was magazines
18 or some other type of material?
19 A. Movies and magazines were mentioned, but I don't know
20 whether that was in the form of VHS video cassette or DVD.
21
22 Q. So magazines were mentioned?
23 A. Yes, I recall magazines.
24
25 Q. Your recollection is that movies were mentioned?
26 A. Yes, the term "movies" springs to mind but, like I
27 said, I can't say whether that was DVD or, yes, video
28 cassette.
29
30 Q. Whatever medium, or media, there was a discussion, was
31 there, beyond magazines of pornography in a film-type
32 nature?
33 A. I believe so, yes.
34
35 Q. Yes?
36 A. I think so, yes.
37
38 Q. So there was a discussion about pornography that had
39 been in Lochinvar presbytery. Can you recall at a more
40 precise level what was asked of Father Des relating to that
41 pornography?
42 A. I can recall Mr Fox asking Father Des who owned
43 the material. He said it wasn't his, that it was Father
44 Fletcher's material.
45
46 Q. So you recall Father --
47 A. No, sorry, I've got it around the wrong way. I recall

1 him saying it was his, not Father Fletcher's material.
2
3 Q. So the priest you had seen, Father Des, had been asked
4 whether certain pornography that had been found in
5 Lochinvar presbytery was his pornography?
6 A. Yes.
7
8 Q. Or was that of Father James Fletcher?
9 A. That's correct.
10
11 Q. And your evidence is Father Des, the priest that was
12 in the room with you, had said that it was his material?
13 A. Yes, that's correct.
14
15 MS McLAUGHLIN: I think that it actually wasn't Father
16 Fletcher's material. He made a positive statement to that
17 effect.
18
19 MR KELL: Yes, I am just going to that.
20
21 Q. He indicated to you, from your recollection, that it
22 was his material?
23 A. Yes, from my recollection.
24
25 Q. "His" being Father Harrigan and that it was not Father
26 Fletcher's?
27 A. To my recollection, yes.
28
29 Q. I want to ask you about your general impression. By
30 this time you had met Father Des at the door, you had come
31 in, there'd been some discussion, you had been sitting down
32 in the seats with him. Just as a general impression, how
33 did he present to you? How did Father Des present to you
34 when you saw him?
35 A. I'd explain this - is it guarded?
36
37 Q. Yes.
38 A. He was just - yes, it was guarded in his answers.
39
40 Q. That, presumably, may not be unexpected with a couple
41 of police officers coming to ask you questions?
42 A. No, it wouldn't.
43
44 Q. You're not saying that there was anything improper in
45 being guarded?
46 A. No, not at all.
47

1 Q. Did he appear otherwise to be cooperative in
2 responding to questions?
3 A. From my recollection, he answered the questions that
4 Detective Fox put to him.
5
6 Q. Did he otherwise appear to be engaged in the process?
7 A. Well, from recollection, he seemed to understand the
8 questions and the conversation.
9
10 Q. He appeared to be attentive?
11 A. Yes.
12
13 Q. And it was an attendance at some time in the morning?
14 A. Going off my duty book again, it would be somewhere
15 between - I've got there 8 - 12.30, it certainly would not
16 have been 8am in the morning. I'm assuming around mid --
17
18 Q. Before lunchtime?
19 A. Before lunchtime.
20
21 Q. He maintained that appearance to you, did he, during
22 the time of your attendance, that is to say he was
23 attentive and focused on the matters you were asking him?
24 A. Yes.
25
26 Q. I want to ask a more specific question now. Did he at
27 any stage appear to you to be affected by any substances,
28 that is to say, alcohol?
29 A. No, no, not from my recollection. No.
30
31 Q. Do you think that is something that you would recall,
32 had he presented to you in an intoxicated state?
33 A. What type of intoxication level are we talking about?
34
35 Q. You've got no recollection of Father Des being
36 intoxicated at all, is that the case?
37 A. No, I don't.
38
39 Q. If you had attended on a priest who presented to you
40 as being affected by alcohol, that would be a fairly
41 unusual attendance, one would assume?
42 A. It would be, yes.
43
44 Q. That's something you would be likely to remember?
45 A. It would be likely, if he was drunk or intoxicated,
46 yes, I'd remember that. Yes.
47

1 Q. Similarly, did you see within the proximity of
2 Father Des any alcoholic bottles or a bottle on the carpet
3 or near him?
4 A. No, sorry.
5
6 Q. You recall within the conversation that there were
7 questions being put to Father Des in relation to ownership
8 of certain pornographic material?
9 A. Yes.
10
11 Q. And that Father Des had indicated that the material
12 was his and not Father Fletcher's?
13 A. That's correct, yes.
14
15 Q. Do you recall after that any other parts of the
16 discussion that took place?
17 A. No, I don't. No, no. The basis of what I can
18 remember was what we've already discussed.
19
20 Q. Doing the best you can sitting here now, how long were
21 you at the presbytery?
22 A. It wasn't terribly long. I'd be - say somewhere - I'd
23 only be guessing - somewhere between 10 to 20 minutes,
24 somewhere in that time frame, I would say.
25
26 Q. It wasn't a lengthy attendance in the sense that it
27 wasn't something like an hour?
28 A. I'd only be guessing.
29
30 Q. We don't want you to guess.
31 A. No.
32
33 Q. Doing the best you can, it was --
34 A. From my recollection, I'd say somewhere between the
35 10, 15 - 10, 20-minute mark, somewhere in that range.
36
37 Q. I just want to ask you whether you have any
38 recollection about any discussion taking place, and then
39 I'll ask you about the more specifics, about any discussion
40 taking place relating to disposal of pornographic material.
41 Was that a matter that you recall being asked by Detective
42 Fox?
43 A. I can remember the topic being raised. I can't
44 remember what --
45
46 Q. Just pausing there, when you say "the topic being
47 raised", it was raised by Detective Fox?

1 A. Yes, it was, yes.
2
3 Q. Or you? What do you recall being asked?
4 A. I recall Detective Fox asking Father Des where that
5 material was. As I said before, I can't remember the exact
6 words but it was in relation to, "Where is that material at
7 now?"
8
9 Q. And?
10 A. His reply?
11
12 Q. No. So he asked Father Des where that material was
13 now?
14 A. Yes.
15
16 Q. Detective Fox had asked Father Des to the effect,
17 "Where is that pornographic material now?"; is that what
18 your evidence is?
19 A. Yes.
20
21 Q. What do you recall, if anything, in terms of the
22 response that was made to that?
23 A. I can recall Father Des responding to the answer
24 [sic], but I can't recall what the actual answer was,
25 whether he had disposed or had not disposed of that
26 property. I honestly can't say what his response was.
27 I recall he responded to the answer [sic], but I can't
28 recall whether it was, "Yes, I still have it", or, "No I've
29 got rid of it", or, "It's still at Lochinvar", I honestly
30 can't remember that part.
31
32 Q. Disposal, you're also including, are you, notions of
33 destruction, as to whether pornography had been destroyed?
34 A. I'm assuming, yes.
35
36 Q. You recall the question having been raised. You recall
37 that it was addressed by Father Des?
38 A. Yes.
39
40 Q. But doing the best you can now, ten years later,
41 you're not able to say what his answer was?
42 A. I couldn't 100 per cent give you an answer.
43
44 Q. I want to ask whether you recall any other aspects of
45 the conversation at all at that time, or is that the extent
46 of your recollection now looking back on matters?
47 A. That's basically the extent of my recollection of the

1 events of what happened inside the --

2

3 Q. This attendance took place, did it not, as part of the
4 overall investigation relating to Father James Fletcher?

5 A. I would assume it was, yes.

6

7 Q. Is it correct to say that this attendance that took
8 place on 30 December was your only role in relation to the
9 Fletcher investigation?

10 A. Yes, as far as I know, it was, yes.

11

12 <EXAMINATION BY MS McLAUGHLIN:

13

14 MS McLAUGHLIN: Q. Mr Robbs, your employer has provided
15 a copy of your duty book to the Commission today. You
16 would have had a notebook as well; is that correct?

17 A. Yes.

18

19 Q. Do you recall if you made any notes in your notebook
20 at the time?

21 A. No, I don't believe I would have.

22

23 Q. But would you have taken them both with you; is that
24 correct?

25 A. I would have --

26

27 Q. Would that have been your usual practice?

28 A. I would have taken my briefcase which would have
29 contained my appointments, notebook and other material
30 I used in that day.

31

32 Q. A briefcase?

33 A. Yes.

34

35 Q. Do you recall Detective Fox taking anything with him
36 in the line of a briefcase?

37 A. I can't recall him taking anything, but everyone
38 carried a briefcase or bag of some type with materials they
39 needed to work with.

40

41 Q. Your evidence is that you were at the Maitland police
42 station that morning and you realised that from looking at
43 your duty book?

44 A. Yes.

45

46 Q. But that as a detective in the Lower Hunter, you were
47 variously at Cessnock and Raymond Terrace?

1 A. Yes.

2

3 Q. Do you recall how many police officers were under the
4 supervision of Detective Sergeant Fox around that time
5 in December 2003?

6 A. I can't exactly remember Peter's role, because from
7 memory, there was a thing they used to call a dual role in
8 the Lower Hunter where they used to cheap out on one
9 sergeant and make the Maitland sergeant be the
10 investigations manager as well. So if Peter was the
11 immediate supervisor at Maitland, he would have had
12 probably - we only had 12 detectives at that time and
13 I think they were divvied up as three at Cessnock, three at
14 Raymond Terrace and possibly three or four at Maitland,
15 something along those lines. If he was just the sergeant
16 at Maitland, he would have been the direct supervisor for
17 those chaps. If he was the investigations manager at that
18 time, he would have been the supervisor for the three
19 stations - the three offices, if you know what I mean.

20

21 Q. It's your evidence that you've had no other
22 involvement with the Fletcher investigation?

23 A. Not to my recollection, no.

24

25 Q. It's your evidence, isn't it, that on that morning you
26 were approached by Detective Sergeant Fox to go with him to
27 the Raymond Terrace presbytery?

28 A. Yes. I'm only going off my duty book. That's all
29 I can tell you, that - I can't recall the conversation, him
30 asking me to go or anything like that, but my duty book
31 indicates that that's what I did.

32

33 Q. Do you recall if there were any other officers around
34 at that time you were asked to go on that trip with
35 Detective Sergeant Fox?

36 A. No.

37

38 Q. Would it be unusual that there were other officers
39 around at the time?

40 A. 8 o'clock in the morning is usually start time.
41 Whoever was working that day would have been in or around
42 the office, I would assume.

43

44 Q. If you look at your duty book entry there, as I read
45 it you've got a question mark after the name "priest Des"?

46 A. Yes.

47

1 Q. Can you explain what that means?
2 A. I would have been merely I probably forgot his surname
3 and put a question mark there.
4
5 Q. The next sentence is:
6
7 *Return to Raymond Terrace station re enq.*
8
9 Does that mean "re enquiry"?
10 A. Enquiry, yes. I probably had another matter I was
11 investigating. That is what might have led me to go to
12 Raymond Terrace with Peter that morning, that I had another
13 job to do at Raymond Terrace, after - or doing what he was
14 doing.
15
16 Q. You weren't asked by Detective Sergeant Fox, as he
17 then was, to undertake any inquiries as a result of the
18 meeting with Father Harrigan?
19 A. No, that would be another inquiry in relation to
20 another matter, I would assume.
21
22 Q. But were you asked, to your recollection?
23 A. To do another --
24
25 Q. To do anything else in relation to Father Harrigan
26 after that meeting?
27 A. No.
28
29 Q. Do you recall any caution being issued to Father
30 Harrigan during the course of the discussion that he had?
31 A. No, I'd remember - an official police caution?
32
33 Q. That's correct.
34 A. No, I'd remember that.
35
36 Q. I think your evidence is that Father Harrigan was
37 attentive during the meeting. Do you recall him getting
38 upset perhaps towards the end of the meeting?
39 A. No, I don't, no.
40
41 Q. Is it possible that you just don't recall, but it did
42 happen?
43 A. I can't say that it didn't happen. I can't recall.
44
45 Q. Is it correct to say that your recollection is very
46 patchy of that particular meeting?
47 A. Yes, it's ten years ago, sorry.

