



VICTORIA POLICE

Corporate Policy, Planning
and Review Department

Victoria Police Centre
637 Flinders Street
Melbourne 3005
Victoria Australia
Telephone (61 3) 9247 6733
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21st May 1996

Rev. Monsignor Gerald Cudmore,
Vicar General
Catholic Archdiocese of Melbourne
PO BOX 146
EAST MELBOURNE 3002

PROCESSED
23 MAY 1996
ANS

PO Box 415
Melbourne 3005
Victoria Australia

COPY

PROTOCOL FOR DEALING WITH ALLEGATIONS OF CRIMINAL
BEHAVIOUR

Dear Gerald,

I hope you are well. I enjoyed our discussion on the 19th of April and had been meaning to get in touch with you earlier. Unfortunately, a number of relatively sudden duties outside the state made this impossible. I have examined the 1992 Protocol and being aided by hindsight can suggest a number of changes.

Complaints in sexual matters are dealt with at Section Six. There seems to be no mechanism for the competent ecclesial authority to tell the departmental officers about a suspected criminal offence prior to advising the Special Issues Resource Group. The victim / complainants consent would be necessary. This notification could be very desirable where the incident has only recently occurred and the existence of evidence is a real possibility. Cases which come to mind include the description of a room or similar which may assist in establishing the victim's reliability. In such tests, it is absolutely critical that the accused is not aware that the matter has been reported. How would the victim know about a particular aspect of a crime scene if, as the accused might contend, he or she has never had access to it? Such a course should also be taken where the offence alleged is of a particularly heinous nature where the action taken by ecclesial authorities will come under severe scrutiny.

In relation to Preliminary Investigations, because the Protocol deals with an allegation of criminal conduct, it seems that Section 7.5 is not strong enough. There should be positive encouragement to victims to report the matter to departmental officers. I prefer an opening sentence similar to "A victim and the victim's family should be encouraged to report the matter to Departmental Officers and this should be facilitated in every way. Where this occurs no further interview or investigation should occur unless so requested by departmental officers". If this were adopted, I suggest that it become the first paragraph of this section. The remaining paragraphs assume that this has not occurred.

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Very few allegations of the kind could be resolved even internally within a few hours. For this reason, Section 8 "The Response of the Accused" really should follow Section 9, "Further investigation". It would usually be premature to "forthwith (within hours)" attend for interview. These days, further investigation would be required especially if the incidents alleged are historical. A true picture might require extensive inquiry sometimes interstate.

Depending upon the evidence which emerges, with the consent of the victim/complainant, the competent ecclesial authority should retain the right to refer the matters to Departmental Officers. Hopefully the Church investigation would be completed as soon as possible and this should be followed by a comprehensive interview of the accused. This might include unresolved issues in the past which may assume greater importance in the light of the recent allegation.

Because of the delay while the investigation occurs, it would be better for the advice to the accused to be given in writing at the time he is placed on administrative leave. That is, those matters in Para. 8.2, 9.2, 9.3, 9.4, 9.5. It is not unusual for such a step to occur at the earliest possible phase, after the complaint has been received and even before the accused has had an opportunity to respond in any complete way.

Interviews with victims, witnesses or the accused should be overtly tape recorded. Interviews with children should be in the presence of a parent/guardian.

My proposals would, I believe build on the effective working relationship developed between Victoria Police and the Vicar General's Office. When allegations of criminal conduct by clergy occur, the most desirable outcome is for the allegations to be subject to a police investigation based upon the rules of evidence. There are a number of safeguards in the system to winnow out malicious complaints. There can be no suggestion of Church cover-up when such a step is taken.

There are many complex issues associated with these matters. All of us have learned from the notorious cases which have occurred in recent years. As a decision of consensus, the Protocol would take a considerable time to change. I would be very happy to discuss these matters further with you.

Yours sincerely,



Gavin Brown

30 May, 1996

Assistant Commissioner Gavin Brown
Victoria Police Centre
637 Flinders Street
MELBOURNE VIC 3005

Dear Gavin,

May I thank you for your visit to me on 19 April and your letter of 21 May in which you make comment on the protocol for dealing with allegations of criminal behaviour.

