

**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 Wednesday, 10 July 2013 at 9.40am  
(Day 7)

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,

1 MS LONERGAN: Commissioner, before we call the first  
2 witness for today, which is former Officer Brown, I need to  
3 note on the record some matters regarding witnesses and the  
4 progress of this hearing.

5  
6 As we are all aware, in a fixture of this nature, it  
7 is difficult to predict how long witnesses will take and it  
8 is important that this Commission properly canvasses  
9 relevant matters and ensures that the interests of various  
10 parties at the Bar table are appropriately explored and  
11 that they are allowed to appropriate explore them.

12  
13 I note that Detective Chief Inspector Fox, has had  
14 many days in the witness box and we need to adjust the  
15 witness list to take into account where we are at with the  
16 oral evidence.

17  
18 Parties had been advised to keep free 1 July to  
19 19 July. It now appears, given the remainder of the  
20 witness list, that that will not be sufficient time to  
21 complete all the oral evidence.

22  
23 In those circumstances, Commissioner, I understand  
24 that it is your intention to proceed until all the oral  
25 evidence is completed and it appears, on the current time  
26 estimates allocated to the various witnesses, that that  
27 will, of necessity, lead into the week of 22 July and  
28 probably all of that week, Commissioner, on current  
29 predictions. That may, of course, need to be adjusted.

30  
31 THE COMMISSIONER: Yes, perhaps we will speed up,  
32 Ms Lonergan.

33  
34 MS LONERGAN: The staff of the Commission plan to publish  
35 an updated witness list later today, pending how many  
36 witnesses we get through today.

37  
38 There is an additional legal representative at the Bar  
39 table.

40  
41 MR D BARAN: Good morning, Commissioner. My name is  
42 Baran, B-A-R-A-N, initials DE, I appear for the Office of  
43 Professional Standards for New South Wales and the ACT.

44  
45 THE COMMISSIONER: Thank you, Mr Baran. You have  
46 authorisation to appear for the Professional Standards  
47 Office.

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MR KELL: I call Donald Brown.

<DONALD MARK BROWN, sworn: [9.45am]

<EXAMINATION BY MR KELL:

THE COMMISSIONER: Good morning, Mr Brown. I apologise that you have been waiting outside court for some days. Even I have seen you, when the doors have opened, waiting to give your evidence. Thank you for your forbearance.

THE WITNESS: Thank you.

MR KELL: Q. Could you please state your full name?  
A. Donald Mark Brown.

Q. You're an investigative officer with the Department of Education?  
A. That's correct.

Q. You were previously an officer of the NSW Police Force for some 20 years from about 1990 to 2010?  
A. Yes, that's correct.

Q. You had some limited involvement in the arrest and charging of Father Fletcher?  
A. Yes.

Q. We'll come to that in a minute. Could I show you a statement. Could I provide a copy to the Commissioner as well. Is that a statement that you have, with the assistance of your legal representatives, provided to the inquiry?  
A. That's correct.

Q. And it is a statement dated 13 May 2013?  
A. Yes.

Q. Your signature appears on the third page of that document?  
A. Yes.

Q. Are the contents of that statement true and correct?  
A. Yes.

MR KELL: I tender that statement.

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THE COMMISSIONER: The statement of Mr Donald Mark Brown of 13 May 2013 will be admitted and marked exhibit 82.

MR KELL: Thank you.

**EXHIBIT #82 STATEMENT OF DONALD MARK BROWN, DATED 13/05/2013**

MR KELL: Q. Mr Brown, just to begin with some matters of background, you were attested as a police officer in 1990?

A. Yes.

Q. You carried out general duties for about 10 years; is that correct?

A. Correct.

Q. You then became a trainee detective, did you?

A. Yes.

Q. Was that in about 2003?

A. Probably a little bit earlier.

Q. As at 2003, were you still a trainee detective?

A. Yes, I had a position in a detective's office, but I wasn't designated at that time.

Q. You became designated as a detective in 2004; is that the case?

A. That's correct.

Q. After that period of time, you carried out plainclothes duties in various detectives offices?

A. Yes.

Q. In the Newcastle and Lower Hunter region?

A. Yes.

Q. Did you also spend some time with the regional anti-theft squad?

A. Yes.

Q. And similarly, you had involvement with JIRT.

A. Yes.

Q. The Joint Investigative Response Team?

1 A. Yes, the State Crime Command.  
2  
3 Q. That included involvement in the investigation of sex  
4 crimes?  
5 A. Yes.  
6  
7 Q. How long was that attachment?  
8 A. About 18 months to two years.  
9  
10 Q. When was that?  
11 A. From about 2007 to 2010, I believe.  
12  
13 Q. In 2010 you left the NSW Police Force?  
14 A. Yes, that's correct.  
15  
16 Q. Immediately prior to leaving the force, you held the  
17 rank of detective leading senior constable?  
18 A. Yes, that's right.  
19  
20 Q. I want to ask you about some events occurring in 2003,  
21 about May 2003. Take yourself back to that time period.  
22 You were a trainee detective at that time?  
23 A. Correct.  
24  
25 Q. You were based in the Maitland detectives office?  
26 A. Yes.  
27  
28 Q. Who was your immediate supervisor?  
29 A. Detective Fox.  
30  
31 Q. Was the Maitland detectives office part of the Lower  
32 Hunter Local Area Command?  
33 A. Yes.  
34  
35 Q. At that point in time, in May 2003, how long would you  
36 have been at the Maitland detectives office?  
37 A. Probably about 12 months, perhaps.  
38  
39 Q. Did the Lower Hunter Local Area Command include other  
40 police stations apart from Maitland police station?  
41 A. Yes. It incorporated places like Cessnock and, at  
42 that time, I believe Nelson Bay, Raymond Terrace.  
43  
44 Q. How far was the Nelson Bay police station from the  
45 Maitland police station, approximately?  
46 A. To drive?  
47

1 Q. Yes.  
2 A. Probably an hour drive.  
3  
4 Q. Is it the case that both you and Detective Fox were,  
5 as at May 2003, positioned physically at the Maitland  
6 police station rather than Nelson Bay?  
7 A. Yes.  
8  
9 Q. In paragraph 7 of your statement you make some  
10 reference to your involvement with the investigation  
11 relating to Father Fletcher?  
12 A. Yes.  
13  
14 Q. I wonder if you could just outline briefly for the  
15 Commissioner the nature and extent of your involvement in  
16 the investigation at that time?  
17 A. I was asked to be a corroborative officer for  
18 Detective Fox for the arrest, interview and charging phase  
19 of Father Fletcher.  
20  
21 Q. Did that arrest and interview of Fletcher take place  
22 on 14 May 2003?  
23 A. Yes.  
24  
25 Q. When you refer to being a corroborative officer, what  
26 does that involve?  
27 A. You're not the lead officer in it. You're merely  
28 there as an assist to the officer in charge.  
29  
30 Q. Do we take it that Detective Fox was the officer in  
31 charge relating to Fletcher?  
32 A. It was Detective Fox's matter, that's correct.  
33  
34 Q. I think in paragraph 8 you indicate that you were  
35 physically present when an electronically recorded  
36 interview took place with Fletcher?  
37 A. Yes.  
38  
39 Q. You were present, were you, in that capacity as a  
40 corroborative officer?  
41 A. Yes.  
42  
43 Q. Did you have, prior to 14 May 2003, much knowledge or  
44 involvement with the Fletcher matter?  
45 A. No, not really. I hadn't - I think I read the  
46 victim's statement and that was my knowledge of it.  
47

1 Q. Was it your task at all to ask any questions during  
2 the interview?  
3 A. I may have asked a few questions to clarify some  
4 issues in the ERISP interview.  
5  
6 Q. In paragraph 9 of your statement, you make reference  
7 to your involvement in taking a statement from Father  
8 Robert Searle?  
9 A. Yes.  
10  
11 Q. He is a Catholic priest located at Nelson Bay; is that  
12 correct?  
13 A. He was at that time.  
14  
15 Q. Or was at that time?  
16 A. Yes.  
17  
18 Q. Whereabouts was the statement taken?  
19 A. The Nelson Bay police station.  
20  
21 Q. What was the process involved in actually taking the  
22 statement?  
23 A. Detective Fox made an appointment for me to attend and  
24 meet with Father Searle. I drove to the Nelson Bay police  
25 station. I met with Father Searle and obtained a statement  
26 from him.  
27  
28 Q. The process of taking that statement, did that involve  
29 you meeting with Father Searle in a room and you asking  
30 questions of him?  
31 A. Yes.  
32  
33 Q. Did you then prepare, based on the information he was  
34 providing to you, a statement?  
35 A. That's right.  
36  
37 Q. That's the statement that's annexure B to your  
38 statement, is it? Would you turn to that. It is a  
39 statement dated 19 May 2003?  
40 A. That's correct.  
41  
42 Q. I'm going to come back to the discussions that you had  
43 with Detective Fox in a minute. In terms of your taking  
44 the statement with Father Searle, there was you present,  
45 there was Father Searle present?  
46 A. Yes.  
47

1 Q. I think you indicate that was at the Nelson Bay police  
2 station?  
3 A. Yes.  
4  
5 Q. Was there anyone else present during the process of  
6 taking the statement?  
7 A. No.  
8  
9 Q. Was that the only occasion on which you met with  
10 Father Searle?  
11 A. Yes.  
12  
13 Q. Did you meet Father Searle at the Nelson Bay police  
14 station rather than at the Maitland station?  
15 A. Yes.  
16  
17 Q. And you're indicating "Yes" to meeting him first -  
18 meeting him at the Nelson Bay police station?  
19 A. Yes.  
20  
21 Q. Was there any occasion when you were present,  
22 Father Searle was present, and Detective Fox was physically  
23 present at the same time?  
24 A. No.  
25  
26 Q. The subject matter of the statement which is  
27 annexure B to your statement, that is to say, the statement  
28 from Father Searle, dealt with Father Searle's account of a  
29 discussion or an incident some five years earlier?  
30 A. Yes, that's right.  
31  
32 Q. That was an incident involving [AH]?  
33 A. Yes.  
34  
35 Q. Being outside the presbytery at Nelson Bay?  
36 A. Yes.  
37  
38 Q. In 1998?  
39 A. Yes.  
40  
41 Q. There was some shouting involved and your statement  
42 records - your statement taken from Father Searle records -  
43 that Father Searle came out to the balcony and saw [AH] in  
44 the street outside the presbytery?  
45 A. Yes.  
46  
47 Q. And he had a bottle of beer and there was some



1 shouting and discussion?  
2 A. Yes.  
3  
4 Q. And that Father Searle indicated, after some  
5 discussion and talking to [AH], that if he continued to  
6 yell out things that Father Searle would have to call the  
7 police or his parents?  
8 A. Yes.  
9  
10 Q. Then ultimately Father Searle called [AH]'s father,  
11 who arrived?  
12 A. Yes.  
13  
14 Q. In paragraph 9 of your statement to the inquiry, you  
15 indicate that before you went to Nelson Bay to take the  
16 statement from Father Searle, you were made aware by  
17 Detective Sergeant Fox of the matters that were to be  
18 covered in his statement to be obtained?  
19 A. That's right?  
20  
21 Q. Going back a step, how did Detective Fox make you  
22 aware? Was there a discussion that you had or an email or  
23 a telephone call?  
24 A. Just a conversation, yes.  
25  
26 Q. And that took place at the Maitland detectives office?  
27 A. Yes.  
28  
29 Q. How soon before you went to take the statement from  
30 Father Searle did that discussion with Detective Fox take  
31 place?  
32 A. Possibly the day before.  
33  
34 Q. Did Detective Fox indicate in any way to you that he  
35 had already spoken to Father Searle?  
36 A. He indicated to me that he'd had a telephone  
37 conversation with him and organised that appointment for me  
38 to go to Nelson Bay.  
39  
40 Q. Did he say when that telephone conversation had taken  
41 place with Father Searle?  
42 A. No. I didn't ask.  
43  
44 Q. What were the matters that Detective Fox told you were  
45 to be covered by the statement?  
46 A. The only thing to be covered in the statement was [AH]  
47 turning up outside the presbytery at Nelson Bay, yelling at

1 the presbytery, and that was pretty much it.  
2  
3 Q. Did Detective Fox descend into a lot of detail about  
4 what he wanted from the statement that you were to obtain,  
5 or was it just in the general terms that you've just  
6 indicated?  
7 A. Very general. Very general terms.  
8  
9 Q. I just want to go back to the interview that you had;  
10 the interview process and the taking of the statement from  
11 Father Searle, how long did that process take up at the  
12 Nelson Bay police station?  
13 A. I probably didn't time it, but I look at the length of  
14 the statement and I would say at least an hour.  
15  
16 Q. As I think you indicated, that involved you asking  
17 questions and obtaining information and you typing up a  
18 statement?  
19 A. Trying to recount Father Searle's memory of that  
20 incident, yes.  
21  
22 Q. Did you type up a statement while Father Searle was  
23 there?  
24 A. Yes.  
25  
26 Q. And then showed it to him to ultimately adopt and  
27 sign?  
28 A. That's right.  
29  
30 Q. From your perspective, was there any difficulty in  
31 arranging the interview with Father Searle?  
32 A. I didn't arrange it.  
33  
34 Q. No?  
35 A. It was made on my behalf, so I can't really answer  
36 that.  
37  
38 Q. He was there at the scheduled time at Nelson Bay  
39 police station?  
40 A. Yes, that's correct.  
41  
42 Q. And then remained for such period of time that you  
43 required for the purpose of obtaining the information and  
44 taking the statement?  
45 A. Yes.  
46  
47 Q. Can I ask this: did he appear to you to be

1 cooperative in the interview process?  
2 A. He was quite cooperative with me, yes.  
3  
4 Q. And did he answer the questions that you put to him?  
5 A. He did, to the best of his recall. It was - what he  
6 was trying to recall was five years old.  
7  
8 Q. Did you form any impression that he appeared to be  
9 evasive in any fashion?  
10 A. He wasn't towards me, no.  
11  
12 Q. Did he appear to be fully engaged and attentive in the  
13 interview process?  
14 A. I believe so.  
15  
16 Q. Did you have any reason to believe that Father Searle  
17 might be withholding information from you?  
18 A. No.  
19  
20 Q. Did you have any reason to believe that he was doing  
21 anything other than assisting police and yourself in terms  
22 of the Fletcher investigation?  
23 A. Yes, I believe so.  
24  
25 Q. Your answer is that you believe, from your  
26 perspective, he was assisting police in the investigation?  
27 A. Yes.  
28  
29 Q. In paragraph 13 of your statement you indicate that  
30 when you came back to the Maitland police station with a  
31 signed statement, Detective Fox was provided with a  
32 statement by you?  
33 A. Yes, I gave it to him, yes.  
34  
35 Q. Then you indicate that, at the time, he appeared to  
36 read the statement?  
37 A. Yes.  
38  
39 Q. I recall a comment made to the effect that he was  
40 expecting a bit more information from Father Searle than  
41 had been provided?  
42 A. Yes.  
43  
44 Q. Just pausing there, the statement that you obtained  
45 from Father Searle, which is annexure B to your statement,  
46 was your view that that covered the matters that you had  
47 been asked to address by Detective Fox prior to you going

1 up to Nelson Bay?  
2 A. Yes.  
3  
4 Q. In a sense it matched your riding instructions that  
5 you had been given?  
6 A. Verbal instructions, yes.  
7  
8 Q. What was it that Detective Fox said to you when you  
9 came back and you handed him the statement? Do you recall  
10 what his words were?  
11 A. I think he expected - or the way he indicated, was a  
12 bit more conversation between Father Searle and [AH].  
13  
14 Q. Yes. Was that in terms of a particular part of the  
15 conversation?  
16 A. No, just I think he thought there was more to what  
17 I had captured.  
18  
19 Q. But do we take it that they weren't matters that  
20 Detective Fox had indicated to you before you went up to  
21 see Father Searle?  
22 A. No. It was a very - it was very - not specific; it  
23 was more so just [AH] turning up at the presbytery and  
24 yelling at the presbytery.  
25  
26 Q. I want to ask you this: do you recall at any stage  
27 Detective Fox asking you to explore with Father Searle  
28 whether [AH] had made any statements relating to priests  
29 when he was yelling outside the presbytery?  
30 A. No.  
31  
32 Q. And including whether [AH] was talking about filthy  
33 things that priests do to children?  
34 A. No, I don't recall that.  
35  
36 Q. Do you think that that's something that you would  
37 recall if it had been said to you?  
38 A. I believe I would, yes.  
39  
40 Q. It is clearly not something that's covered in the  
41 statement you've taken?  
42 A. No.  
43  
44 Q. And you believe it is not something that was said to  
45 you by Detective Fox?  
46 A. No.  
47

1 Q. I just want to ask you about a slightly different  
2 topic. In paragraph 10 of your statement, you refer to  
3 your involvement in taking other witness statements or what  
4 recollection you might have about that process. I just  
5 want to ask you, in terms of the Fletcher investigation,  
6 did you yourself take any witness statements from church  
7 officials other than Father Searle?

8 A. No.

9

10 Q. I want to take you to four statements to see whether  
11 you'd previously seen these statements, accepting that you  
12 indicated that you had in fact taken the statement as being  
13 the chief officer.

14 A. Yes.

15

16 Q. Could you have a look at volume 5 of the tender  
17 bundle, which I think will just be to your right up there.  
18 You will see that's in numbered tabs. Would you jump to  
19 tab 390. I think you'll see a police witness statement  
20 from Bishop Malone? Do you have that in front of you?

21 A. I do.

22

23 Q. That's a police witness statement dated 21 May 2003  
24 from Bishop Michael Malone?

25 A. Yes.

26

27 Q. This is a document - and the next three are statements  
28 that have been shown to you in the last few days outside  
29 court here in the presence of your legal representatives.  
30 Putting to one side the knowledge that you've obtained from  
31 seeing it in the last couple of days, prior to that point  
32 in time, had you seen this witness statement before?

33 A. No.

34

35 Q. Do you recognise the signature of Detective Fox as the  
36 police officer involved in taking the statement?

37 A. Yes.

38

39 Q. Could I ask you to turn to tab 387. You will see  
40 that's a police witness statement of Father Desmond  
41 Harrigan dated 20 May 2003?

42 A. Yes.

43

44 Q. Again, is that a statement that you have seen at any  
45 time prior to the end of last week?

46 A. No.

47

1 Q. Can I ask you to turn to tab 386. You will see that's  
2 a police witness statement of Father William Burston on  
3 20 May 2010?

4 A. Yes.

5

6 Q. Again, is that a statement that you have seen at any  
7 time prior to last week?

8 A. No.

9

10 Q. Could I ask you finally to turn to tab 391.

11 A. Yes.

12

13 Q. You will see that's a police witness statement from  
14 Father James Saunders of 21 May 2003?

15 A. Yes.

16

17 Q. Again, is that a statement that you have seen at any  
18 time prior to the end of last week?

19 A. No.

20

21 Q. Thank you. Could you just put that folder to one  
22 side. You attach as annexure C to your statement a report  
23 from Detective Fox dated 29 May 2003?

24 A. Yes.

25

26 Q. That's a report seemingly provided to the Ombudsman in  
27 2003?

28 A. Yes.

29

30 Q. At the bottom of the second page of that report, at  
31 the bottom paragraph, there is a paragraph that states that  
32 in the week following the charging of Fletcher, statements  
33 were taken by members of the Catholic Church?

34 A. Yes.

35

36 Q. Do we take it from your evidence that the only  
37 statement that you were involved in taking or seeing was  
38 the statement of Father Searle?

39 A. Correct.

40

41 Q. And then you'll see that report continues:

42

43 *Both Detective Brown and myself were left*  
44 *with a very strong impression that there*  
45 *had been collusion between these persons*  
46 *and although each could assert they*  
47 *'cooperated with police' little beyond this*

1                    *was volunteered.*  
2  
3            A.    Yes.  
4  
5            Q.    Insofar as that records views and opinions attributed  
6            to you, what do you say about the accuracy of that passage?  
7            A.    I can't form that opinion, no.  
8  
9            Q.    You can't form that opinion?  
10           A.    No.  
11  
12           Q.    So you say it is inaccurate so far as it applies to  
13           you?  
14           A.    Yes.  
15  
16           Q.    And it was inaccurate in 2003?  
17           A.    Yes.  
18  
19           Q.    And it's inaccurate now?  
20           A.    I believe so, yes.  
21  
22           Q.    Why is it inaccurate?  
23           A.    I couldn't form that view. I didn't have the  
24           information to form that view. My role in this  
25           investigation was quite limited.  
26  
27           Q.    Just keep your voice up a little bit, please.  
28           A.    Yes.  
29  
30           Q.    So you just didn't have sufficient information to form  
31           that judgment --  
32           A.    No.  
33  
34           Q.    -- had you ever come to it?  
35           A.    That's correct.  
36  
37           Q.    Can I ask whether you were consulted by Detective Fox  
38           in about May 2003, at about the time of this report, in  
39           respect of the views that were to be included in that  
40           report?  
41           A.    No.  
42  
43           Q.    Do you think that you should have been?  
44           A.    I believe I should have been, yes.  
45  
46           Q.    Is that because they're views that were being  
47           attributed to you and being put forward to an outside

1 agency?  
2 A. Yes, to the Ombudsman, yes.  
3  
4 Q. You would have liked to have had the opportunity to  
5 indicate whether or not you adhered to those views that  
6 were being attributed to you?  
7 A. I believe so, yes.  
8  
9 Q. Do you recall any discussion with Detective Fox at  
10 about this time regarding the contents of any of those  
11 statements that you've seen - that you've just been shown?  
12 A. No.  
13  
14 Q. Do we take it that you don't believe that you had any  
15 such discussion with Detective Fox regarding those other  
16 statements?  
17 A. No.  
18  
19 Q. By "No" you're agreeing with me?  
20 A. Yes.  
21  
22 Q. Can I ask whether, at about that time in May 2003, you  
23 had any general discussions with Detective Fox where the  
24 issue of cooperation of church officials in respect of the  
25 Fletcher investigation came up?  
26 A. No, no direct conversation, no.  
27  
28 Q. And any indirect discussions or references?  
29 A. Comments - comments made perhaps, but not - not as in  
30 directed toward me.  
31  
32 Q. And none of that was relating to the statements that  
33 we've been talking about here?  
34 A. No.  
35  
36 Q. Was that discussions that related in some way - sorry,  
37 what were the indirect references to which you're  
38 referring?  
39 A. Detective Fox spoke of the bishop informing Father  
40 Fletcher there was a current investigation.  
41  
42 Q. That's a matter that you touch upon in the end of the  
43 fourteenth paragraph of your statement to the inquiry?  
44 A. Yes.  
45  
46 Q. So putting to one side that issue of a possible  
47 tip-off, to use the colloquial --



1 A. Yes.  
2  
3 Q. -- was that the thing that you had in mind when you  
4 were referring to "indirectly"?  
5 A. That's what I recall.  
6  
7 Q. And nothing further?  
8 A. No.  
9  
10 MR KELL: Thank you, Commissioner.  
11  
12 THE COMMISSIONER: Thank you, Mr Kell. Mr Gyles, do you  
13 have any questions?  
14  
15 MR GYLES: One matter, thank you, Commissioner.  
16  
17 **<EXAMINATION BY MR GYLES:**  
18  
19 MR GYLES: Q. Mr Brown, my learned friend Mr Kell asked  
20 you some questions about the subject matter of the  
21 Ombudsman's report concerning the allegation as to possible  
22 collusion by the five members of the church; do you recall  
23 that?  
24 A. Yes.  
25  
26 Q. I think you told us that you were in no position  
27 yourself to form any view about that matter?  
28 A. No.  
29  
30 Q. Can we take it that you did not tell Detective Fox at  
31 that time - ie, in the period around the charging of  
32 Fletcher - that you had the impression or believed that  
33 there may have been collusion between those members of the  
34 church in the statements that they provided in connection  
35 with the Fletcher investigation?  
36 A. No.  
37  
38 MR GYLES: Thank you. I have no further questions.  
39  
40 THE COMMISSIONER: Ms McLaughlin?  
41  
42 MS McLAUGHLIN: No questions.  
43  
44 MR HARBEN: No, thank you Commissioner.  
45  
46 THE COMMISSIONER: Mr Cohen?  
47

1 MR SAIDI: Commissioner, before Mr Cohen rises,  
2 I inadvertently forgot to refer to section 23. Could it be  
3 noted for the record that this witness also seeks that  
4 protection?

5  
6 THE COMMISSIONER: Yes, thank you, Mr Saidi.

7  
8 MR COHEN: I have no questions.

9  
10 **<EXAMINATION BY MR SAIDI:**

11  
12 MR SAIDI: Q. I want to take you back to police practice  
13 and procedure back in 2003. If there's an officer in  
14 charge of investigation and there's to be an important  
15 statement to be obtained for the purpose of that  
16 investigation, would it be the usual practice and procedure  
17 back in 2003 that it would be the officer in charge himself  
18 who would take the statement?

19 A. Most likely, yes.

20  
21 Q. Does it follow from that that an important statement,  
22 or the taking of an important statement, would not be  
23 delegated to a non-designated or trainee detective such as  
24 yourself?

25 A. Yes.

26  
27 Q. I also want to ask you about practice and procedure  
28 back in 2003, if I may. When a statement is to be obtained,  
29 in the circumstances such as you obtained them from  
30 Father Searle, in terms of practice and procedure, as you  
31 understood it then, was it the case that an investigative  
32 officer would provide the officer who was to take the  
33 statement with as much information as possible?

34 A. Yes.

35  
36 Q. And that would or could include the provision of an  
37 important or important statements to the officer to take  
38 the statement?

39 A. Yes.

40  
41 Q. Or notebook entries or other documentation?

42 A. Yes.

43  
44 Q. Were you provided with any such material prior to  
45 going it out to interview Father Searle?

46 A. No.  
47

1 MR SAIDI: Thank you.

2

3 MR SKINNER: I have no questions either, Commissioner.

4

5 THE COMMISSIONER: Thank you, Mr Skinner.

6

7 MR KELL: I might ask one supplementary question quickly.

8

9 THE COMMISSIONER: Yes, Mr Kell.

10

11 <EXAMINATION BY MR KELL:

12

13 MR KELL: Q. Mr Brown, you took a statement from  
14 Father Searle on 19 May 2003, and that dealt with the  
15 incident outside the presbytery on that evening in 1998?

16 A. Yes.

17

18 Q. That was obviously the subject matter of the  
19 statement, what you'd been asked to address. Do you recall  
20 having any discussion with Father Searle as to any  
21 background before that evening on the night in 1998 as to  
22 why [AH] might have been outside the presbytery?