1
2 Q. But you are quite certain that Father Harrigan made an
3 explicit statement to Detective Sergeant Fox that the
4 material did not belong to Fletcher?
5 A. That's right, yes.
6
7 Q. You're quite clear about that?
8 A. Yes.
9
10 Q. You're also quite clear that you were met at the door
11 by Father Harrigan?
12 A. I believe so, yes.
13
14 Q. I think you were asked questions in relation to the
15 issue of disposal of material and you said that you recall
16 that topic coming up in general discussion. Do you recall
17 the words used? Is "disposal" the word that you recall
18 being used?
19 A. I don't think it was the actual word "disposal".
20 I think it was, "Do you know where those items are now",
21 something of that --
22
23 Q. As in "disposal" meaning "Where have they gone"?
24 A. Yes.
25
26 Q. You don't recall if the word "destroy" or
27 "destruction" was used explicitly?
28 A. I can't recall those two words specifically, no.
29
30 MR KELL: I might take the opportunity to tender the diary
31 entry of 30 December 2003.
32
33 THE COMMISSIONER: From the duty book.
34
35 MR KELL: Yes.
36
37 THE COMMISSIONER: The copy of Mr Robbs' duty book of
38 30 December 2003 will be admitted and marked exhibit 212.
39
40 **EXHIBIT #212 COPY OF MR ROBBS' DUTY BOOK DATED 30/12/2003**
41
42 MS McLAUGHLIN: Q. Do you recall if there was a lecture
43 of sorts provided to Father Harrigan by Detective Sergeant
44 Fox?
45 A. No, I don't recall that, no.
46
47 Q. A talking-to of sorts?

1 A. No.
2
3 Q. I think your evidence was that you don't recall any
4 material being brought with Detective Sergeant Fox to that
5 meeting; is that correct?
6 A. Not that I recall, no.
7
8 Q. So you don't recall that happening?
9 A. I don't recall him taking any material with him, no.
10
11 Q. So it's possible he might have brought some material
12 with him?
13 A. I would assume he would have had a notebook or a
14 notepad and a pen to take notes or something.
15
16 Q. I appreciate you assume that that would have been the
17 case, but you've said your recollection is patchy.
18 A. Yes.
19
20 Q. And that you don't recall whether he brought any other
21 material with him?
22 A. No, I don't recall.
23
24 Q. So the question is: is it therefore possible that in
25 addition to his duty book or notebook and pen, that he may
26 have brought other material with him?
27 A. I can't recall him taking any with him, but it's a
28 possibility it may be there.
29
30 MS McLAUGHLIN: No further questions.
31
32 <EXAMINATION BY MR COHEN:
33
34 MR COHEN: Q. Mr Robbs, I appear for Detective Chief
35 Inspector Fox. What I propose to do is put the gist of the
36 conversation to you as has been recorded in other evidence,
37 but before I do that, if I might ask you a number of
38 preparatory questions, please. You've indicated, quite
39 fairly and properly, that your recollection is of ten years
40 ago and it's somewhat degraded by the effluxion of time.
41 I think I understand, and please correct me if I'm wrong,
42 that you've told the Commissioner that your recollection,
43 such as it is today, is prompted by seeing your duty book
44 entry and certain things come back to my mind by reason of
45 that?
46 A. Yes.
47

1 Q. But a number of the matters of which you have a
2 recollection are hazy?
3 A. Yes.
4
5 Q. But that some are clear. Is it possible, for example,
6 that when you arrived at the presbytery, you were not met
7 by Father Harrigan, but you had to let yourself in, because
8 the door was open and you went inside and met him inside in
9 the sitting room you've given evidence about. Is that a
10 possibility?
11 A. It may be a possibility. I can't recall. I thought
12 that --
13
14 Q. You wouldn't exclude it entirely, I take it?
15 A. No, I wouldn't exclude it.
16
17 Q. Is it a possibility that there was indeed a bottle of
18 alcohol on the floor next to the seat where Father Harrigan
19 was sitting?
20 A. I can't recall.
21
22 Q. Again you would not exclude it, you don't recall it.
23 Is that a fair way to --
24 A. I can't exclude it, because I can't recall it.
25
26 Q. At the time the business of the meeting happened, the
27 discussion of the things you've already given evidence
28 about, what I propose to do now is put to you from other
29 evidence what is the conversation that occurred. I will
30 then ask you to inform the Commissioner whether you accept
31 or reject the statements that are made. I think it's
32 clear, nonetheless, that you were, as it were, the observer
33 or the corroborative witness during the exchange between
34 then Detective Sergeant Fox and Father Des Harrigan.
35 That's correct, isn't it?
36 A. Yes.
37
38 Q. You've set the scene that all three of you were in the
39 sitting room in the presbytery, all three of you sitting.
40 Coming to the conversation that is of most materiality,
41 this is the conversation and the flow that I propose to put
42 to you. I'll identify what is said by then Detective
43 Sergeant Fox and then what is said by Father Harrigan.
44 I'll do it question and answer and then ask you whether you
45 can recall or confirm or reject. Is that a convenient way
46 of doing it for you?
47 A. Yes.

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Q. At the time of this discussion, the first statement by Detective Sergeant Fox, as he was, directed to Father Harrigan and after the pleasantries had been gone through, is:

I am told that you resided at the Lochinvar presbytery earlier this year prior to James Fletcher; is that right?

Father Harrigan said, "Yes." Does that accord with your recollection?

A. It's like I said, I apologise, but I can't recall the conversation verbatim.

Q. There is no need for an apology. We understand the difficulty, but you would not reject that statement as having been said?

A. I can't reject it, because I can't recall it.

Q. But it's not an outlandish proposition; you'd accept it as a possibility?

A. The question sounds like an introductory question into an interview that a police officer would make speaking to somebody --

MR ROSER: Commissioner, I object to this procedure. This witness has said numerous times he has no recollection. He's given clear evidence of what he recollects from this meeting. Going through this process doesn't assist you.

THE COMMISSIONER: It may not be unusual, Mr Roser, if something is suggested to the witness that he suddenly has had a flash of extra memory. I think Mr Cohen is permitted to put the version of events. The witness can say either, "Yes, I remember it", or, "No I don't remember it", or that something else happened.

MR COHEN: I'm endeavouring to do this as fairly as I can in the circumstances, Commissioner, but thank you.

Q. I apologise to you, Mr Robbs. The next question and statement was by Mr Fox:

I have been told that after you left Lochinvar presbytery and Jim Fletcher moved in, a number of homosexual pornographic

1 *magazines and videos were found in that*
2 *presbytery. I need to know if those items*
3 *belonged to you or Father Fletcher.*
4

5 The response by Father Harrigan is, "They are mine." Does
6 that accord with your recollection?

7 A. I recall Detective Fox asking Father Harrigan were the
8 pornographic items his and that's what he responded, yes,
9 but again I can't recall that conversation verbatim.

10
11 Q. In detail?

12 A. In detail, no.

13
14 Q. But you wouldn't object to that being the form of the
15 words used?

16 A. Well, I can't, because I can't recall it.

17
18 Q. Sergeant Fox then said, "Are you sure?" And at that
19 point, on my instructions and on the evidence, after that
20 question was put by Detective Fox to Father Harrigan, "Are
21 you sure?" Father Harrigan became upset, but then said,
22 "Yes". Do you recall him --

23 A. No, I'm sorry, I don't, no.

24
25 Q. So it's clear, do you have any recollection of that at
26 all, or --

27 A. I don't have any recollection of the father being
28 emotionally upset, sorry, no, I don't.

29
30 Q. Then Detective Sergeant Fox went on to say:

31
32 *Do you have them? Did James Fletcher hand*
33 *them back to you?*
34

35 The response by Father Harrigan was:

36
37 *Yes, he did, and I have destroyed them.*
38 *When is all this going to stop? It has*
39 *hurt a lot of people.*
40

41 A. No, sorry, I don't.

42
43 Q. Sorry?

44 A. I don't recall that exact conversation, no.

45
46 Q. Is that because you don't have any recollection, or is
47 it just --

1 A. I just don't have any recollection of that, no, sorry.

2

3 Q. But it's not impossible that that occurred?

4 A. Well, no, it's not impossible, but I can't - I can't
5 recollect it.

6

7 Q. Do you recall that, at this point in the conversation,
8 Father Harrigan became visibly upset to the extent he began
9 to cry?

10 A. No, I can't recall that at all, I'm sorry, no. It
11 would be something I think I would remember if it happened.

12

13 Q. Detective Sergeant Fox then went on to say to Father
14 Harrigan:

15

16 *I would expect Jim Fletcher's trial about*
17 *mid 2004. I am sorry for any hurt or*
18 *embarrassment this has caused you. Have*
19 *you ever seen any similar material in the*
20 *possession of Jim Fletcher?*

21

22 The response from Father Harrigan was:

23

24 *I suspect he had some, but I never saw him*
25 *with it.*

26

27 A. I can't recall the conversation.

28

29 Q. You can't recall it, but you don't say it's
30 impossible?

31 A. No, I don't say it's impossible. I just can't - I
32 just don't recall that conversation, no.

33

34 Q. To that level of detail?

35 A. Not to that level of detail, no.

36

37 Q. Detective Fox went on to say:

38

39 *Why did you destroy the magazines and*
40 *videos?*

41

42 Father Harrigan's response was, "I don't know". Is that
43 familiar with you or does it ring a bell?

44 A. As I gave in evidence before, I said that I can
45 remember him responding to a question of that nature, but
46 not what his actual response was in relation to the
47 destruction or disposal of the property.

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Q. It's possible, or indeed plausible, that that was the statement?

A. It may well be. I can't say.

Q. Then Detective Sergeant Fox went on to say:

Did any of them have images of men under the age of 18?

The Father Harrigan's response was, "No, they never." Does that accord with your recollection?

A. No, not at all.

Q. That is to say, you don't recall or it didn't happen?

A. No, I'm saying I don't recall. I'm not saying it didn't happen. I just don't recall that part, sorry.

Q. Detective Fox went on to say:

Did you loan them to Jim Fletcher or forget to take them with you?

Father Harrigan's response was:

I am not sure. I think I just left them there.

Do you have any recollection of that?

A. No, sorry.

Q. Again, no recollection, but not an impossibility?

A. No. Correct, sorry

Q. I'm sorry?

A. What you said, yes.

Q. Father Harrigan at this point again in the conversation became emotional and his further response was:

This has hurt so many. When is all this going to end?

Detective Sergeant Fox's response was:

I suppose when allegations stop of clergy sexually abusing children. That's all

1 *I need to speak to you about at the moment.*
2 *Can I phone anyone for you?*

3
4 Father Harrigan's response was:

5
6 *No, I will be fine.*

7
8 Do you recall that?

9 A. No, I don't recall that conversation.

10
11 Q. The same category - you don't recall it, but not
12 impossible?

13 A. Exactly.

14
15 Q. It's about then in the conversation that the business
16 of the meeting finished, and again pleasantries, and you
17 let yourself out and returned, as you've indicated in your
18 duty book, on the way back to, in your case, Raymond
19 Terrace, was it?

20 A. Yes.

21
22 Q. When you gave some evidence earlier in response to
23 questions from Dr Kell and also from Ms McLaughlin, you
24 were asked about the possession of some magazines at the
25 time of the meeting. You've indicated you don't recall it.
26 It's true, is it not, that there's no reference to an
27 exhibit of any kind in your duty book extract? Is that
28 right? If you look at exhibit 212?