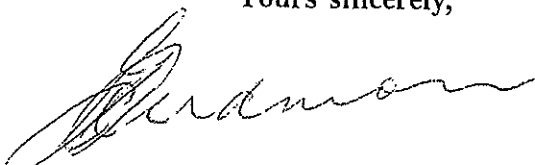
I am delighted that you have been able to make the time available to study the protocol at length and I deeply appreciate your expert advice.

As you will remember from reading the protocol there exists a Professional Standards Resource Group which meets bi-monthly in my office. The next meeting is scheduled to be held on Friday, June 7 and the meeting runs from 12 midday till 2.00pm. The thought occurred to me in reading your letter that your presence, if it was at all possible, to discuss some of the matters raised in your letter with those present at the meeting would be most beneficial. The Group is a provincial group, that is, covers the four dioceses - Melbourne, Ballarat, Bendigo and Sale - within the State of Victoria and it would be useful for the priests to meet and perhaps direct any questions to you. If this date is not convenient for you I would be pleased if we could arrange for you to attend the next meeting and I would inform you of that. If it is possible for you to attend, we have a sandwich during the meeting, I would be grateful if you could ring my secretary, Mrs Jill Butler, on 9667 0377 and indicate your ability to attend.

I certainly agree that there are many complex issues associated with these matters and I am most grateful for your willingness to assist us in finding right and proper solutions. I look forward to seeing you again in the near future,

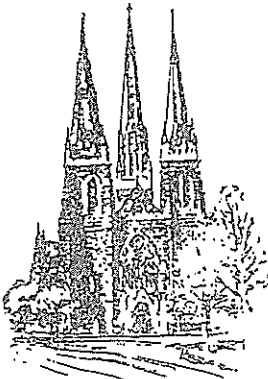
I remain,

Yours sincerely,



Rev. Mons. G. A. Cudmore
Vicar General

CATHOLIC ARCHDIOCESE OF MELBOURNE



VICAR GENERAL

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East Melbourne, Vic. 3002
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FACSIMILE TRANSMISSION

DATE: 10 October 1996

TO FACSIMILE NUMBER: 9247 6748

ATTENTION: Assistant Commissioner Gavin Brown

FROM: Monsignor Denis Hart

Dear Asst. Commissioner Brown,

I would be happy to meet with you at 1.00pm. on Wednesday, 16 October at Catholic Diocesan Centre.

I am sorry the confirmation of availability came only at 5.05pm. If this is no longer suitable please let me know.

With many thanks,

Yours sincerely,

This is page 1 of 1 pages.
Please notify us immediately if all pages are not received.

15th October, 1996.

Assistant Commissioner Gavin Brown,
Victoria Police Centre,
637 Flinders Street,
MELBOURNE, 3005.

Dear Mr. Brown,

I refer to our meeting to be held at 1.00 p.m. tomorrow and write to inform you in advance of the matters upon which your advice and assistance is sought.

The Archbishop is most concerned to identify all those in the Church who engage in sexual abuse and for them to be appropriately dealt with. Further, that those who have suffered will be supported and where appropriate compensated.

The Archbishop considers it important that the Church itself is and is seen to be involved in a positive way in identifying and hopefully eradicating these deplorable instances of sexual abuse. It is also hoped that the steps proposed by the Archbishop will result in complainants coming forward, who might otherwise have remained silent.

To that end the Archbishop has instructed his solicitors to retain Mr. Peter O'Callaghan, Q.C., to act as an independent Commissioner. A draft of Mr. O'Callaghan's appointment and Terms of Reference are enclosed herewith. In particular, I refer you to clauses 1(iii), (iv), (v) and (xi). These sub-clauses seek to make clear that nothing is to interfere with any action to be taken by the police. In that context I note your letter to Monsignor Cudmore of 21st May, 1996.

Please note that this document is in draft form and as such is strictly confidential. I am sure that I can rely on your discretion in this regard.

Assistant Commissioner Gavin Brown.

15th October, 1996.