23 A. Sorry, I --

24

25 Q. And the answer to this could be "No" --

26 A. Yes.

27

28 Q. -- but your statement focused on an incident on an  
29 evening in 1998 where [AH] was outside the presbytery?

30 A. Yes.

31

32 Q. When you had discussions with Father Searle for the  
33 purpose of taking a statement, was there any discussion  
34 that you had with Father Searle regarding events before  
35 that evening and as to why the circumstance might have  
36 arisen as to [AH] being outside in the street outside the  
37 presbytery?

38 A. No.

39

40 MR KELL: Thank you. Thank you, Commissioner.

41

42 THE COMMISSIONER: Thank you, Mr Kell. Mr Cohen, did  
43 something arise?

44

45 MR COHEN: There is just one matter. I know this is  
46 unorthodox, but there's something that arose from a  
47 question Mr Saidi put to the witness that is encouraging me

1 to rise and seek your leave to ask a couple of questions  
2 arising. Might I have that leave?

3  
4 THE COMMISSIONER: Yes, you have that leave.  
5

6 <EXAMINATION BY MR COHEN:  
7

8 MR COHEN: Q. Mr Brown, you indicated earlier in your  
9 evidence, when it was being led by Mr Kell, that you were  
10 given and you read the statement of [AH]. Do you remember  
11 that evidence?

12  
13 MR SAIDI: That's a bit misleading. He indicated the only  
14 part of the investigative material he had accessed was  
15 [AH], not that he was given it for the purposes of the  
16 interview. That's my understanding of his evidence.

17  
18 THE COMMISSIONER: Yes.  
19

20 Q. Mr Brown, is that the correct summation of your  
21 evidence?

22  
23 MR SAIDI: Sorry, I am perhaps misstating. "The victim's  
24 statement", I think was the terminology used by him rather  
25 than [AH].  
26

27 THE WITNESS: Yes.  
28

29 MR COHEN: Q. That was the victim [AH], wasn't it?  
30 A. Yes.  
31

32 Q. Is it correct to say you were given that to read  
33 before you went to have the interview with Father Searle?  
34 A. Yes.  
35

36 Q. So you were aware of those materials contained in that  
37 statement before you set off to Nelson Bay police station?  
38 A. No.  
39

40 Q. No?  
41 A. This was prior to the interview of Father Fletcher,  
42 yes.  
43

44 Q. Yes, but we're talking about your interview with  
45 Father Searle?  
46 A. Yes.  
47

1 Q. At Nelson Bay?  
2 A. Yes.  
3  
4 Q. Before you set off to Nelson Bay from Maitland to  
5 interview Father Searle, you had access to and read the  
6 victim statement by [AH]; is that right?  
7 A. Yes.  
8  
9 Q. So you were apprised of the information in that  
10 statement when you went to Nelson Bay to conduct the  
11 interview with Father Searle; is that correct?  
12 A. That's correct.  
13  
14 Q. Did you have that document - that is, the statement of  
15 [AH] - with you at the time of the interview?  
16 A. No.  
17  
18 Q. But you had those particulars in your mind, at least,  
19 at the time you were conducting the interview with Father  
20 Searle?  
21 A. My specific instructions were to capture the  
22 conversation or the yelling of [AH] toward the presbytery.  
23  
24 Q. Which particulars were contained in the [AH]  
25 interview --  
26 A. I can't recall that.  
27  
28 Q. But at the time - and this is, to be fair to you, in  
29 2003 - in 2003, the particulars in the [AH] statement at  
30 that time, May 2003, were likely to be relatively fresh in  
31 your mind, I assume, having read them?  
32 A. I can't recall it now, no. I wasn't --  
33  
34 Q. But at the time likely to be in your mind?  
35 A. Yes - I don't know. It was a very long statement.  
36  
37 Q. Yes, indeed.  
38 A. Probably, I don't remember the exact content of all  
39 the statement.  
40  
41 Q. Those particulars are likely to have informed your  
42 approach to the interview with Father Searle - that must be  
43 so, surely?  
44 A. I don't remember associating that document to  
45 Father Searle. I more recall Detective Fox asking me to go  
46 and capture that conversation.  
47

1 Q. So that conversation; and it was the case before you  
2 set off to Nelson Bay, you'd also had access to the [AH]  
3 statement?  
4 A. Yes.  
5  
6 MR COHEN: Thank you, Commissioner.  
7  
8 THE COMMISSIONER: Thank you, Mr Cohen.  
9  
10 MR SAIDI: Can I take it up from that?  
11  
12 THE COMMISSIONER: Yes, thank you, Mr Saidi.  
13  
14 **<EXAMINATION BY MR SAIDI:**  
15  
16 MR SAIDI: Q. At any time before you went out to Nelson  
17 Bay, did then Detective Sergeant Fox ask you to refresh  
18 your memory from any statement or any material?  
19 A. No.  
20  
21 MR SAIDI: Thank you.  
22  
23 THE COMMISSIONER: Thank you. Mr Kell?  
24  
25 MR KELL: Commissioner, there is no re-examination. Could  
26 Mr Brown be excused?  
27  
28 THE COMMISSIONER: Yes.  
29  
30 Mr Brown, thank you so much for attending and for your  
31 evidence. You are excused.  
32  
33 THE WITNESS: Thank you, Commissioner.  
34  
35 **<THE WITNESS WITHDREW**  
36  
37 MR KELL: Commissioner, could I indicate there has been a  
38 request from the media for exhibit 82, the statement of  
39 Mr Brown, and if the parties could let those assisting know  
40 by the end of morning tea as to whether there's any  
41 objection to that course.  
42  
43 THE COMMISSIONER: Yes, thank you, Mr Kell.  
44  
45 MS LONERGAN: I call Detective Senior Constable Jacqueline  
46 Flipo.  
47

1 <JACQUELINE LEONIE FLIPO, sworn: [10.24am]

2  
3 <EXAMINATION BY MS LONERGAN:

4  
5 MR SAIDI: Could I indicate this witness also seeks the  
6 protection of section 23.

7  
8 THE COMMISSIONER: Thank you, Mr Saidi.

9  
10 MS LONERGAN: Q. Is your full name Jacqueline Leonie  
11 Flipo?

12 A. Yes, that's Flipo.

13  
14 Q. Flipo?

15 A. Yes.

16  
17 Q. Detective senior constable, did you, with the  
18 assistance of your lawyers, prepare two statements for the  
19 assistance of this Commission of Inquiry?

20 A. Yes, I did.

21  
22 Q. I'm going to hand two statements to you, one dated  
23 16 May 2013 and the other dated 27 June 2013 and as well as  
24 a copy of each for the Commissioner.

25 A. Thank you.

26  
27 Q. Can you have a look, firstly, at your 16 May 2013  
28 statement?

29 A. Yes.

30  
31 Q. Your signature appears on page 3 of that statement.  
32 Are the contents of that statement true and correct?

33 A. Yes, they are. But having since read this, I haven't  
34 informed myself - read it recently. In paragraph 11 of the  
35 statement, there's a date referred to on 28 April 2002.  
36 I gather it is just a typo. It should have been 28 October  
37 2002.

38  
39 MS LONERGAN: Could that correction be made, please,  
40 Commissioner, to that statement?

41  
42 THE COMMISSIONER: Yes, Ms Lonergan.

43  
44 MS LONERGAN: Q. Annexure F assists you in terms of  
45 correcting that date; is that the position?

46 A. Yes.

47

1 Q. It was sworn on 16 May as opposed to 6 May; is that  
2 the position? On the third page, under your signature is  
3 the date 6 May?

4 A. Yes, 16 May.  
5

6 Q. That correction will also be made. Detective senior  
7 constable, could you have a look at your statement of  
8 27 June. Again, is that statement true and correct, to the  
9 best of your knowledge?

10 A. Yes, it is.  
11

12 Q. Are there any corrections you need to make to that  
13 statement?

14 A. No.  
15

16 MS LONERGAN: I tender those statements, Commissioner.  
17

18 THE COMMISSIONER: As one exhibit?  
19

20 MS LONERGAN: Yes.  
21

22 THE COMMISSIONER: The two statements of Detective Flipo  
23 of 16 May and 27 June 2013 will be admitted as exhibit 83.  
24

25 MS LONERGAN: I am sorry, Commissioner. Would you mind  
26 dealing with them as separate exhibits. It may be easier  
27 to refer to them in the future, if you don't mind. I'm  
28 terribly sorry.  
29

30 THE COMMISSIONER: The first statement of 16 May 2013 will  
31 be exhibit 83 and the statement of 27 June 2013 will be  
32 exhibit 84.  
33

34 **EXHIBIT #83 STATEMENT OF JACQUELINE LEONIE FLIPO DATED**  
35 **16/5/2013**  
36

37 **EXHIBIT #84 STATEMENT OF JACQUELINE LEONIE FLIPO DATED**  
38 **27/6/2013**  
39

40 MS LONERGAN: Q. I'm going to ask you some questions  
41 about your statement and take you through the material in  
42 it. You were attested as a police officer in 1991, first  
43 of all?

44 A. Yes, that's correct.  
45

46 Q. Feel free to look at your statement. That's no  
47 problem as we go through it. You performed general duties



1 for two years?  
2 A. Yes.  
3  
4 Q. And then 18 months in special operations?  
5 A. That's correct.  
6  
7 Q. And special operations, did that include criminal  
8 investigations of a complex nature?  
9 A. Special operations, generally not; it was more to do  
10 with volume crime.  
11  
12 Q. Then you moved to general duties and plainclothes  
13 duties. During that time, did you carry out some  
14 investigations of matters involving sexual assaults?  
15 A. Yes.  
16  
17 Q. You were promoted to the rank of detective in 2001 and  
18 were transferred to the Lake Macquarie Local Area Command  
19 at about that time?  
20 A. Yes.  
21  
22 Q. Whilst you were at the Lake Macquarie Local Area  
23 Command, did you carry out various investigations into  
24 sexual assaults of a historical nature; that is,  
25 complainants coming forward as adults about matters that  
26 had happened when they were a child?  
27 A. Yes, I did, yes.  
28  
29 Q. One of those matters was the matter of [AF], but it  
30 came to you after the statement-taking aspect of the matter  
31 had been completed?  
32 A. Yes, after the victim statement had been taken.  
33  
34 Q. I'm going to get you to have a look at annexure A to  
35 that first statement. That's an event report regarding  
36 [AF]'s complaint which relates to a person referred to  
37 there as [UR3].  
38 A. Yes.  
39  
40 Q. We don't need to cover any matters relating to [UR3]  
41 for the purposes of this Special Commission, but the second  
42 person of interest was Denis McAlinden?  
43 A. Yes.  
44  
45 Q. Can you just outline when, by looking at this  
46 document, annexure A, you can identify the time at which it  
47 came to you, if you can do that?

1 A. I believe it was around July 2001, but the event isn't  
2 necessarily indicative of that.  
3  
4 Q. So the report that we're looking at there, the event  
5 report, was created by somebody else prior to the matter  
6 coming to you?  
7 A. Yes.  
8  
9 Q. Are you able to identify on annexure A which parts  
10 were entered, just on the narrative part of the event  
11 report, by you? It may be there is none, so it is  
12 certainly not a --  
13 A. No, there's nothing on the narrative entries relating  
14 to me.  
15  
16 Q. That document was entirely created by others?  
17 A. Yes.  
18  
19 Q. And where your name appears on the last page of  
20 annexure A, that's a historical note that you accessed the  
21 material as opposed to making any entry of content into it?  
22 A. I don't think that's on my copy.  
23  
24 Q. There should be a page --  
25 A. Yes, the final page, yes. Page 6.  
26  
27 Q. Page 6, yes.  
28 A. Yes. That's because of printing the document out, so  
29 it shows that I have accessed that event.  
30  
31 Q. In paragraph 5 of your statement, you mention that it  
32 is your recollection the matter came to you in July 2001  
33 and it was sent to Lake Macquarie by way of hard copy  
34 documents. Are you able to say what the hard copy  
35 documents were that were sent to you at that point?  
36 A. It would have been the victim statement.  
37  
38 Q. Would you reach for volume 5 of the material to your  
39 left there and turn to tab 334, do you see behind tab 334  
40 there is a victim statement of [AF], part of it has been  
41 redacted as it relates to the other person of interest?  
42 A. Yes.  
43  
44 Q. Do you see that that statement appears to have been  
45 signed by the victim and witnessed by a Detective Senior  
46 Constable Dennis?  
47 A. Yes.

1  
2 Q. That was done in July 2001, according to the front  
3 page of the statement?  
4 A. Yes.  
5  
6 Q. We can take it that the matter came to you after  
7 13 July 2001 --  
8 A. Yes.  
9  
10 Q. -- because you at least had that statement?  
11 A. Yes.  
12  
13 Q. At that point, is the usual practice to make some  
14 entry in the case reports that you had received the matter  
15 for further investigation or not?  
16 A. Not necessarily, not in a case report. I mean,  
17 basically you look at it and you would contact the victim.  
18 That be would your first - the first thing that you would  
19 do to make a point of contact with them.  
20  
21 Q. Would you repeat that?  
22 A. To make a point of contact with the victim.  
23  
24 Q. So she knows that you now have the matter?  
25 A. Yes.  
26  
27 Q. Paragraph 6 of your statement notes that you commenced  
28 making some inquiries of the police computerised  
29 information system. Keep that volume handy because we'll  
30 go back to it.  
31 A. Yes.  
32  
33 Q. So the police computerised information system, to see  
34 if you can find out where the other person of interest and  
35 McAlinden were at that time and that those inquiries were  
36 not successful. Where within your materials, the case  
37 report or anything else attached to your affidavit, can we  
38 find the notation, if there are any notations, of the  
39 inquiries you made at that initial stage, so the July,  
40 August 2001 period? Actually, can I make a suggestion as  
41 well? It appears at paragraph 5, are you confident that's  
42 correct that, the matter came to you in July 2001?  
43 A. That's when I believe it came to me, yes. It's been,  
44 yes --  
45  
46 Q. Anyway, back to my question --  
47 A. It may have been later.

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Q. -- I'm sorry. Would you have a look at annexure B, and anywhere in your statement, and note where the inquiries you made as to the whereabouts of Denis McAlinden are noted?

A. Yes, there's no notation up until later, until 2002.

Q. Can we take it from paragraph 6 of your statement you had a usual practice at the time where you would at least make those initial inquiries through police channels at that point?

A. Yes, that's right.

Q. You mentioned the police computerised information system. What system is that? Is that the COPS system or some other system?

A. At that point, it would have been the COPS system, yes.

Q. Do you recollect actually searching that system for the name "Denis McAlinden", or are you just relying on your usual practice at the time that you would have done so?

A. I'm probably relying on my usual practice, but I would have.

Q. All right.

A. I mean I know that I did seek his whereabouts, make inquiries about him, yes.

Q. Would those sorts of searches also reveal whether that person had had complaints prior made about them to the police?

A. It depends on what the reports were that were made, yes.

Q. If there were prior reports that Denis McAlinden had sexually abused a child and that report was made in 1999 to the police, is that something that would normally have been revealed by the type of searches you would have done in 2001?

A. Probably, yes. It just depends on the circumstances, whether it was just something that went further than just informing police of it or whether there was an event created and then - or not, whether it was --

Q. All right. If it was an informal notification, are you suggesting that there wouldn't be anything on the COPS

1 system regarding Denis McAlinden to find?  
2 A. Yes, there would not be if it was informal.  
3  
4 Q. It would not be?  
5 A. It would not be, if it was informal.  
6  
7 Q. If it went to the stage of a formal police statement  
8 having been taken, would that appear on the system in terms  
9 of the search you would have performed?  
10 A. Yes, it would, or if an official report - like, just  
11 event report, which is of incidents that have occurred. So  
12 that's the same thing, even with not having a statement.  
13  
14 Q. Can we take it from paragraph 6 of your statement that  
15 you didn't find on the COPS system any previous complaint  
16 about Denis McAlinden?  
17 A. In that paragraph, not referring to previous  
18 complaints, I'm referring to the fact that I couldn't find  
19 his whereabouts.  
20  
21 Q. Nowhere in your statement do you refer to having  
22 located a previous complaint or case report or event  
23 report about Denis McAlinden. Can we take it from the  
24 absence of that material in your statement that you did  
25 not become aware that there had been a previous complaint  
26 about Denis McAlinden to the police?  
27 A. I wasn't aware of the previous complaint, no.  
28  
29 Q. I'm going to get you to get volume 4 of the material  
30 to your right and turn to tab 311 and 312.  
31 A. Sorry, what was the tab again?  
32  
33 Q. Let me check it too, in case I got the wrong one.  
34 Tab 311. Do you see that's - turn past the first page  
35 unless that gives you information that's helpful, but do  
36 you see there's a narrative event report completed by an  
37 Officer Watters?  
38 A. Yes.  
39  
40 Q. And do you see it is listed the offender as Father  
41 Denis McAlinden. Do you see that?  
42 A. Yes.  
43  
44 Q. And a victim [AE]? The name has been redacted out for  
45 the purposes of the Commission. Do you see under that, it  
46 outlines particular events of sexual abuse on [AE] when she  
47 was 11 years old?

1 A. Yes.

2

3 Q. Do you also see above the line of asterisks, about  
4 two-thirds of the way down the page, a mention that:

5

6 *[The person of interest] is currently out*  
7 *of the country and due to return in the*  
8 *next few weeks. He is not currently*  
9 *working as a priest due to other alleged*  
10 *incidents such as this, but there has been*  
11 *no formal complaint received by Police.*

12

13 Do you see that?

14 A. Yes.

15

16 Q. Have you seen this event report before?

17 A. No.

18

19 Q. So you weren't aware at the time you were  
20 investigating [AF]'s matter that there was this information  
21 on the system of the police?

22 A. No. No, not that I recall, no.

23

24 Q. Are you able to assist with any reason why, when you  
25 searched the system shortly after you received the file for  
26 [AF], that this information regarding [AE]'s matter didn't  
27 come to your attention?

28 A. No, unless - the only thing I could suggest is  
29 incorrect spelling of his name. But I know I did locate a  
30 particular Denis McAlinden.

31

32 Q. If you look at the case report that was started by  
33 others and this particular case report, the only difference  
34 in terms of spelling of the name is there's a small "c" on  
35 the report behind tab 311 and there's a capital "C" after  
36 "M" on the case report regarding [AF]; do you see that?

37 A. Yes.

38

39 Q. But the case report that appears behind tab 311 has  
40 the word "Father" in front of "Denis McAlinden". Are you  
41 able to assist whether putting the word "Father" in front  
42 of the name may have made some difficulty with searching  
43 accurately the information about Denis McAlinden?

44 A. No matter what someone's position, you always put in  
45 their actual name, not any title or anything like that. So  
46 unless it's been entered that way, which I doubt it would  
47 have been --

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Q. All right; it should have been found?

A. It should just be his name, yes.

Q. In terms of usual police practice in 2001, is there any facility by which NSW Police can find out whether an alleged offender has offended in other states or has been accused of offending or complaints made about that person in other states?

A. In that time, we had access to other states' criminal history and we did that by way of - through the intelligence section in other police --

Q. Is that something you would have done as a matter of course involving historical sexual abuse complaints such as the one [AF] made that you managed for a period?

A. In this case, because we had information, I did try to locate him through Western Australian Police, through the normal channels, yes.

Q. I'm asking a slightly different question, though. It is about previous complaints in relation to this particular person. Are you able to say whether you carried out a search for information of that nature through the channels available between NSW Police and other states in Australia?

A. I don't recall.

Q. If you had done so and discovered that there were previous complaints made about Denis McAlinden, in this case in Western Australia, would you have included that in your event or case report about the matter?

A. Well, in this situation, I'm investigating a particular victim and a particular complaint, and it's whether it is relevant to that investigation or not, or trying to locate the offender.

Q. So you wouldn't, as a matter of course, in a case of historical allegations of sexual abuse, search the interstate records regarding that person or search for any records regarding that person as a matter of course? I'm not suggesting you should have. I'm just trying to understand what the usual practice was in 2001.

A. I mean, it is something we did do, but, yes, I wouldn't - I mean, it's something that you look for background information on the possible offenders. That's basically what we would do.

1 Q. From your documents and your statement, can we take it  
2 that you didn't do it in this case or you would have  
3 included information about it in the case report about the  
4 matter?

5 A. Maybe, maybe not, going back to then to 2001, 2002; if  
6 there was something that led to something else, you would  
7 probably record it, yes.

8

9 Q. If you had carried out a search in Western Australia,  
10 is there any reason why a historical complaint in 1991  
11 about Denis McAlinden having sexually abused a child,  
12 including an arrest and hearings with no conviction being  
13 recorded, is the type of information that would not have  
14 been available had you done an interstate search at that  
15 time?

16 A. Would you explain that again, that question again?

17

18 Q. Yes. If the situation was that, in Western Australia,  
19 Denis McAlinden had been arrested for sexually abusing a  
20 child, in and around 1991, the arrest took place, there was  
21 a hearing and no conviction recorded, is that the sort  
22 information, or some of it, that would have been available  
23 on the system that you could have accessed, as a New South  
24 Wales police officer, from Western Australia?

25 A. Not knowing the Western Australian policing system,  
26 I don't think I could give you information on that.  
27 I would say that what I did do and what we would do is  
28 contact those police and they would give us what  
29 information they had.

30

31 Q. My question is a bit more basic than that. Would you  
32 have been able to discover that information based on the  
33 connections that you could have made or the access you  
34 could have had to Western Australian police intelligence  
35 about McAlinden in 2001 or not?

36 A. Yes and no. It depends on what the West Australian  
37 police would think is significant and then provide to us.  
38 Going on what you're saying, you're saying it is a matter  
39 where he was charged and there was no history recorded. It  
40 depends how they've recorded it on their system as to,  
41 like, whether what it was just a charge - what we call a  
42 charge and dismissed or whether it is just something that  
43 was, like, just as that history, or whether it was  
44 something more than that.

45

46 Q. Either way, if a complaint had been made to the police  
47 and a statement taken, is that information that would be on



1 the Western Australian police system or you're just not  
2 even able to say whether that would be the situation?  
3 A. I don't know - that's what I am saying. I'm not able  
4 to say what would have been available at the time --  
5  
6 Q. You've given evidence --  
7 A. -- from the West Australian police, so --  
8  
9 Q. I'm terribly sorry. You've given evidence that, on  
10 occasion, you would contact interstate police systems?  
11 A. Yes, yes.  
12  
13 Q. And find out information from those systems?  
14 A. Well, we'd contact - in those days it was generally  
15 more you'd contact the intelligence or that area direct,  
16 police direct, and they would access their policing system  
17 and provide you with information.  
18  
19 Q. So it was dependent on a person or police officer in  
20 Western Australia; you could not get access.  
21 A. Yes, in that time it was more, yes, a personal  
22 contact.  
23  
24 Q. I understand that. Could you, in 2001, seek  
25 assistance from an intelligence analyst in the NSW Police  
26 Force to try and determine whether there are any other  
27 complaints about this person in other states?  
28 A. Well, yes. But there again if you look at how they  
29 record their things in Western Australia, I know it was  
30 different to how we recorded things here.  
31  
32 Q. I'm not asking that. I am asking whether you could  
33 access an intelligence officer in New South Wales about  
34 those matters and get assistance. You would expect,  
35 wouldn't you, that the intelligence officer in New South  
36 Wales would know all those things about an interstate  
37 set-up.  
38 A. Yes, that's right, or have some idea.  
39  
40 Q. -- or would know how to find that information out?  
41 A. Yes.  
42  
43 Q. Can we take it from the matters included in your  
44 statement and the matters included in your case report  
45 regarding [AF], that you didn't make inquiries of that  
46 nature from either intelligence people in the NSW Police  
47 Force or from Western Australia?

1 A. In regards to previous complaints against him?  
2  
3 Q. Yes.  
4 A. As I said, if I'd made them and if it was relevant to  
5 what I was investigating, I probably would have reported  
6 it.  
7  
8 Q. Say that again. I'm finding it hard to hear you.  
9 A. Sorry. I was just saying if - as I said, you do  
10 background checks on people right from the start and if it  
11 is the case that that information is relevant to your  
12 investigation, you record it. It may or may not  
13 necessarily be on your case report depending on the  
14 significance of what you find.  
15  
16 Q. Would a matter such as the case report behind tab 312,  
17 given that it refers to a historical sexual abuse of a  
18 child by the perpetrator, be something that was relevant to  
19 include in your case report if you'd found it, or not?  
20 A. Well, I don't know. I don't know whether it was  
21 relevant to the victim I was investigating or not.  
22  
23 Q. Isn't it relevant to know that the same perpetrator  
24 sexually abused another child? Is that not relevant to  
25 your investigation at all?  
26 A. It is relevant, but in this circumstance - like, in  
27 that circumstance, going back to when I was investigating  
28 this matter, you're investigating the allegations that  
29 victim has made and then you look at evidence to support;  
30 like, you're looking at inculpatory and exculpatory  
31 evidence in relation to what the victim has alleged.  
32  
33 Q. What I'm asking, though, is whether a report that  
34 Denis McAlinden had, in effect, raped another child while  
35 she was 11, isn't that of relevance to your general  
36 investigations regarding this particular perpetrator?  
37 A. It is and it isn't, because, as I said, you're  
38 looking - you're investigating a matter involving a  
39 separate victim.  
40  
41 Q. Why would you check the police intelligence or the  
42 police information under the perpetrator's name if you  
43 weren't also looking for information regarding whether they  
44 had offended or addresses or some other information that  
45 you could find.  
46 A. Because any information may be pertinent to your  
47 investigation, that is why.

1  
2 Q. That would include the material behind tab 312 and  
3 311, wouldn't it?  
4 A. 312 is the victim statement.  
5  
6 Q. Yes.  
7 A. And that's the event. It basically gives you a  
8 history of prior events.  
9  
10 Q. Sorry, what are you talking about now? "It"; what are  
11 you talking about as "it"?  
12 A. The report or the further allegations of another  
13 victim, gives you a history.  
14  
15 Q. Could you have a look at the document behind tab 311.  
16 It also gives information about where he currently was at  
17 the time?  
18 A. Yes.  
19  
20 Q. And some contact details regarding the Catholic Church  
21 at Newcastle having been spoken to as being a place that he  
22 was associated with?  
23 A. I haven't read this document, so I apologise for that.  
24  
25 Q. I would like you to read it. Would you please read  
26 it?  
27 A. Yes. (Witness reads document).  
28  
29 Q. You've read that narrative regarding the complaints by  
30 [AE]?  
31 A. Yes.  
32  
33 Q. And you see that it relates to sexual abuse of her  
34 when she was 11?  
35 A. Yes.  
36  
37 Q. In 1953. You're aware, aren't you, that the complaint  
38 made by [AF] relates to sexual abuse of her when she was  
39 aged eight to 11?  
40 A. Yes.  
41  
42 Q. Wouldn't the information contained in the case report  
43 behind tab 311 be helpful in looking at questions of modus  
44 operandi of the offender?  
45 A. Yes, it would  
46  
47 Q. It is also potentially another victim that could be

1 used for corroborative purposes or tendency and coincidence  
2 type evidence?