29 A. That's my duty book entry, is it?

30
31 Q. Yes, your entry. There's no --

32 A. Not that I can see, no.

33
34 Q. Your evidence before - I think it was to Ms McLaughlin
35 but it was evidence in response to other questions - was
36 that you gave some evidence about the procedures with
37 regard to exhibits and what your expectation would be if
38 there had been a formal interview, at a station, with a
39 caution and the production of exhibits. My question
40 therefore is: if such exhibits were available at the time
41 and had been taken to this meeting, that is to say, the
42 exhibits of pornographic material, I take it you would have
43 recorded such a matter in your duty book?

44 A. No, I wouldn't have recorded it in my duty book. The
45 procedure, as I would understand it, would be the officer
46 in charge of the matter, if he was taking an exhibit with
47 him, if it was lodged at Maitland police station, he would

1 sign it out in the exhibit book and there would be an audit
2 marking there of time, date, place, when it was taken, the
3 purpose it was taken for. Then there would be a subsequent
4 entry back when it was returned back into the police
5 evidence exhibits room.

6
7 Q. So an audit trail to ensure the chain of custody
8 wasn't contaminated?

9 A. That's right, yes.

10
11 Q. You have no recollection of that occurring?

12 A. No, I don't, no.

13
14 Q. Presumably, that situation, the use of an exhibit in
15 that way, out of the station away from a formal interview
16 would be of the type that would be sufficiently unusual and
17 you would recall it, I take it, if it occurred that way?

18 A. It would be unusual, I think, yes. Like I explained
19 to you with normal police procedure, you would sign it
20 out - what we would call "sign it out" - and sign it in.

21
22 Q. If it had happened in that way, it would have
23 triggered some sort of memory, I assume?

24 A. It would have, and there would be an exhibit book
25 entry with what that exhibit was and it would show its
26 trail, where it had been.

27
28 Q. In the circumstances, and having regard to the
29 practice you described, it's unlikely these magazines of
30 the type that were put to you earlier were actually taken
31 with you to the presbytery?

32 A. I can't recall the magazines, but the only other way
33 they could get there is if they were never lodged as
34 exhibits in the first place.

35
36 Q. But you have no recollection of that?

37 A. No, I don't.

38
39 MR COHEN: Thank you, Commissioner. Thank you, Mr Robbs.

40
41 MR GYLES: I have no questions.

42
43 <EXAMINATION BY MR ROSER:

44
45 MR ROSER: Q. You only came into this matter that
46 morning, didn't you, when Detective Fox asked you to go
47 with him to Raymond Terrace?

1 A. I'm assuming, just off my duty book, yes.
2
3 Q. Then you just followed with him to Raymond Terrace?
4 A. Yes.
5
6 Q. And just sat there as an observer?
7 A. Basically, yes.
8
9 Q. Your clear recollection is that you were met at the
10 door by the priest?
11
12 MR COHEN: I object. It's not a clear recollection.
13
14 MR ROSER: Do you mind? I'm putting a proposition.
15
16 MR COHEN: I maintain my objection.
17
18 MR ROSER: Q. Your clear recollection is that you were
19 met --
20
21 MR COHEN: I maintain my objection.
22
23 THE COMMISSIONER: The witness can answer the question.
24
25 MR ROSER: Q. Your clear recollection is that you were
26 met at the door by the priest when you arrived there?
27 A. I believe so, yes.
28
29 Q. And also your clear recollection is that when you were
30 taken into a room by the priest, you sat down?
31 A. Yes.
32
33 Q. Detective Fox sat down?
34 A. Yes.
35
36 Q. The priest sat down?
37 A. Yes.
38
39 Q. And you didn't observe any bottle of alcohol near the
40 chair where the priest was?
41 A. No, I can't recall a bottle. No, not at all.
42
43 <EXAMINATION BY MR KELL:
44
45 MR KELL: Q. I want to ask you to confirm one matter.
46 Your recollection is that you didn't see any pornographic
47 magazines being shown to Father Des, is that the case, at

1 the interview?
2 A. I would remember if that was - if he was shown
3 anything.

4
5 THE COMMISSIONER: Might Mr Robbs be excused?

6
7 MR KELL: Yes.

8
9 THE COMMISSIONER: Thank you for your evidence and you are
10 excused, Mr Robbs.

11
12 <THE WITNESS WITHDREW

13
14 MR KELL: It might be convenient to take the morning tea
15 adjournment, Commissioner.

16
17 MR GYLES: May I make one comment before you rise,
18 Commissioner. Apropos of what I said this morning,
19 Mr Kirkwood has told me now that the relevant article has
20 been taken down from the Newcastle Herald website. We are
21 grateful that he dealt with at least that aspect of it so
22 quickly.

23
24 THE COMMISSIONER: I am grateful, too, Mr Kirkwood. Thank
25 you very much.

26
27 **SHORT ADJOURNMENT**

28
29 MS LONERGAN: Before proceeding with the evidence of this
30 next witness, Maureen O'Hearn, I wish to make further
31 submissions on the evidence relating to the question of
32 ownership or otherwise of pornographic material by
33 Fletcher.

34
35 Commissioner, you'll recall that there was some
36 evidence from now three witnesses on that particular issue.

37
38 THE COMMISSIONER: I do, Ms Lonergan.

39
40 MS LONERGAN: You will no doubt also recall that initially
41 I tried to deal with that subject matter obliquely in an
42 effort to protect, to the extent possible, the reputations
43 and feelings of those who may be affected by that evidence.
44 It became clear that that was not going to be able to be an
45 approach that would be adequate, and Father Harrigan's
46 solicitor, Ms McLaughlin, was instructed to cross-examine
47 Detective Chief Inspector Fox on the issue and that opened

1 up the issue. I make no criticism at all of Ms McLaughlin
2 in doing so. It was a forensic approach that was open for
3 her to take and no doubt it was on instructions from her
4 client.

5
6 Consistently with the general approach taken by this
7 Commission when the application for a non-publication order
8 was made, it was opposed by me despite the evidence having
9 a tendency to embarrass persons concerned. There was an
10 argument, you'll recall, Commissioner, about that evidence
11 that was given by Detective Chief Inspector Fox that
12 touched on those matters.

13
14 While I'm making these submissions, could I ask for a
15 non-publication order of them until we've completed the
16 submissions? Would that be appropriate?

17
18 THE COMMISSIONER: Yes.

19
20 MS LONERGAN: Thank you. Consistently with the position
21 in relation to *Chaffey*, it is acknowledged, as a general
22 proposition, that publication of some matters that we need
23 to canvass in this Special Commission of Inquiry will or
24 may cause hurt or embarrassment given the subject matter
25 covered, but that is a matter with which we have to
26 grapple.

27
28 Commissioner, you'll recall that your decision on or
29 around 8 July in relation to Detective Chief Inspector
30 Fox's evidence was that there should be no non-publication
31 order applied to it. Indeed some of that evidence was
32 published in a number of media positions on and around
33 8 July.

34
35 The next chapter was that, last Friday, Father
36 Harrigan himself gave evidence and an application was made
37 by Ms McLaughlin for non publication of her client's
38 evidence in its entirety because of the tendency to affect
39 his reputation and cause hurt and embarrassment to him.
40 You will recall that Mr Hunt indicated that such a
41 non-publication order would have limited utility given
42 there had already been some publication of matters
43 generally relevant to that particular subject matter at the
44 time Detective Chief Inspector Fox gave his evidence and
45 Ms McLaughlin argued strongly to the contrary.

46
47 At that time, Commissioner, that application was

1 acceded to, because of particular considerations that
2 applied at that time and a particular situation where
3 Father Harrigan's privacy was outweighed by the public
4 interest of publication at that point in time.

5
6 Commissioner, today we've heard evidence from the
7 third person who was present at that particular meeting
8 that concerns the subject matter. That former police
9 officer has given evidence that is partly consistent with
10 part of the versions of those two other persons who have
11 already given evidence - Detective Chief Inspector Fox and
12 Father Harrigan.

13
14 Those who assist you take the view, Commissioner, that
15 in the interests of balanced and fair reporting of the
16 evidence presented on that issue and, also, in
17 consideration of the need for this Special Commission's
18 processes to be transparent, all evidence on this issue,
19 including that given by Father Harrigan last Friday, as
20 well as Mr Robbs' evidence today should be published.

21
22 THE COMMISSIONER: You mentioned, Ms Lonergan, that the
23 order that I made last Friday was of limited utility. For
24 the reasons that I made it, it was probably of greater
25 utility for Father Harrigan on the very day he was giving
26 evidence.

27
28 MS LONERGAN: Yes, Commissioner. May I clarify, if I was
29 unclear, that I was simply stating for the record to remind
30 those present that Mr Hunt made that submission last
31 Friday. It is appreciated by those who assist you that
32 there were particular personal matters relevant to Father
33 Harrigan last Friday that may well have reduced in their
34 acuteness in terms of the evidence today.

35
36 THE COMMISSIONER: We can all imagine what the headline
37 would have been.

38
39 MS LONERGAN: Yes, Commissioner.

40
41 MS McLAUGHLIN: Commissioner, the order that was made by
42 you on 26 July last Friday was made on my application.
43 That application relied generally on the submission that
44 Father Harrigan was only giving evidence to rebut
45 allegations made by Detective Chief Inspector Fox.

46
47 The submission I made was that there was a

1 considerable lack of forensic weight or evidentiary weight
2 to support those accusations, which, when balanced with the
3 public interest of his privacy, merited the order been
4 being made.

5
6 I also referred you, Commissioner, to counsel
7 assisting's generous and appropriate concession, which is
8 at transcript page 1886 at line 37, that there was no
9 material before this Commission that there has been any
10 destruction of evidence. It's my submission that that
11 situation has not changed today and that the situation that
12 Father Harrigan found himself in on Friday is exactly the
13 same situation he finds himself in today. The passage of
14 two or three days would not alleviate the damage that might
15 occur to him personally, attached to his reputation, if the
16 order were to be lifted or not applied to Jason Robbs'
17 evidence today.

18
19 My friend Ms Lonergan referred to there being,
20 generally speaking, a similarity between the evidence of
21 Fox in his evidence-in-chief and cross-examination and the
22 evidence of Father Harrigan and therefore there being some
23 inconsistency in having one subject to an order and another
24 not having such an order apply.

25
26 Whether that submission was made explicit by
27 Ms Lonergan or not, in my submission, that's not the case.
28 There are some distinctively different aspects to Father
29 Harrigan's evidence that weren't raised in Detective Chief
30 Inspector Fox's evidence and they are these: the issue of
31 intoxication was not raised with Detective Chief Inspector
32 Fox at all in evidence-in-chief or cross-examination. I am
33 prepared to stand to be corrected on that particular issue,
34 but, as I understand it, it certainly wasn't made public in
35 the course of his evidence. The only insinuation that
36 could be taken from is exhibit 81, but my recollection is
37 there was an order attached to that particular exhibit.
38 I prepare to stand to be corrected, but that is my
39 recollection. The other aspect --

40
41 THE COMMISSIONER: It was certainly put to your client
42 that --

43
44 MS McLAUGHLIN: That is correct, but it wasn't raised in
45 the course of Detective Chief Inspector Fox's evidence,
46 which was not subject to a non-publication order. There's
47 a point of distinction there.

1
2 The other distinction is the issue of distress and
3 being visibly upset came about only in Father Harrigan's
4 evidence. It was not raised in Detective Chief Inspector
5 Fox's evidence. Also the issue about the source, the
6 nature and form of the pornography was put quite explicitly
7 before Father Harrigan and it wasn't brought up before
8 Detective Chief Inspector Fox.

9
10 There's no criticism of that, but that's to point out
11 that it is simply not a matter to say that there is an
12 inconsistency in having an order apply to the evidence of
13 Father Harrigan and not to Detective Chief Inspector Fox's
14 evidence.

15
16 MS LONERGAN: My submission in relation to that has been
17 misapprehended by Ms McLaughlin, but I will address you --

18
19 MS McLAUGHLIN: Perhaps, but regardless that is my
20 submission today; that there is a distinction between that
21 evidence and the evidence of Detective Chief Inspector Fox.