The Archbishop would appreciate your comments upon the draft document and upon any other matters which you consider relevant. Subject to that and to your having no objection the Archbishop would then proceed to implement the appointment and also to introduce complementary procedures, relating to counselling, pastoral support and compensation.

With me at tomorrow's meeting will be Mr. Peter O'Callaghan, Q.C., together with Mr. A. Darvall, (managing partner of Corrs Chambers Westgarth), and Mr. Richard Leder of that firm.

I am grateful for your assistance in this matter.

Yours sincerely,

Rev. Monsignor Denis J. Hart,
VICAR GENERAL.

Enc.

FILE NOTE

Court Conference Phone to Phone from Other

V-G, PDOC, AWD, RAZ Date 16/10/96
Cavin Brown. Time
Author
Matter Unit

V-G: Re prof misconduct in Church.
Bishop appoints delegate in Church law.
Arch & V-G too close to both sides. Arch proposes to appoint PDOC to investigate & advise the Arch on what to do.

GB - A good step.

PDIC → Refers will be conducted in civil law.
→ Delegate in Church law.

GB - Where police investg - is on-going, what will Comm do?

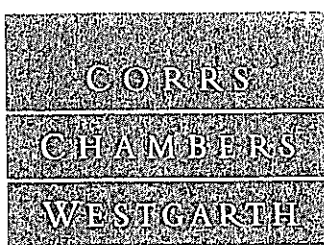
PDIC → If you report then I will do nothing until I know what police will do.

AWD: What about a long police investg -

Can put people on admin - care in the meantime

GB If an old investg -, say 10 or 15 yrs, then it's a complete answer to say there is a police investg - underway.
Can update every 3 to 6 mths

PDIC GB will be conduct point through to sexual offences group
Still be a useful arrange A.



S O L I C I T O R S

18 October 1996

Melbourne Office
Writer: Richard Leder
Direct Line [REDACTED]
Our Ref: ROMA5455-001

Mr Gavin Brown, APM
Assistant Commissioner
Corporate Policy Planning and
Review Department
Victoria Police
637 Flinders Street
MELBOURNE VIC 3000

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Dear Assistant Commissioner

We refer to your meeting on 16 October 1996 with Monsignor Hart, Mr Peter O'Callaghan QC, our Mr Darvall and Mr Leder. We considered it a most helpful and constructive meeting and we thank you for your co-operation and assistance.

With respect to the discussion as to the desirability of the document of appointment containing specific reference to encouraging complainants to report to the police, it has been agreed that it is desirable for this to be included and accordingly clause 1(iii) will now read:

"The Commissioner immediately upon there being made or referred to him a complaint of sexual abuse (which may constitute criminal conduct), shall inform the complainant that he or she has an unfettered and continuing right to make that complaint to the police, and the Commissioner shall appropriately encourage the exercise of that right."

We reiterate that the view of the Archbishop and his advisers is that if there are allegations of criminal conduct, then obviously the same are best referred to the police, first because of the investigative expertise and resources of the police, and secondly if there is criminal conduct, the same should be dealt with by the courts and it is only through the police that this can be done.

However there may be instances such as those contemplated in clause 1(xi) of the document of appointment when for various reasons the complainant would have made it clear at the outset that he or she does not wish to report the matter to the police. It is in order to allow for that situation that the word "appropriately" has been included.

With respect to the discussion as to the Commissioner conducting an interview with a priest or religious, following the matter being referred to the police, we make the following comments.

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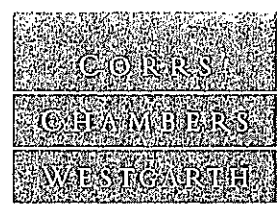
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18 October 1996
Mr Gavin Brown, APM

S O L I C I T O R S

Naturally, the Commissioner will be astute not to interfere in any way with the progress of a police investigation and action. Unnecessary as it is so to state, it is specifically provided in the document that "The Commissioner will not act so as to prevent any police action in respect of allegations of sexual abuse by church personnel".