3 A. Yes.

4

5 Q. Can we take it from having looked at those documents  
6 that you were unaware of the report having been made by  
7 [AE], behind tab 311, at the time you carried out your  
8 investigations for [AF]?

9 A. Yes.

10

11 Q. Given the material behind tab 311, that is something  
12 that you would have included in your case report as usual  
13 practice, or not, in terms of other information about the  
14 perpetrator?

15 A. Other information, yes.

16

17 Q. I'm just going to turn back to annexure B, which is  
18 your case report of [AF]. Somebody has gone through and  
19 noted the identity of various people on the left-hand side  
20 of the document, which I take it is an annotation of the  
21 author of the various entries?

22 A. Yes.

23

24 Q. Is that your handwriting?

25 A. That's my handwriting, yes.

26

27 Q. The first entry made by you appears to be 28 October  
28 2002; is that right?

29 A. Yes.

30

31 Q. I understand that the case report is only one source  
32 for information regarding matters that you were carrying  
33 out?

34 A. Yes.

35

36 Q. I'm certainly not suggesting that's the only work you  
37 were doing on the investigation, and your statement makes  
38 it clear that you were attending to other matters regarding  
39 the investigation. If you have a look at paragraph 8 of  
40 your statement, you there talk about having made inquiries  
41 with the Newcastle-Maitland diocese and you have a  
42 handwritten annotation to a printout that is annexure C.  
43 I just want to ask you a few questions about that document.

44 A. Yes.

45

46 Q. First of all, the typewritten part of the document, is  
47 that some sort of automatically generated police inquiry?

1 A. Yes, that's right. It was a person inquiry.  
2  
3 Q. Would that person inquiry normally also spit out other  
4 details of any active police investigation regarding that  
5 particular person, or that's not the sort of interrogation  
6 that was being carried out of the system at that point?  
7 A. No. If you - like, looking at that, if you went into  
8 what events were on their intelligence, you had access to  
9 that information.  
10  
11 Q. So this is just basic information, date of birth,  
12 driver's licence number, and CNI number; what does that  
13 mean, in the top right-hand corner?  
14 A. That's essentially the criminal index number. That's  
15 basically every person. Going back in time it was the  
16 number given to you when you were arrested, whatever; but  
17 these days even victims have a CNI number, so just persons  
18 of interest, basically.  
19  
20 Q. In August 2002, does that CNI number relate to the  
21 investigation in relation to [AF], so he was allocated a  
22 CNI number for that investigation?  
23 A. Yes.  
24  
25 Q. And how can we be sure that's not a CNI investigation  
26 related to another already existing investigation?  
27 A. It may well be because, generally, you were given the  
28 same CNIs, in some cases, but if people can't find somebody  
29 on the system, on the COPS system, they will generate  
30 another CNI number.  
31  
32 Q. Is there anything that can alert a serving officer to  
33 find out if this CNI number relates to another  
34 investigation by looking at this particular part of the  
35 police system or not?  
36 A. Yes, if they've got - if they've been recorded as a  
37 suspect or a person of interest under another investigation  
38 under that same CNI number, that will come up.  
39  
40 Q. If you put in the CNI number for this particular  
41 person, that should bring up any other investigations?  
42 A. Yes.  
43  
44 Q. Including historical investigations that have closed,  
45 or not?  
46 A. Yes, it should, but then going back on how far long  
47 ago and --

1  
2 Q. We will assume it was an investigation that was  
3 commenced in October 1999.  
4 A. Yes. If it's - yes, back in 1999, yes, but prior to  
5 that --  
6  
7 Q. It should still be on the system?  
8 A. It may not have been on there because we changed from  
9 a paper system to the COPS system.  
10  
11 Q. It is possible that a 1999 investigation wasn't able  
12 to be found on this system in --  
13 A. In 1999, it would have been, yes.  
14  
15 Q. Late 1999?  
16 A. Yes.  
17  
18 Q. Does anything change if the investigation is suspended  
19 because a complainant is hesitant about proceeding with the  
20 matter? Does it get wiped off the system or removed if it  
21 is about sexual abuse of children?  
22 A. No. No, it remains there.  
23  
24 Q. Can we take it this is your handwriting down the  
25 bottom half of the page?  
26 A. Yes.  
27  
28 Q. It reads:  
29  
30 *Hasn't been Newcastle/Maitland for*  
31 *10 years.*  
32  
33 A. Yes.  
34  
35 Q. And under that, is it "Newcastle-Maitland diocese"?  
36 A. Yes.  
37  
38 Q. You've written "for some time" and then a little arrow  
39 upwards "for 10 years".  
40 A. Yes.  
41  
42 Q. "Not sure where he is". Then you put, "Elizabeth,  
43 Maitland diocese"; so the "Elizabeth" is the person you  
44 spoke to?  
45 A. Yes.  
46  
47 Q. You haven't written down a surname. Do you recollect

1 the surname of the person you spoke to?  
2 A. No, I do not.  
3  
4 Q. Does Elizabeth Doyle ring a bell?  
5 A. It may have been Elizabeth Doyle. She was the  
6 secretary of Bishop Malone at the time.  
7  
8 Q. You're confident it was the secretary of Bishop Malone  
9 at the time you rang?  
10 A. Yes.  
11  
12 Q. And "O/S address of relative".  
13 A. Yes.  
14  
15 Q. Does that mean you were given an overseas address for  
16 a relative?  
17 A. Going - I can only give information to what I've  
18 recorded in the COPS - in the case report, sorry, where  
19 I've said - where I've recorded more detail of what was  
20 told to me, saying that he was overseas and they'd been  
21 given an address of a relative in England who was his  
22 contact.  
23  
24 Q. That's part of annexure B, is it?  
25 A. Yes.  
26  
27 Q. We'll come back to that. Then you've got "Field  
28 Services"; is that your writing there under that?  
29 A. Yes.  
30  
31 Q. Does that denote that you made a decision you were  
32 going to get field services to help you with trying to find  
33 him?  
34 A. Trying to locate him, yes, because he was overseas.  
35  
36 Q. Then in your case narrative, just flicking back to  
37 annexure B, was the result of these conversations part of  
38 your entry in the case report, 28 October 2002, where you  
39 set out "numerous inquiries have been made", and then you  
40 have a narrative as to what they were, which includes the  
41 attendance of police at a certain person's address, who was  
42 unaware of his whereabouts and believed that he was still  
43 residing in Ireland with no fixed abode in Australia or  
44 Ireland?  
45 A. Yes.  
46  
47 Q. So that was a summary of the inquiries that you'd done

1 in the intervening period between when you phoned the  
2 diocese, which looks like it was 29 August 2002, and when  
3 you made the entry in October?

4 A. Yes.

5  
6 Q. In brief terms, can you outline the services that  
7 field services within the New South Wales Police Service  
8 provides to officers, particularly in terms of locating  
9 alleged offenders?

10 A. In that time basically field services were used to  
11 obtain information from external agencies, so numerous  
12 things, whether it's, you know, Department of Birth, Deaths  
13 and Marriages registry, things like passport checks or -  
14 you had access to a whole range of things, whether it was -  
15 what are they called? Like, electricity, all that sort of  
16 thing. You had access to a lot of different information  
17 services.

18  
19 Q. And that included access to the department that looked  
20 after pensions, such as Centrelink?

21 A. Yes.

22  
23 Q. And also Medicare in terms of medical services  
24 provided by the government?

25 A. Yes.

26  
27 Q. With the passport matters, was that a situation where  
28 field services could provide information about whether the  
29 person was in Australia or had recently left Australia  
30 or --

31 A. Yes.

32  
33 Q. And they could find that out from the Department of  
34 Immigration or --

35 A. Yes, it would be the Department of Immigration.

36  
37 Q. Given the information you had been given by the  
38 bishop's secretary, can we take it that you considered  
39 there was a possibility that he may have been overseas  
40 recently?

41 A. Yes.

42  
43 Q. In paragraph 8 of your statement - just have a look at  
44 it - I want to ask you some questions about some additional  
45 matters you've referred to in the last couple of sentences  
46 about what you were told by Elizabeth, the bishop's  
47 secretary. You put:



1  
2           *Elizabeth advised me that she would speak*  
3           *to the Bishop so as to clarify if there*  
4           *were any further records kept relating to*  
5           *Father McAlinden's whereabouts.*  
6

7           Do you see that?

8           A.    Yes.

9  
10          Q.    You haven't written that on your note.  I am not being  
11          at all critical, but you remember that that additional --

12          A.    If you have a look on the case report, there's  
13          actually an entry.

14  
15          Q.    Where can we find that?  That's annexure B, is it?

16          A.    In annexure B.

17  
18          Q.    B or D?

19          A.    In annexure B, in the "Action".  If you look down the  
20          bottom of page 6 of - page 5, it is, sorry, down the bottom  
21          of page 5, I've got:

22  
23                   *Action Title: Contact Catholic diocese*  
24                   *re location of McAlinden.*  
25

26          Q.    Thank you.  That's very helpful.  The last address  
27          known to them was through --

28          A.    Care of.

29  
30          Q.    -- a relative's address in London:

31  
32                   *Will speak to the Bishop to clarify if any*  
33                   *further records kept.*  
34

35          Can we take it, because there's no other record confirming  
36          that you had a further phone call with the bishop's  
37          secretary, that there was no further call made?

38          A.    I don't believe I made any further calls.

39  
40          Q.    No, I mean --

41          A.    By them?

42  
43          Q.    By them.

44          A.    No.

45  
46          Q.    Had the bishop's secretary phoned you back with any  
47          more information or assistance with the whereabouts of

1 McAlinden, you would have recorded that?  
2 A. Yes.  
3  
4 Q. You were, in fact, putting a fair bit of effort in  
5 trying to find this fellow --  
6 A. Yes, I was.  
7  
8 Q. -- at that point in time?  
9 A. Yes.  
10  
11 Q. You went on to make various inquiries through the  
12 field services system. You talk about them in paragraph 9  
13 of your statement and annexures D and E include some of the  
14 matters you pursued.  
15 A. Yes.  
16  
17 Q. Annexure D is asking about the possible death of  
18 Denis McAlinden. Can we take it that that was because his  
19 date of birth was in 1923?  
20 A. Yes.  
21  
22 Q. So, at that point, he would be quite old?  
23 A. It is a possibility, yes.  
24  
25 Q. Can we take it that there was confirmation that he  
26 hadn't died yet?  
27 A. Yes.  
28  
29 Q. Again, that will be in your case report, will it, or  
30 where will we find that?  
31 A. In relation to the fact that he was not deceased?  
32  
33 Q. Still alive, yes.  
34 A. Yes, I don't think there's any reference to that in my  
35 case, I think, because I did a number of inquiries at a  
36 similar time.  
37  
38 Q. Can you have a look at page 5 of your case report.  
39 This may be, in effect, the answer. 22 October 2002, it is  
40 the third last action, you've put some information in there  
41 about POI-1 being deceased and then you've gone on, "POI-2  
42 unable to be located" at this stage and that inquiries are  
43 continuing?  
44 A. Yes.  
45  
46 Q. Does that suggest that you, in fact, had a  
47 confirmatory piece of information regarding POI-1 having

1           deceased but not POI-2?  
2           A.    Yes, that's right.  
3  
4           Q.    That would fit in with the date of your inquiry  
5           through the field services being late September?  
6           A.    Yes.  
7  
8           Q.    To have a reply by 22 October?  
9           A.    Yes.  
10  
11          Q.    You also made some inquiries or caused inquiries to be  
12          made through field services to the Department of  
13          Immigration for departures and arrivals of McAlinden?  
14          A.    Yes.  
15  
16          Q.    Annexure E indicates that he had last arrived back  
17          into Australia - as at the date of the inquiry, which was  
18          8 October 2002 - in July 2002?  
19          A.    Yes, 13 July.  
20  
21          Q.    13 July. Were you able to determine what port he  
22          arrived in by the letters "PE"?  
23          A.    I don't recall anything in relation to that.  
24  
25          Q.    Heading back to your case report, you seem to have  
26          made an entry to the effect that, on 31 December 2002,  
27          amongst the other matters you'd found out, he lives between  
28          Western Australia and his home country of Ireland?  
29          A.    Yes.  
30  
31          Q.    Are you able to say whether the letters "PE" on the  
32          Department of Immigration document is Perth?  
33          A.    I'm not able to say. I can assume, but I can't say.  
34  
35          Q.    No, that's fine. On 31 December you summarised in  
36          your case narrative further inquiries that you were making  
37          to try and find McAlinden?  
38          A.    What page is that?  
39  
40          Q.    I'm sorry, it is the first page of annexure B.  
41          A.    Yes, I did.  
42  
43          Q.    I should have asked you this question before. When  
44          you had the conversation with the bishop's secretary,  
45          Elizabeth, did you form a view that Elizabeth was  
46          attempting to assist you in the inquiries that you were  
47          making by her tone and the forthcoming nature of

1 information?  
2 A. Yes, from what I recall, I believe so, yes.  
3  
4 Q. Did you expect to get a further phone call from the  
5 bishop's secretary, in any event, or did you expect it only  
6 if there was further information that the bishop could have  
7 given her to further your inquiries?  
8 A. Well, you'd only expect it if they had further  
9 information.  
10  
11 Q. I take it you read the Department of Immigration  
12 information about Father McAlinden having come back into  
13 Australia in July?  
14 A. Yes.  
15  
16 Q. Your entries in your case report suggest that you have  
17 summarised that information there by saying that passport  
18 checks revealed he's currently in Australia?  
19 A. Yes.  
20  
21 Q. After receiving that information, did you request any  
22 further field services in the nature of Medicare or  
23 Centrelink or the Australian Tax Office to see if they had  
24 a current address for him?  
25 A. No. I didn't make any of those inquiries to those  
26 agencies.  
27  
28 Q. Did you plan to do inquiries of that nature? Just  
29 have a look at annexure F to your statement. In  
30 particular, the second page of annexure F, which looks like  
31 a Post-it note with certain things written on it?  
32 A. Yes.  
33  
34 Q. Do you see it seems to show the words "iAsk", which  
35 was the police field services system, wasn't it?  
36 A. That's annexure F, you are saying? Oh, it's on the  
37 second page.  
38  
39 Q. Yes, the second page?  
40 A. That's on the second page, yes.  
41  
42 Q. Then it says "government benefits" --  
43 A. Yes.  
44  
45 Q. --"address on passport"?  
46 A. Yes.  
47

1 Q. Then is it "DIM" - something - under that?  
2 A. Yes, I don't know. I can't --  
3  
4 Q. First of all, with the government benefits that  
5 suggests, doesn't it, that you had in mind looking at  
6 Medicare or pensions or Centrelink --  
7 A. Yes.  
8  
9 Q. -- to determine whether he had a current address?  
10 A. Yes.  
11  
12 Q. Given you knew by then he was back in Australia; is  
13 that the position?  
14 A. Yes.  
15  
16 Q. And then "Address on passport", what were you  
17 referring to there?  
18 A. Well, exactly what it says. If there's any sort of  
19 Australian address on his passport records.  
20  
21 Q. What inquiries would need to be made to get that?  
22 Could that be done through iAsk or field services?  
23 A. They were the same thing, field services at the time.  
24 Yes, the Department of Immigration --  
25  
26 Q. It could be done through them?  
27 A. Yes.  
28  
29 Q. Do you recollect whether you caused that inquiry to be  
30 made?  
31 A. No, I don't.  
32  
33 Q. Can we take it from your case report, given that  
34 there's no information of that nature that confirmed such  
35 inquiries were made after October 2010, that they weren't  
36 made by you?  
37 A. No, they weren't - no, there's no record to say that  
38 they were made by me.  
39  
40 Q. You don't have any recollection that you in fact  
41 pursued it but just didn't note it?  
42 A. No. No, I don't have any recollection of either way,  
43 yes.  
44  
45 Q. Is there any way that inquiries can be made through  
46 Telstra to get a current address for persons in Australia?  
47 A. Yes.

1  
2 Q. That wasn't something you considered at the time as a  
3 method of inquiry?  
4 A. Not that I recall, no.  
5  
6 Q. Annexure G indicates that, on 28 October 2002, you  
7 attended a certain address, and the address has been  
8 redacted out, to try to find out what that person might  
9 know about where he was.  
10 A. Yes.  
11  
12 Q. That's your notebook?  
13 A. Yes.  
14  
15 Q. You personally attended?  
16 A. Yes.  
17  
18 Q. You have written there:  
19  
20 *Last spoke to Denis in ... 2002. Stays in*  
21 *a bed --*  
22  
23 It has "bed/something"; is that "bed and breakfast"?  
24  
25 A. It would have been bed and breakfast, yes, I think  
26 I've written.  
27  
28 Q. "Mainly south of Ireland"?  
29 A. Yes.  
30  
31 Q. Then it says:  
32  
33 *Retired 10 years ago, lives in*  
34 *Western Australia, has done for the past*  
35 *7 years.*  
36  
37 You've got a "P0"; is that a post office box?  
38 A. Post office box, yes.  
39  
40 Q. And it says, "Safety Bay, Western Australia" and a  
41 postcode?  
42 A. Yes.  
43  
44 Q. Can we take it that's the last known mailing address,  
45 at least, of what this person told you for McAlinden?  
46 A. Yes.  
47

1 Q. Did you contact police in Safety Bay or make inquiries  
2 in WA after this - that is, after 28 October - to see what  
3 you could find out about the position in Western Australia?  
4 A. No, I don't believe so.

5  
6 Q. Under that it says, "Last place he was", and then  
7 there's a word I can't read.  
8 A. "Before going to Ireland".

9  
10 Q. "Before going to Ireland", okay. So Safety Bay was  
11 the last place he was before going to Ireland in terms of  
12 post office box address; is that what that means? You're  
13 nodding "Yes"?  
14 A. Yes, a post office address.

15  
16 Q. Does it say "First went to Albany"?  
17 A. Yes.

18  
19 Q. Is that part of that same entry?  
20 A. Yes.

21  
22 Q. What does that mean?  
23 A. I'm assuming he first went to Albany before he went to  
24 Safety Bay, or - yes, I don't know. I can't comment on  
25 that at this time, no.

26  
27 Q. Albany is a place in Western Australia, is it? Was  
28 that your understanding at the time?  
29 A. It was probably my understanding at the time, yes.

30  
31 Q. I'm going to turn back to annexure B, which is your  
32 case report and your note of 31 December 2002. I'll just  
33 give you a moment to read the case narrative next to your  
34 name of that date to yourself.  
35 A. Yes.

36  
37 Q. Do you see that after an outline of the passport check  
38 situation revealing he's currently in Australia, this is  
39 recorded:

40  
41 *The victim's statement indicates that the*  
42 *offences relating to McAlinden occurred in*  
43 *the Hornsby area therefore this matter*  
44 *should now be investigated by police in*  
45 *that Local Area Command. A hard copy of*  
46 *victim witness statements and inquiries to*  
47 *follow. Victim informed.*

1  
2 Do you see that?  
3 A. Yes.  
4  
5 Q. So it is the situation that, is it, at that  
6 point, December 2002, there had been a decision made that  
7 this matter should be reallocated to another officer?  
8 A. Yes.  
9  
10 Q. Did you make that decision or did your --  
11 A. Basically it's done by the investigations manager.  
12  
13 Q. The purpose of moving it to that other local area  
14 command was what?  
15 A. Because the offences occurred in that local area  
16 command.  
17  
18 Q. Was there information that the victim lived in the  
19 Hornsby area or was that just the way it was being managed  
20 at the time?  
21 A. It was the way it was being managed, and that's how  
22 most cases are managed. If the incidents have occurred in  
23 that area, they'll go through the court process in the area  
24 where the event occurred.  
25  
26 Q. During the process of the investigation there were  
27 various corroborative statements taken by other officers,  
28 weren't there?  
29 A. Yes.  
30  
31 Q. So the process there was that you'd forward a request  
32 to the relevant police station or local area command.  
33 A. Yes.  
34  
35 Q. And they'd take statements from people who were local  
36 to that area?  
37 A. That's right.  
38  
39 Q. The purpose of that was, was it, to make it easier for  
40 the corroborative witnesses to attend and give a statement?  
41 A. That's right.  
42  
43 Q. The rationale behind sending the matter to Hornsby was  
44 simply that the offences had occurred there some years  
45 before?  
46 A. Yes, they occurred in Hornsby Heights.  
47



1 Q. In terms of allocation of the material to another  
2 officer, is there anything in the case report that  
3 indicates who succeeded you in terms of managing the  
4 investigation?

5 A. I don't believe so, no.

6

7 Q. Just have a look at page 4 of annexure B. You will  
8 see at the top of the page there's this action:

9

10 *Brief file.*  
11 *Administration.*  
12 *Charlestown Police Station.*  
13 *Inspector Murray Lundberg [at]*  
14 *Lake Macquarie 21/1/2003.*

15

16 And then it's got next to it, "Complete". I don't know  
17 what that means, but can you assist with what that entry  
18 means in terms of what happened with this investigation at  
19 that time?

20 A. Basically, a brief file in relation to the  
21 investigation was filed at Lake Macquarie police as well.

22

23 Q. What does that mean?

24 A. That a brief was filed; like, the actual  
25 investigation, so all the statements and everything like  
26 that, would have been filed.

27

28 Q. Your voice has tailed right off again.

29 A. Sorry. The brief would have been filed at - I keep  
30 saying Charlestown police station.

31

32 Q. That suggested, doesn't it, that the investigation  
33 file did not go to Hornsby?

34 A. Possibly.

35

36 Q. Well, is there something else in the document that  
37 assists you to show that it did go to Hornsby?

38 A. No, I don't have anything further in the document,  
39 no.

40

41 Q. The brief being filed, does that mean it was shelved  
42 and put away in a cupboard and not dealt with? What does  
43 it mean in terms of "brief being filed"?

44 A. Basically, it is; it is basically stored. The brief  
45 is stored, the physical brief.

46

47 Q. Is there anything in the case report that assists in

1 terms of other actions, in the nature of investigation or  
2 the victim being informed or anything of that nature, prior  
3 to the last case narrative which occurred apparently after  
4 McAlinden was dead in November 2005, but after November  
5 2005?  
6 A. In between, you're saying, January 2003?  
7  
8 Q. Yes.  
9 A. Yes, not as far as I'm aware, no.  
10  
11 Q. Not that you can see on the document itself that would  
12 assist?  
13 A. No.  
14  
15 Q. The last entry in the case narrative suggests, doesn't  
16 it, that NSW Police spoke to someone in Western Australia,  
17 who confirmed that McAlinden had died on 30 November 2005,  
18 again the first page of annexure B?  
19 A. Yes.  
20  
21 Q. If Hornsby had taken any action on the matter  
22 including confirming that the brief had been received, you  
23 would expect that material to have been entered on this  
24 particular case report, wouldn't you?  
25 A. Yes.  
26  
27 Q. They wouldn't start a new case report?  
28 A. No.  
29  
30 Q. Had you ever heard of the Professional Standards  
31 Office of the Catholic Church at the time you did this  
32 investigation or worked on this investigation?  
33 A. I don't - I don't recall that I did because I have  
34 investigated other priests and had involvement with  
35 Zimmerman House, but I don't - for this particular  
36 investigation, I don't think they were around at that time.  
37  
38 Q. If they were around, you don't think you knew that  
39 that was an avenue you could contact to try and get some  
40 information about McAlinden?  
41 A. Yes, that wasn't an avenue I was aware of - from what  
42 I could remember at that time.  
43  
44 Q. You went straight to the diocese because you --  
45 A. Yes.  
46  
47 Q. -- expected they would give you the assistance you

1 needed?  
2 A. Yes.  
3  
4 Q. I'm turning to your second statement that you prepared  
5 dated 27 June 2013. That statement annexes some other  
6 materials which indicate other avenues of investigation you  
7 were pursuing and other notes you made at the time you  
8 worked on the matter?  
9 A. Yes, especially in relation to the brief envelope.  
10  
11 Q. And, in particular, the brief envelope?  
12 A. Yes.  
13  
14 Q. That's annexure A to the statement. I want to ask you  
15 a few questions about that brief envelope. Was it your  
16 practice at the time to write some of the things you were  
17 working on on the outside of the brief envelope, inquiries  
18 you were making and --  
19 A. Inquiries we were making that you would often record -  
20 if you needed paper, you would record things on a brief  
21 envelope.  
22  
23 Q. On the front page of the brief envelope you've  
24 recorded some action that you've taken including the  
25 transfer of the file to Surry Hills?  
26 A. Yes.  
27  
28 Q. That was to take a statement from a corroborative  
29 witness who took a report from the victim. Does that ring  
30 a bell? I can take you to the document.  
31 A. I'm not sure if that - no, that's not my understanding  
32 of --  
33  
34 Q. All right. Do you remember what it was sent to Surry  
35 Hills for?  
36 A. No.  
37  
38 Q. Then it says, "and then transferred to Hornsby";  
39 Do you see that?  
40 A. Yes.  
41  
42 Q. Does that assist you, reading that all together like  
43 that, that it was part of the ultimate transfer of the  
44 matter that had been planned at the end?  
45 A. Yes.  
46  
47 Q. On the right-hand side of the page, next to the word

1 "iAsk" is a number, 92340.  
2 A. Yes.  
3  
4 Q. What's the significance of that, if anything?  
5 A. In respect to that, I don't think I've been able to  
6 trace what that iAsk was for.  
7  
8 Q. Does that suggest you did an additional iAsk over and  
9 above the ones that are annexed to your statement?  
10 A. Yes.  
11  
12 Q. But you can't trace back --  
13 A. I can't recall what it - yes.  
14  
15 Q. Have you made efforts to trace back what that iAsk  
16 reference is relating to?  
17 A. Yes, those records don't exist.  
18  
19 Q. Don't exist?  
20 A. The iAsk - like, trying to track down that iAsk number  
21 back to 1999 doesn't exist.  
22  
23 Q. A needle in a haystack?  
24 A. Yes.  
25  
26 Q. The records just don't exist.  
27 A. Yes - well, I don't know that they don't exist, but,  
28 yes, a needle in a haystack.  
29  
30 Q. I take it that's your writing, "Report to VCT"?  
31 A. Yes.  
32  
33 Q. What's that? What's "VCT"?  
34 A. Victims Compensation Tribunal.  
35  
36 Q. Was it part of your role as a police officer to assist  
37 victims of crime to provide relevant documents to the  
38 Victims Compensation Tribunal so they could be compensated?  
39 A. Yes, it is.  
40  
41 Q. Under that are the words "Take out warrant"; is that  
42 what it says?  
43 A. Yes.  
44  
45 Q. Are you able to assist with what you meant by those  
46 words "Take out warrant"?  
47 A. No. I don't know whether it was relevant or when I've

1 written it, whether it was relevant to McAlinden or the  
2 other accused in this case, whether it was something that  
3 I'd written.