22
23 Nonetheless, in my submission today, Jason Robbs is
24 giving evidence for the same reason Father Harrigan is, and
25 that's to rebut or fully investigate the evidence of
26 Detective Chief Inspector Fox. Those allegations, as they
27 relate to the terms of reference are the destruction of
28 pornography that may or may not have involved young
29 persons, that may or may not have involved Father Fletcher.
30 That's as far as it goes.

31
32 In my submission, the forensic weight of the evidence
33 to back up those claims has not been changed today.
34 Admittedly, there are some matters that go to the credit of
35 one or other witness, but not to the central feature,
36 namely, was there material that is relevant to the Fletcher
37 investigation owned by or possessed by my client that was
38 destroyed? That situation hasn't changed.

39
40 My concern is that if a non-publication order is not
41 made in relation to matters today, a truthful reporting of
42 the situation will still have a negative impact on my
43 client's reputation for these reasons. If there were a
44 byline that read "Police officer cannot recall whether a
45 priest was upset and intoxicated when confronted by Fox in
46 relation to pornography allegedly owned by Fletcher", that
47 would be a correct representation of the general evidence

1 of Jason Robbs, but that's a fairly damning summation to
2 read in the newspaper. That's my concern when we are
3 dealing with, as I have said before, a serving member of
4 the clergy. That is an accurate statement, it is a
5 damaging statement and it is one that, in my submission,
6 would be unfair to be allowed to be reported and presented.
7 Commissioner, that is the nature of my submissions to
8 Father Harrigan.

9
10 I note my friend has referred to the decision of
11 *Chaffey*. The only point I make in relation to the
12 provision for non publication under the Act that applies to
13 these proceedings is that it's different to those that
14 apply in relation to the ICAC proceedings. Here it's
15 simply a bald, open discretion that you have in relation to
16 a non-publication order. The issue of public interest is
17 explicit in the relevant legislation that applies in the
18 matter of *Chaffey*, but I don't take the matter any further
19 than that.

20
21 MR GYLES: I support Ms McLaughlin's position and say
22 there were good reasons on Friday for the making of the
23 order. Nothing has changed today. The evidence today on
24 this issue is simply that this witness can't assist
25 essentially in respect of how that issue is ultimately
26 dealt with. It may end up simply being a matter of credit
27 in the end.

28
29 There is always a balancing exercise between public
30 reporting of information in an inquiry like this with
31 coercive powers, to be balanced against the interests of
32 individuals. The fact that, at some prior time, there was
33 reporting of the evidence of Detective Chief Inspector Fox
34 on this issue, that is not an answer to this application,
35 because, as my learned friend has correctly pointed out,
36 there are differences in the evidence now and if an order
37 is not made, one must assume there will be further
38 reporting. What has happened has happened, but that is not
39 a reason, in my respectful submission, why the order you
40 made on Friday was not appropriate.

41
42 MS LONERGAN: Commissioner, may I be heard further. It
43 seems my submission was significantly misapprehended by
44 Ms McLaughlin. It's not about the nature or character of
45 the evidence that has been given and what weight it should
46 be given. To make a submission based on that would be to
47 prejudge the weight that ought to be given to evidence, and

1 it is not the time or place to do that now.

2

3 The basis of my submission is the necessity to address
4 the asymmetry of the information current in the public
5 domain. Currently in the public domain is evidence to the
6 effect by a still serving police officer, a senior police
7 officer, that Father Harrigan destroyed pornographic
8 material. It has other associations with it, that is, to
9 interfere with investigations - the very things that Father
10 Harrigan and those who represent the diocese are ensuring
11 are properly ventilated and considered. So we have a
12 position of some evidence being out there that appears to
13 not correctly reflect the evidence before this Commission
14 and no evidence that does correctly reflect the evidence on
15 this issue that the Commission has received.

16

17 So it's a matter of fairness and balance that has led
18 me to request a revisiting of last Friday's non-publication
19 order.

20

21 THE COMMISSIONER: Yes, thank you, Ms Lonergan. Something
22 that Mr Robbs' evidence certainly supported was the fact
23 that if there was pornography, it was not child
24 pornography, that's the first thing, and there is a
25 complete absence of evidence to suggest that the material
26 was of that nature.

27

28 There is also an absence of material to suggest that
29 any of the material, if it existed, was used in connection
30 with the sexual assault of any person. There is also an
31 absence of evidence to suggest that if there was any
32 material, that it was ever Fletcher's or had anything to do
33 with Fletcher's activities.

34

35 Probably the first point is the most important for
36 your client, Ms McLaughlin, or perhaps they are equally
37 important, but the highest it can be taken, I expect, is
38 that at some stage your client has admitted that he had
39 some form of pornographic material, the possession of which
40 is not illegal.

41

42 MS LONERGAN: Commissioner, may I add an observation? The
43 first time this matter was raised, one thing that was
44 protected in terms of any association with Father Harrigan
45 was any suggestion that there was any child-related
46 pornographic material. Any suggestion that there was any
47 association between Father Harrigan and that type of

1 material ought to be the subject of a non-publication
2 order, but otherwise not, in our submission.

3

4 THE COMMISSIONER: I think it can go further than that.
5 There is absolutely no evidence of any kind from any source
6 that the material was child pornography.

7

8 MS LONERGAN: That's right. That's why there should be a
9 non-publication order over even a question about it and the
10 answer so that no inference could be drawn that there was a
11 suspicion to that effect. Anyway I interrupted you,
12 Commissioner.

13

14 THE COMMISSIONER: So those matters are important. I can
15 see that there is a residual matter which, in the case of a
16 priest, may present some reputational difficulties,
17 Ms McLaughlin. However, as today is not the day that your
18 client has given his evidence, I don't believe, in all of
19 the circumstances, that it is as damaging for him as it may
20 have been if I had come to the conclusion then, which
21 I will do now, that the non-publication order on your
22 client's evidence should be lifted, and it is a matter of
23 redressing the asymmetry and having all of the material
24 about this issue in the public domain.

25

26 MS McLAUGHLIN: If the Commissioner pleases.

27

28 MS LONERGAN: The non-publication order or the temporary
29 non-publication order over the evidence of former officer
30 Robbs should also be lifted.

31

32 THE COMMISSIONER: That is also lifted. Thank you.

33

34 MS LONERGAN: I call Maureen O'Hearn.

35

36 <MAUREEN O'HEARN, sworn: [12.35pm]

37

38 MR GYLES: Might I raise section 23, Commissioner.

39

40 THE COMMISSIONER: Yes, Mr Gyles.

41

42 <EXAMINATION BY MS LONERGAN:

43

44 MS LONERGAN: Q. Your full name is Maureen O'Hearn?

45

46 A. That's right.

47

47 Q. You are currently the coordinator of healing and

1 support at Zimmerman Services?
2 A. That's right.
3
4 Q. Ms O'Hearn, you prepared a statutory declaration dated
5 3 June 2013. A copy of it is going to be handed up to you
6 now and a copy for the Commissioner. Is that statutory
7 declaration true and correct to the best of your knowledge?
8 A. It is.
9
10 Q. The purpose of the statutory declaration was to set
11 out your training, background and experience in child care
12 and protection related matters?
13 A. Yes.
14
15 Q. And, in particular, to address the aspects of your
16 role as coordinator of healing and support at Zimmerman
17 Services.
18 A. That's right.
19
20 Q. Third, to set out, in broad terms, the obligations, as
21 you understand them, of reporting to the police, being a
22 matter directly of interest to this inquiry?
23 A. Yes.
24
25 Q. Ms O'Hearn, you've been a social worker for 30 years?
26 A. Yes.
27
28 Q. Your background has been significantly based in child
29 abuse and child protection?
30 A. That's right.
31
32 Q. In 1977 to 1981 you worked for Centacare providing
33 counselling of a general nature to families and others?
34 A. Yes.
35
36 Q. You worked for the Department of Community Services as
37 a child protection worker from 1981 to 1983?
38 A. Yes.
39
40 Q. And then you were promoted to the more senior position
41 of child protection consultant for the Hunter region with
42 some oversight roles from 1983 to 1985?
43 A. That's right.
44
45 Q. From 1985 to 1989 you performed the role of sexual
46 assault counsellor for the Department of Health in the
47 Hunter region. You state in your statutory declaration in

1 paragraph 3(c) that you provided crisis as well as
2 long-term counselling for child and adult victims of sexual
3 abuse?

4 A. Yes.

5
6 Q. With crisis counselling, what does that mean?

7 A. That involved being called in to situations where
8 people had recently or immediately recently been sexually
9 assaulted. They were brought into the sexual assault
10 centre and you were called in to deal with that presenting
11 crisis.

12
13 Q. The long-term counselling, can you explain what that
14 is and why it's provided long term?

15 A. Yes, the long-term counselling was for both child and
16 adult victims of sexual abuse, so adult victims may have
17 been victims of a recent sexual assault by another adult or
18 they could have been adults who were survivors of
19 historical abuse. The long-term counselling, in that
20 setting, that counselling was probably a more structured
21 counselling but it occurred over a longer period of time to
22 deal with issues that were long-term.

23
24 Q. "Issues that were long term" means ongoing sequelae
25 from the particular abuse they had suffered?

26 A. Yes.

27
28 Q. Switching, for the purposes of this question, to your
29 experience with the people you have dealt with via
30 Zimmerman Services, is it your experience that the effects
31 of sexual abuse suffered as a child can indeed be very long
32 term and lifelong in some cases?

33 A. Absolutely.

34
35 Q. Is it fair to say there is a type of journey that
36 occurs in terms of dealing with these matters and
37 returning, if possible, to a status of equilibrium, or is
38 it more complex than that? Can you outline in brief terms
39 how you see that process?

40 A. It probably is complex. I guess there are a few
41 stages of that journey. I think the first part of that is
42 to consider how long it is that people don't tell their
43 story for, that it remains a secret, so that's sort of one
44 stage. Then when people start to talk bit, I guess that's,
45 hopefully, the presenting or the beginning phase of their
46 journey towards healing. I guess my experience is when
47 people first start to talk about it, that they still feel

1 that undeserved sense of shame and embarrassment and still
2 feel that they don't want people to know that that's
3 happened to them, and that gradually, as they tell their
4 story and share their story more, and hopefully that story
5 is met with acknowledgment and belief and acceptance and
6 support, for most people, certainly not all but for most
7 people, that they will more move towards having that,
8 I guess, more integrated experience of their life.

9

10 Q. From 1989 to 1992 you worked for the Department of
11 Community Services coordinating a particular child
12 protection and assessment centre. In 1996 to 2002 you
13 worked for CatholicCare children's services in an out of
14 home care program?

15 A. That's right.

16

17 Q. Then in 2002 to 2004 you were project officer at
18 CatholicCare where you dealt with adoptions and British
19 child migrants and after care programs, and then in 2004 to
20 2007 you were the manager of children's services related to
21 British child care migrant programs. Your commencement at
22 Zimmerman Services, your position was initially a temporary
23 position?

24 A. That's right.

25

26 Q. Is it fair to say that once you commenced there, in an
27 interface with Bishop Malone, it became evident that there
28 was more work to be done that you could assist with?

29 A. Yes.

30

31 Q. Did you find Bishop Malone helpful and supportive in
32 continuing your role there to offer support to those
33 affected?

34 A. Yes, very, very supportive.

35

36 Q. Have you found the same position applies with the
37 current bishop, Bishop Wright?

38 A. Yes, Bishop Wright continues to strongly support it.

39

40 Q. In terms of the provision of services, is there any
41 line drawn in the sand where a person who has interface
42 with Zimmerman Services is only allowed a certain number of
43 consultations or interfaces with you, or is it an ongoing
44 service?

45 A. No, it's an ongoing service.

46

47 Q. Can we take it that it's provided free by the diocese

1 as part of the service that the diocese provides to people
2 that have gone through these experiences?