However it may be necessary for the Commissioner concurrently with a police investigation to interview a priest and recommend some action by the Archbishop. For instance, if there are allegations of sexual abuse it may become incumbent upon the Archbishop or his delegate to immediately take appropriate action to protect vulnerable persons, and to prevent disquiet and concern amongst members of a congregation of a church. Typically this could be done by suspending or transferring the alleged offender, though emphasising this did not indicate any finding of guilt. As was discussed at our meeting analogous situations arise in other organisations including the police.

However, on behalf of the Commissioner we confirm that the procedures will continue to be the subject of close consideration and monitoring. No doubt as time goes by it will be necessary to amend or add to them. In this context, you can be assured the Commissioner will communicate in an appropriate way with you and with other appropriate police personnel. In that context, we would be happy to receive such comments from time to time as you see fit to make.

We also confirm that the Commissioner proposes to inform the Solicitor General, Mr Douglas Graham QC of the proposed appointment, and the terms thereof, so that the Solicitor General can appropriately inform the Attorney General and such other Government persons as is considered desirable.

Once again thanking you for your assistance.

Yours faithfully
CORRS CHAMBERS WESTGARTH

A W LeP Darvall
Managing Partner



VICTORIA POLICE

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Corporate Policy, Planning
and Review Department

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Your Ref: ROMA5455-001

21/10/96

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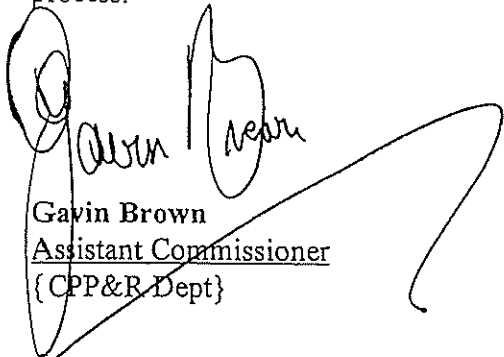
Mr. R. Leder
Corrs Chambers Westgarth
Bourke Place
600 Bourke Street
MELBOURNE VIC 3000

Dear Richard,

Thank you for your letter of 18 October regarding the new procedures to be adopted by the Catholic Church in dealing with clergy from the Archdiocese of Melbourne against whom there has been an allegation of criminal conduct.

The proposed amendment seems eminently helpful for the reasons we discussed at the meeting of 16 October.

I have taken the opportunity of discussing the draft of the new procedures with Detective Senior Sergeant Chris O'Connor of our Child Exploitation Unit. The Senior Sergeant, as I do, believes the new procedures should be a considerable improvement on the previous guidelines. Needless to say, the Force is concerned to see the practical application of the process.


Gavin Brown
Assistant Commissioner
{ CPP&R Dept }

Peter O'Callaghan Q.C.

Owen Dixon Chambers West
18/15
205 William Street
Melbourne 3000
Victoria

22 October 1996

Telephone: [REDACTED]
Fax: 9608 7114

* The Solicitor-General
Mr. Douglas Graham Q.C
200 Queen Street
Melbourne 3000

Fax No. 9603 6363

Dear Doug,

Re: Sexual Abuse by Clergy

I refer to our recent conversation and confirm that I am to be retained by Corrs Chambers Westgarth as solicitor for Archbishop George Pell to act as independent commissioner to enquire into and advise the Archbishop with respect to allegations of sexual misconduct by clerics, religious, other persons employed by or connected with the Archdiocese of Melbourne.

I enclose herewith what I believe is almost the final draft of the document of appointment, and the terms and conditions thereof. A draft of this document was provided to the Assistant Commissioner Gavin Brown of the Victorian Police. Together with the Vicar General Monsignor Hart, and instructing solicitors I have met with the Assistant Commissioner. He made some constructive suggestions which are reflected in the document. It has been agreed the matter will be kept under review and we will consult with the Assistant Commissioner and such other officers of the Police as are appropriate.

The essential purpose of my appointment is to endeavour to facilitate discovery of sexual abuse, and thus result in offenders being brought to justice. There is a reluctance in some persons to go to the police and

complain as to sexual abuse. It is hoped that such persons will come forward to a person appointed as a "delegate" of the Archbishop.