4  
5 Q. You knew the other accused was deceased by October  
6 2002?

7 A. Mmm.

8  
9 Q. Are you able to say whether you knew earlier than  
10 October 2002 that the victim was deceased - sorry, that the  
11 first POI was deceased?

12 A. No.

13  
14 Q. The "Report to VCT", that was relating to McAlinden,  
15 was it, or was it relating to both alleged POIs?

16 A. Yes, I can't say.

17  
18 Q. Sorry, can you give that answer again?

19 A. I can't say.

20  
21 MS LONERGAN: Commissioner, I'm probably going to be  
22 another 20 minutes with the witness, I've realised, given  
23 there are to some other documents I have to take her to.  
24 Is that a convenient time?

25  
26 THE COMMISSIONER: Yes, thank you, Ms Lonergan.

27  
28 **SHORT ADJOURNMENT**

29  
30 MS LONERGAN: Q. Before the morning tea adjournment,  
31 detective senior constable, I was asking you some questions  
32 regarding some entries on the front of annexure A to your  
33 second statement, which is the case envelope?

34 A. Yes.

35  
36 Q. We were looking at the words "Report to VCT." Do you  
37 see that?

38 A. Yes.

39  
40 Q. The date is 18/2?

41 A. Yes.

42  
43 Q. You say in your statement of 27 June that you're  
44 unable to be certain what year that's referring to?

45 A. I do say that, yes.

46  
47 Q. If we look at the history of the matter in terms of it

1 being in your hands, it came to you in July 2001, or some  
2 time after that?  
3 A. Some time after that, yes.  
4  
5 Q. You still had conduct of it in February 2002?  
6 A. Yes.  
7  
8 Q. And you still had conduct of it in February 2003, or  
9 not?  
10 A. No.  
11  
12 Q. So if we take it from the case report document and  
13 other matters annexed to your affidavit, the last time you  
14 worked on it was December 2002, or earlier, was it? Maybe  
15 if you have a look at annexure B to your first affidavit,  
16 that might slim the time down.  
17 A. Yes, it would have been December 2002.  
18  
19 Q. You were uncertain what the note "Take out warrant"  
20 related to and whether it related to person of interest 1  
21 or person of interest 2?  
22 A. Yes.  
23  
24 Q. It is the position, isn't it, that you found out that  
25 person of interest 1 died in September 2002. I'll just  
26 help you with which annexure it is. That seems to come  
27 from part of annexure C to your first statement.  
28 A. What was that - what was the --  
29  
30 Q. Annexure C to your first statement, you've got a  
31 couple of inquiry printout sheets and one of them seems to  
32 relate to the death of the person we refer to there as  
33 [UR3]. Annexure C starts with your handwritten note about  
34 your conversation with the bishop's secretary, Elizabeth.  
35 Then there's another page with a couple of addresses and  
36 then there's the page I'm referring to, after that page?  
37 A. Yes.  
38  
39 Q. Do you see on the right-hand side there's some  
40 handwriting? Is that yours?  
41 A. Yes, it is.  
42  
43 Q. Are you able to assist by looking at that document  
44 what date information came to you that that first person,  
45 the first person of interest, had died, or is that not what  
46 that note is about?  
47 A. Because things have been deleted it's a bit harder

1 to --  
2  
3 Q. Harder to work it out?  
4 A. Yes.  
5  
6 Q. If you can't tell from the document, please say so.  
7 A. No, I can't tell from the document.  
8  
9 Q. On the next page is a note apparently received by you,  
10 or at least directed to you, dated 14 February 2002. Do  
11 you see that?  
12 A. Yes.  
13  
14 Q. That asks you to call the victim, [AF]?  
15 A. Yes.  
16  
17 Q. It says, "What's an update", but does that suggest  
18 "Wants an update"?  
19 A. Yes.  
20  
21 Q. There's handwriting "12/2" under that. Does looking  
22 at that document and that bit of handwriting assist you as  
23 to whether you contacted [AF] at that point or near that  
24 time, and if it doesn't, please say so.  
25 A. Yes. I believe from other information in the case  
26 notes that I did.  
27  
28 Q. Annexure D to your second affidavit - I'm sorry to  
29 jump around, but it does help doing it this way because it  
30 marries the time together - is a printout of various COPS  
31 events. It appears next to 18 February 2002, about the  
32 middle of the first page of annexure D, that you --  
33 A. At that is that in the first statement or the second  
34 statement?  
35  
36 Q. The second statement. It appears that you rang the  
37 victim. It says something to the effect of:  
38  
39 *Victim rung, will fax particulars and*  
40 *circumstances of complaints she made to*  
41 *witnesses of the assault.*  
42  
43 Then it's got your name?  
44 A. Yes. The annexure D that I have is the iAsk --  
45  
46 Q. Are you looking at the June 2013 affidavit?  
47 A. Yes, I'm looking at both of them

1  
2 Q. The difficulty we have is that a number of annexures  
3 have two annexure stamps on them which give them two  
4 letters. It is page 10, and I am grateful to Mr Saidi. In  
5 the bottom right-hand corner is a page, handwritten  
6 pagination?  
7 A. Is this is in the first statement?  
8  
9 Q. No, this is the second statement we're looking at now.  
10 A. Yes.  
11  
12 Q. Do you see there's a note there that you've rung the  
13 victim, or it appears that's the action you've taken on  
14 18 February 2002?  
15 A. Yes.  
16  
17 Q. Do you see also above that is some action taken to the  
18 effect that you inform the victim's solicitor about the  
19 investigation process?  
20 A. Yes.  
21  
22 Q. And that relates to the Victims Compensation Tribunal  
23 claim that that person had made?  
24 A. Yes.  
25  
26 Q. Do you see that? The date is 18 February 2002?  
27 A. Yes, which was what I've referred to in my statement.  
28  
29 Q. Yes. Looking at the cover of your investigation  
30 envelope, does that material assist you as to what you were  
31 doing in terms of annexure A and the outside of your  
32 investigation envelope? Do you see "18/2 report to VCT"?  
33 Do you see that? You're looking again at annexure A to  
34 your second statement. I'll give you a moment.  
35 A. No, you're right.  
36  
37 Q. Does that assist you that, on the outside of that  
38 envelope, you're recording action you were taking on  
39 18 February 2002?  
40 A. Yes, in relation to "Report to VCT", yes.  
41  
42 Q. Under that date, with a dash, are the words "Take", or  
43 "Taken out warrant". Does that say "Take" or "Taken",  
44 first of all?  
45 A. I think it says "Take".  
46  
47 Q. And "warrant"; what would that be a reference to a



1 warrant for an arrest or some other warrant?  
2 A. I would say a warrant for arrest.  
3  
4 Q. Would you agree with me that that note suggests in  
5 terms of the position which appears on your investigation  
6 envelope, that, on 18 February, you were considering taking  
7 out a warrant?  
8 A. As I said, I can't say when - when that was that I've  
9 written it.  
10  
11 Q. What I'm asking you is in terms of how it appears on  
12 the outside of that envelope, would you agree with me that  
13 the notation at least that's made there by you suggests  
14 that, on 18 February, you were planning to or considering  
15 taking out a warrant? You don't have to accept that  
16 proposition?  
17 A. No. No.  
18  
19 Q. Why do you say the words "Take out warrant" appear  
20 with the dash under the date "18/2"?  
21 A. I don't know. It's the way I've recorded it.  
22  
23 Q. "Take out warrant", can it be referring to anything  
24 other than a warrant for an arrest of a perpetrator?  
25 A. In this case, it would refer to a warrant for the  
26 offender's arrest.  
27  
28 Q. From the answers you gave before the morning tea  
29 adjournment, can we take it that your position is you're  
30 not sure whether that was a reference to a warrant for  
31 person of interest 1 or person of interest 2 that's being  
32 noted there?  
33 A. That's right.  
34  
35 Q. Do you recollect now what your plans were in terms of  
36 making any arrest of the perpetrators, alleged perpetrators  
37 related to [AF] - sorry, taking out a warrant?  
38 A. Basically, I can't recall what my thoughts were in  
39 relation to that at the time.  
40  
41 Q. All right.  
42 A. He - he was listed as wanted on the police system.  
43  
44 Q. Where does that appear in the document annexed to --  
45 A. It wouldn't appear in the document.  
46  
47 Q. How do you know he was listed as wanted on the police

1 system?  
2 A. Well, to my recollection, that's what I did. I had  
3 him listed as wanted or suspect, or whatever, on the  
4 system.  
5  
6 Q. How did that annotation appear in terms of the police  
7 system?  
8 A. If other police look up that person, it will come up  
9 with them being a suspect or wanted or whatever the case  
10 may be.  
11  
12 Q. And what's the --  
13 A. If they look up the person of interest status.  
14  
15 Q. When you made that entry, did that require you to  
16 access a certain part of the NSW Police records that ought  
17 to have shown you whether there were other complaints about  
18 that particular person?  
19 A. It would - we're talking earlier about CNI numbers.  
20  
21 Q. Yes?  
22 A. It would come up with the same CNI number. But if I'm  
23 going into it, it's - you're putting that status on him for  
24 that particular event or case.  
25  
26 Q. Do you need to take out a warrant to be permitted to  
27 list an alleged perpetrator as wanted?  
28 A. No.  
29  
30 Q. At what time did you list McAlinden as someone who was  
31 wanted on the police system?  
32 A. It would have been towards the end of the - the end of  
33 the narrative that I've got there.  
34  
35 Q. It would have been?  
36 A. Yes. I don't know. I don't recall.  
37  
38 Q. Are you confident that you in fact did that?  
39 A. Yes, I'm pretty sure that I did that.  
40  
41 Q. Is there any reason why you haven't included that in  
42 your statement or statements?  
43 A. I don't know.  
44  
45 Q. What sort of annotation would appear in terms of him  
46 having been listed as wanted? What were you talking about?  
47 A. Well, just that it would be, as I said, in relation to

1 that event or that case, where his status in that case  
2 would have him as suspect or wanted.

3  
4 Q. How would that information be accessed by other  
5 officers?

6 A. At that time it was on the event --

7  
8 Q. We're talking about 2002?

9 A. Yes, in the event. They'd to actually look up that  
10 particular event, unless there was - yes, that's basically  
11 it, to look up the event.

12  
13 Q. It is only if they knew of the event number for that  
14 person that they'd see that this person was wanted?

15 A. No, if they looked up that particular person, and you  
16 have access to that information. So you have to - yes, you  
17 do have to look up that particular - yes, you're right.  
18 That's my understanding of it, yes.

19  
20 Q. You've got more understanding than me and I apologise  
21 if I sound a bit stupid. In terms of the other matter that  
22 I showed you before the morning tea adjournment, the other  
23 allegations against McAlinden that were the subject of the  
24 case report behind tab 311 --

25 A. Yes.

26  
27 Q. -- I want you to assume that there was actually a  
28 warrant taken out for McAlinden's arrest in that particular  
29 matter. How would that warrant appear on the police system  
30 to other officers, not the officer in charge of the  
31 investigation - or would it?

32 A. Yes, it shows; the same here, if you look up that  
33 person with the same - it has to be the same CNI, the  
34 central names index number, or whatever. If you look up -  
35 if you do a person find, a check on somebody, you may come  
36 up with one or more CNI numbers for that person. Then you  
37 go and have a look at all of those. Then, from there,  
38 under that person, there should be a tag in relation to  
39 whether they have warrants or not. It gives you various  
40 information in relation to someone.

41  
42 Q. Are you able to assist with whether the note on the  
43 front of your investigator's envelope could possibly refer  
44 to that you found out that a warrant had already been taken  
45 out about McAlinden?

46 A. No. I'd say it is more in reference to the  
47 possibility of me taking one out.

1  
2  
3  
4  
5  
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47

Q. You would recollect now, wouldn't you, whether you had found out that somebody else had already taken out a warrant for this person?

A. Yes.

Q. Following your usual policing practices back in 2002, you would have contacted that person to find out what that other officer had done in terms of location or information that other person had that could assist you, would you?

A. Generally, that sort of information is recorded in some way, whether it is an intelligence report or whatever. So that information is recorded in other ways as to what that person has done, and if that's not there or not evident, then you may well, yes, contact the officer in charge.

Q. If you wouldn't mind reaching for volume 5 of the material to your right and I'm going to show you a few documents that appear to relate to some of the matters that you attended to with your investigation that are in addition to those attached to your statement. Can I ask you if, whilst we're going through these documents, you see any reference to a CNI number that seems different to the one that was on the other document I showed you before, you can let me know and that would be of great assistance, if you could do that.

So look at the first document behind tab 362, please. Do you see there is a document completed by you requesting that a first complaint statement be obtained from the former partner of [AF]?

A. Yes.

Q. That's usual police practice to try and corroborate in terms of the first complaint --

A. Yes, it is.

Q. -- as it's important evidence for a sexual assault case to proceed?

A. Yes, absolutely.

Q. In a similar vein, if the matter happened a long time ago, reports that are contemporaneous to when it happened in terms of the victim saying to someone, "I was sexually abused", are helpful for police investigations generally?

A. Yes, they are.

1  
2 Q. Would you turn to the next page. There's some  
3 handwriting on the left-hand side. Is that your  
4 handwriting as well?  
5 A. Yes, it is.  
6  
7 Q. Again, they are further investigations that you asked  
8 to be followed through regarding, first, complaint type  
9 issues, such as the victim's mother?  
10 A. Yes.  
11  
12 Q. Do you see on page 963 there's a CNI number that  
13 appears which seems to be different to the CNI number on  
14 annexure C to your first longer statement? I'm sorry,  
15 I think that relates to the other perpetrator. Don't worry  
16 about that for the moment.  
17 A. Okay.  
18  
19 Q. Does a victim also have their own CNI number?  
20 A. Yes.  
21  
22 Q. If you can turn to tab 363, that document indicates  
23 other investigations that you asked to be done in your  
24 pursuit of [AF]'s complaint?  
25 A. Yes.  
26  
27 Q. Again behind tab 364, you'll see there's some  
28 information contained in that document that you put  
29 together by way of report to the Victims Compensation  
30 Tribunal?  
31 A. Yes.  
32  
33 Q. And in there you've noted the efforts that you had  
34 made to try and find McAlinden?  
35 A. Yes.  
36  
37 Q. I'm just going to these matters by way of  
38 completeness, to be fair to you, to show the matters that  
39 you pursued as part of your police work.  
40 A. Yes, that's fine.  
41  
42 Q. You'll see behind tab 369 - I just want to ask you  
43 some questions about this document. It appears to be a  
44 printout of an email from a Rachel Morrison from Kings  
45 Cross?  
46 A. Yes.  
47

1 Q. It is dated January 2003.

2 A. Yes.

3

4 Q. Do you see it appears to be referring to doing a job  
5 by way of taking another statement?

6 A. Yes.

7

8 Q. Does that assist you at all as to whether you still  
9 had custody of the investigation file or whether you sent  
10 it to Kings Cross so that this officer could complete what  
11 you'd requested? If it doesn't assist, please say so?

12 A. What was your question again?

13

14 Q. Whether that document assists at all as to whether you  
15 still had custody of the actual investigation file or  
16 whether it had been passed to Kings Cross to complete the  
17 job that you had asked --

18 A. The job - because the way jobs are done like that,  
19 electronically, it had to come back to me anyway for me to  
20 then follow it through because it hadn't been completed.

21

22 Q. Have a look behind tab 370. This is the last document  
23 I'm going to take you to.

24 A. Yes.

25

26 Q. Do you see that's a note prepared by you dated  
27 7 January 2003?

28 A. Yes.

29

30 Q. And you note under the word "Comment":

31

32 *As the offences regarding McAlinden*  
33 *occurred in the Hornsby area, this*  
34 *investigation has now been forwarded to*  
35 *Criminal Investigation, Kuring-gai [LAC],*  
36 *Hornsby and any inquiries should be*  
37 *directed to that office. Witness*  
38 *statements have been obtained and copies*  
39 *attached for your information.*

40

41 Do you see that?

42 A. Yes.

43

44 Q. It also makes a recommendation about information  
45 needing to go to the Victims Compensation Tribunal. Are  
46 you able to assist with what you physically did with the  
47 investigation file in terms of this particular

1 correspondence?  
2 A. With these reports, basically, the attachments would  
3 have been attached to the report and gone through to my  
4 chain of command.  
5  
6 Q. Are you able to assist with whether you attached the  
7 full investigation brief to go off to the new local area  
8 command?  
9 A. I believe I would have, yes, because I've said that  
10 everything has been attached, so it would have been. And  
11 more than likely they would have been the copies, not the  
12 originals.  
13  
14 Q. Do you see the 1, 2, 3 down the bottom of the page  
15 suggests that this was just material to go to the Victims  
16 Compensation Tribunal. Was that right? Or was there also  
17 another role to be pursued with this particular letter that  
18 it would go to the commander?  
19 A. No. This report is directed to the Victims  
20 Compensation Tribunal.  
21  
22 Q. Are you able to assist with what documentation was  
23 prepared to enable the investigation file to be actually  
24 physically allocated to Hornsby?  
25 A. To my knowledge, to be quite honest, I'm not sure --  
26  
27 Q. What happened?  
28 A. -- what happened. I know that it was all done. It  
29 was going to be sent to Hornsby, but to what documentation  
30 and that sort of thing - because the cases that are meant  
31 to be directed would be sent on and then the physical  
32 documentation sent on.  
33  
34 Q. The usual course would be, would it, for you to  
35 prepare a document like that to your commander and then  
36 that person would send it on to the region or how does it  
37 normally work?  
38 A. Then not necessarily, but, yes, it - and it would go  
39 through correspondence books and that sort of thing.  
40  
41 MS LONERGAN: Thank you. Those are my questions,  
42 Commissioner.  
43  
44 THE COMMISSIONER: Thank you, Ms Lonergan, Mr Gyles?  
45  
46 MR GYLES: Thank you Commissioner.  
47

1 <EXAMINATION BY MR GYLES:

2

3 MR GYLES: Q. Detective senior constable - at paragraph  
4 8 of your first statement, that is, of 16 May 2013 - you  
5 make reference to annexure C, which comprises handwritten  
6 notes made by you; do you recall that document?

7 A. Yes.

8

9 Q. You tell us in paragraph 8 that that was a note made  
10 by you on 24 September 2002; correct? You'll see --

11 A. Yes, I believe so. And that's going from my case  
12 actions in relation to that inquiry.

13

14 Q. Quite. So what you're able to do by reference to the  
15 COPS report is to link up that handwritten note --

16 A. Yes.

17

18 Q. -- with the entry made on 24 September 2002 concerning  
19 the telephone call you had with the bishop's secretary?

20 A. Yes, that's right.

21

22 Q. What is recorded is that you were told that McAlinden  
23 hadn't been in the diocese for a number of years?

24 A. Yes.

25

26 Q. It says "(10)"; do you see that?

27 A. Yes.

28

29 Q. And the last known address to them - ie, last known  
30 address known to the diocese - was through a relative's  
31 address in London?

32 A. Yes.

33

34 Q. You knew, at that point, that there was a London  
35 address that was known to the diocese that was the  
36 last-known address of McAlinden, obviously?

37 A. I wasn't provided with the London address, though.

38

39 Q. That's not my question. My question is what they were  
40 telling you was the last address they had was - the last  
41 address known to them was a relative's address in London,  
42 right? That's what you've put into the COPS entry?

43 A. Yes, it was or through or care of a relative's  
44 address, yes. So their contact with him was through a  
45 relative, at an address in London.

46

47 Q. Yes, right. The note you make after that is that the



1 bishop's secretary said to you that she would speak to the  
2 bishop to clarify if any further records were kept. Do you  
3 see that?  
4 A. Yes.  
5  
6 Q. It is not your recollection that during that phone  
7 call on 24 September, you were provided with an address -  
8 the address which had been identified in London, being the  
9 last-known address?  
10 A. No, I was not, no.  
11  
12 Q. Do you have any recollection as to whether during that  
13 phone call you were given an address in Australia of UR18?  
14 A. No, I wasn't.  
15  
16 Q. Is it possible that you were given those addresses  
17 during that phone call on 24 September --  
18 A. No.  
19  
20 Q. But you can't recall now --  
21 A. No, I wasn't - I would have recorded it if I did.  
22  
23 Q. We can see, can't we, from the entry made on  
24 26 September 2002, further up the COPS report, that you  
25 made inquiries in respect of UR18 on 26 September 2002,  
26 didn't you?  
27 A. Yes.  
28  
29 Q. Could you please go to the supplementary statement  
30 that you provided. Annexure A to your supplementary  
31 statement is the brief of evidence envelope, isn't it?  
32 A. Yes.  
33  
34 Q. What you tell us is that that there are a number of  
35 handwritten references on the envelope on the front and  
36 back; that's right, isn't it?  
37 A. That's correct.  
38  
39 Q. Made by you in connection with the relevant  
40 investigation?  
41 A. Yes.  
42  
43 Q. If you go to the second page of annexure A, we're  
44 looking at the back of the envelope; is that right?  
45 A. Yes.  
46  
47 Q. You will see that on that page you've got a note:

1 "UR18 address"?  
2 A. Yes.  
3  
4 Q. Indicating that, at some time, you made a note of the  
5 address of UR18?  
6 A. Yes.  
7  
8 Q. You tell us, I think in your statement, that you're  
9 not certain - to be fair to you, I think I'll refer you to  
10 the relevant part. This is paragraph 13. You tell us both  
11 in respect of the entry "[UR18] address" and the entry  
12 [UR48] Seacroft, that you are not able to recall when that  
13 was written nor the source of the information?  
14 A. Yes, that's correct.  
15  
16 Q. But one thing is for certain, isn't it, that you were  
17 able to say that someone gave you information concerning  
18 the address of [UR18]?  
19 A. Yes.  
20  
21 Q. And concerning the address of [UR48]?  
22 A. Yes.  
23  
24 Q. Do you have volume 5?  
25 A. I do, yes.  
26  
27 Q. Would you go, please, to tab 353. You will see that  
28 this document is an email of 5 July 2002, not to you. I'm  
29 not suggesting this is a document which you've seen before.  
30 A. No.  
31  
32 Q. You will see in this document the relevant email  
33 contains two addresses, one which has been redacted. Do  
34 you see that?  
35 A. One that has been what, sorry?  
36  
37 Q. One that has been redacted; that is the address of  
38 [UR18]?  
39 A. Yes.  
40  
41 Q. And one which has not been redacted which is the  
42 address of [UR48]. Do you see that? You don't need to  
43 read the balance of the document. What I'm directing your  
44 attention to is the two addresses that are within the  
45 email?  
46 A. Yes.  
47

1 Q. You will see that the second address has not been  
2 redacted; that is, the address of [UR48]. Do you see that?  
3 A. Yes.  
4  
5 Q. You will see that's an address in Seacroft,  
6 Lincolnshire?  
7 A. Right.  
8  
9 Q. You'll note that Seacroft corresponds, doesn't it,  
10 with the note you've made on the back of the investigation  
11 envelope - sorry, the brief of evidence envelope in respect  
12 of [UR48]?  
13 A. Yes.  
14  
15 Q. Can I suggest to you that these two addresses, namely,  
16 the address of [UR18] and the address of [UR48], were  
17 provided to you by the bishop's secretary on 26 September  
18 2002, ie, two days after the initial phone call that you  
19 make a reference in the COPS report to?  
20 A. Yes, that's correct.  
21  
22 Q. Can we take it that, having been provided with that  
23 information in respect of [UR18] on 26 September, the  
24 inquiries you made in respect of [UR18] which you make  
25 reference to in the COPS report may have arisen from the  
26 fact that the address of [UR18] had been given to you on  
27 that day?  
28 A. Possibly, yes.  
29  
30 Q. It was certainly something that was helpful, wasn't  
31 it, in respect of the investigations you were making to  
32 have that address?  
33 A. In order to track down anyone who knew his  
34 whereabouts, yes.  
35  
36 Q. That's indeed on 26 September what you did when you  
37 say you were searching for [UR18]. Do you see that, in the  
38 COPS entry?  
39 A. What are you referring to?  
40  
41 Q. I'm referring to the entry made on 26 September 2002?  
42 A. Is that in the narrative or --  
43  
44 Q. I'm sorry, it is in the narrative. It is on the same  
45 page of the entry on 24 September which you referred to,  
46 but further up the page. You will see an entry which is  
47 dated 26 September 2002.

1 A. That's annexure B you're referring to or --  
2  
3 Q. I'm sorry?  
4 A. Annexure B you're referring to?  
5  
6 Q. I'm sorry, yes, it is.  
7 A. On what page?  
8  
9 Q. This is an annexure to your first statement.  
10 A. Yes.  
11  
12 Q. It is page 6 of the COPS report.  
13 A. Thank you.  
14  
15 Q. You will see on the bottom there is the 24 September  
16 date?  
17 A. Yes.  
18  
19 Q. That's the entry that you say coincides with the  
20 handwritten note in annexure C?  
21 A. Yes.  
22  
23 Q. And then you'll see that there's a search - you make a  
24 note of searching for [UR18], on the top of that page, and  
25 we see a date 26 September 2002?  
26 A. Yes, in relation to the address, yes.  
27  
28 Q. It would seem that, on 26 September 2002, you were in  
29 fact searching - trying to track down [UR18] to see what  
30 assistance she could provide you in trying to track down  
31 the whereabouts of McAlinden.  
32  
33 MS LONERGAN: I object. That's not what the note shows.  
34 It records that this address had been attended before by  
35 police, not that there was a search at that time being made  
36 at [UR18]'s address or that contact was made with [UR18] on  
37 that date.  
38  
39 THE COMMISSIONER: Thanks, Ms Lonergan. I'll just check  
40 that with Detective Senior Constable Flipo.  
41  
42 Q. Is what Ms Lonergan has just said correct, detective?  
43 A. Which action are we referring to, because there's none  
44 dated 26 September 2002? There are only the ones in  
45 October.  
46  
47 MR GYLES: If there's none dated 26 September, I may have

1 misread the document and I apologise for that. I don't  
2 need to take that any further. Those are my questions,  
3 thank you, Commissioner.  
4

5 THE COMMISSIONER: Thank you, Mr Gyles. Mr Harben, do you  
6 have any questions?  
7

8 MR HARBEN: We have no questions, thank you, Commissioner.  
9

10 THE COMMISSIONER: Mr Bickford?  
11

12 MR BICKFORD: Thank you, Commissioner. Mr Gyles and  
13 I have similar interests so I'll try not to be repetitive  
14 with this witness.  
15

16 **<EXAMINATION BY MR BICKFORD:**  
17

18 MR BICKFORD: Q. You said in your evidence, to the best  
19 of your recollection, there was no further information  
20 provided from the diocese; is that right?  
21

22 A. Yes.  
23

24 Q. I think you said today that had there been, you would  
25 have recorded it; is that right?  
26

27 A. Yes.  
28

29 Q. Having had a chance to have a look at, I think it is  
30 annexure A to your new statement --  
31

32 A. Yes.  
33

34 Q. -- you can see that there are two recordings of two  
35 separate addresses, [UR18] and [UR48]. Have you had a  
36 chance to look at those?  
37

38 A. Yes.  
39

40 Q. Also given the fact that ultimately you spoke with  
41 [UR18] and [UR18] was a person that assisted you with this  
42 specific inquiry - is that right?  
43

44 A. Yes.  
45

46 Q. Having had a chance to think about those two things,  
47 do you now agree that it is possible that the person you  
spoke with on 24 September, being the bishop's secretary,  
Elizabeth, is the same person that contacted you some time  
thereafter with these two addresses?  
48

49 A. Yes, that's entirely possible.  
50

1 Q. And in that regard, that assisted you in determining  
2 potentially the whereabouts of Mr McAlinden?

3 A. That's right, potentially.  
4

5 Q. Ultimately you couldn't determine his whereabouts, but  
6 it assisted you in that particular investigation?

7 A. Well, it was a number of inquiries  
8

9 MR BICKFORD: Thank you, Commissioner. Those are my  
10 questions.  
11

12 THE COMMISSIONER: Mr Saidi?  
13

14 **<EXAMINATION BY MR SAIDI:**  
15

16 MR SAIDI: Q. The sequence of events, in part at least,  
17 was that you received the terms of the complaint from the  
18 complainant or the victim?