3 A. Yes, my support of these people, that's a free
4 service.

5

6 Q. Can we take it that there is no requirement in
7 accessing these services to have brought some sort of claim
8 against the diocese?

9 A. Sorry?

10

11 Q. Some sort of legal proceeding or claim against the
12 diocese, they can simply access you and the services you
13 provide by contacting Zimmerman Services?

14 A. Yes.

15

16 Q. You mention in your statement in paragraph 6 that you
17 have a number of particular roles. "Referral to and
18 facilitation of counselling services for individuals", can
19 we take it that's where persons need a more long-term
20 counselling situation with somebody separate from the
21 diocese?

22 A. Yes, my role is not to offer counselling per se, I
23 guess because there are too many people, but it's to
24 outsource that counselling to people who have experience
25 and expertise in this area and who live sort of locally.

26

27 Q. You assist with matching people to counsellors you
28 think will assist?

29 A. Yes, making those referrals and ensuring that it's
30 happening and it's a right fit for the person.

31

32 Q. "Reporting abuse to police and supporting and
33 facilitating a person making a statement to police or other
34 statutory authority", is it the position that you
35 personally, on occasion, accompany people to the police?

36 A. Yes.

37

38 Q. And sit with them while they go through that process?

39 A. Yes, that's happened, and I guess there have been
40 occasions where people have had mixed feelings about
41 whether they want to make a statement to the police and
42 I've facilitated them meeting with the police who would be
43 involved and listening to the police, explain what would
44 happen before making the decision, and, yes, sometimes
45 sitting with people when they make a statement.

46

47 Q. When you are talking about "other statutory

1 authorities", are there other organisations separate to the
2 police to whom people have to make a particular complaint
3 or statement that's dealt with outside the diocese?

4 A. Well, if it was a child, it would be reported to
5 family community services and, also, it would be reported
6 through the investigations team at Zimmerman Services in
7 terms of the ombudsman's legislation.

8

9 Q. In terms of reporting matters to the police, is it the
10 position that historical complaints of abuse are still
11 reported to the police by you - we'll just deal with you at
12 the moment - even though the perpetrator is deceased?

13 A. Yes.

14

15 Q. Has that always been the position since you've worked
16 at the diocese, in terms of yourself?

17 A. It has sort of changed a bit. I guess sometimes when
18 we report that to police, certain police will say, "If the
19 perpetrator is deceased, we don't really want that
20 information", whereas others are happy to take it. But
21 I guess now we just have a blanket - report everything to
22 the police.

23

24 Q. That has been a confirmed and written statement of
25 policy since the middle of this year?

26 A. Yes.

27

28 Q. Is it your understanding that there is no requirement
29 for persons working at the diocese to have to go through
30 the diocesan child protection unit to report to the police,
31 they can do that as well as report to the police
32 personally?

33 A. People who work in the diocese?

34

35 Q. Just people who work generally in the diocese, does it
36 have to be filtered through the diocesan child protection
37 unit, the reporting to police, or is there also an ability
38 for an individual to report directly to the police if they
39 choose to?

40 A. They can. I guess the policy would be that that would
41 get reported through Zimmerman Services so we can ensure
42 all the associated services can get offered to that person
43 so there can be some track, but if someone has a reason for
44 not doing that, they can certainly contact the police
45 directly themselves.

46

47 Q. In terms of interrelationship between - I'll

1 concentrate on you at the moment - and the police, is it
2 the position that you have ongoing interface with police
3 yourself regarding victims of child sexual assault
4 including historical child sexual assault?

5 A. What do you mean "ongoing interface"?

6
7 Q. Do you, on a day-to-day basis, have conversations with
8 the police about matters that have come up and matters that
9 are before the courts?

10 A. Yes, and I refer - I guess that I personally worked
11 very closely with Strike Force Georgiana, so I was making
12 referrals to them. Also when they get new people coming
13 forward, they automatically refer them to Zimmerman
14 Services for support.

15
16 Q. In that way you sometimes are acquainted with people
17 who are referred to you by the police?

18 A. Yes.

19
20 Q. And you provide persons referred that way with all the
21 services you would provide to people who come directly to
22 Zimmerman Services?

23 A. Yes. Probably the police would be my greatest
24 referrer.

25
26 Q. Do you find that some persons are more comfortable
27 dealing with somebody who is a representative of the church
28 but a lay person as opposed to a clergy member, or are you
29 unable to offer an opinion about that?

30 A. I would imagine that they would - if you've got
31 someone coming forward, for example, who has been abused by
32 a priest, they would feel more comfortable meeting with
33 someone who was not a priest.

34
35 Q. In 6(d) of your statement you mention that one of your
36 roles is to advocate:

37
38 *... to the diocese or other Church*
39 *authorities on behalf of the person or*
40 *groups of people who have been adversely*
41 *affected [by child sexual abuse.]*
42

43 What sort of advocating are you talking about there? What
44 sorts of matters?

45 A. Well, I guess sometimes there might be situations in
46 terms of people's own healing journey, that there might be
47 particular things that they would like happen. For

1 example, some people would like to meet with the bishop.
2 Other people, because of where the abuse occurred, there
3 might be particular things that they would like done around
4 sort of the facility in which they were abused or - so
5 I sort of advocate on their behalf for that to happen. In
6 terms of - yes, I guess, if there are groups of people who
7 are wanting sort of particular services or support, that
8 I can advocate to the diocese on their behalf.

9
10 Q. Do you find that those who are senior to you at the
11 diocese are responsive to your requests and initiatives?

12 A. Yes.

13
14 Q. And in circumstances where a person affected wants to
15 meet with the bishop, he accedes to that request, or those
16 requests?

17 A. Yes.

18
19 Q. You mention in (e) supporting the person and their
20 family through periods of distress. In practical terms,
21 how does that happen or work?

22 A. Some of the people that I have contact with, I've had
23 contact with sort of from the beginning of the service in
24 2007. Some people sort of come and go, and might feel for
25 the moment that things are sort of settled and for whatever
26 reason or for whatever trigger might occur, it could set
27 things off again and that family, that person, might need
28 particular support through that time. I guess that
29 sometimes there might be other life events that occur that
30 require some sort of extra support as well.

31
32 Q. Is it fair to say that each person has their own
33 individual responses to different stressors and
34 recollections and events and, as a result, you're unable to
35 map out clearly what people will need and it may change
36 from time to time?

37 A. Yes, and it's hard to anticipate. What might be a
38 trigger for one person may not be a trigger for another
39 person, so it's hard to - every person's journey, I guess,
40 is unique and you can't really anticipate those things
41 along the way.

42
43 Q. Are there still persons affected by sexual abuse by
44 McAlinden and Fletcher coming forward to you?

45 A. Yes, yes.

46
47 Q. Even as recently as while this Special Commission has

1 been running?

2 A. Yes.

3

4 Q. You mentioned the importance of working with groups.
5 Can you outline your perception of the usefulness and
6 importance of the group setting in dealing with these
7 particular matters of child sexual abuse?

8 A. I think that people meeting in groups, that the
9 members of these groups - they are very informal
10 gatherings. They are not sort of formal structured groups
11 per se, it might be meeting over a coffee, but people who
12 have experienced similar things derive a great deal of
13 support from other people who have experienced that.

14

15 I sometimes find when I first meet people that they
16 may reach a stage where I can see that it would be
17 beneficial for them to meet with another person who has
18 experienced a similar sort of thing. I guess that there
19 are groups of people, and sometimes it might be beneficial
20 for people to meet with the group; or, on other occasions,
21 it might be beneficial for someone to meet sort of
22 one-on-one with that person, just to know that they are
23 talking to someone who has been through exactly the same
24 sort of thing. That might be someone who has been directly
25 affected themselves, it might be the partner of someone, it
26 might be the mother of someone, but my experience is that
27 there is great support derived from that mutual support and
28 sharing.

29

30 Q. In paragraph 7 you talk about the practice in your
31 role as coordinator of healing and support to report
32 complaints of child sexual abuse to the New South Wales
33 police and that, during your time at Zimmerman Services, it
34 has always been policy to do that. Can we take it that you
35 are not able to confidently say what the policy was before
36 you arrived?

37 A. No.

38

39 Q. By "no" you mean yes, you are not able to say?

40 A. That's right.

41

42 Q. In terms of paragraph 8, you quote some of the
43 policies and procedures from Zimmerman House that include
44 that it is the practice of Zimmerman House to notify the
45 police of any potential crime and the name of the alleged
46 offender, et cetera, even if the aggrieved person will not
47 allow their name to be disclosed. Is it your understanding

1 that that includes any potential concealing offences?

2 A. Yes.

3

4 Q. In paragraph 9 and paragraph 10, you outline two
5 particular circumstances where you helped facilitate
6 particular meetings with the police that then led to police
7 action and statements being made by the persons concerned.
8 Were you present physically with these two interfaces with
9 the Police Force, or did you just facilitate them
10 happening?

11 A. I wasn't present when both of those people gave their
12 statements - oh, no, in the first one where the person
13 didn't want - was happy for the police to know, but he
14 didn't initially want his name mentioned, after I met with
15 him a few times, he then agreed to meet with them. So
16 I was there for that meeting. He then decided he would
17 make a statement.

18

19 In the second occasion, the man said that he was happy
20 for me to pass on all of his details to the police, but he
21 was unsure about making a statement. He said he just
22 wanted to make sure that the same things didn't happen to
23 anyone else again, and I said to him that the best way of
24 doing that was to actually make a statement to the police.
25 He then agreed for me to actually arrange a joint home
26 visit with the particular detective, so that she could
27 explain the whole process to him and what would be involved
28 and, following that, he agreed to make a statement.

29

30 Q. You found that you were able to facilitate that direct
31 contact occurring?

32 A. Yes.

33

34 Q. Ms O'Hearn, in paragraph 11 you talk about the policy,
35 that is the investigations policy of the diocese,
36 confirming an obligation to report suspected criminal
37 conduct and that, at the time at least of that particular
38 investigations policy, all relevant information is given to
39 the police, including the identity of the reporter and the
40 alleged victim as well as the perpetrator. Are you able to
41 say whether, prior to that investigations policy coming in,
42 you know about a process of blind reporting where as much
43 detail as possible was provided, but not the names of the
44 victims, or is that something before your time?

45 A. It probably was before my time. That first person
46 I just referred to, that was probably a matter of that
47 blind reporting when he was happy for the details to be

1 given without his - the details of the offence, but not his
2 details, but then we became aware that he was actually one
3 of a number of people who had been abused by a certain
4 perpetrator, so it was more important that he - but from
5 that point on, I think that was probably the last of the
6 blind reporting.

7
8 Q. You've given evidence to the effect that persons
9 affected by sexual abuse, particularly the ones who have
10 been abused directly, feel a sense of misplaced shame about
11 what's happened to them. Do you find that that affects
12 people's willingness or otherwise to state in a public
13 domain how these things have affected them?

14 A. Oh, yes, very much so.

15
16 Q. Even in criminal proceedings, have you found that, on
17 occasion, the victim's impact statements, for example, need
18 to be read by persons other than the victim who was the
19 subject of a particular criminal matter?

20 A. Yes. They very much want the court to know how they
21 feel, but they don't feel, at that point in time, quite
22 able to deliver that themselves.

23
24 MS LONERGAN: If I could tender the statutory declaration.

25
26 THE COMMISSIONER: Ms O'Hearn's statutory declaration will
27 be admitted and marked exhibit 213.

28
29 **EXHIBIT #213 STATUTORY DECLARATION OF MAUREEN O'HEARN,**
30 **DATED 3/06/2013**

31
32 MS LONERGAN: Ms O'Hearn, others at the bar table may now
33 have questions for you, or not, as the case may be.

34
35 MR BICKFORD: No, thank you.

36
37 MR ROSER: No, thank you, Commissioner.

38
39 **<EXAMINATION BY MR GOGARTY:**

40
41 MR GOGARTY: Q. Just a couple of questions, Ms O'Hearn.
42 You discussed earlier in your evidence victims undergoing a
43 journey towards healing; is that right?