I should add that the appointment of a Commissioner is to be accompanied by the setting up of a support professional group who will provide psychiatric assistance and counselling etc to victims of abuse, and there is also to be a compensation panel which will endeavour to deal with claims for compensation by way of a mediation type process.

My purpose in acquainting you with my proposed appointment is to invite any comments you wish to make in respect of the matter, and to allow you (if considered appropriate) to inform the Attorney General or such other appropriate persons of what is proposed. It is intended to make a public announcement of this appointment and other matters on 30 October.

Kind regards.

Yours sincerely,

Peter O'Callaghan

S O L I C I T O R S

F A C S I M I L E T R A N S M I S S I O N

DATE: 29 October 1996

TO: Victoria Police
Corporate Policy Planning & Review Department
Gavin Brown APM
9247 6748
Melbourne

ATTENTION:
FACSIMILE NUMBER:
DESTINATION:

FROM: Richard Leder
Corrs Chambers Westgarth,
Bourke Place, 600 Bourke Street
Melbourne

OUR REFERENCE: ROMA5455-001
OUR FACSIMILE NUMBER: (03) 9602 5544
OUR TELEPHONE NUMBER: (03) 9672 3000 (Switchboard)
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TOTAL PAGES: 7 (including this page)

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PLEASE ADVISE BY FAX OR TELEPHONE IF THIS FAX IS ILLEGIBLE OR INCOMPLETE

We refer to your letter of 21 October 1996 and to the Vicar General's letter to you of earlier today.

Mr O'Callaghan QC's terms and conditions of appointment have been finalised, and a copy is enclosed for your attention.

Please contact Richard Leder if you have any queries.

Yours faithfully
CORRS CHAMBERS WESTGARTH

A W LeP Darvall
Managing Partner

Encl
WPLITIL/486/KAC/157

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29 October 1996

Assistant Commissioner Gavin Brown
Victoria Police Centre
637 Flinders Street
MELBOURNE VIC 3005

Dear Commissioner Brown,

Thank you for your letter to Richard Leder, a copy of which I have seen. As you know Archbishop Pell is to announce a series of initiatives in response to sexual abuse by priests, religious and lay people within the Melbourne Archdiocese.

The four initiatives are:

- * The appointment of an Independent Commissioner, Mr Peter O'Callaghan QC to investigate allegations of sexual abuse by priests, lay people and other religious.
- * The establishment of a free counselling and professional support service for victims under the expert direction of Professor Richard Ball, former director of the Department of Psychiatry at St Vincent's Hospital.
- * The formation of a Compensation Panel, under the Chairmanship of Mr Alex Chernov QC, to provide ex gratia compensation to victims of sexual abuse by accused priests, lay and religious people under the control of the Archbishop of Melbourne.
- * A new service providing counselling and support for priests accused of sexual assault.

A media conference will be held tomorrow, Wednesday October 30, at the Catholic Diocesan Centre, Albert Street, East Melbourne commencing at 10.30am. The Archbishop and Mr O'Callaghan will be present.

A copy of the media release to be issued tomorrow is enclosed as is a copy of the proof for a promotional brochure which will also be released.

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We are encouraged by the positive reaction from yourself and Detective Senior Sergeant Chris O'Connor of the Police Child Exploitation Unit.

There is a very strong possibility that the Victoria Police will be contacted by media for comment. Would it be possible for us to include a short comment from you for inclusion in the media release or as a separate statement from the Victoria Police?

The statement could be along the lines of the following:

"The Archbishop's announcement was welcomed today by the Victoria Police as a positive step in tackling this very sensitive community issue.

Assistant Commissioner Gavin Brown said he welcomed the appointment of a person of Peter O'Callaghan's standing to the position of Independent Commissioner.

We are pleased to see that the appointment of the Commissioner will not in any way conflict with police investigations or actions in respect of sexual abuse.

We are hopeful that the appointment of the Commissioner will facilitate the identification of those engaging in sexual abuse, and thus result in them being dealt with by the criminal law". Commissioner Brown said.

I would be most grateful if you could let me know as soon as possible **TODAY**, if you are agreeable to support these initiatives in this way. Obviously the above is no more than a suggestion, and I would welcome your comments.