19 A. Yes.  
20

21 Q. Arrangements were made for a statement to be taken in  
22 detailed form?

23 A. Well, that was done by other detectives prior to me  
24 receiving it.  
25

26 Q. Once you obtained that, you then continued with  
27 investigations, obtained statements from corroborative  
28 witnesses and other witnesses?

29 A. Yes.  
30

31 Q. In the same or during the same process, you also  
32 undertook steps to ascertain the whereabouts of at least  
33 Father McAlinden; is that so?

34 A. Yes, I did.  
35

36 Q. That involved calls being made to West Australia; is  
37 that so?

38 A. Yes.  
39

40 Q. And how many calls would you have made to Western  
41 Australia, are you able to recall or not?

42 A. No.  
43

44 Q. But we're talking about multiple calls, are we?

45 A. Well - and then through our intelligence office,  
46 through them, through the Western Australian records as  
47 well.

1  
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MS LONERGAN: Commissioner, I can't hear the witness.  
Would she mind keeping her voice up.

MR SAIDI: Q. As well as making inquiries from Western Australia, you made inquiries from government agencies in order to ascertain the whereabouts, again, of Father McAlinden; is that so?

A. Yes. Yes, I did.

Q. During the course of your inquiries, you spoke to one or more officials, if I use the loose term, of the Catholic Church - that is, employees or officials of the church; is that so?

A. Yes, employees.

Q. During the interaction between you and officials of the Catholic Church, did you form an opinion as to whether or not the officials were cooperative?

A. I believe they were cooperative.

Q. In terms of seeking to obtain information during the course of attempting to obtain information, did you believe they were forthcoming or not in terms of the provision of information?

A. I can go on from what I believed at the time. I believed they were forthcoming.

Q. Let me ask a question, perhaps a similar question but in a different way. At any time did you form any adverse view as to whether or not any information was being deliberately withheld from you?

A. At the time, no.

Q. I want to ask you about a couple of other things relating to the investigation. I'm now focusing on more the police side and the interaction with the Catholic Church authorities. Are you able to say whether or not there was any attempt at interference of any kind from the police side to your conducting the investigations?

A. No, none at all.

Q. There's a term that's been used during the course of this inquiry, the term being "Catholic mafia". Have you heard that term before?

A. Yes.

1 MS LONERGAN: I object, Commissioner. This is not  
2 relevant to term of reference 2. Questions about  
3 cooperation of church officials are relevant, and the  
4 witness has been asked and has answered questions about  
5 this.

6  
7 THE COMMISSIONER: Yes, but Ms Lonergan, there's a  
8 question about whether the Catholic mafia was said to exist  
9 in the church also as opposed to the police, so I will  
10 allow it.

11  
12 MS LONERGAN: Thank you, Commissioner.

13  
14 MR SAIDI: Q. I'll come back to the term "Catholic  
15 mafia". When did you first hear that term?

16 A. Probably a couple of years ago or over 12 months ago.

17  
18 Q. Was there any information, whether direct or indirect,  
19 which came to your knowledge at any time during the course  
20 of 2001, 2002, 2003 and indeed 2004, if I just isolate  
21 those years, to suggest that there was a Catholic mafia  
22 which existed?

23 A. No.

24  
25 MR SAIDI: They're my questions.

26  
27 THE COMMISSIONER: Thank you, Mr Saidi. Mr Baran?

28  
29 <EXAMINATION BY MR BARAN:

30  
31 MR BARAN: Q. Madam, you gave an answer to my learned  
32 friend counsel assisting in respect of the Professional  
33 Standards Office. I'll just ask you some questions about  
34 that. As at the time when you were dealing with this  
35 particular matter, had you ever heard of the Professional  
36 Standards Office before?

37 A. No.

38  
39 Q. Were you aware of any joint memoranda of understanding  
40 or any cooperative relationship between NSW Police and the  
41 Catholic Church, just to use that term, in terms of the  
42 investigation of child sexual assault as to the time when  
43 you were dealing with this matter?

44 A. As I said earlier, I can't recall whether I was aware  
45 of something at that stage or not because I had  
46 investigated or have investigated a number of priests where  
47 that has been - I'm aware of the assistance that can be



1 given. So I don't recall in this matter, if I was aware at  
2 that time of it, but, as I said, if I had been, I probably  
3 would have used that avenue.  
4

5 Q. Following from what you just said then, had you been  
6 made aware of those internal processes, you would have  
7 followed them up by lines of inquiry, made notations and  
8 kept records and so on?

9 A. Yes.

10  
11 MR BARAN: Thank you.  
12

13 **<EXAMINATION BY MS LONERGAN:**  
14

15 MS LONERGAN: Q. Just a couple of questions, detective  
16 senior constable. Annexed to your first statement, which  
17 is exhibit 83, as part of annexure C, is a document  
18 I should have asked you about before, and it appears as a  
19 second page to annexure C. It appears to be a printout of  
20 a NSW Police COPS screen or part of the COPS system?

21 A. Yes.  
22

23 Q. Do you have that, and it is dated 29 August 2002?

24 A. Yes, it is.  
25

26 Q. It has some details regarding Denis McAlinden?

27 A. Yes, it does.  
28

29 Q. And it's got on the right-hand side under the date  
30 "M94CAT09:00AA "?

31 A. Yes.  
32

33 Q. Do you have any idea what that's a reference to?

34 A. That's a printer number.  
35

36 Q. Then under "Location" there is an address, and there  
37 is no need to state the address on the record --

38 A. Yes.  
39

40 Q. -- but does this document suggest that you found  
41 out that address via interrogation of the COPS system on  
42 29 August 2002?

43 A. Yes, doing an inquiry, yes.  
44

45 Q. Does that suggest that this was an address on the COPS  
46 system for this particular person?

47 A. Yes.

1  
2 MR GYLES: I am sorry, which --  
3  
4 THE WITNESS: Annexure C of the first statement.  
5  
6 MS LONERGAN: Q. Sorry, I can't hear you.  
7 A. I'm just trying --  
8  
9 MR SAIDI: She said "Annexure C of the first statement."  
10  
11 THE COMMISSIONER: The address is on the second page of  
12 annexure C.  
13  
14 MS LONERGAN: Yes, I have that.  
15  
16 Q. You were asked some questions about my learned friend  
17 Mr Gyles regarding a phone call from the bishop's secretary  
18 and you were taken to a document behind tab 353 in volume 5  
19 that had some handwriting on it?  
20 A. Yes.  
21  
22 Q. One of the things in that handwriting was a phone  
23 number after your name "Jacqui Flipo, Charlestown,  
24 detective, 49429915", was that your phone number back then?  
25 A. It was.  
26  
27 Q. In answer to a question asked of you by Mr Gyles to  
28 the effect that you received a phone call on 26 September,  
29 a further phone call from the bishop's secretary, and you  
30 were advised of addresses, and you said, "That's correct",  
31 why did you say that was correct? Was there something that  
32 you saw or something that you heard that led you to the  
33 belief that you got a second call?  
34 A. Oh, I just saw the document and then it said there's  
35 information from the secretary saying information was  
36 provided to me on 26 September.  
37  
38 Q. Yes?  
39 A. So I'm only going on the document that was shown to  
40 me.  
41  
42 \* Q. Do you actually recollect the call was made and that  
43 information provided?  
44 \* A. No.  
45  
46 \* Q. Is there material within --  
47

1 MR GYLES: I object. This was a question that did not  
2 require any further clarification. The question was asked  
3 and answered in plain terms.  
4

5 MS LONERGAN: Commissioner, it does require clarification  
6 because it was uncertain why the witness said, "That's  
7 correct" in relation to a matter that, in answer to  
8 questions by me, she hadn't been able to recall. I am just  
9 ascertaining, in a fair fashion, why it is that her  
10 recollection was somehow prompted, including - I'm about to  
11 take her to some documents that may actually show that  
12 something happened on that date.  
13

14 THE COMMISSIONER: I'll permit you to do that. Continue  
15 please, thank you, Ms Lonergan.  
16

17 MS LONERGAN: I'm sorry, I've forgotten what my question  
18 was. Could that be read back.  
19

20 (Questions and answer on page 766 marked \* read)  
21

22 MS LONERGAN: Q. Is there material within annexure B to  
23 your first statement which is your case report, that  
24 suggests that you took certain action on 26 September? In  
25 particular, I draw your attention to page 6 of that  
26 document and the first "Action" entry? Do you see there's  
27 action described on that page, "Attend NPH"?

28 A. Yes. This is on page 6 you're referring to?  
29

30 Q. Yes, page 6. "INF by PH", and then some things we  
31 can't read, "have wrong address." It says, "Cold B-E". Do  
32 you see that? But then do you see next to the word  
33 "Completed by" there's your name and then there is a date  
34 26/09/2002. Do you see that?

35 A. I'll just make sure I've got the right --  
36

37 Q. It says it in the top right corner - I'm sorry, it  
38 says 6/8, but next to "page". Do you see it says "Page 5".  
39 I'm sorry, I didn't realise there were two annotations on  
40 it.

41 A. Right. So are you talking about the first action?  
42

43 Q. Yes, the first action?

44 A. Yes.  
45

46 Q. Do you see next to "Completed by" and your name  
47 there's a date 26/09/2002?

1 A. Yes.  
2  
3 Q. Does that suggest that you took some action relating  
4 to an address on that date, 26 September, or received some  
5 information on that date; that is, 26 September?  
6 A. Yes, that would be right.  
7  
8 Q. So that suggests, doesn't it --  
9 A. Yes, I've done the action on the 22nd, but I've  
10 actually done the act, for want of a better word, on  
11 26 September.  
12  
13 Q. That suggests, doesn't it, that you may well have  
14 received some information on 26 September?  
15 A. Yes.  
16  
17 Q. In the nature of address information?  
18 A. Yes.  
19  
20 Q. That would tie in with the assertion that you received  
21 a further call from the diocese or someone from the diocese  
22 on 26 September?  
23 A. Yes.  
24  
25 Q. Would it?  
26 A. Yes, that's correct.  
27  
28 MS LONERGAN: Those are my questions, Commissioner.  
29  
30 MR GYLES: Could I ask one further question?  
31  
32 THE COMMISSIONER: Yes, of course, if there is something  
33 arising.  
34  
35 **<EXAMINATION BY MR GYLES:**  
36  
37 MR GYLES: Q. Can I suggest to you that that sequence is  
38 also consistent, isn't it with the entry you made on the  
39 back of the envelope that you may have received a telephone  
40 call on that day and made the notes of those two addresses  
41 in that way?  
42 A. Yes, it's possible, yes.  
43  
44 THE COMMISSIONER: Q. May I ask you something, please  
45 detective?  
46 A. Yes.  
47

1 Q. Perhaps you'll need in front of you volume 4, tab 311  
2 and that's the COPS event E8026529?  
3 A. Tab?  
4  
5 Q. Tab 311.  
6 A. Yes.  
7  
8 Q. Could you take your statement, exhibit 83, the first  
9 statement of 16 May and turn to annexure C. Annexure C was  
10 an inquiry about a person on the COPS system that you made  
11 on 29 August 2002, was it?  
12 A. Yes.  
13  
14 Q. The results that were produced gave you that list of  
15 references to an address on the second page?  
16 A. Yes. Yes, if you go into contact details, then that's  
17 what it would come up with.  
18  
19 Q. Yes, and then item (e) on that page refers you back to  
20 COPS event E8026529, does it not?  
21 A. Yes.  
22  
23 Q. That's the entry made by Detective Watters back on  
24 8 October 1999?  
25 A. Yes, that's correct.  
26  
27 Q. If you had looked at those --  
28 A. Yes.  
29  
30 Q. -- you might have become aware --  
31 A. That's right.  
32  
33 Q. -- of Detective Watters' entry?  
34 A. Yes.  
35  
36 Q. But it seems you did not do that, does it not?  
37 A. I don't - I don't recall at this time that I actually  
38 went through it, but the normal procedure is to go through  
39 it - so, yes.  
40  
41 Q. So the system appears to have worked in that it  
42 directed you to that entry from 1999?  
43 A. Yes.  
44  
45 THE COMMISSIONER: Anything arising from that?  
46  
47 MS LONERGAN: Nothing arising.

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MR COHEN: Commissioner, I'm not sure if you even would consider permitting my client to ask any questions --

THE COMMISSIONER: Yes, Mr Cohen.

MR COHEN: -- but I'm inquiring quite candidly about that. Is that a possibility?

THE COMMISSIONER: Through you?

MR COHEN: Yes, in this way. Might I have leave to do that?

THE COMMISSIONER: Yes.

MR COHEN: Having regard to what just fell from you, Commissioner.

THE COMMISSIONER: Yes, Mr Cohen.

**<EXAMINATION BY MR COHEN:**

MR COHEN: Q. Detective Senior Constable Flipo, you made reference to, in your first statement, annexure C to the second page and to the reference that the Commissioner just put to you --

A. Yes.

Q. -- which is event E8026529, and your evidence was, as I understood it, that, having regard to that page, if you were taken the time at that time that you looked at this, presumably on or about 29 August 2002, to look at those references and go into those particular items in the system, you would have become aware of various materials in those references. Is that a fair statement?

A. Yes, but, as I said, I can't recall whether I did or I didn't. In the way I followed procedures, generally that's what I would do.

Q. Is it likely that you did - if I can direct your attention in your first statement annexure B, to the first page of annexure B, which is the first page of the COPS entry you annex?

A. Yes. You mean the case report?

Q. I'm so sorry, the case report; quite so. That first

1 case narrative entry, apart from the formal pieces at the  
2 top of the page, if you look at the first-case narrative  
3 entry, that starts, "Police spoke to Sergeant Peter  
4 Gilmore --  
5 A. Yes.  
6  
7 Q. -- it is possible, is it not, that those particulars  
8 came from another report on the system apart from you  
9 conducting that process?  
10 A. That isn't my narrative. That's another narrative,  
11 which I believe was by Detective Fox. That's my  
12 understanding.  
13  
14 Q. That's very likely where it came from?  
15 A. Yes. Because I've printed this up to assist me with  
16 the inquiry.  
17  
18 Q. So that --  
19 A. So whatever is on that case report is what is there.  
20  
21 Q. Those particulars were a cut and paste into this  
22 document to be of assistance to you?  
23 A. No.  
24  
25 Q. I'm sorry?  
26 A. No, not at all.  
27  
28 Q. I'm so sorry.  
29 A. If you go into this --  
30  
31 MS LONERGAN: I object. Propositions need to be put in a  
32 clear fashion. A question to the effect of "That was a cut  
33 and paste to assist you", doesn't assist you, Commissioner.  
34  
35 THE COMMISSIONER: No, it doesn't.  
36  
37 MS LONERGAN: In fact, I don't understand the question.  
38  
39 THE COMMISSIONER: As I understand it, the witness has  
40 said, "No, it is not" and is proceeding to tell the inquiry  
41 what it in fact is.  
42  
43 MS LONERGAN: Commissioner, if that assists you, I'll  
44 withdraw my objection.  
45  
46 THE COMMISSIONER: Yes, thank you, Ms Lonergan.  
47

1 THE WITNESS: To assist me with this inquiry I made  
2 inquiries on the COPS system and printed out the case  
3 report. Now, any entries made on that case report would  
4 come out as what was added or whatever. It's not a cut and  
5 paste; it is a simple record of what's happened with that  
6 case.

7  
8 MR COHEN: Q. Yes?

9 A. So it is the full documentation of the case report.

10  
11 Q. Perhaps there was a poor use of the term by me.  
12 I take it by reference to your evidence, the  
13 cross-reference in to the step taken by Fox is then able to  
14 be brought across into your report; is that the way it  
15 happens?

16 A. Yes.

17  
18 Q. Yes?

19 A. Yes, but because it's - for whatever reason it's the  
20 same offender and they're making inquiries about the  
21 offender, which is following on from - the case was  
22 reopened; it's following on from what inquiries I had made.

23  
24 MR COHEN: If the Commission pleases.

25  
26 THE COMMISSIONER: Thank you, Mr Cohen. Anything arising,  
27 Ms Lonergan?

28  
29 MS LONERGAN: No, thank you, Commissioner.

30  
31 THE COMMISSIONER: Thank you very much, detective, for  
32 your evidence and you are excused.

33  
34 THE WITNESS: Thank you.

35  
36 <THE WITNESS WITHDREW

37  
38 MS LONERGAN: Would that be a convenient time?

39  
40 THE COMMISSIONER: Yes, thank you, Ms Lonergan. We will  
41 resume at 2 o'clock.

42  
43 **LUNCHEON ADJOURNMENT**

44  
45  
46  
47



1 UPON RESUMPTION:

2

3 MS LONERGAN: Commissioner, I understand there is another  
4 legal practitioner who is to seek leave to appear this  
5 afternoon

6

7 MR W POTTER: Commissioner, my name is Potter. I seek  
8 leave to appear for Mr William Callinan.

9

10 THE COMMISSIONER: Thank you, Mr Potter. That  
11 authorisation is granted.

12

13 MS McLAUGHLIN: Thank you, Commissioner, and I also seek  
14 leave to cross-examination Bishop Malone if it becomes  
15 necessary.

16

17 THE COMMISSIONER: Yes, Mr Potter. I'm sorry there isn't  
18 room at the Bar table. Don't let us forget you over there.  
19 Thank you.

20

21 MS LONERGAN: Before I call former Bishop Michael Malone,  
22 I note that, as already stated on various occasions in  
23 relation to evidence that this Special Commission of  
24 Inquiry will be taking in public, some parts of the  
25 evidence that are necessary to traverse will have to be  
26 taken in private because of other considerations that have  
27 already been articulated, as I have said, on a number of  
28 occasions.

29

30 One such witness is Bishop Malone. Some aspects of  
31 his evidence will be taken in camera. For the purposes of  
32 this afternoon, hopefully, we can proceed uninterrupted by  
33 those considerations until 4pm, but at some point, some  
34 in-camera hearing of some aspect of his evidence will need  
35 to be taken.

36

37 THE COMMISSIONER: Thank you, Ms Lonergan.

38

39 MS LONERGAN: I call Bishop Michael Malone.

40

41 <MICHAEL JOHN MALONE, sworn: [2.08pm]

42

43 THE COMMISSIONER: Please make yourself comfortable there  
44 if you can.

45

46 MR HARBEN: Before my learned friend commences, could it  
47 be noted the witness invokes section 23 of the Special

1 Commissions of Inquiry Act.

2

3 THE COMMISSIONER: That is noted, thank you, Mr Harben.

4

5 <EXAMINATION BY MS LONERGAN:

6

7 MS LONERGAN: Q. Your full name is Michael Malone?

8 A. Michael John Malone.

9

10 Q. Thank you. Bishop, you were formerly Bishop of the  
11 Maitland-Newcastle diocese?

12 A. I was.

13

14 Q. From 1995 until 2011?

15 A. That's correct, yes.

16

17 Q. Bishop, in consultation with your lawyers in response  
18 to specific issues raised by those assisting the  
19 Commission, you prepared two affidavits - statements?

20 A. Yes, I did.

21

22 Q. The first was prepared initially back in March 2013?

23 A. Yes.

24

25 Q. And has now been converted to an updated statement  
26 dated 8 July 2013 because some of the typescript had been  
27 lost off the last statement?

28 A. It was a typo, yes.

29

30 Q. I'm just going to have copies handed up to you. I'm  
31 sorry, I should have already done that. And I have a copy  
32 to the Commissioner. What I'm handing you is the 8 July  
33 version of your initial statement, as well as a second  
34 shorter statement that you prepared in June this year.

35 A. Thank you, yes.

36

37 Q. You have both of those with you in the witness box?

38 A. I do, yes.

39

40 Q. In relation to the one dated 8 July 2013, could you  
41 just have a leaf through it and tell me if the contents are  
42 true and correct?

43 A. Yes, they are true and correct.

44

45 Q. Other than one amendment that you noted for me to  
46 attend to in our discussion this morning outside court,  
47 which is paragraph 4.5 regarding the time at which you

1 telephoned John Davoren, director of the Professional  
2 Standards Office?  
3 A. Yes.  
4  
5 Q. Could I direct your attention to that. It is at  
6 paragraph 4.5 on page 4 of the July 2013 document.  
7 A. Yes.  
8  
9 Q. Do you have that?  
10 A. I do.  
11  
12 Q. Do you see there that you've said that you telephoned  
13 John Davoren in about 2001 or 2002 to notify him of  
14 additional allegations of abuse that had been made against  
15 Father McAlinden? Do you see that?  
16 A. I can see that, yes.  
17  
18 Q. Have you had cause to revisit that particular part of  
19 your statement in any way; and, if so, what is it that you  
20 need to revisit?  
21 A. Yes. I've had access, of course, to a whole lot of  
22 documentation in getting ready for the inquiry, and it  
23 would appear that there were two telephone calls to  
24 John Davoren, one in about 1999, and the second probably in  
25 about 2003.  
26  
27 Q. You have seen documents that have assisted you in  
28 prompting that recollection?  
29 A. Yes, I have.  
30  
31 Q. To that extent, the contents of paragraph 4.5, we can  
32 augment with some further oral evidence from you as we go  
33 through the chronology of things as they occurred?  
34 A. Yes.  
35  
36 Q. But that paragraph will be corrected within your  
37 evidence as we do so?  
38 A. Sure thing.  
39  
40 Q. In terms of the years that you gave there, 2001 or  
41 2002, can I ask whether you had access to diocesan  
42 documents when you prepared this statement?  
43 A. No, I did not. It was purely from memory.  
44  
45 Q. Thank you. Other than that, are the contents of the  
46 statement true and correct?  
47 A. I'd say so, yes.

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MS LONERGAN: I tender the statement of 8 July 213.

THE COMMISSIONER: The statement of Bishop Michael Malone of 8 July 2013 will be admitted and marked exhibit 85.

**EXHIBIT #85 STATEMENT OF BISHOP MICHAEL MALONE DATED 8/7/2013**

MS LONERGAN: Q. In June of this year, you were requested to prepare a further short statement addressing specifically the subject matter of your visit to then Father James Fletcher on 4 June 2002?

A. Yes, and I submitted that statement.

Q. Thank you. That statement, is it true and correct to the best of your knowledge?

A. It is, yes.

MS LONERGAN: Thank you. I tender that statement.

THE COMMISSIONER: The second statement of Bishop Michael Malone will be admitted and marked exhibit 86.

MS LONERGAN: If it could be noted, Commissioner, that that was completed in June 2013. It isn't specifically date witnessed, the text of the document.

THE COMMISSIONER: Thank you.

**EXHIBIT #86 STATEMENT OF BISHOP MICHAEL MALONE COMPLETED IN JUNE 2013**

MS LONERGAN: Q. Bishop Malone, you also were interviewed by Detective Chief Inspector Fox relating to the Fletcher investigation in 2003?

A. That's when I made a statement for him.

Q. Thank you, I should be much more specific in my terminology. You completed a statement for the assistance of the investigation into then Father Fletcher?

A. Yes.

Q. And that is dated 21 May 2003. I'm going to have a copy handed to you. No, I won't do that. I'll get you to turn up volume 5. Don't worry about the papers there. In the witness box next to you there will be a volume 5. If

1 you turn up tab 390 and have a look at the document that  
2 appears behind tab 390, that should be a statement of yours  
3 dated 21 May 2003?

4 A. Yes, it is.

5

6 Q. Bishop Malone, at the time you participated in  
7 preparation of that statement, were the contents true and  
8 correct?

9 A. Most definitely.

10

11 MS LONERGAN: I tender that statement, Commissioner.

12

13 THE COMMISSIONER: Thank you Ms Lonergan. The statement  
14 made by Bishop Michael Malone on 21 May 2003, which is  
15 behind tab 390, will be admitted and marked exhibit 87.

16

17 **EXHIBIT #87 STATEMENT OF BISHOP MICHAEL MALONE, DATED**  
18 **21/5/2003 (TAB 390)**

19

20 MS LONERGAN: Thank you.

21

22 Q. Bishop, I'm going to take you through certain matters  
23 that you cover in your 8 July 2013 statement, so you can  
24 put volume 5 away for the moment. Some of the matters I'm  
25 going to ask you about are just matters of history and  
26 recollection. Close that folder if you'd like and put it  
27 out of your way for the moment.

28 A. Are you finished with this?

29

30 Q. Yes.

31 A. They're very cumbersome, these folders.

32

33 Q. Yes, they are.

34 A. Right, ready.

35

36 Q. Thank you. You were appointed coadjutor bishop at the  
37 diocese of Maitland in November 1994?

38 A. Correct.

39

40 Q. At that point, was that a title appointment only, in  
41 that you didn't commence duties at the Maitland diocese  
42 yet?

43 A. There's a difference between a coadjutor bishop and an  
44 auxiliary bishop.

45

46 Q. Yes.

47 A. An auxiliary bishop is merely an assistant bishop to

1 the main bishop of the diocese and a coadjutor bishop is an  
2 assistant bishop with the right of succession when the main  
3 bishop either retires or dies.  
4

5 Q. So, in November 1994, did you actually commence duties  
6 at Maitland at all or did that not happen until the  
7 following year, after your ordination?

8 A. Yes, after my ordination in February 1995, that's when  
9 I began duties.  
10

11 Q. You physically went to the Maitland diocese in  
12 February 1995?

13 A. Probably, yes, early February, and then the ordination  
14 took place on the 15th.  
15

16 Q. In terms of any duties you performed, even from a  
17 remote location between November 1994 and February 1995,  
18 were there any in terms of work for the Maitland diocese?