44 A. Yes.

45
46 Q. Would you agree with my proposition that that journey
47 towards healing is for many people a life-long journey?

1 A. Yes, absolutely.

2

3 Q. Could you describe to the Commissioner why that might
4 be the case?

5 A. I think for some, probably for many, sadly, some
6 people don't have the strength to make that journey which
7 ends with suicide. I think for others, whilst the abuse
8 may not dominate their lives, it becomes a part of their
9 lives, but at any time there can be triggers that set that
10 off again, so I think the abuse will never go away and it
11 can't be undone, so even though it might become a smaller
12 part of the person's life, it has the potential to sort of
13 erupt at any time because of those triggers, so it can
14 never be completely over, I guess.

15

16 MR GOGARTY: Thank you, Ms O'Hearn. Thank you,
17 Commissioner.

18

19 <EXAMINATION BY MS GERACE:

20

21 MS GERACE: Q. In paragraph 14 of your statutory
22 declaration, Ms O'Hearn, you talk about victims of church
23 abuse almost needing permission from the church to pursue
24 making a complaint to the police. Can I ask you some
25 questions about that from your experience. Have you
26 observed that where a person has been abused by a member of
27 the church, that person needs to feel confident in the
28 response of the church to them if they were to go the
29 police?

30 A. Yes, that has certainly been my experience.

31

32 Q. In your observations of the victims of sexual abuse by
33 clergy, do you observe, for instance, the victims to have
34 been in a position where they have looked to the church as
35 a body of authority for them in their life in the past,
36 prior to the abuse or at the time of the abuse?

37 A. Yes, and I guess that often people who are abused by
38 church personnel have been very much a part of a devout
39 family where the church has been very important to them.
40 So, yes, I think to have the church's blessing in a sense
41 to go ahead and do something is very important for some
42 people.

43

44 Q. And for those who you've observed and dealt with who
45 have had that devout relationship, have you observed in
46 them, or have they told you, that the church has stood as a
47 way where they have been guided in their day-to-day life as

1 to what to do?

2 A. For some people, older generations, yes.

3

4 Q. In the role that you have now with Zimmerman Services,
5 is it fair to say that the approach being taken, at least
6 from the time you've been there in 2007, is one of being
7 open and non-judgmental when someone comes forward to you
8 with a complaint?

9 A. Yes.

10

11 Q. When you talk about providing the permission by way of
12 practical support and encouragement, is the approach now
13 being taken by the church through Zimmerman Services to
14 provide an imprimatur or the encouragement in a holistic
15 way of whatever the victim wishes to do about their abuse
16 in terms of their relationship with the police?

17 A. Yes, I think it's giving them a message that there is
18 an openness and acceptance of that, yes.

19

20 Q. Can I ask you about your paragraph where you've said
21 that victims often can return to a child-like state and be
22 concerned about repercussions for them in coming forward
23 with their complaint. You've said in paragraph 14 that
24 part of the problem for the victims is that they are
25 fearful of repercussions from the church and you've then
26 gone on to state that this fear is ill founded. Can
27 I understand that comment? Does that comment refer to your
28 experience of the response of the church from the time
29 you've been at Zimmerman House since 2007?

30 A. Can you just clarify that?

31

32 Q. I'm just asking, you've said that the fear of
33 repercussions from the church is ill founded.

34 A. Yes, that has been my experience, that it is ill
35 founded.

36

37 Q. From your experience from working at Zimmerman
38 Services from 2007 onwards?

39 A. Yes.

40

41 Q. Can I ask further about the support services that are
42 provided. One of the things that's also provided through
43 Zimmerman Services, is an external funded counselling; is
44 that right?

45 A. That's right.

46

47 Q. As I understand it, that is limited to five sessions;

1 is that correct or not?

2 A. No, it's five sessions initially and then there are
3 extensions with review. I guess we want to make sure that
4 it's the right counselling for that person, that it's a
5 good fit, that it's working, so the five sessions are the
6 initial approval.

7

8 Q. Are you happy with the way the external funded
9 counselling is working in terms of what you are observing
10 from the victims who you are dealing with and liaising
11 with?

12 A. Yes. I guess that is why it's important for me not
13 just - yes, it's not just a matter of simply referring
14 someone off to a counsellor and never having to worry about
15 them again. Part of my role is to keep in contact with the
16 person and also to liaise with the counsellor to make sure
17 that it's working for the person, that the person is
18 getting there, that it's having some sort of effect for the
19 person.

20

21 Q. You were asked about your knowledge of other victims
22 coming forward concerning Father McAlinden. Without going
23 into any names, am I correct in understanding that victims
24 have come forward from as far as New Zealand concerning
25 Father McAlinden?

26 A. Yes.

27

28 Q. Have you had experience of other victims coming
29 forward from interstate?

30 A. Yes.

31

32 MS GERACE: Those are my questions.

33

34 <EXAMINATION BY MR COHEN:

35

36 MR COHEN: Q. I have one question, Ms O'Hearn. You
37 indicated in your paragraph 15:

38

39 *My experience is that some members of the*
40 *church community (parishioners) are quite*
41 *vocal in proclaiming the innocence of the*
42 *accused and staunchly support that person.*

43

44 The "accused" there is a priest, is it?

45 A. An accused member of the church, mostly a priest, or
46 it could be a schoolteacher in a Catholic school.

47

1 Q. Ms Gerace has asked you a question about your
2 reference to the fear of repercussions being ill founded.
3 Do you accept that there are a number of people that have
4 given evidence that their fear is neither ill founded nor
5 absent?
6

7 MR GYLES: I object. It's referring to witnesses who have
8 given evidence. Ms O'Hearn's evidence is that, in her
9 experience, people should not fear coming forward because
10 there will not be repercussions.
11

12 MS LONERGAN: I agree with Mr Gyles's objection.
13

14 THE COMMISSIONER: And it has been unfounded from the
15 church. I think any suggestion of repercussions cannot be
16 sheeted home to officials of the church, Mr Cohen.
17

18 MR COHEN: I'll approach it this way.
19

20 Q. Do you understand that there is a fear that appears to
21 be well founded --
22

23 MS LONERGAN: I can't hear Mr Cohen.
24

25 MR GYLES: I object.
26

27 MS LONERGAN: And I think I object to the question.
28

29 MR GYLES: I object to Mr Cohen asking questions in this
30 area, in any event. It hasn't anything to do with his
31 client.
32

33 MR COHEN: My client has given evidence about the very
34 question of ostracism, and I am entitled to test this.
35 This notion that I can be shut down at every opportunity if
36 I ask a question that is inconvenient, with respect, is
37 not --
38

39 MS LONERGAN: Commissioner, I rise to take exception to
40 the idea that there has been a shutting down of Mr Cohen's
41 questioning. It has already been raised that the area in
42 which he is treading now is an objectionable area. If
43 Mr Cohen could ask the question, then Ms O'Hearn can pause,
44 and then objections could be taken in turn.
45

46 MR COHEN: I wasn't referring to what Ms Lonergan was
47 saying. I was referring to the notion that I can't

1 possibly stray into this area as it's put.

2

3 THE COMMISSIONER: Mr Cohen, Ms O'Hearn's experience only
4 starts relatively recently in history, doesn't it?

5

6 MR COHEN: Let me ask this question:

7

8 Q. I take it you don't have any experience of anything of
9 this sort before 2007; is that right?

10 A. Any experience of?

11

12 Q. Of ill-founded repercussions, as you put it, before
13 2007?

14 A. No, it has not been an area of my work so it has not
15 something I've been aware of.

16

17 Q. So you can't give any opinion about this matter before
18 2007; is that right?

19 A. Not really.

20

21 MR COHEN: Thank you, Commissioner.

22

23 MS NEEDHAM: No questions.

24

25 MR HARBEN: No questions.

26

27 MR SKINNER: No questions, Commissioner.

28

29 MS McLAUGHLIN: No questions.

30

31 <EXAMINATION BY MR GYLES:

32

33 MR GYLES: Q. Ms O'Hearn, you were asked some questions
34 about external counselling. Obviously that is one of the
35 services that is provided by you in your role?

36 A. Yes.

37

38 Q. If you think that is appropriate?

39 A. Yes.

40

41 Q. And if the survivor or victim obviously agrees to that
42 course and wants to do that?

43 A. That's right.

44

45 Q. You talked about an initial five consultations?

46 A. Yes.

47

1 Q. And if it is thought beneficial for the victim or the
2 person you're dealing with to have additional counselling,
3 presumably you will make a recommendation and that will be
4 authorised and that will happen. Is that the case?
5 A. That has been my experience, yes.
6
7 Q. To be clear, that external counselling is funded by
8 Zimmerman Services, not by the - at least that which we are
9 talking about is funded by Zimmerman Services?
10 A. Funded by the diocese, yes.
11
12 Q. Can we take it from the evidence that you've given
13 that you take your role as an advocate for victims
14 extremely seriously?
15 A. I do.
16
17 Q. You do that without fear or favour?
18 A. That's right.
19
20 Q. One further matter, again to avoid any confusion about
21 this: when a person comes into your orbit, when a person
22 comes to you, whether it's a recommendation or referral by
23 the police or someone comes in themselves, there are a
24 range of services that are available to them.
25 A. Yes.
26
27 Q. Agreed? One of the avenues they have is to seek
28 compensation.
29 A. Yes.
30
31 Q. If they do seek compensation, there can be an impact
32 in terms of the timing of that process if there is an
33 extant police investigation in relation to that allegation.
34 That's the case, isn't it?
35 A. There can be, and the police sometimes have a view
36 about whether that should happen at the end of the
37 investigation or the end of the trial, or whatever. Yes,
38 that's not my call. There are other constraints around
39 that.
40
41 Q. In some circumstances there will not be a police
42 investigation because the perpetrator may be dead?
43 A. That's right.
44
45 Q. Where there is a police investigation which is extant
46 and where that impacts upon the timing of the compensation
47 procedures, in other words, it has to be done at some later

1 time, to be clear, the other services you offer, such as
2 external counselling, group sessions - all those other
3 things - are available to that person. That's the case,
4 isn't it?

5 A. Yes.

6

7 Q. So the Towards Healing protocol and the services
8 provided by Zimmerman Services are available to a person
9 where there is an extant police investigation, subject only
10 to a qualification or a restriction in respect of the
11 compensation aspect?

12 A. Yes, the Towards Healing protocol is quite separate to
13 Zimmerman Services. So we provide support and healing.
14 Towards Healing is a process through which people may make
15 a claim.

16

17 Q. But so far as you are concerned --

18 A. Yes, our services of support, counselling, whatever,
19 absolutely continue.

20

21 Q. Are available to everyone?

22 A. Yes, and part of my role is to support people through
23 making a civil claim, so, yes, our services certainly don't
24 stop. They continue throughout that.

25

26 Q. Again, that's a process you undertake to the extent
27 that you are advocating a victim's position in that
28 respect - that is a role again that you take seriously and
29 you do that without fear or favour?

30 A. Yes.

31

32 Q. On their behalf; agree?

33 A. Yes.

34

35 Q. To the extent you've given evidence about some
36 reluctance of individuals or requiring permission from the
37 church to go to the police, what you are effectively
38 telling us is that the way you manage these matters, you
39 make it clear that, to the extent that there is a person
40 labouring under a misapprehension that they need
41 permission, that you give them that permission?

42 A. I guess that's figuratively speaking. I think I do
43 that by very practical means, by taking them to the police,
44 supporting them going to the police, sitting with them
45 while they are making a statement. So I see that as the
46 most practical way to demonstrate any approval that they
47 might feel they need.

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Q. On a day-to-day basis, what you tell us in your affidavit is that whatever misgivings or concerns people might have when they come to see you, they have always gone to the police, despite such misgivings, perhaps through the work you do with them to facilitate and support them in that process?

A. Yes, my experience has been that they have always been very open to me reporting matters to the police. Even if down the track they may choose not to make a statement, I've never had anyone who has strongly resisted my reporting something to the police.