If you are agreeable, the Archbishop's communications adviser, Peter Mahon of Royce Communications, could work with your head of Police Media Liaison, James Tonkin, this afternoon to work up a suitable statement.

Yours sincerely,

D

Rev. Monsignor Denis J. Hart
Vicar General

**APPOINTMENT OF INDEPENDENT COMMISSIONER
TO ENQUIRE INTO SEXUAL ABUSE**

Archbishop George Pell the Catholic Archbishop of Melbourne ("the Archbishop") being concerned that a number of priests and religious have sexually abused children, adolescents and adults in their pastoral care, in order to facilitate the discovery of such sexual abuse, and the taking of consequential action has instructed his solicitors to retain **Peter John O'Callaghan Q.C.** ("the Commissioner") to act as an **Independent Commissioner** to enquire into and advise the Archbishop with respect to allegations of sexual misconduct by any priest of the Archdiocese and religious, and lay persons, working within the Archdiocese on the following terms and conditions.

• **Definitions**

"**Accused**" means the person against whom an allegation of sexual abuse is made.

"**Church person**" includes any priest of the Archdiocese and religious, and lay persons, working within the Archdiocese.

"**Complaint**" means any complaint made to the Commissioner by a person that he or she has been sexually abused by a church person or a complaint made to the Commissioner by a person who complains that some other person has been sexually abused by a church person, and any complaint of sexual abuse by a church person which is referred to the Commissioner by any other body or person.

"**Complainant**" means any person making a complaint of sexual abuse as aforesaid.

"**Sexual abuse**" includes any form of criminal sexual assault, sexual harassment, or other conduct of a sexual nature that is inconsistent with the public vows, integrity of the ministerial relationship, duties or professional responsibilities of church personnel.

"**The Support Professional**" is a person to be appointed by the Archbishop for administering the provision of professional support services namely treatment, counselling and support to victims of sexual abuse within the Archdiocese.

"**The Compensation Panel**" is a panel established to provide ex gratia payments to complainants of sexual abuse who establish the factual basis of their complaint.

1. The Role of the Independent Commissioner

- (i) The Commissioner is appointed to enquire into and advise the Archbishop with respect to complaints of sexual abuse by church persons.
- (ii) The Commissioner shall forthwith enquire into any complaint of sexual abuse by a church person made or referred to him.
- (iii) The Commissioner immediately upon there being made or referred to him a complaint of sexual abuse (which may

constitute criminal conduct), shall inform the complainant that he or she has an unfettered and continuing right to make that complaint to the police, and the Commissioner shall appropriately encourage the exercise of that right.

- (iv) Subject to sub clause (xi) below, upon becoming aware of sexual abuse (which may constitute criminal conduct), the Commissioner may report that conduct to the police.
- (v) The Commissioner will not act so as to prevent any police action in respect of allegations of sexual abuse by church personnel.
- (vi) Forthwith upon becoming aware that sexual abuse has occurred, is occurring, or is likely to occur, the Commissioner shall advise the Archbishop and make such recommendations as to action to be taken by the Archbishop as the Commissioner considers appropriate.
- (vii) The Commissioner is empowered by the Archbishop to require any priest, religious, or other person under the jurisdiction of the Archbishop to attend upon the Commissioner at such time and place as is notified, and to produce to the Commissioner such documents as the Commissioner requires, and to answer such questions as the Commissioner considers appropriate to ask, Provided that no priest, religious, or other person, shall be required to produce to the Commissioner a document, or to answer a question, which document or answer the priest,

religious or other person objects to answer or produce or give because it may tend to incriminate.

- (viii) The Commissioner may inform himself inter alia by hearings at which the complainant and the accused may be present, and also if desired, their respective legal or other representative.
- (ix) The Commissioner shall interview a child or conduct a hearing at which a child is present, only with the written authority of the parent or guardian of such child, and whom the Commissioner shall request be present at such interview or hearing.
- (x) The Commissioner shall treat as confidential and privileged all information acquired by him in the course of his investigation, Provided that (subject to sub-clause 1 (xi) the Commissioner may if he considers it appropriate so to do, provide the whole or part of such information to the police, and with the consent of the complainant, to the Compensation Panel.
- (xi) If a complainant, prior to stating the facts and circumstances constituting his or her complaint informs the Commissioner that he or she is only prepared to divulge those facts and circumstances to the Commissioner upon his assurance that he will not, (unless required by law) disclose those facts and circumstances to any person other than a person nominated by the complainant, the Commissioner (unless required by law so to do) shall not disclose those facts and circumstances to any other person save to members of his staff from whom he shall have procured an undertaking of confidentiality.