19 A. No, there were no diocesan duties at all.  
20

21 Q. At some point the Maitland diocese became the  
22 Maitland-Newcastle diocese; is that right?

23 A. Yes.  
24

25 Q. Did that happen after your bishopric?

26 A. It happened in 1995 towards the end of that year.  
27

28 Q. Had you had anything to do with the Maitland diocese  
29 prior to being appointed coadjutor?

30 A. No.  
31

32 Q. Did you know then Bishop Clarke?

33 A. Never, no.  
34

35 Q. Do you know why you were appointed his successor?

36 A. I'm scratching my head about that still, but I was  
37 appointed out of the blue. It was a complete shock to me,  
38 and I have no idea.  
39

40 Q. Was that at time you were a serving parish priest at  
41 St Patrick's Gosford.

42 A. At Gosford, on the Central Coast, yes.  
43

44 Q. In terms of the appointment of you as coadjutor  
45 bishop, was there any aspect of Bishop Clarke's health or  
46 capacity to complete his duties that led your appointment,  
47 as far as you are aware?

1 A. No. As far as I'm aware, there were no health issues  
2 at all with Bishop Clarke.  
3  
4 Q. Was it explained to you why a coadjutor was required?  
5 A. No.  
6  
7 Q. From February 1995, can we take it that you commenced  
8 assisting Bishop Clarke?  
9 A. Yes.  
10  
11 Q. Are you able to say whether Bishop Clarke was seeking  
12 an early retirement on any level as at early 1995?  
13 A. At that stage, I didn't know, but subsequently he did  
14 submit his resignation.  
15  
16 Q. In terms of your prior warning of Bishop Clarke's  
17 resignation, what prior warning did you have about it?  
18 A. Well, very little, really. It was - it was almost a  
19 day or two around the time when Bishop Clarke's resignation  
20 was accepted by the Holy See.  
21  
22 Q. Did you know prior to the resignation being accepted  
23 that he had submitted a resignation?  
24 A. No, I didn't, no.  
25  
26 Q. Is that something you would have been expected to have  
27 been told given that you were coadjutor?  
28 A. I suppose it would have helped, but Bishop Clarke was  
29 a very private man and he would have his own reasons for  
30 not saying anything.  
31  
32 Q. Did you learn what those reasons were for not saying  
33 anything?  
34 A. No, no, I didn't.  
35  
36 Q. Prior to starting your work at the Maitland diocese,  
37 had you heard in clergy circles or in newspaper reports  
38 anything about there being any issue about child sexual  
39 abuse?  
40 A. No.  
41  
42 Q. In the Maitland diocese?  
43 A. No, I hadn't.  
44  
45 Q. Can you identify the point at which you first heard  
46 that there was any issue about child sexual abuse in the  
47 Maitland diocese?

1 A. It would have been about midway through 1995, after  
2 I'd been ordained coadjutor bishop, meetings of the deans,  
3 and so on, did mention one or two items.  
4

5 Q. Meeting of the deans; these are deans of the diocese  
6 of Maitland, are they?

7 A. Yes.  
8

9 Q. Deans are senior priests entrusted to the bishop; is  
10 that the set-up?

11 A. That's correct, usually with some authority over a  
12 section of the diocese, called the deanery.  
13

14 Q. In mid-1995, you became aware that there had been some  
15 issues about child sexual abuse in the diocese?

16 A. Yes, I had.  
17

18 Q. Are you able to say now the nature of what was raised  
19 in mid-1995, at the deans' meeting or deans' situation?

20 A. There were two issues, I think, if I could remember  
21 correctly. One was a couple of people who came forward to  
22 make allegations of sexual abuse against Denis McAlinden.  
23

24 Q. Yes.

25 A. The other was regarding a report or a comment about  
26 (name suppressed).  
27

28 MS LONERGAN; I'll seek a non-publication order over that  
29 name.  
30

31 Q. I'll try and assist you, Bishop Malone. In the  
32 witness box with you is a typed list of pseudonyms?

33 A. Oh, sorry.  
34

35 Q. It is a bit difficult to be on top of them all, so  
36 please don't think it is in any way a criticism?

37 A. You'll have to wait while I look. [NP].  
38

39 Q. [NP]. You're much quicker than I would have been.

40 A. Thank you.  
41

42 THE COMMISSIONER: Meanwhile I make a non-publication  
43 order over the name which was uttered by Bishop Malone in  
44 the fourth last answer.  
45

46 MS LONERGAN: Q. In this meeting of the deans, was there  
47 a discussion as to how - I'm just going to focus on the



1           assertion regarding McAlinden - that matter was to be  
2           managed, the two people who had come forward? You don't  
3           need to tell me who they are --  
4           A.    No.  
5  
6           Q.    -- but was there discussion within the context of the  
7           meeting of the deans as to how those matters or those  
8           complaints should be managed?  
9           A.    I can't recollect the detail of that, frankly.  
10  
11          Q.    Was Bishop Clarke present at the meeting of the deans?  
12          A.    He was, yes.  
13  
14          Q.    Would the meeting of the deans have been documented in  
15          the normal course?  
16          A.    I believe so, yes.  
17  
18          Q.    Did you take the minutes of the meeting or whose job  
19          was it?  
20          A.    No, I didn't take the minutes, but --  
21  
22          Q.    Are you able to say who would have been taking the  
23          minutes in mid-1995?  
24          A.    I can't remember who it would have been, but it wasn't  
25          myself.  
26  
27          Q.    Who were the deans in mid-1995?  
28          A.    Oh, can I name them because --  
29  
30          Q.    Yes.  
31          A.    -- they aren't in the pseudonym list.  
32  
33          Q.    No, they won't be.  
34          A.    Some of the ones I remember would be --  
35  
36          Q.    Well, some might be.  
37          A.    -- Father George Nugent, Father Tony Brady.  
38  
39          Q.    Father Saunders?  
40          A.    Father Saunders, I think, yes.  
41  
42          Q.    Father Burston?  
43          A.    I don't know that he was. He may have been.  
44  
45          Q.    Are we talking about many more than those four or  
46          five?  
47          A.    Probably around half a dozen.

1  
2 Q. Do you have a recollection of this particular meeting,  
3 or only the fact that it was raised that there were issues  
4 regarding McAlinden and the other person who you mentioned?  
5 A. Yes. Only that there were issues.  
6  
7 Q. Do you recall whether there was any discussion in that  
8 meeting to the effect that there were previous complaints  
9 about McAlinden already known to the diocese?  
10 A. I don't really remember the details of the  
11 conversation around that, given that it happened back in  
12 1995.  
13  
14 Q. Had you personally had to deal with any allegations of  
15 sexual abuse against children, or any complaints made to  
16 you about that, prior to coming to Maitland diocese?  
17 A. No.  
18  
19 Q. You make the comment in your statement in paragraph  
20 1.3 that you became aware that there had been an advice  
21 which had been delivered to bishops which gave some details  
22 in respect of how bishops should respond to allegations of  
23 abuse. Do you see that?  
24 A. Yes.  
25  
26 Q. Were you thinking about a particular document or some  
27 sort of oral advice? What were you referring to there?  
28 A. I'm referring there to a document which was about an  
29 18-page document, dated in 1992, and I only became aware of  
30 it simply because it was mentioned in passing to me.  
31  
32 Q. And mentioned in passing when?  
33 A. It would have been probably in - at some point in the  
34 latter part of 1995.  
35  
36 Q. I'm going to ask you to reach for volume 2 of those  
37 materials there. I'm sorry, there will be a bit of  
38 exercise involved in this.  
39 A. Perhaps that's just as well.  
40  
41 Q. Have a look at tab 190.  
42 A. In volume 2 of 7?  
43  
44 Q. Yes, please.  
45 A. Mine seems to start with 113.  
46  
47 Q. That sounds right. Sadly, it will be right at the

1 back. Tab 190.  
2 A. Oh, 190. Got it.  
3  
4 Q. Do you see that's a document titled "Australian  
5 Catholic Bishops Conference - Special Issues Subcommittee"?  
6 Do you see that?  
7 A. Yes, I that.  
8  
9 Q. It is headed "Protocol for dealing with allegations of  
10 criminal behaviour" --  
11 A. Yes.  
12  
13 Q. -- "Plenary Meeting April 1992"?  
14 A. Right.  
15  
16 Q. In 1992, you didn't have any knowledge about this  
17 document, can we take it?  
18 A. That's for sure.  
19  
20 Q. This is the document that you're talking about in your  
21 statement 1.3 in your evidence?  
22 A. This is correct.  
23  
24 Q. You read it at the time it was provided to you?  
25 A. No, I didn't read it. It was simply mentioned  
26 that there was a protocol and I have a feeling that it was  
27 Bishop Clarke who mentioned it, yes.  
28  
29 Q. Do you know when you first had a look at this  
30 particular document behind tab 190?  
31 A. No, I don't remember.  
32  
33 Q. Are you able to say whether you used it to assist you  
34 in any of your management of allegations of sexual abuse in  
35 the Maitland diocese?  
36 A. No, I didn't.  
37  
38 Q. Did not?  
39 A. I did not. It was quickly superseded by Towards  
40 Healing.  
41  
42 Q. If you assume this came into use in early 1993 and  
43 Towards Healing came into use in November 1996, we're still  
44 looking at approximately a three-year period where  
45 potentially this was used as some guide; is that a  
46 reasonable statement?  
47 A. That's a reasonable comment, yes.

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Q. But you're unable to affirm that you personally used the contents of this document as any sort of guide?

A. Correct. I only became familiar with it a year before Towards Healing became effective.

Q. I understand. Are you able to say whether, in the year before Towards Healing became effective, you used any aspects of the material in this document to assist you in how you managed any issues in the diocese?

A. No, I don't think this document was used by myself at all, frankly.

Q. Do you know whether a copy of the document was available in the diocese for use by others?

A. I think it was available to Bishop Clarke and to myself because it was an advice to bishops.

Q. Yes. Did Bishop Clarke ever tell that you he used any aspects of the document in his management?

A. No, he didn't.

Q. You go on to talk about the Towards Healing protocol that came into play in 1996, and that was known as Towards Healing. Did you have any educational seminars or matters of that nature that were provided to you by the Australian Bishops Conference so that you could understand this Towards Healing procedure?

A. There was certainly a lot of discussion around the documents. Towards Healing was tabled first in May 1996 and then it was voted on in November 1996. In the meantime, there was a lot of reading and discussion amongst bishops around that, not only in May but subsequently, and then, in November, a lot more discussion, as we tried to familiarise ourselves with its contents.

Q. Based on your recollection, when do you understand the requirements of Towards Healing to have become operative?

A. They became operative in November 1996.

Q. You personally used that procedure in terms of management of complaints of sexual abuse in your diocese?

A. I tried to.

Q. At some point - forgive me, I should have the date locked down - the diocese became Maitland-Newcastle diocese. You're nodding "Yes"?

1 A. It did become Maitland-Newcastle, yes.  
2  
3 Q. Was that late 1995?  
4 A. Yes, probably toward, say, September or so of 1995.  
5  
6 Q. So September of 1995. Did that entail you or the  
7 diocese collecting any additional priests under your  
8 episcopacy or Bishop Clarke's episcopacy?  
9 A. No. It was simply a change in name and a change of  
10 the cathedral from Maitland to Newcastle.  
11  
12 Q. You go on to state in your statement that, over time,  
13 you reviewed the systems and procedures within the diocese.  
14 Did you have a view as to the adequacy or otherwise of the  
15 systems in place to handle these kinds of allegations at  
16 the time you came into the diocese as bishop in late 1995?  
17 A. I took over as bishop in --  
18  
19 Q. Sorry, took over, yes.  
20 A. -- late 1959.  
21  
22 Q. Did you have a view as to the adequacy or otherwise of  
23 the system or procedures such as they were in the diocese  
24 and how they had operated prior to the time you took on  
25 that mantle?  
26 A. Yes. I think in those early days, Towards Healing was  
27 about to be tabled at Bishops Conference. This other  
28 document that we have been referring to was available for  
29 consultation. Apart from that, there weren't all that  
30 much - there wasn't all that much in the way of protocols  
31 or whatever about matters of sexual abuse.  
32  
33 Q. Given that you've provided evidence to the effect  
34 that, in mid-1995, the issue of sexual abuse by clergy had  
35 been raised at a deans' meeting that you were present at,  
36 can we take it that there were at least those matters that  
37 were before the senior people of the diocese --  
38 A. They were.  
39  
40 Q. -- and knowledge in the ether about at least two  
41 members of the clergy sexually abusing children?  
42 A. They - well --  
43  
44 Q. Allegations of?  
45 A. Allegations against McAlinden. The other one, the  
46 second one that I mentioned earlier, were comments and  
47 suspicions only.

1  
2 Q. I understand. Thank you very much. So the ones about  
3 McAlinden were in fact complaints made of a more  
4 substantive nature by the victims?  
5 A. They were I believe, yes.  
6  
7 Q. Excuse me using the term "victims", but I can go to  
8 the pseudonyms if you would be assisted by that.  
9 A. It saves pseudonyms, yes. Can I finish with this  
10 volume?  
11  
12 Q. Yes, you can. The information that came to you about  
13 those two persons who had been abused by McAlinden, was  
14 this by way of any sort of formal report or was it orally  
15 raised in the meeting of the deans? How did it get raised?  
16 A. I don't remember whether there was an oral report -  
17 sorry, a written report. It was certainly mentioned  
18 orally, I presume by Bishop Clarke.  
19  
20 Q. Do you recollect what plans were made in terms of  
21 managing that particular issue?  
22 A. No, I don't.  
23  
24 Q. At that time McAlinden was not physically present in  
25 the Maitland-Newcastle diocese; is that right?  
26 A. That's correct. I believe that he had been absent  
27 from the diocese for at least two years.  
28  
29 Q. When did you learn that he had been absent from the  
30 diocese or at least two years?  
31 A. Probably during those early months of 1995 when we  
32 were beginning to deal with some of these matters.  
33  
34 Q. You're aware, aren't you, that McAlinden was still  
35 being paid a stipend by the diocese during that year?  
36 A. I was aware that he was receiving some sorts of  
37 payment. What it was, I'm not sure. Whether it was -  
38 I don't know that he was on the pension. I have no idea of  
39 his financial circumstances.  
40  
41 Q. I'm just asking a much more simple question. You are  
42 aware that at least some money was being paid by the  
43 diocese to --  
44 A. I think some money was being paid, yes.  
45  
46 Q. For that to happen, there was at least some knowledge  
47 as to where he was in 1995 --

1 A. Yes.  
2  
3 Q. -- so that those payments could be made?  
4 A. Yes.  
5  
6 Q. You're aware, aren't you, that payments were made to  
7 McAlinden during 1996 as well?  
8 A. Probably, yes.  
9  
10 Q. And 1997, up to August 1997?  
11 A. Yes, I think so, yes.  
12  
13 Q. I can take you to some documents that show that, at  
14 that point, there were certain steps taken regarding  
15 suspension of payments, but we'll come to that in the  
16 chronology as we go. Did you make inquiries as to the  
17 status of McAlinden within the diocese, given that he  
18 wasn't physically present - in 1995, that is?  
19 A. I understood that he had been stripped of his  
20 faculties, so he was unable to exercise his priestly  
21 ministry and that happened in 1993.  
22  
23 Q. Did you look at some documents that led you to  
24 understand that?  
25 A. I didn't look at them, but I was told that that was  
26 the case.  
27  
28 Q. Who told you?  
29 A. Bishop Clarke.  
30  
31 Q. Did he tell you why he was stripped of faculties in  
32 1993?  
33 A. Only that there were issues around his behaviour as a  
34 priest.  
35  
36 Q. No details about what those issues of behaviour were?  
37 A. No, there were no details, no.  
38  
39 Q. None at all?  
40 A. Nothing at that point, no.  
41  
42 Q. When did you first become aware that the faculties  
43 were removed because of issues relating to complaints of  
44 sexually abusing children?  
45 A. At what point during 1995?  
46  
47 Q. Or at all. When did you become aware of that?

1 A. Probably around about halfway through 1995 when these  
2 matters were being discussed in my presence.  
3  
4 Q. The deans' meeting type of --  
5 A. Yes.  
6  
7 Q. So are you saying that, prior to that, Bishop Clarke  
8 had told you that McAlinden's faculties had been removed  
9 for behavioural issues; is that the position?  
10 A. Yes, that's correct.  
11  
12 Q. And then at the deans' meeting in mid-1995 more  
13 information was forthcoming?  
14 A. I think so, yes.  
15  
16 Q. At that point, did you determine any details about  
17 what these other matters were, either --  
18 A. At that stage I didn't know, no.  
19  
20 Q. Under Bishop Clarke's episcopacy was there a particular  
21 way in which Bishop Clarke managed confidential priests  
22 files to your knowledge or observation?  
23 A. Not really. At the time when Bishop Clarke retired,  
24 I had hoped that there would be a more solid handover from  
25 himself to myself and that any secret documents might be  
26 shown to me or at least, I would be pointed in the  
27 direction where I could find them.  
28  
29 Q. When you say "secret documents", are you alluding to  
30 the position, as you understood it, that each bishop or  
31 chancery would keep separate documents that were  
32 confidential regarding particular priests of the diocese?  
33 A. I would have expected that that would be the case,  
34 yes.  
35  
36 Q. When you say you would have expected, did you have any  
37 reason to expect that Bishop Clarke would not follow that  
38 practice of keeping confidential or secret files regarding  
39 particular priests?  
40 A. I'm not saying he didn't follow that. It's just that  
41 I wasn't quite sure where they were. When he did hand  
42 over to me, as brief as the handover was, he pointed to  
43 a rather large briefcase that was sitting in the corner  
44 of his office and that was where he had some documents,  
45 I understand.  
46  
47 Q. A briefcase in the corner of his office?



1 A. Yes.  
2  
3 Q. Is that what you said?  
4 A. That's right.  
5  
6 Q. When did you first become aware of the briefcase in  
7 the corner of his office containing files of that nature?  
8 A. Well, when he told me that he was retiring and when  
9 I asked about, you know, certain matters that he might need  
10 to brief me on before he left, but --  
11  
12 Q. What made you ask the question about certain matters  
13 he might need to brief you on before he left?  
14 A. I think it is common knowledge around the traps that,  
15 in any diocese, you'd have some confidential files on  
16 priests.  
17  
18 Q. You know that because that's a canon law requirement  
19 or you've learnt that just in your travels in other  
20 dioceses?  
21 A. Mostly from travels in dioceses. I'm not an expert in  
22 canon law, but I did know that, in canon law, there was a  
23 reference to secret files.  
24  
25 Q. Did you observe Bishop Clarke carrying the briefcase  
26 you referred to with him in and out of his work setting?  
27 A. No, I never saw him carry that briefcase with him.  
28  
29 Q. Did you, at any stage prior to Bishop Clarke's  
30 retirement, ask him about what was in the briefcase?  
31 A. I did, yes. I said, "What's in the briefcase?" And  
32 he said, "Oh, well, you'll find out." So --  
33  
34 Q. And you did find out?  
35 A. I did, yes.  
36  
37 Q. Did you find out in his presence?  
38 A. No, I didn't, not in his presence, no.  
39  
40 Q. Was the briefcase locked, to your knowledge?  
41 A. I can't quite remember that, frankly, but I presume it  
42 would have been.  
43  
44 Q. At what point did you become aware that you were going  
45 to inherit whatever was in the briefcase or was that always  
46 on your mind from when you were appointed?  
47 A. It was there and then that - I mean the handover was

1 no more than about five minutes and he was out of there  
2 like a rocket.  
3  
4 Q. Did the handover cover any details at all regarding  
5 any particular priests of the diocese?  
6 A. No.  
7  
8 Q. So what was the handover, all five minutes of it,  
9 about?  
10 A. He passed over to me a very attractive pectoral cross  
11 that had very ancient kind - well, a very heritage  
12 symbolism in it - which was owned by the first Bishop of  
13 Maitland. He had had that restored and he was rather proud  
14 of the restoration. So he said, "This is yours now", as he  
15 slid it across the desk to me. Then he mentioned the  
16 briefcase that I'd been referring to and questions from me  
17 went unanswered largely.  
18  
19 Q. What were your questions?  
20 A. I said, "Aren't you going to sort of show me where the  
21 skeletons are, where the secret things are", and so on.  
22 "Oh, you'll find out about that", he said.  
23  
24 Q. When did you first access the briefcase?  
25 A. It would have been fairly soon after he left; like not  
26 the same day, but within a few days after he left.  
27 Frankly, inside, there was sort of not a huge amount  
28 anyway.  
29  
30 Q. Did you learn there were other confidential files  
31 stored in other locations in and about the bishop's office  
32 or chancery relating to priests of the diocese?  
33 A. No, I didn't.  
34  
35 Q. So, as far as you knew, the only confidential files  
36 relating to priests of the diocese were in that briefcase?  
37 A. Either in that, yes, or already already in their files  
38 in some way, I don't know how.  
39  
40 Q. In between mid-1995 and the time you actually took  
41 over as bishop --  
42 A. Yes.  
43  
44 Q. -- did you have other occasions where the subject of  
45 sexual abuse of children by clergy was discussed?  
46 A. No, I don't think - I don't think I did.  
47

1 Q. Nothing at all?  
2 A. I can't remember, no.  
3  
4 Q. The date you took over as bishop - what was that?  
5 A. I think that was 3 November 1995, or very close to  
6 that.  
7  
8 Q. I don't want to go down the path of appearing to trick  
9 you about your recollection or about documents that exist  
10 that you may well not have seen for a long time, but I do  
11 ask that you think very carefully about the answer you just  
12 gave to the effect that you don't think there were any  
13 other discussions about allegations of sexual abuse of  
14 children between mid-1995 and November, 2 November 1995.  
15 A. Mmm. I can't remember any.  
16  
17 Q. Do you recall being involved in any correspondence  
18 regarding McAlinden in the middle of 1995?  
19 A. I can because I have seen some documentation about  
20 that --  
21  
22 Q. Can you tell us about that?  
23 A. -- in recent weeks. Bishop Clarke was away on  
24 holidays in June, I think, of 1995.  
25  
26 Q. Yes.  
27 A. And some communication came through from the bishop,  
28 I think, in the Philippines and I discussed with the vicar  
29 general, Monsignor Hart, as to what we would do with that  
30 since we were accessing Bishop Clarke's official mail, and  
31 he decided he said he'd write to the bishop in the  
32 Philippines and I wrote to the nuncio in Canberra. That  
33 was around that McAlinden matter that first came up at the  
34 June deans' meeting.  
35  
36 Q. So that correspondence occurred after the deans'  
37 meeting or it caused that matter to be raised at the deans'  
38 meeting?  
39 A. I don't know about that chronology, frankly, yes.  
40  
41 Q. Prior to receiving that correspondence or reviewing  
42 the correspondence that had been sent to Bishop Clarke, had  
43 you accessed any information regarding McAlinden, any at  
44 all?  
45 A. No.  
46  
47 Q. Looking at the letter directed to Bishop Clarke that

1 you've just referred to from the Philippines, did you then  
2 access McAlinden's file?  
3 A. No.  
4  
5 Q. Now, I'm going to ask you to reach for a volume. It  
6 is tab 249, that's volume 3.  
7 A. That's 249?  
8  
9 Q. Yes, 249.  
10 A. Got it.  
11  
12 Q. Is that the letter that you were talking about from  
13 Bishop Bantigue from the Philippines, dated 8 June 1995?  
14 A. I'd say so, yes.  
15  
16 Q. Would you turn to tab 250 which appears to be --  
17 A. 250?  
18  
19 Q. 250. I'm sorry, I shouldn't look downwards when  
20 I speak.  
21 A. You're right.  
22  
23 Q. You'll see that's a letter from Monsignor Hart to  
24 Father Castillo?  
25 A. Yes.  
26  
27 Q. In the Philippines?  
28 A. Correct.  
29  
30 Q. You see that letter is dated 22 June 1995 and refers  
31 to having a consultation with you as coadjutor?  
32 A. Correct.  
33  
34 Q. It refers to a request:  
35  
36 *For the benefit of those who have lodged*  
37 *their complaints against Father Denis*  
38 *McAlinden, a letter indicating that your*  
39 *Diocese has removed his faculties and that*  
40 *he will return to England.*  
41  
42 Do you see that?  
43 A. Yes.  
44  
45 Q. Do you recall having a discussion with Monsignor Hart  
46 at that time?  
47 A. Yes, I did, that he was - as I said, he was going to

1 write to the bishop and I wrote to the nuncio.

2

3 Q. What complaints are being referred to there, "those  
4 who have lodged their complaints against McAlinden"?

5 A. These, I would suggest, are the complaints of the two  
6 people who came forward and are mentioned in the deans'  
7 meeting.

8

9 Q. I'm going to ask you to look at the pseudonym list and  
10 see if you're talking about [AK] and [AL].

11 A. [AK] I've got, and the answer is yes to that.

12

13 Q. Yes?

14 A. And [AL] I'm looking for and the answer's - [AK] -  
15 yes, that's correct.

16

17 Q. In the next paragraph Monsignor Hart has written:

18

19 *Failing this procedure those who have*  
20 *lodged complaints intend to consider*  
21 *instituting criminal charges and*  
22 *compensation charges against the Church.*

23

24 Do you see that?

25 A. Yes.

26

27 Q. Was part of your discussion with Monsignor Hart to the  
28 effect that there was that threat in the background in June  
29 1995?

30 A. I can't quite remember that.

31

32 Q. It is a very significant matter, isn't it, the  
33 suggestion that while your bishop is away, people are  
34 threatening to take one of the priests of the diocese to  
35 the police?

36 A. Yes, it is a serious matter.

37

38 Q. At that point you hadn't had that happen to you  
39 previously, had you, that somebody, another priest of the  
40 diocese, while you were coadjutor, was going to be carted  
41 off to the police?

42 A. No.

43

44 Q. You're saying now you just can't recollect whether  
45 that was part of your discussion with Monsignor Hart?

46 A. I can't, no.

47

1 Q. Was Monsignor Hart permitted to send a letter of this  
2 nature without running the contents of it by you first?  
3 A. No, he would have run it by me first, yes.  
4  
5 Q. There was nothing in that letter that you disagreed  
6 with, was there?  
7 A. No.  
8  
9 Q. So the situation was, wasn't it, that those two  
10 complainants were intending to consider instituting  
11 criminal charges at that time?  
12 A. Possibly, or it could have been just a little bit of  
13 hyperbole to stir up the nest a bit and get a response.  
14  
15 Q. Hyperbole to get a response?  
16 A. To get a response, yes.  
17  
18 Q. Hyperbole on Monsignor Hart's part, do you suggest?  
19 A. Yes.  
20  
21 Q. You're not suggesting, are you, that it is hyperbole  
22 on the part of the people McAlinden abused, are you?  
23 A. No, certainly not.  
24  
25 Q. And considering the institution of criminal charges is  
26 a very serious matter; do you agree?  
27 A. I do.  
28  
29 Q. Can you turn to tab 251, please.  
30 A. Yes.  
31  
32 Q. That's a letter by you dated 20 June 1995 to the  
33 Apostolic Pro Nuncio in Canberra?  
34 A. Correct.  
35  
36 Q. What's the purpose of that particular role in terms of  
37 management or otherwise of issues and/or priests of  
38 Australia or New South Wales? What's the role of the --  
39 A. I'm finding it a bit hard to understand the question,  
40 sorry.  
41  
42 Q. Let me start again. It was a confused question.  
43 What's the role of the Apostolic Nuncio?  
44 A. The Apostolic Nuncio is the Pope's representative in  
45 Australia.  
46  
47 Q. Why was there a need to write to him in June 1995?