MR GYLES: Those are my questions.

<EXAMINATION BY MS LONERGAN:

MS LONERGAN: Q. Ms O'Hearn, you've had many dealings with victims of McAlinden?

A. I have.

Q. Are you able to estimate about how many people you've spoken to who were victims of McAlinden, just approximately?

A. About 28.

Q. Is it fair to say that the earliest complaint that you've dealt with is about 1953/1954?

A. Actually I had one earlier than that. I had a woman who was abused in 1949. That was the earliest one I knew.

Q. The latest was about 1986 in terms of abusive conduct - sexually abusive conduct by McAlinden; does that equate with your recollection?

A. With someone --

Q. Who was abused in about 1986?

A. Yes.

MS LONERGAN: That's the re-examination, Commissioner. If Ms O'Hearn could be excused from her summons. However there is one further matter. Ms O'Hearn has given evidence to the effect that victims and people who have been sexually abused by people such as McAlinden have great difficulty in stating themselves, in a public domain, what's happened to them. It is proposed that Ms O'Hearn will read two impact statements - one from a woman who was

1 sexually abused by McAlinden when she was a little girl of
2 10 in 1954, and another by a young woman who was sexually
3 abused by McAlinden when she was a little girl aged 11.
4

5 THE COMMISSIONER: In what year was the second one?
6

7 MS LONERGAN: The second one was in 1986. Commissioner,
8 to this stage of the inquiry, we've heard from one
9 particular person who was abused by Fletcher and it is
10 recognised very much that these are only two examples of
11 people who have suffered at the hands of McAlinden, but
12 they provide an indication of the type of effects these
13 matters can have on these people.
14

15 THE COMMISSIONER: Thank you. As to your evidence,
16 Ms O'Hearn, thank you for it, and you are now excused.
17 I would be very grateful if you would read on to the record
18 the victim impact statements from those two women with whom
19 you have been working.
20

21 THE WITNESS: The first impact statement is from [ABR]:
22

23 *I was born in September 1944. I am nearly*
24 *69 years old.*
25

26 *Denis McAlinden came to Taree in 1954. He*
27 *started to sexually abuse me soon after he*
28 *arrived in the parish. I was only*
29 *10-years-old when the abuse started. When*
30 *he arrived in Taree he became a part of our*
31 *family, and was welcomed into our home by*
32 *our parents. My siblings and myself at the*
33 *time thought we were pretty "special"*
34 *having a priest as a friend of our family.*
35

36 *My family was very involved in the church.*
37 *McAlinden was always "dropping in" to see*
38 *us. He was regularly invited to our home*
39 *for family dinners and special occasions*
40 *like birthdays and Christmas. Sundays were*
41 *usually picnic days in the bush or at the*
42 *beach, and McAlinden was always there. He*
43 *came on family summer holidays with us*
44 *every year he was in Taree. My parents*
45 *even allowed me to go on holidays with him*
46 *and another girl to Melbourne.*
47

1 My parents died not knowing of the truth
2 about McAlinden. They would have been so
3 devastated if they were alive today and
4 knew about my abuse and that so many other
5 girls were abused over so many years. They
6 trusted him.

7
8 I was raised in a very good Catholic
9 family, attending Mass weekly, sometimes
10 more, and participating in a lot of church
11 activities. My parents were wonderful
12 workers for the church. My siblings and
13 I attended a Catholic school from kinder to
14 year 9.

15
16 I was involved in many groups through the
17 schools, one being The Legion of Mary.
18 McAlinden was put in charge of The Legion
19 of Mary. The average age of the girls was
20 10 to 12 years. I often wonder about those
21 girls. I realise now it probably was not
22 just me that he was abusing.

23
24 After Legion of Mary meetings, McAlinden
25 would drive some of the girls home and
26 I was always the last to be taken home. He
27 would drive me to the bush and this is
28 where my nightmare began. He would
29 sexually abuse me and told me it was all
30 right and to be very quiet. I was so
31 scared of him and he said that he could
32 read my mind.

33
34 I believed him when he said that if I told
35 anyone he would know because he could read
36 my mind and I would be in a lot of trouble.
37 Although I was only 10 years old, I knew
38 that priests were held in high esteem and
39 everyone trusted them, so why would anyone
40 believe me?

41
42 McAlinden would give us gifts for birthdays
43 and Christmas, always giving me the most
44 expensive gifts, probably another way of
45 keeping me quiet.

46
47 McAlinden left Taree in 1958 but he stayed

1 *in contact with our family for nearly 20*
2 *years until the mid 1970s.*

3
4 *When I was engaged and planning our wedding*
5 *in 1965, my parents thought it would be*
6 *wonderful if I asked McAlinden to come back*
7 *to Taree and perform the wedding ceremony.*
8 *I said, "No". They were disappointed and*
9 *did not ask why. Even though I was 20*
10 *years old, I could not tell them.*

11
12 *When I got married in 1965, McAlinden sent*
13 *a wedding present of Irish linen. I gave*
14 *it away.*

15
16 *A couple of years after we were married, we*
17 *moved to another mid-north coast town.*
18 *When we were living there, in the early to*
19 *mid 1970s, McAlinden would turn up*
20 *unannounced at our home.*

21
22 *By 1972, we had three little children, two*
23 *girls and a boy. I did not let our*
24 *children out of my sight when McAlinden was*
25 *visiting. At these times of "surprise*
26 *visits" I would feel the need to protect my*
27 *family. He came four or five times and*
28 *then his visits suddenly stopped. I think*
29 *that we last heard from him in 1976. My*
30 *sister lived in Forster and she told me*
31 *that he had suddenly left the Parish and*
32 *she thought he had gone to Western*
33 *Australia. I was glad that he was finally*
34 *gone.*

35
36 *It was only four years ago when I saw media*
37 *statements about McAlinden that I told my*
38 *husband and siblings about what had*
39 *happened to me. I had filed this all away*
40 *in the back of my mind but had never*
41 *forgotten. While I write this statement*
42 *I can so clearly recall what happened back*
43 *in the 1950s. Everything to do with*
44 *McAlinden comes flooding back.*

45
46 *Denis McAlinden was an extremely bad*
47 *tempered, evil man. He was a sexual*

1 predator of little girls. I am so angry
2 that I feel that the church kept him hidden
3 and so many women and their families have
4 suffered. That suffering goes on now as
5 the truth comes out. So much secrecy when
6 so many people knew. Someone has to be
7 held accountable. Nearly 60 years after he
8 abused me, finally the truth is coming out.

9
10 This impact statement is from [AQ]:

11
12 *I was born in April 1975. I am now*
13 *38 years old.*

14
15 *When I was 11 years old, Denis McAlinden*
16 *came to Adamstown. He befriended my*
17 *parents who were very involved in Parish*
18 *life. He spent a lot of time at the*
19 *school. Very soon after he arrived in the*
20 *Parish, he was visiting our home several*
21 *times a week in the evenings. Ours was a*
22 *household full of girls.*

23
24 *Through my last two years of primary school*
25 *in 1986 and 1987 this so-called priest*
26 *sexually abused me in the presbytery, at*
27 *the church, in my home, on the school*
28 *playground, in his car, and during parish*
29 *events and family outings to which he was*
30 *frequently invited.*

31
32 *He got away with abusing me almost in front*
33 *of people because everyone was blinded by*
34 *his being a priest.*

35
36 *I have lived with so much pain because of*
37 *this abuse of me. Some days I can barely*
38 *function. The constant media is very hard*
39 *although I am glad that the culture of*
40 *secrecy is being exposed.*

41
42 *I am now a 38-year-old mother of four.*
43 *I have painstakingly tried to remain*
44 *anonymous whilst dealing with all of this*
45 *as I do not want the matters at hand to*
46 *fall on the shoulders of my precious*
47 *children. I do not want them to carry the*

1 *burdens of my abuse throughout their lives*
2 *and relive the pain I have lived with for*
3 *so long.*

4
5 *I have carried the burdens of the Catholic*
6 *Church for far too long and believe that*
7 *the pain this has caused should stop here*
8 *with me. I'm doing my best.*

9
10 *When news broke that the wrongdoings of*
11 *McAlinden had been brought to light, I was*
12 *home alone with three of my children: the*
13 *front page of the Newcastle Herald slapped*
14 *me in the face hard. I was totally*
15 *terrified - to the point where I repeatedly*
16 *threw up for hours and could not talk to*
17 *anyone for such a long time. My husband*
18 *was away at the time. I remember it as a*
19 *blurry, sickening haze. I remember not*
20 *wanting to be alive.*

21
22 *Who else had he hurt? Were they my*
23 *friends? My family? I was absolutely*
24 *terrified. I felt like I was back there,*
25 *like I was that little girl hiding*
26 *something. I felt that if anyone knew*
27 *about me - if someone found out - that*
28 *I would be in trouble. My terror continued*
29 *for so long.*

30
31 *I didn't sleep (I still don't do that too*
32 *well). I didn't eat and just tried to take*
33 *it day by day.*

34
35 *This went on for a long while until*
36 *I finally had the courage to tell my*
37 *husband. It was only with his support*
38 *that, eventually I too found the courage to*
39 *speak out and report what had happened to*
40 *me, 20 years after the abuse.*

41
42 *Life does not stop while I tried to deal*
43 *with these things. I still have to try to*
44 *carry on as usual, being a mum, a wife, and*
45 *trying to run a business. All of these*
46 *tasks I still find to this day so very*
47 *hard. To everyone on the outside looking*

1 *in, I may seem fine. I have become so good*
2 *at hiding my terror and distress that*
3 *no-one really knows what goes on in my*
4 *daily life. On the inside it's pretty*
5 *messy. It's ugly. I don't think that will*
6 *ever go away. There is sadness, so much*
7 *sadness - you become friends with sadness*
8 *as it's here more days than it's not. You*
9 *know some days will be better than others*
10 *but sadness is always there and I suspect*
11 *it will always be there.*

12
13 *Anger. Anger came later but it stayed for*
14 *a long while and is not going anywhere.*
15 *I want to know why? Why did no-one stop*
16 *him before he got to me? Can someone*
17 *please tell me?*

18
19 *If only someone had stopped him before he*
20 *did that to me.*

21
22 *I often wonder what life would have been*
23 *like had this not happened to me? The pain*
24 *I live with and do my best to deal with is*
25 *there every single day. For the rest of my*
26 *life I will wake up with that pain. Why*
27 *was he involved so heavily with the school*
28 *I attended? Why was he free to be around*
29 *so many young innocent children?*

30
31 *If the Inquiry finds that there were people*
32 *who knew about this and allowed this to*
33 *happen, we the victims might find some*
34 *peace knowing that at least, after all*
35 *these years something has been done and*
36 *someone has been held accountable.*

37
38 THE COMMISSIONER: Thank you very much, Ms O'Hearn.

39
40 MS LONERGAN: I suggest a short lunch today, unless those
41 at the bar table would prefer a longer break, and we
42 recommence at 2pm.

43
44 THE COMMISSIONER: Yes, I will adjourn till 2pm

45 **LUNCHEON ADJOURNMENT**
46
47

1 UPON RESUMPTION:

2

3 MS LONERGAN: I call Bishop William Joseph Wright.

4

5 <WILLIAM JOSEPH WRIGHT, sworn: [2.29pm]

6

7 <EXAMINATION BY MS LONERGAN:

8

9 MS LONERGAN: Q. Your full name is William Joseph
10 Wright?

11 A. Yes.

12

13 Q. You are the bishop of Maitland-Newcastle?

14 A. Yes.

15

16 Q. At the request of those who assist the Commissioner
17 you prepared a statutory declaration dated 29 July 2013 for
18 the assistance of the Commission?

19 A. Yes.

20

21 Q. I'll hand a copy of that and one for the Commissioner.
22 I note, Commissioner, and Bishop Wright, that paragraph 40
23 and the question above it have been redacted out of the
24 document. Is paragraph 40, and the question above it,
25 crossed out of your document or not?