- (xii) The Commissioner may decide to discontinue or not conduct an enquiry into a complaint which he considers is trivial, frivolous, vexatious or not made in good faith, Provided that the Commissioner shall notify the complainant in writing of any such decision to discontinue or not conduct an enquiry into a complaint.
 - (xiii) The Commissioner when enquiring into complaints, and reporting to the Archbishop shall observe the rules of natural justice.
 - (xiv) The Commissioner shall determine the procedure to be followed in respect of enquiries and hearings and may publish to the church authorities and other relevant persons details of such procedures.
 - (xv) The Commissioner may refer victims of sexual abuse to the Support Professional.
 - (xvi) The Commission will consult with and advise the Compensation Panel as required, subject to sub-paragraphs 1 (x) and (xi)
2. (i) The retainer of the Commissioner shall be for a period of six months, Provided that if at the expiration of that period, the Commissioner and Instructing Solicitors are of opinion that there are outstanding matters concerning allegations of sexual misconduct in respect of which action should be taken, the Archbishop shall extend the retainer for a further period of six

months, or such other period as may be mutually agreed upon and, Provided Further that in the event of the Commissioner, for whatever reason, becoming incapable of duly performing his retainer the Archbishop may instruct his solicitors to terminate the retainer.

- (ii) The Commissioner will formulate procedures for dealing with and recording complaints of sexual abuse and other matters.



30th October 1996

MEDIA AFFAIRS

POLICE SUPPORT CATHOLIC CHURCH INITIATIVES TO COMBAT SEXUAL ABUSE

CONCOURSE LEVEL
VICTORIA POLICE CENTRE
657 FLINDERS STREET
MELBOURNE 3005
PHONE: 9-247-6897
FAX: 9-247-6898

Victoria Police have welcomed today's announcement of a series of initiatives in response to sexual abuse by priests, religious and lay people under the control of the Catholic Archdiocese of Melbourne.

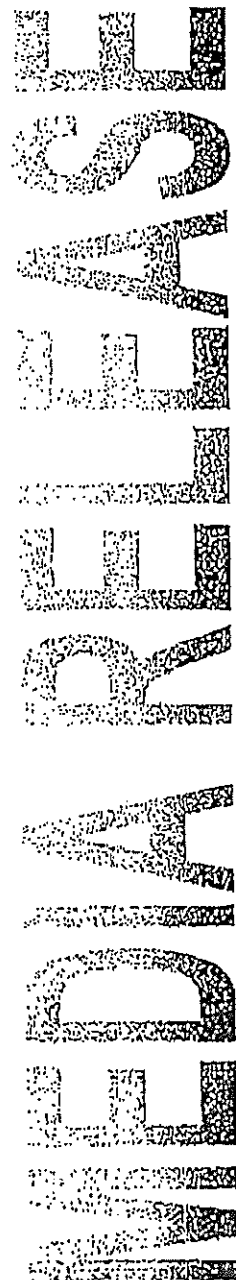
The announcement is seen as a positive step in tackling this very sensitive community issue.

Police have also welcomed the appointment of Peter O'Callaghan QC to the position of Independent Commissioner.

They say they are pleased to see the appointment of the Commissioner will not in any way conflict with police investigations or actions in respect to sexual abuse.

Police are hopeful that the appointment of the Commissioner will assist identify those engaging in sexual abuse, and result in them being dealt with by the law.