1 What was his expected role or actions?  
2 A. In writing to him, I was expecting him to use his good  
3 graces to again stir up the situation in the Philippines to  
4 get a more immediate response --  
5  
6 Q. And more immediate response --  
7 A. -- and for him to write would be more effective than  
8 myself.  
9  
10 Q. Did you have a concern at the time that McAlinden was  
11 exercising faculties as a priest in the Philippines?  
12 A. Yes, I believe I did.  
13  
14 Q. And the concern was that he would be having access to  
15 children exercising that role?  
16 A. Yes.  
17  
18 Q. To that extent, you shared the concerns of [AK] and  
19 [AL]?  
20 A. Yes.  
21  
22 Q. Was the threat of legal action a motivator to send the  
23 letter or was it other concerns?  
24 A. No, I think it was other concerns, yes.  
25  
26 Q. The other concerns being safety of children?  
27 A. Yes.  
28  
29 Q. Any other concerns we should know about?  
30 A. Not that I'm aware of at this point.  
31  
32 Q. Did you discuss with Bishop Clarke that you were  
33 sending this letter to the Apostolic Nuncio?  
34 A. No, he wasn't there. He was away.  
35  
36 Q. He was just away on leave.  
37 A. Correct.  
38  
39 Q. He wasn't ill or incapacitated?  
40 A. No, he was away on leave. He was on holidays, yes.  
41  
42 Q. Just while we're on that, did you stay in contact with  
43 Bishop Clarke after his retirement at all?  
44 A. I did, yes.  
45  
46 Q. Did you visit him on occasion after September?  
47 A. Yes, it wasn't real regular, but I would have

1 certainly visited him on a number of occasions when he  
2 lived up at Nelson Bay and then later when he moved into  
3 the retirement village.  
4

5 Q. When he moved into the retirement village, are you  
6 able to say whether you visited him whilst he was in the  
7 retirement village?

8 A. I did.  
9

10 Q. Are you able to offer any observations as to whether  
11 he seemed to be able to converse normally and conduct  
12 himself in a normal fashion in terms of conversation?

13 A. Yes, certainly. He was pretty sharp, really, and at  
14 some point probably a year or two before he died, he  
15 started to get a little bit vague about things, but largely  
16 he was on the ball.  
17

18 Q. He died in May 2006?

19 A. Mmm-hmm.  
20

21 Q. Did you say a year or two before?

22 A. A year or two before.  
23

24 Q. A year or two before, he started to perhaps be vague?

25 A. Well, yes, but not vague to the point where, you know,  
26 he'd forget who he was. But I went to visit him on one  
27 occasion and I heard the shower going in the bathroom and  
28 just presumed maybe he had a visitor or something, but  
29 I said to him at some point, "Leo, the shower is going",  
30 and he said, "Oh, is it?" I went to check and, sure  
31 enough, it was going full belt, so he'd forgotten to turn  
32 it off.  
33

34 Q. There was no-one in the shower?

35 A. No. There wasn't. I'd have knocked otherwise.  
36

37 Q. What year are you able to say was the shower scene?

38 A. Oh, he died in what 2006. Say, 2005 probably.  
39

40 Q. Were you able to converse with him on other subjects?

41 A. Oh, yes, I was.  
42

43 Q. Did he seem reasonably sharp in relation to other  
44 subjects?

45 A. Yes.  
46

47 Q. Or was he vague or dodderly?



1 A. No, no, he was sharp.  
2  
3 Q. Did you visit Bishop Clarke during 2002 at all from  
4 your recollection?  
5 A. Yes, I would have visited him, I'm sure.  
6  
7 Q. Your observations in terms of his sharpness or  
8 otherwise in 2002?  
9 A. I think it would have been spot on.  
10  
11 Q. Did you, on any of those visits, post your taking over  
12 at the diocese discuss with him allegations of sexual abuse  
13 that had been made, either in the past or since you had  
14 been the bishop, about McAlinden?  
15 A. No, I didn't. You know, the man was retired and he  
16 made it very clear that when he retired, he was out of it.  
17 He had nothing more to do with any of the decision making  
18 or history that had preceded him, so I thought it probably  
19 would be more respectful just to have a social visit  
20 without raising any other matters.  
21  
22 Q. You're confident you never raised with him any matters  
23 regarding McAlinden once he'd retired from the diocese?  
24 A. I'm positive about that, yes.  
25  
26 Q. Did you raise with him any matters regarding  
27 James Fletcher and allegations of sexual abuse against him  
28 after his retirement from the diocese?  
29 A. I did mention to him the fact that Fletcher was in a  
30 situation which, of course, he knew anyway.  
31  
32 Q. You say "of course, he knew" --  
33 A. He knew from --  
34  
35 Q. -- from the content of the discussion, it was evident  
36 he already knew?  
37 A. He knew because of newspaper reports and so on, but,  
38 you know, he did say he had no idea that Fletcher would  
39 have been heading in that direction.  
40  
41 Q. Are you able to pinpoint the time at which you had the  
42 discussion with Bishop Clarke, whether it was 2002 or 2003,  
43 about Fletcher?  
44 A. No, I can't, sorry.  
45  
46 Q. Are you able to say whether you had any discussions  
47 with Bishop Clarke about the time you first learnt that

1 there had been allegations made, specifically allegations  
2 made about Fletcher having sexually abused a boy?  
3 A. I don't think when I first heard about that that I had  
4 a conversation with him. It was further along the track.  
5  
6 Q. Further along the track in terms of at the time of or  
7 after the arrest of Fletcher, is that the time frame you're  
8 referring to.  
9 A. Again, I've got no memory of when precisely, but  
10 certainly after the police investigation had begun and  
11 probably, I'd say, after he was charged.  
12  
13 Q. Did you seek any advice at all about the matter from  
14 Bishop Clarke?  
15 A. No, no, I didn't.  
16  
17 Q. I'm just going to go back to 1995, where we were, in  
18 June 1995.  
19 A. Certainly.  
20  
21 Q. Did you then, at that point, take any steps to contact  
22 McAlinden yourself given this issue that had arisen  
23 regarding his presenting himself as a priest in the  
24 Philippines?  
25 A. Not at this point, no. That came a little later in  
26 1995 when Bishop Clarke, who was still the bishop at the  
27 time, made the decision that he would seek to laicise  
28 Denis McAlinden.  
29  
30 Q. At the point that this decision to laicise  
31 Denis McAlinden was conveyed to you, were you already also  
32 told that the faculties had already been stripped or is  
33 that something that you already knew?  
34 A. Yes, he'd indicated to me that that was already the  
35 case, that --  
36  
37 Q. And they're different processes?  
38 A. They are. The faculties are removed and you're no  
39 longer able to exercise priestly ministry.  
40  
41 MS LONERGAN: Commissioner, I tender the two letters I've  
42 just been taking the witness to. The first is behind tab  
43 250.  
44  
45 THE COMMISSIONER: Yes. The letter behind tab 250 of  
46 20 June 1995 - that is exhibit 73.  
47

1 MS LONERGAN: I am sorry, I've just been reminded that  
2 it's already in as exhibit 73, thank you, Commissioner.  
3 I'm trying to avoid tendering too many individual documents  
4 if I don't need to.

5

6 I tender the document behind tab 249, which is a  
7 letter of Pedro Bantigue, dated 8 June 1995.

8

9 THE COMMISSIONER: The letter by Bishop Bantigue, dated  
10 8 June 1995 to Bishop Clarke will be admitted and marked  
11 exhibit 87.

12

13 MR HARBEN: We already have an exhibit 87, Commissioner.

14

15 MS LONERGAN: I tender the document behind tab 251, which  
16 is the letter from Bishop Malone to the Apostolic Pro  
17 Nuncio, Archbishop Brambilla, dated 20 June 1995.

18

19 THE COMMISSIONER: We had 87, had we, Mr Harben?

20

21 MR HARBEN: I thought we did, Commissioner.

22

23 THE COMMISSIONER: Yes, it is the third statement which is  
24 from 2003. Thank you. The letter of June 8, 1995 is  
25 exhibit 88, that is, the one from Bishop Bantigue.

26

27 **EXHIBIT #88 LETTER DATED 8/6/1995 FROM BISHOP BANTIGUE**  
28 **TO BISHOP CLARKE (TAB 249)**

29

30 THE COMMISSIONER: Did you tender a further document,  
31 Ms Lonergan?

32

33 MS LONERGAN: Yes. So that's exhibit 88, Commissioner,  
34 the letter from Bishop Bantigue dated 8 June 1995. Then I  
35 tender the letter of 20 June 1995 from Bishop Malone to  
36 Archbishop Brambilla, which is behind tab 251.

37

38 THE COMMISSIONER: The letter to Archbishop Brambilla from  
39 Bishop Malone on 20 June 1995 will be exhibit 89.

40

41 **EXHIBIT #89 LETTER TO ARCHBISHOP BRAMBILLA FROM BISHOP**  
42 **MALONE ON 20/6/1995**

43

44 MS LONERGAN: Q. My question - I can't remember now if  
45 I've already asked it, Bishop Malone, forgive me - did you  
46 receive any correspondence or did you have any interface  
47 yourself with McAlinden at or around this time?

1 A. Not around June, no.  
2  
3 Q. Did you ever meet McAlinden personally yourself?  
4 A. Yes.  
5  
6 Q. When did you first receive any correspondence from  
7 him?  
8 A. I wrote to McAlinden probably in early November 1995,  
9 I think, from memory, and he responded to that letter.  
10  
11 Q. Prior to that, you had had no correspondence yourself?  
12 A. None whatsoever.  
13  
14 Q. Prior to that, had you seen any correspondence by  
15 McAlinden to former Bishop Clarke?  
16 A. No, I hadn't.  
17  
18 Q. In your role as coadjutor, between June 1995 and the  
19 letters we've just looked at and November when you took on  
20 the mantle, can we take it from your evidence that you had  
21 no discussions with Bishop Clarke about what to do with  
22 McAlinden or what to do about the complaints he made?  
23 A. No. No, we didn't.  
24  
25 MR HARBEN: I object to that. The witness has already  
26 given evidence about some deans' meetings. He was asked  
27 whether Bishop Clarke was at those meetings. The question  
28 is unfair in that form bearing in mind that there's  
29 probably a document about it.  
30  
31 MS LONERGAN: I certainly wasn't intending to be unfair.  
32 I was trying to put to one side the deans' meeting.  
33  
34 MR HARBEN: If it is about conversations other than the  
35 deans' meetings, I will withdraw the objection.  
36  
37 MS LONERGAN: I'm terribly sorry. I did not mean to be  
38 unfair. What I was trying to do was put to one side the  
39 deans' meeting. And the conversations at and around that  
40 time --  
41  
42 THE COMMISSIONER: So you're asking about conversations --  
43  
44 MS LONERGAN: In November 1995, when the witness said he  
45 first had correspondence with McAlinden.  
46  
47 Q. I'm just trying to ascertain, Bishop Malone, what

1 dealings there were in that intervening period after the  
2 deans' meetings and the correspondence around that --  
3 A. Mmm-hmm.  
4  
5 Q. -- or discussions around that and the letter that you  
6 or the correspondence you started dealing with in November.  
7 All right?  
8 A. Right.  
9  
10 Q. Was there any interface, discussions, correspondence,  
11 between you and Bishop Clarke about McAlinden in that  
12 intervening period?  
13 A. Not until around the time of probably November 1995  
14 because a --  
15  
16 Q. All right.  
17 A. Because he had reached a determination at that point  
18 that he would proceed with the laicisation process against  
19 McAlinden.  
20  
21 Q. I don't want to be unfair to you or trick you and  
22 I know it is difficult because it is a long time ago --  
23 A. It is.  
24  
25 Q. -- but given that you personally corresponded in  
26 November 1995 with McAlinden - that's the position, isn't  
27 it?  
28 A. In November, did you say?  
29  
30 Q. In November 1995?  
31 A. Yes.  
32  
33 Q. At that point you were already bishop or it was on  
34 your first day in the job?  
35 A. It must have been pretty early in the piece, yes.  
36  
37 Q. There must have been some communication between you  
38 and Bishop Clarke that led you to understand his intention  
39 in relation to McAlinden?  
40 A. Yes, that he would have said, "We need to proceed with  
41 laicisation."  
42  
43 Q. That would have happened before 2 November 1995?  
44 Again I'm not trying to trick you. I'm just trying to  
45 understand.  
46 A. I'm not quite sure when because I usually take annual  
47 holidays in October, so that has been my custom and I would

1 have been on holidays in October 1995.

2

3 Q. Do you know that that year you took holidays in  
4 October 1995?

5 A. Yes, I think I did, yes, because - simply because when  
6 I returned from holidays, the Vince Ryan matter became  
7 public.

8

9 Q. The Vince Ryan matter involved a priest of the diocese  
10 being arrested for allegations of sexual abuse of boys?

11 A. Correct.

12

13 Q. Young boys?

14 A. Yes.

15

16 Q. If I suggest to you that happened at around about  
17 12 October 1995, does that accord with your recollection?

18 A. No, that doesn't. As I was about to return to work  
19 after holidays, there was a report in the Newcastle Herald  
20 to say that a priest from East Maitland had been arrested  
21 and charged. I didn't know who it was because, whilst  
22 I knew the priests at East Maitland, I was rather shocked  
23 to think it may have been one of them, but it wasn't.  
24 Vince Ryan had a house at East Maitland, so it was a shock  
25 to me, at that point, on my return from holidays.

26

27 Q. So you read in the newspaper whilst you were still on  
28 leave --

29 A. Just as I was about to return to work, yes.

30

31 Q. The same day or days before or what are we talking  
32 about?

33 A. Oh, the day before.

34

35 Q. That there had been an arrest of a priest of the  
36 diocese?

37 A. Yes.

38

39 Q. Who was in the East Maitland parish, as you understood  
40 from the newspaper report?

41 A. Who lived in that area, yes.

42

43 Q. In terms of evidence that you were surprised - I think  
44 you used the word "shocked" and forgive me if I've got that  
45 wrong - that any of the priests who were stationed at East  
46 Maitland would have been accused of such a matter --

47 A. Yes.

1  
2 Q. -- who were the priests at East Maitland then?  
3 A. You've got me there. They don't have pseudonyms.  
4  
5 Q. Beg your pardon?  
6 A. They don't have a pseudonym, so am I allowed --  
7  
8 Q. That's a start. If they don't have a pseudonym and  
9 you are confident they're not on that list, you can name  
10 them?  
11 A. Yes. I think Father Geoff Mulhearn may have been  
12 there then as parish priest.  
13  
14 Q. Yes?  
15 A. And Father John Gahan, G-A-H-A-N, He was there as  
16 well. I can't think of anybody else. There may have been  
17 a third, but it escapes me.  
18  
19 Q. The holiday that you had, was that local to  
20 Maitland-Newcastle or were you actually out of the district  
21 for a period?  
22 A. I can't remember where I was, but I was --  
23  
24 Q. You can't remember that?  
25 A. Usually I go away somewhere, yes.  
26  
27 Q. The paper in which you read the news about Ryan,  
28 Vincent Ryan, that was a local paper, was it?  
29 A. That was the Newcastle Herald, yes.  
30  
31 Q. In terms of action that had been taken regarding [AK]  
32 and [AL] since back at the time you had been talking about  
33 it at the deans' meeting --  
34 A. Yes.  
35  
36 Q. -- do you know what was done in terms of the diocese's  
37 action against McAlinden in that intervening period, that  
38 is, the deans' meeting and November when you picked it up  
39 again?  
40 A. No, I don't really. I don't have a recollection of  
41 anything happening. I mean, Bishop Clarke was the bishop  
42 and he was in charge and whatever happened would have been  
43 his decision to make. I can't remember any conversation  
44 around that.  
45  
46 Q. Did Bishop Clarke tell you any reason why he delegated  
47 or gave you that task to follow through, the laicisation

1 task of McAlinden at that particular time rather than  
2 earlier?

3 A. Well, it was around about the time he was retiring, so  
4 whether he got wind of something happening soon because it  
5 was only a matter of, you know, a day or so, yes. And next  
6 thing - next thing I'm the bishop and - yes.

7

8 Q. He got wind of something happening; what are you  
9 referring to there?

10 A. He may have got wind that his resignation had been  
11 accepted or was about to be accepted. In my letter to  
12 McAlinden, in fact, I remember saying that, you know, "I'm  
13 sorry to say that my first duty as the new bishop of the  
14 diocese now that Bishop Clarke has retired, is to proceed  
15 with the process of laicisation against you."

16

17 Q. I'll get you to have a look at a letter, since you've  
18 come to that, behind tab 265, which is exhibit 74, and it  
19 is dated 2 November 1995.

20 A. The same volume?

21

22 Q. Yes, it is.

23 A. Yes, I've got it.

24

25 MS LONERGAN: Commissioner, could we take a five-minute  
26 leg-stretch break?

27

28 THE COMMISSIONER: Yes, Ms Lonergan.

29

30 **SHORT ADJOURNMENT**

31

32 MS LONERGAN: Q. Bishop, you were just taken to a  
33 document behind tab 265, which is your letter dated  
34 2 November 1995 to McAlinden?

35 A. Yes.

36

37 MS LONERGAN: That is exhibit 74 for those at the Bar  
38 table.

39

40 Q. I want to ask you some questions about what, if  
41 anything, you were told in terms of you continuing a  
42 process that had already been commenced?

43 A. Yes.

44

45 Q. I understand your answer is that that was the  
46 position; that you were told by Bishop Clarke that you  
47 needed to continue a process that had already been



1 commenced?  
2 A. Yes, that's correct, yes.  
3  
4 Q. Another official from the Maitland-Newcastle diocese  
5 had already taken some steps in relation to that process?  
6 A. Yes, that's correct, and that was communicated to me  
7 as well.  
8  
9 Q. By Bishop Clarke?  
10 A. By Bishop Clarke.  
11  
12 Q. Were you given access to any documents or reports or  
13 material that showed what the commencement of the process  
14 was. Just say "Yes" or "No" at this stage?  
15 A. Yes, I was.  
16  
17 Q. Did you do anything with those documents in terms of  
18 providing them to McAlinden?  
19 A. I didn't provide them to McAlinden, no. I used those  
20 documents as a basis for my letter.  
21  
22 Q. This letter of 2 November 1995?  
23 A. Yes.  
24  
25 Q. You state in your letter:  
26  
27 *Therefore Bishop Clarke has referred your*  
28 *confidential letter of October 26 to me for*  
29 *attention.*  
30  
31 Do you see that?  
32 A. Yes.  
33  
34 Q. Does that suggest that you, therefore, were given and  
35 read McAlinden's letter of 26 October?  
36 A. After my return from holidays, yes.  
37  
38 Q. Yes, I'm not suggesting you got it any earlier than  
39 2 November --  
40 A. Okay, right.  
41  
42 Q. -- but at least by 2 November you'd got it and read  
43 it?  
44 A. Yes.  
45  
46 Q. I'm going to ask you to turn to tab 264. Do you see  
47 that's a handwritten letter addressed to Bishop Clarke by

1 McAlinden?

2 A. Yes, I can see that.

3

4 MS LONERGAN: For those at the Bar table, this document  
5 has already been tendered as exhibit 68.

6

7 Q. Can we take it that you read the letter?

8 A. I did read the letter, yes.

9

10 Q. Would you agree with me that there's an assertion by  
11 McAlinden in that letter that there's a vendetta by  
12 Monsignor Hart against him, "him" being McAlinden?

13 A. Yes, I read that, yes.

14

15 Q. Did you, at this point or at any stage over the  
16 following years, discuss with Monsignor Hart whether he had  
17 a vendetta against McAlinden?

18 A. No, I didn't, no.

19

20 Q. Did you consider it to be an assertion in this letter  
21 by McAlinden that didn't warrant any further consideration  
22 or investigation?

23 A. Yes, that's exactly what I thought.

24

25 Q. Why did you form that view?

26 A. Because it was rather petty, I thought. He picked up  
27 on the fact that Monsignor Hart had written to him as "Mr D  
28 McAlinden", not "Reverend" or "Father", so he was peeved by  
29 that and I thought that was a rather petty thing, yes.

30

31 Q. Does having your faculties removed mean you're no  
32 longer allowed to be addressed as "Father"?

33 A. Probably it does, I suppose, in a sense, yes.

34

35 Q. So to that extent Monsignor Hart was --

36 A. He was within his rights to say that, yes.

37

38 Q. The next bit in the letter.

39

40 *Incidentally, the word "confidential" has a*  
41 *very hollow ring as far as Maitland is*  
42 *concerned: Brian Lucas convinced me,*  
43 *against my better judgment, to accept that*  
44 *the information I gave him would be held in*  
45 *strict confidence by the Bishop; yet within*  
46 *a few weeks, the same --*

47

1 I think it says, and then something I can't read:

2

3 .. mentioned above, was able to repeat it  
4 on the testimony of Alan --

5

6 And I believe the next word is Hart. Do you see that?

7 A. Yes, I can.

8

9 Q. Did you make any inquiries as to what had happened  
10 with Brian Lucas that was raised by McAlinden in this  
11 letter?

12 A. I did. Bishop Clarke told me, around about this same  
13 time, that he had referred McAlinden to Brian Lucas for  
14 discussion about his situation.

15

16 Q. Did Bishop Clarke tell you when that had been, that  
17 the referral had happened?

18 A. No, I don't know when it was, frankly.

19

20 Q. No, but did Bishop Clarke tell you? No?

21 A. I can't remember.

22

23 Q. Did you seek out whether there was any documentation  
24 or information from that interface with Father Lucas that  
25 could have assisted you in the process you had been asked  
26 to pursue on 2 November?

27 A. I can't recollect seeing any written report or  
28 whatever from Brian Lucas around Denis McAlinden.

29 Bishop Clarke did maintain that Brian Lucas felt that  
30 McAlinden certainly had a case to answer.

31

32 Q. When you say "Brian Lucas felt", do you mean by  
33 that that it was conveyed to you by Bishop Clarke that  
34 Brian Lucas had offered the opinion to Bishop Clarke?

35 A. Yes, I do mean that, yes.

36

37 Q. To that effect?

38 A. Yes.

39

40 Q. Within the conversations you had with Bishop Clarke,  
41 do you recall whether Bishop Clarke informed you that  
42 Father Lucas had extracted any admissions from McAlinden?

43 A. Yes, Bishop Clarke did indicate that.

44

45 Q. He indicated it, but are you able to say how he worded  
46 that particular piece of information?

47 A. No, I'm not. I'm not, only to say that Lucas was

1 successful in getting some admissions from McAlinden.

2

3 Q. Is it your recollection that Bishop Clarke didn't  
4 identify to you admissions in relation to what particular  
5 abuses but that the admissions were relating to sexually  
6 abusive conduct of children?

7 A. Certainly sexually abusive conduct without the  
8 details, yes.

9

10 Q. When I say "of children", I meant in relation to  
11 children?

12 A. Yes.

13

14 Q. I'm now looking at your letter of 2 November 1995 --

15 A. Yes.

16

17 Q. -- which is exhibit 74. In that letter you mentioned,  
18 as you've already stated in your evidence, one of your  
19 duties was to continue the canonical procedures against  
20 McAlinden and then you go on to say:

21

22 *... because of the gravity of the*  
23 *allegations against you, the evidence*  
24 *supporting those allegations and after full*  
25 *and continual consultation with*  
26 *Bishop Clarke over many months, I have no*  
27 *alternative but to reaffirm the contents of*  
28 *[a letter that Bishop Clarke has already*  
29 *sent on October 19].*

30

31 A. Yes, that's what I wrote.

32

33 Q. Now, first of all, can we take it from that paragraph  
34 in this letter that you saw Bishop Clarke's letter of  
35 October 19?

36 A. Yes, I had that letter to hand when I wrote this  
37 letter.

38

39 Q. The "full and continual consultations over many  
40 months", that does imply more than two months, would you  
41 agree?

42 A. It does, yes. It implies, really, you know, a close  
43 conference with Bishop Clarke around these matters, but  
44 I have to say there's a bit of hyperbole there.

45

46 Q. Why did you exercise hyperbole there?

47 A. Just to shake up the recipient of the letter, to let

1 him understand the gravity of what was taking place here  
2 and his need to respond and my determination to proceed.  
3  
4 Q. The "full and continual consultation", is that a bit  
5 of hyperbole as well?  
6 A. That's a bit of hyperbole, but there was consultation,  
7 certainly - full perhaps with a small "f".  
8  
9 Q. What were the allegations again him that you were  
10 referring to there? Was it only in relation to [AK] and  
11 [AL] or were there others?  
12 A. No. All I knew about at this point were [AK] and  
13 [AL], yes.  
14  
15 Q. At this stage, 2 November 1995, can we take it that  
16 you had not seen any documents regarding McAlinden and his  
17 behaviour in relation to children or misbehaviour in  
18 relation to children?  
19 A. Yes.  
20  
21 Q. Other than --  
22 A. Other than --  
23  
24 Q. -- notes that the other official of the church had  
25 prepared?  
26 A. Correct, yes.  
27  
28 Q. The letter from Bishop Clarke to McAlinden dated  
29 19 October?  
30 A. Mmm.  
31  
32 Q. And by "Mmm", are you comfortable with a "Yes" answer  
33 to that? I'll show it to you if you'd rather.  
34 A. Sorry, what was the question again?  
35  
36 Q. 19 October, the letter from Bishop Clarke?  
37 A. The one we were speaking about just a moment ago, yes.  
38  
39 Q. And also McAlinden's letter of 26 October 1995 that  
40 you refer to in this letter? "This letter" being the one  
41 behind tab 265.  
42 A. Yes, okay.  
43  
44 Q. Your 2 November letter?  
45 A. Yes. Can you just repeat that, please?  
46  
47 Q. I'll take it a bit more slowly, I'm sorry. What I'm

1 asking you about is the documentation that you had that  
2 informed your comments in your 2 November 1995 letter about  
3 the allegations?  
4 A. Yes.  
5  
6 Q. You said there was the [AK] and [AL] allegation?  
7 A. Correct.  
8  
9 Q. So, at this point, when you wrote this letter, you had  
10 seen some documents prepared by another official of the  
11 diocese addressing the [AK] and [AL] allegations?  
12 A. I had, yes.  
13  
14 Q. You'd also seen Bishop Clarke's letter to McAlinden of  
15 19 October 1995?  
16 A. Yes, I had, yes, and his reply.  
17  
18 Q. And his reply?  
19 A. Yes, correct.  
20  
21 Q. Can we take it that they're the sum total of the  
22 documents that you had access to about McAlinden when you  
23 wrote this letter?  
24 A. Yes, I think so, yes.  
25  
26 Q. You're aware now, aren't you, that there was a  
27 significant amount of material about McAlinden having  
28 abused other children at earlier times than 1995?  
29 A. I've seen letters and statements only in the last two  
30 weeks, three weeks, that I'd never seen before.  
31  
32 Q. And never seen before in that you acknowledge, don't  
33 you, that that material was on file, kept at the diocese?  
34 A. Yes, it was there, certainly.  
35  
36 Q. You don't doubt that that's where the material was  
37 stored?  
38 A. No, I don't doubt that at all.  
39  
40 Q. The material you're now talking about as having only  
41 seen in the last few weeks included letters right back to  
42 the 1970s?  
43 A. Yes.  
44  
45 Q. Where there's record of allegations of McAlinden  
46 sexually abusing children?  
47 A. That's correct, yes.