26 A. No, it's not. It's still there.

27

28 MS LONERGAN: Commissioner, it's the intention of those
29 who assist you that when this document is tendered that
30 question and paragraph 40 will be redacted out of the
31 document because it refers to matters prior to
32 Bishop Wright's time at the diocese and thus is not helpful
33 in that form to the Commission.

34

35 I tender the statutory declaration.

36

37 THE COMMISSIONER: The statutory declaration of Bishop
38 William Wright of 29 July 2013 will be admitted and marked
39 exhibit 214.

40

41 **EXHIBIT #214 STATEMENT OF BISHOP WILLIAM WRIGHT,**
42 **DATED 29/07/2013**

43

44 MS LONERGAN: Q. Bishop, this year you prepared a
45 particular letter to be forwarded to all in the Catholic
46 diocese of Maitland-Newcastle?

47 A. Yes.

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Q. That letter is dated 1 March 2013 and that letter addressed your wish and request that persons cooperate and assist this Commission of Inquiry with their work?

A. That's correct.

Q. I hand up a copy of that letter and a copy for the Commissioner. Bishop, was it the position that after the formal opening of the inquiry, you reiterated particular comments by Commissioner Cunneen for the benefit of those within the diocese who had not heard them? Was that your purpose of reiterating those comments in this pastoral letter?

A. Yes.

Q. You state particularly in this letter that you --

A. I would have put those comments there for those who had not heard them or perhaps to remind them.

Q. Was it your opinion, and is it your opinion, that the work of the Special Commission is something helpful to victims of child sexual assault in terms of ventilating relevant issues and history?

A. Yes.

Q. Bishop, you were in court this morning when Ms O'Hearn gave particular evidence regarding the diocesan position on various matters to do with reporting to police and assisting and supporting victims of child sexual assault?

A. Yes.

Q. Is it the position that you agree with her evidence in terms of diocesan commitment to assisting those persons so affected?

A. Yes, it is. I do.

Q. Bishop, is it the position that the diocese has a review process in terms of looking at these matters of child protection and support of historical victims of child sexual assault and indeed current victims?

A. Yes, it's an ongoing matter. Any development along the way, we look at and we review matters, yes.

Q. In terms of processes and the engagement with outside authorities, could you articulate for the benefit of those present the position of the diocese in terms of your role as head of the diocese as to engagement with those outside

1 authorities on these issues?
2 A. Generally speaking, the engagement is handled directly
3 by Zimmerman Services on my behalf. Where questions arise
4 as to the appropriateness of responding in particular ways
5 to an outside authority, that may be brought to me. My
6 generalised direction is we cooperate in every way
7 possible.

8
9 Q. Bishop, is it fair to say that there is a commitment
10 to a transparency of processes within the diocese and in
11 those contacts with outside authorities?

12 A. Yes, it is. I believe it's fair to say, yes.

13
14 Q. Is that a position that you will support continuing
15 into the future?

16 A. Certainly. Into the future we will continue to hear
17 from victims, I imagine, the sorts of things that might be
18 of help to them, we'll certainly hear from the conclusions
19 of an inquiry like this and the coming Royal Commission.
20 Other bits of experience along the way, we'll continue to
21 try to improve what we can do in all of these matters of
22 child protection and supporting victims, and with
23 transparency and openness, as you've said, but it's an
24 ongoing commitment to do the best we can with it at any
25 given time, yes.

26
27 MS LONERGAN: I tender the letter from Bishop Wright dated
28 1 March 2013.

29
30 THE COMMISSIONER: The letter from Bishop William Wright
31 to all in the Catholic diocese of Maitland-Newcastle dated
32 1 March 2013 will be admitted and marked exhibit 215.

33
34 **EXHIBIT #215 LETTER FROM BISHOP WILLIAM WRIGHT TO THE**
35 **CATHOLIC DIOCESE OF MAITLAND-NEWCASTLE DATED 1/03/2013**

36
37 MS LONERGAN: Those are my questions.

38
39 MR BICKFORD: I have no questions.

40
41 MR ROSER: No, thank you.

42
43 MR GOGARTY: No, thank you.

44
45 MS GERACE: No.

46
47 MR COHEN: No.

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MS NEEDHAM: No.

MR HARBEN: No.

MR SKINNER: No questions.

MR GYLES: No questions.

MS LONERGAN: Commissioner, could Bishop Wright be excused.

THE COMMISSIONER: Thank you very much for your evidence. You are excused.

<THE WITNESS WITHDREW

MS LONERGAN: Commissioner, today represents the end of a significant phase of the inquiry, that being the public hearings, which have proceeded for eight weeks here in Newcastle.

This inquiry is a process involving many stages both public and private. At the end of this important stage, I pause to summarise some of the Commission's important work to date.

The inquiry's terms of reference were initially promulgated on 21 November 2012. Further terms of reference were promulgated on 25 January 2013. To date, there have been more than 100 summonses issued for production of documents and records. There have been more than 100 private hearings and interviews, including international and interstate teleconferences. There have been 33 in-camera public hearings, and 41 witnesses called to give evidence on the public hearings conducted over the last eight weeks or over the eight weeks, with a break in between.

This inquiry has presented, and indeed continues to present, a complex set of challenges. These have included the need to sit extended hours and for practitioners and witnesses to attend lengthy and late after-hours sessions.

This has involved a great deal of extra work for our hard working court staff and of course long hours for a very dedicated transcript reporters. Practitioners, and of

1 course, also Mr Peter Gogarty, and witnesses summonsed
2 before the inquiry have shown a great deal of fortitude and
3 flexibility in accommodating those irregular arrangements.
4 On behalf of those assisting, I express our gratitude for
5 their cooperation and assistance.
6

7 Members of the public have also shown great commitment
8 to the important work of the inquiry and have stayed here
9 listening to extended public hearings, including a 6pm
10 finish this week, and other late finishes on other
11 occasions.
12

13 We also thank the press for their cooperation with the
14 inquiry's processes. Their coverage has assisted in
15 ensuring an important level of transparency in the ongoing
16 work of the inquiry, to the extent possible in all the
17 circumstances, and the subject matter with which we are
18 dealing.
19

20 There are, of course, some phases of the inquiry's
21 work still to come. One of the next phases will be a
22 further two weeks of in-camera hearings to be conducted in
23 Sydney. Any further matters that need to be ventilated in
24 public are likely to be heard in Sydney and relevant dates
25 will be notified on the inquiry's website and via media
26 release. Arrangements will be put in place to notify
27 practitioners of further procedural commitments as soon as
28 possible.
29

30 It is likely that those procedural matters, such as
31 the tender of additional documents and the like, will be
32 dealt with in Sydney, but this is for practical purposes.
33 Those hearings will be public sessions that will again be
34 notified by media release and advertisement on the
35 websites. The courts will be open for the public to attend
36 those sessions, Commissioner.
37

38 Commissioner, given the wide interest in the work of
39 the inquiry and the importance of public scrutiny of these
40 important issues, you determined that it was necessary to
41 undertake public hearings regarding the inquiry's terms of
42 reference and to hold those hearings in Newcastle, being
43 the region most affected by this subject matter.
44

45 Commissioner, it has been the tremendous privilege of
46 those assisting you to meet with members of the
47 Hunter-Manning community and the people of Newcastle who

1 have been so deeply affected by the matters the subject of
2 this inquiry and who have been affected by the scourge of
3 child sexual abuse generally. Many of these people have
4 sat day by day to follow the evidence, often, I am sure, in
5 solidarity for family members or for others who cannot be
6 here. We thank those people for their attendance and
7 support for this inquiry's important work.

8
9 Thank you.

10
11 THE COMMISSIONER: I certainly endorse your sentiments,
12 Ms Lonergan, and I would like to make some additional
13 comments of my own. I wish to thank all the practitioners
14 and other persons involved in this inquiry for their
15 unfailing goodwill and cooperation with all of the inquiry
16 processes.

17
18 I have never sat facing this way in a courtroom
19 before, so I thank all counsel for your patience,
20 forbearance and your charm and understanding.

21
22 The work of the inquiry has, at times, imposed
23 enormous pressures and really long time commitments on the
24 part of you all, and, of course, on courtroom staff and
25 I really appreciate everyone's cooperation and goodwill.

26
27 Special mention must go to the superlative
28 transcription reporters, represented almost all the time by
29 the wonderful Ms Bairbre Sullivan, and Maureen Dunn and all
30 the colleagues from Merrill Corporation, who I'm sure have
31 worked harder than any transcription reporters ever have.
32 So thank you very much.

33
34 Thank you to the wonderful sheriff's officers, who
35 have impressed us mightily with their efficiency and
36 friendliness.

37
38 I would also like to thank the members of the public,
39 who have attended the public sittings of the inquiry for
40 their ongoing interest in this inquiry. Your role in
41 observing the public workings of the inquiry is a very
42 important aspect of the inquiry process and it is
43 appreciated so much by me and by those assisting me.

44
45 I, too, would like to acknowledge the work of the
46 media representatives who have been covering the work of
47 the public sittings of this inquiry. This is also a

1 valuable part of the processes of the inquiry.

2
3 Importantly, I would like to take the opportunity to
4 thank all of the people, including survivors and their
5 families, who have come forward courageously, willingly,
6 perhaps in some cases unwillingly, to provide important
7 information for the inquiry and to ensure that their voices
8 have been heard.

9
10 To my magnificent counsel assisting, Ms Julia Lonergan
11 SC, Dr David Kell, Mr Warwick Hunt, the redoubtable Ms Emma
12 Sullivan, and Ms Jessica Wardle from the Crown Solicitor's
13 Office, also from the Crown Solicitor's Office, Ms Kate
14 Vale, Ms Ingrid Keyzer, Ms Ellie Haas, Ms Gizelle van Zyl,
15 I've never seen such a hard-working team. After 37 years
16 in the public service, it's an eye opener to me, but thank
17 you so much. Your joint and several skills and your
18 enormous hard work, diligence and friendship is just so
19 valued by me. Thank you very much.

20
21 Finally, I acknowledge that, for good reasons, certain
22 aspects of the inquiry's hearings have had to be conducted
23 in camera. However, as part of my role as Commissioner,
24 when providing my report to the Governor, I am permitted
25 under the Act to make such recommendations relating to the
26 publication of the whole or any part of the report as
27 I consider appropriate.

28
29 I confirm what I have stated earlier, that my
30 intention is to recommend to the Governor that the major
31 part of my report dealing with matters other than relating
32 to the in-camera hearings be made public as soon as
33 practicable after the report has been properly considered.

34
35 Matters relating to in-camera hearings will be likely
36 to be included in a separate volume of the report. It may
37 be expected that publication of this part of the report
38 would be deferred, at least for a time, having regard to
39 other potential processes.

40
41 However, my present intention is to recommend to the
42 Governor that, at an appropriate time, my report be made
43 public in its entirety. Thank you once again.

44
45 MS LONERGAN: Commissioner, you spoke of members of the
46 public and their support. I understand one such person
47 wishes to come forward and say some words.

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THE COMMISSIONER: I see [BI].

[BI]: I won't take up too much of your time, but what I'm about to say I think has to be said. I'm not representing anybody in particular. A lot of people have come back and forth over the last eight weeks. I'm not a spokesperson for any group but it would be remiss of me not to thank a few people. I also do not wish to sound patronising to anybody in thanking them.

You personally have managed this difficult process in a professional and caring way. Your support staff have also exemplified your lead and we're very grateful to all of them.

It is important, also, to recognise the enthusiastic advocacy of other counsel in this matter, even though sometimes being on the end of it, we weren't terribly happy, but that's all part of the process.

Also thanks to the media for their efforts in the reporting of these matters.

I and all the others thank you all again and wish you well in your future deliberations in this matter. Thank you very much.

THE COMMISSIONER: Thank you so much, sir. I will adjourn.

AT 2.47PM THE COMMISSION ADJOURNED ACCORDINGLY

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