1  
2 Q. Are you able to assist the Commission as to why it is  
3 that you had never seen those documents given they, it  
4 seems, lived on a file that was present in the diocese of  
5 which you were bishop for some 16 years?  
6 A. I don't know where your investigating team found all  
7 these letters. Presumably they would have accessed the  
8 archives of the diocese, and that's a luxury that I didn't  
9 have. I mean, I was bishop of a large and busy diocese,  
10 and so pretty well most of my days were planned beforehand  
11 and I didn't have time to go trawling through the archives,  
12 especially if I didn't quite know what I might try to find,  
13 you know. I had no idea there was other information at  
14 all.  
15  
16 Q. You knew, didn't you, that there were files kept in  
17 the bishop's chancery or the bishop's office?  
18 A. There were files, yes.  
19  
20 Q. Related to each priest of the diocese?  
21 A. Yes, personnel files.  
22  
23 Q. Personnel files?  
24 A. Yes.  
25  
26 Q. Within those personnel files you would be aware, would  
27 you not, even in late 1995, that that included confidential  
28 information about a number of priests?  
29 A. Look, I presumed they did, yes.  
30  
31 Q. Are you suggesting to the Commission that you never  
32 opened any of the confidential files regarding any priest  
33 of the diocese in the time that you were bishop?  
34 A. No, I don't think I did, frankly. You know, I wasn't  
35 all that familiar with accessing the files much in those  
36 days and months.  
37  
38 Q. Weren't they physically present in your office?  
39 A. No, they weren't.  
40  
41 Q. Where were the confidential priest files?  
42 A. Well, I'm not all that sure that there was a huge  
43 amount of confidential information in the personnel files  
44 of the priests of the diocese.  
45  
46 Q. Where were the personnel files of the priests of the  
47 diocese stored at the time you took over at the end of

1 1995?  
2 A. They were, I think, in a filing room, in filing  
3 cabinets.  
4  
5 Q. Yes. Where?  
6 A. Some up in Bishop Clarke's office, which was upstairs.  
7  
8 Q. Bishop Clarke's office, which was upstairs, became  
9 your office, did it not?  
10 A. It did become my office, yes.  
11  
12 Q. Therefore those files were present in an office that  
13 became your office --  
14 A. Correct, yes.  
15  
16 Q. -- from the time he left?  
17 A. Yes, that's correct.  
18  
19 Q. There were some confidential priests' information at  
20 least in the briefcase that was left by Bishop Clarke in  
21 the office that became your office?  
22 A. There was.  
23  
24 Q. You at least looked at that the material?  
25 A. I had a look at that material, yes.  
26  
27 Q. Can I ask you this - did any of it relate to McAlinden  
28 or Fletcher?  
29 A. I'm having difficulty remembering, frankly, what it  
30 related to. I do remember one document which was an  
31 investigation into a woman who claimed that she was a  
32 visionary, you know, so that was a fairly extensive  
33 investigation.  
34  
35 Q. Can we take it --  
36 A. That was in the briefcase, yes.  
37  
38 Q. That was in the briefcase?  
39 A. Yes.  
40  
41 Q. That was in a particular priest's file, was it, that  
42 particular --  
43 A. No, it wasn't. It was in the briefcase, as in papers  
44 that were placed in the briefcase.  
45  
46 Q. As I understood your evidence earlier today, and  
47 correct me if I've got this wrong, there was confidential



1 material in there about various priests of the diocese?  
2 A. Look, I think so, yes.  
3  
4 Q. Your recollection is that there was some?  
5 A. Yes. At some stage a little bit later on, we  
6 reorganised the filing system and anything that was in  
7 there was transferred to other confidential files.  
8  
9 Q. By you or by your staff?  
10 A. No, by me.  
11  
12 Q. At that point did you look at the material so you  
13 could determine where it ought to be put?  
14 A. Yes, I would have. Yes, but I can't --  
15  
16 Q. Are you able to say whether any of that material  
17 related to McAlinden or Fletcher?  
18 A. No, I'm not, to be --  
19  
20 Q. But you're - I'm sorry?  
21 A. To be honest, I'm not able to say precisely how or  
22 what it related to.  
23  
24 Q. You're unable to exclude that that material --  
25 A. No, I can't exclude it either.  
26  
27 Q. In terms of this upgrade, if can I call it that, of  
28 the way in which documents were kept relevant to your  
29 function --  
30 A. Yes.  
31  
32 Q. -- when was that done?  
33 A. That would have been probably not done until about  
34 2005?  
35  
36 Q. In the meantime, how were you able to find documents  
37 about priests when you needed them in that intervening ten  
38 years or nine years?  
39 A. If they weren't in their personnel files, then they  
40 weren't anywhere in my mind, you know, in the terms that  
41 I didn't go hunting for anything if I didn't know it  
42 existed.  
43  
44 Q. In terms of your letter of 2 November 1995, given that  
45 you were pursuing a serious matter with McAlinden, that is,  
46 laicisation, didn't you consider it necessary to have a  
47 look at what might be on Father McAlinden's file, or

1 available to the diocese more generally, about him and his  
2 behaviour in the past?

3 A. No, I didn't. You know, I had sufficient conversation  
4 with Bishop Clarke to know that the allegations against  
5 McAlinden were serious, that Lucas had been able to get  
6 admissions from him about those allegations, and also [AK]  
7 and [AL], who had originally brought the complaint, were  
8 insistent that McAlinden be stripped of his priesthood.  
9 So it was on the strength of all of those things, without  
10 any corroborating evidence at all from other files, that  
11 both Bishop Clarke and myself proceeded against him.  
12

13 Q. When you say Lucas got admissions from McAlinden, did  
14 you ask Bishop Clarke whether there was any documentation  
15 of that particular process or those admissions?

16 A. I can't remember whether there was or not, no, and  
17 I can't remember asking Bishop Clarke.  
18

19 Q. Thank you.

20 A. I was happy to accept his word. I mean he was my  
21 superior and he was a bishop of the church.  
22

23 Q. I'm not suggesting you shouldn't have accepted his  
24 word.

25 A. He demanded --  
26

27 Q. My question is more along the lines of whether any  
28 papers were identified as existing in relation to that  
29 particular matter?

30 A. I don't know.  
31

32 Q. Did Bishop Clarke tell you that there were historical  
33 complaints of sexual abuse on the part of McAlinden going  
34 back to the 1970s?

35 A. I don't know that he mentioned a date, no.  
36

37 Q. But he did mention there were other complaints in  
38 addition to [AK] and [AL]?

39 A. No, not to me he didn't. It was the [AK] and [AL]  
40 matter that I was progressing only. Other things came to  
41 light afterwards.  
42

43 Q. Your answer to questions suggested that other matters  
44 were raised with you. Have I misunderstood that; that  
45 other complaints were mentioned to you prior to your letter  
46 in November 1995? Have I misunderstood?  
47

1 MR HARBEN: That's not what he said.  
2  
3 THE COMMISSIONER: I think what Bishop Malone said,  
4 Ms Lonergan was "Not to me he didn't", about historical  
5 complaints.  
6  
7 MR HARBEN: He said that it arose at a later time, I think  
8 that was the import of what he said.  
9  
10 THE COMMISSIONER: That was the last answer, Mr Harben,  
11 but the one before that.  
12  
13 MR HARBEN: Was not to him.  
14  
15 THE COMMISSIONER: Yes.  
16  
17 MS LONERGAN: I think I've misunderstood an answer given  
18 by Bishop Malone and I apologise.  
19  
20 Q. Did Bishop Clarke, at the time or prior to this letter  
21 of 2 November 1995 that we're focusing on, mention to you  
22 that McAlinden had been referred for assessment with a  
23 psychiatrist?  
24 A. No, I don't remember him saying that, no.  
25  
26 Q. Did you see prior to the last couple of weeks any  
27 report from a psychiatrist about McAlinden?  
28 A. I can't say I did.  
29  
30 Q. When you say you saw various thing in the last couple  
31 of weeks, can we take it that was in consultation with your  
32 lawyers in preparation for giving evidence?  
33 A. That was with my legal team, yes.  
34  
35 Q. Are we to understand your evidence to the effect that  
36 you personally never accessed McAlinden's file held in the  
37 bishop's area office?  
38 A. I don't recollect having done so, no.  
39  
40 Q. You may have done so, but you just don't recollect?  
41 A. Don't recollect, and I was happy to act on the advice  
42 of Bishop Clarke.  
43  
44 Q. I'm asking a slightly wider question, I'm sorry. At  
45 any time that you were Bishop of Maitland-Newcastle  
46 diocese, did you access McAlinden's file held in the  
47 bishop's office or bishop's area?

1 A. You know, when matters came in, subsequent to [AK] and  
2 [AL], I certainly would have placed letters, correspondence  
3 and other related material in the McAlinden file. I don't  
4 recollect that I actually sat down and examined the file.  
5  
6 Q. You personally placed them in the McAlinden file as  
7 bishop?  
8 A. I think so, largely, or my personal assistant probably  
9 placed some.  
10  
11 Q. In terms of files about priests of the diocese kept in  
12 the bishop's domain, if I can call it that - "domain" as in  
13 your personal office and filing cabinet --  
14 A. Yes.  
15  
16 Q. -- were there only limited people who had access to  
17 that material?  
18 A. Definitely were, yes. My vicar general, of course,  
19 had access to it and my personal assistant.  
20  
21 Q. Your personal assistant was Elizabeth Doyle?  
22 A. That's correct.  
23  
24 Q. Your vicar general, was it the same person for the  
25 whole 16 years or did it change?  
26 A. No, not at all. I appointed vicars general for five  
27 year periods, normally  
28  
29 Q. Your first vicar general was?  
30 A. The first vicar general was Father William Burston.  
31 Then he was succeeded by Father James Saunders. At one  
32 point, Burston and Saunders shared vicar generalship for a  
33 few months. Saunders was replaced by Father Tom Brennan,  
34 and Tom Brennan was replaced by Father Barry Tunks.  
35  
36 Q. The time at which there was a changeover from Vicar  
37 General Burston to Vicar General Saunders, when was that?  
38 A. That would have been probably around 2000, because the  
39 five-year period - maybe into 2000 a bit. As I say, for a  
40 time they were vicars general together.  
41  
42 Q. Father Tom Brennan, when did he take over the job?  
43 A. He took over the job in about 2006, I think.  
44  
45 Q. Thank you. Can we take it that when you were handed  
46 this particular job to do by Bishop Clarke as one of your  
47 first tasks as bishop, you were concerned to do it

1 properly?  
2 A. Yes, I'd never done this kind of thing before and  
3 I was conscious of the fact that a process of laicisation,  
4 according to canon law, needed to come from the priest  
5 himself, not from his bishop. I was also conscious of the  
6 fact, back in 1995, that the Vatican was not really  
7 interested in laicising people because the bishop asked it  
8 to be done. The presumption was with the priest, not the  
9 bishop about such an action.  
10  
11 Q. Laicisation wasn't, in effect, a type of penal process  
12 or viewed as a penal process in 1995 for matters such as  
13 sexually abusing children; was that the culture at the  
14 time?  
15 A. I began the process because Bishop Clarke asked that  
16 I would continue that. The chances of its success were  
17 virtually nil.  
18  
19 Q. Did you form a view yourself as to whether there  
20 should be some sort of penal process given the offences for  
21 which this process was being commenced or not?  
22 A. I don't know about a penal - you mean a canonical  
23 penal process or it's --  
24  
25 Q. Any sort of penal process?  
26 A. I don't know that that crossed my mind because  
27 (suppressed) - sorry.  
28  
29 Q. [AL] and [AK].  
30 A. [AL] and [AK] wanted the laicisation.  
31  
32 Q. Just stop for a minute.  
33 A. Yes.  
34  
35 MS LONERGAN: Commissioner, I seek a non-publication  
36 order.  
37  
38 THE COMMISSIONER: That collective noun will not be  
39 published, thank you.  
40  
41 MS LONERGAN: Q. Continue your answer.  
42 A. Sorry, I have to consult this more, the pseudonym  
43 list. Where was I?  
44  
45 Q. You were giving an answer to the effect that you'd  
46 given [AK] and [AL] the matters with which you were  
47 proceeding?

1 A. Correct, yes. Given the fact that they did not want  
2 the police involved, so Bishop Clarke told me, therefore,  
3 you're proceeding with a church process rather than any  
4 other penal process.

5

6 Q. Could we examine that a bit more closely. You say  
7 that Bishop Clarke told you that [AK] and [AL] did not want  
8 police involved?

9 A. Yes.

10

11 Q. But your letter back in June of that year actually  
12 noted that those people, being the only two you knew about  
13 as complainants of McAlinden, were threatening to take the  
14 matter to the police?

15 A. I didn't say that at all.

16

17 MR HARBEN: That's not correct, Commissioner. I think the  
18 letter from Monsignor Hart may have said that.

19

20 THE COMMISSIONER: Yes.

21

22 MS LONERGAN: I have put that incorrectly. Let me put  
23 that more clearly.

24

25 Q. You gave evidence earlier, Bishop Malone, that you  
26 discussed the contents of Monsignor Hart's letter with him?

27 A. Yes.

28

29 Q. And that you approved that letter to leave the  
30 diocese?

31 A. Yes.

32

33 Q. I'm just going to turn it up for you so you can have  
34 another look at it.

35

36 MR HARBEN: I think it is behind tab 250.

37

38 MS LONERGAN: I think it is behind tab 250 for those at  
39 the Bar table. We've turned it into exhibit - sorry, it  
40 was already an exhibit.

41

42 Q. Can you locate that document behind tab 250,  
43 Bishop Malone.

44 A. I've got it, yes.

45

46 Q. Do you see there's reference to consultation with you?

47 A. Yes.

1  
2 Q. And that those who have lodged complaints intend to  
3 consider instituting criminal charges; do you see that?  
4 A. Yes, I can.  
5  
6 Q. And compensation charges?  
7 A. Yes.  
8  
9 Q. That suggests, doesn't it, that those who have lodged  
10 complaints are considering going to the police?  
11 A. It could be seen to be that, but I did mention that,  
12 you know, both Monsignor Hart and myself were given to a  
13 little bit of hyperbole in our respective letters.  
14  
15 Q. Is that statement in that letter inaccurate, in that  
16 those who had lodged complaints were not considering, as  
17 far as was known to you and in your discussions with  
18 Monsignor Hart, that they were not considering instituting  
19 criminal charges?  
20 A. As far as I remember they were not wanting to go to  
21 the police, yes.  
22  
23 Q. So Monsignor Hart's letter where it states that they  
24 were considering instituting criminal charges is not true?  
25 A. That's probably a bit strong. It might have been just  
26 to scare.  
27  
28 Q. Do you say that the position, as far as you were  
29 advised - now I'm going back to June 1995 - was that [AK]  
30 and [AL], being the only complainants you knew about --  
31 A. Yes.  
32  
33 Q. -- had communicated to you that they were not  
34 intending to go to the police even if they got no  
35 satisfaction from the diocese in terms of action?  
36 A. They hadn't communicated to me at all first up.  
37 Secondly, they had mentioned this to the diocesan person to  
38 whom they made a report. They then - that was then passed  
39 on to me by Bishop Clarke, that this was their wish, not to  
40 have the police involved.  
41  
42 Q. In June 1995, you say that, as you understood it from  
43 Bishop Clarke, [AK] and [AL] had no intention of taking the  
44 matter to the police?  
45 A. Not that I knew of, no.  
46  
47 Q. What is the legal action that was being considered

1 that you refer to in your letter to the Apostolic Pro  
2 Nuncio behind tab 251 in your letter dated 20 June 1995?  
3 A. I'm not sure what that is.  
4  
5 Q. Can I suggest to you the legal action is that they  
6 were going to take the matter to the police if the church  
7 didn't act in a way that protected children from McAlinden  
8 offending in the Philippines?  
9 A. It could be, yes.  
10  
11 Q. And that that information was conveyed to you by  
12 Bishop Clarke at the time?  
13 A. It was.  
14  
15 Q. I'm just trying to understand why it is that, by  
16 November 1995, you suggest that there was no intention on  
17 the part of [AK] and [AL] to take the matter to the police?  
18 A. I wasn't aware of any intention on their part to take  
19 the matter to the police; in fact, the contrary - I was  
20 informed that they did not want the police involved.  
21  
22 Q. Are you suggesting that that comment about legal  
23 action in your letter of June 1995, was --  
24 A. Hyperbole.  
25  
26 Q. -- hyperbole?  
27 A. Yes.  
28  
29 Q. Would you agree with me it could be read as being  
30 untruthful because there was no intention evidenced to you  
31 that these ladies would take the matter to the police if  
32 the church would not act appropriately, as they saw it, and  
33 take some action against McAlinden so he couldn't be a  
34 priest or act as a priest in the Philippines?  
35 A. I don't know what their intention may have developed  
36 into, but certainly at this point I understood that they  
37 did not want the police brought in.  
38  
39 Q. Your letter of 20 June that appears behind tab 251 is  
40 to the Pope's representative?  
41 A. Yes.  
42  
43 Q. Why would you use hyperbole for that person?  
44 A. Yes, I take your point. I would not use hyperbole to  
45 the Pro Nuncio.  
46  
47 Q. So that why you've used the term "legal action"?



1 A. Yes.  
2  
3 Q. Rather than the more dramatic "criminal action"?  
4 A. Yes, probably.  
5  
6 Q. But you were still attempting to suggest, in that  
7 letter to the Apostolic Pro Nuncio, that there was a threat  
8 of outside authorities, ie, legal authorities, being  
9 involved in church business?  
10 A. Yes, I would think so.  
11  
12 Q. Were the McAlinden accusations the first time you'd  
13 heard of accusations of sexual abuse on the part of a  
14 priest, a Catholic priest?  
15 A. In the diocese?  
16  
17 Q. At all?  
18 A. Well, no. I mean, there had been plenty of publicity  
19 from the United States and from some other places about  
20 sexual abuse by clergy, yes.  
21  
22 Q. In Australia, was he the first you heard about in  
23 Australia?  
24 A. I don't know really.  
25  
26 Q. The first from the diocese, though, that you heard  
27 about; McAlinden was the first?  
28 A. Yes, yes, it would have been the --  
29  
30 Q. That was at the same time as vague innuendo about  
31 another priest?  
32 A. He would have been the first one I heard about in the  
33 diocese, yes.  
34  
35 Q. Wasn't that a fairly shocking matter for you, as a  
36 head of, or, at that stage, someone who was about to be, or  
37 within some short time frame about to be bishop of the  
38 diocese, that you had a priest who was abusing children or  
39 reported to have abused children?  
40 A. Yes, "shock" would be the right word, yes.  
41  
42 Q. Given that shocked you, did you consider it important  
43 to have a look at his file and familiarise yourself with  
44 his background and to check whether there was any other  
45 intimations or warnings or complaints about this particular  
46 priest?  
47 A. No, I didn't think to do that because I thought I had

1 enough information to act on.

2

3 Q. It does seem strange and, some would suggest, defies  
4 belief that you wouldn't acquaint yourself with his  
5 history, given the matters that [AL] and [AK] had alleged;  
6 would you agree with that?

7 A. In hindsight, yes, but at the time I thought there was  
8 enough to go on.

9

10 Q. You mentioned in your evidence that you regarded - and  
11 we can take it you regarded it in 1995 - that the chances  
12 of success of laicisation were virtually nil?

13 A. Correct.

14

15 Q. You knew that from your own understanding of how that  
16 process would not work if the priest wasn't agreeable to it  
17 taking place?

18 A. Yes, that was my understanding, yes.

19

20 Q. Can we take it that you'd been given information from  
21 Bishop Clarke that suggested that McAlinden would not  
22 cooperate with the process or had you read something that  
23 led to you believe that or what was your information for  
24 that assumption or belief?

25 A. Assumption that he would not --

26

27 Q. Cooperate?

28 A. -- cooperate?

29

30 Q. Yes.

31 A. I think it was from his own letters, his own words in  
32 his letters were that he was innocent and he was a reform  
33 character and - yes.

34

35 Q. When you say "letters", at the time of your letter of  
36 2 November 1995, we're talking about only one letter,  
37 aren't we, or were there others that you had read by that  
38 point?

39 A. No, that was the only one I had read by that point.

40

41 Q. That letter appears behind tab 264. What is it in  
42 that letter that informs your belief that McAlinden would  
43 not cooperate with laicisation?

44 A. You know, I found the way he responded to both  
45 Bishop Clarke and to myself to be rather sanctimonious. He  
46 was hedging, he was trying to give the impression that he  
47 was innocent. He spoke about the vendetta, as we mentioned

1 earlier. He was posturing his innocence, really.

2

3 Q. Did you form the view that the laicisation probably  
4 wouldn't work even at the time you wrote your 2 November  
5 1995 letter?

6 A. That's correct, I did.

7

8 Q. Given that view, or that you held that view, why  
9 didn't you consider reporting the matter to the police then  
10 given the only process that you were following through was  
11 unlikely to succeed?

12 A. The reason I was not going to the police was because  
13 my understanding was that [AK] and [AL] did not want the  
14 matters taken to the police. It wasn't my call. It was  
15 their call. They were adults by now and, as far as I was  
16 concerned, they had the call on that.

17

18 Q. Did someone tell you that that was the way that sort  
19 of situation should be managed?

20 A. Not really. I think I just assumed that.

21

22 Q. Did you see yourself as bishop of a diocese which had  
23 still incardinated to it someone who was believed to have  
24 engaged in paedophile behaviour? Did you consider that you  
25 had any responsibility to report him yourself to the  
26 police?

27 A. I don't think that crossed my mind at this point.  
28 That happened a little bit later.

29

30 Q. When did it cross your mind?

31 A. Oh, in our attempts to laicise Denis McAlinden, we  
32 wrote letters, both myself and then Father William Burston,  
33 the vicar general, to whom I'd passed over the  
34 responsibility for this after I became bishop. We were  
35 having trouble pinning McAlinden down. He didn't seem to  
36 be at the addresses that he indicated that he might have  
37 been, so on the strength of that, we eventually tipped off  
38 the police, but it wasn't until about 1999 that that  
39 happened..

40

41 Q. What happened that prompted the tip-off to the police  
42 in 1999? What was the event that made you decide?

43 A. It was a series of frustration about McAlinden's  
44 unwillingness to cooperate with a process that we were  
45 putting in place for him. And he was dodging for cover.

46

47 Q. And you knew, at least as at November 1995, that

1 McAlinden was pretending to be a priest in the Philippines,  
2 didn't you?  
3 A. Well, I didn't really. It wasn't until that material  
4 came through in the June or something that I realised  
5 that --  
6  
7 Q. The June 1995?  
8 A. Yes.  
9  
10 Q. I'm sorry. What I meant to say is that when you wrote  
11 the letter in November 1995, you were aware that he was  
12 acting as a priest in the Philippines?  
13 A. No, I wasn't aware of that at all. I thought he'd  
14 left the Philippines by then.  
15  
16 Q. You knew he was doing it in June, but you thought he'd  
17 stopped doing it by November; is that your position?  
18 A. Doing what, sorry?  
19  
20 Q. Acting as a fully faculty-possessing priest?  
21 A. I thought Bishop Clarke had handled that by getting in  
22 touch himself with the bishop in the Philippines, which led  
23 to that correspondence we mentioned earlier. I understood  
24 from that that Denis McAlinden had no faculties in any  
25 country.  
26  
27 Q. I understand. Forgive me, I've misread an address.  
28 Your letter of 2 November 1995 was sent to Western  
29 Australia. So you knew by then at least that he was back  
30 in Australia?  
31 A. Well, that was an address we had, yes. He was  
32 spending time between Western Australia and Ireland.  
33  
34 Q. But as at November 1995, can we take it you wouldn't  
35 have sent an important letter of this nature to an address  
36 at which you knew McAlinden was not able to be contacted,  
37 would you?  
38 A. No. We didn't know that he wasn't able to be  
39 contacted in 1995. It was subsequent when letters either  
40 came back or they weren't answered.  
41  
42 Q. I understand. There's no subtext in the question.  
43 I'm just asking about your letter to him of 2 November  
44 being sent to a particular address?  
45 A. As far as I know, that's where he was.  
46  
47 Q. The letter from him of 26 October to Bishop Clarke

1 which appears in tab 264, dated 26 October 1995, gives  
2 that post office box address to which you sent your letter  
3 of 2 November.

4 A. Did I? Yes, okay.

5  
6 Q. I'll just give you a moment to check.

7 A. I see that, yes.

8  
9 Q. You were, at least at that point, aware that he was  
10 if not present in Western Australia, able to access mail at  
11 that address given the letter behind tab 266 dated  
12 27 November, which he sent back to you?

13 A. Yes.

14  
15 MS LONERGAN: Commissioner, would that be a convenient  
16 time? I'm about to move on to a new topic.

17  
18 THE COMMISSIONER: Yes, very well. I will adjourn.

19  
20 MS LONERGAN: Could it be noted for the record we are  
21 adjourning until 9.30 in the morning.

22  
23 THE COMMISSIONER: Yes, I will adjourn until 9.30 in the  
24 morning.

25  
26 **AT 4PM THE COMMISSION WAS ADJOURNED TO**  
27 **THURSDAY, 11 JULY 2013 AT 9.30AM**

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**#**

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**#82** [1] - 696:

7

**#83** [1] - 716:34  
**#84** [1] - 716:37  
**#85** [1] - 776:7  
**#86** [1] - 776:31  
**#87** [1] - 777:17  
**#88** [1] - 799:27  
**#89** [1] - 799:41

,

'cooperated' [1] - 706:47

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**1**

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