Nicole Hughes
Media Officer
Media Affairs



Marilyn Stefanile

From: Marilyn Stefanile
Sent: Wednesday, 18 November 2009 3:24 PM
To: @police.vic.gov.au
Subject: Email from Peter O'Callaghan

Attachments: Notebook.jpg; Terms and Conditions.doc



Notebook.jpg (3 KB)



Terms and Conditions.doc (32 K)

Re:

I have your email of 16 November and first let me apologise for the failure to attach to my email of 5 November the Terms and Conditions of my appointment, which are attached herewith. Secondly I want to assure you of my cooperation and assistance generally, and particularly in the case at hand. Since my appointment as Independent Commissioner in October 1996 I have had a great deal of contact with the police, and particularly the Sexual Offences Unit, as it has been variously named.

You state in you email "Have you conducted any investigation into this matter; it appears to me you have more of a mediator role than investigation role and without receiving the 'terms and conditions of your appointment' you promised I am not aware of how you go about conducting the investigation into the validity of the claim".

Of course that reflects the unfortunate omission to provide to you the Terms and Conditions of my appointment. I did commence an investigation (put another way an enquiry into allegations) of sexual abuse by Fr Farrugia, which I will now endeavour to explain.

I am not a mediator. If the complainant does not report the matter to the police, I embark upon the enquiry by referring the complaint to the accused, inviting him to respond by attending upon me or in writing. In the event that the accused denies the allegations I invite the complainant and the accused to participate in a confidential hearing to ascertain the validity or otherwise of the complaint. In conducting such a hearing I act much in the manner of a Magistrate hearing an information.

Typically there is Counsel Assisting the Commission and on some occasions the complainant has legal representation. In all instances to date, the respondent has been legally represented. If I find that the complaint is established, I can refer the complainant to Carelink which provides free counselling and psychological support. I can also refer the complainant to a Compensation Panel which has jurisdiction to make binding recommendations of compensation up to a limit of \$75,000.

If I find that the complaint is established I will report the facts to the Archbishop and make recommendations as to what should happen to the respondent. I stress that all I do is to make recommendations, and the final decision in relation to the respondent priest is exclusively that of the Archbishop. I should add that since my appointment, I have in more than 300 cases been satisfied that sexual abuse has occurred, and have accordingly referred the complainant as aforesaid. A large number of these cases have been those in which the relevant priest has admitted guilt, or alternatively has been previously convicted in respect of the sexual abuse complained of.

In this case, [redacted] made her complaint in an interview with me which was transcribed. I forwarded the transcript of that conference to [redacted], together with a letter which subject to her consent I proposed to send to Fr Farrugia. [redacted] consented to my sending the letter and thus I was embarked upon an enquiry into the validity or otherwise of her complaint, and pursuant to the Terms and Conditions of my appointment (and of legal principles) I was required to accord natural justice to each of the parties. Simply stated natural justice means acting fairly. There are myriad decisions upon the meaning of natural justice and I refer only to Concise Law Dictionary by P G Osborne:

"The rules and procedures to be followed by any person or body charged with the duty of adjudicating upon disputes between, or the rights of, others eg, a government department or the Committee of a Club. The chief rules are to act fairly, in good faith, without bias and in a judicial temper; to give each party the opportunity of adequately stating his case and correcting or contradicting any relevant statement prejudicial to his case and not to hear one side behind the back of the other..."

Had [redacted], instead of consenting to my forwarding the letter of complaint to Fr Farrugia, informed me that she proposed to report the matter to the police, I would have taken no further step in the matter. In that situation because I had not embarked on an enquiry, I had no obligation to inform Fr Farrugia of the potential for a police investigation of [redacted] complaint.

Once you informed me that there was a police investigation, pursuant to my invariable practice, I stated that I would take no further part in my investigation/enquiry. But this did not relieve me of the obligation to so inform the parties that I would be taking no further steps in the matter.

I repeat what I said in my email of 5 November namely: "Accordingly I advised the solicitors for Fr Farrugia that the matter had been referred to the police, and likewise informed the solicitors for the complainant that this was the case, and that accordingly I would be taking no further steps in relation to the investigation until the police investigation and the proceedings (if any) emanating therefrom were completed. You did not request me not to inform the solicitors for Fr Farrugia that the matter had been referred to the police, and if you had, I would have respectfully advised you that I would not consent to such a course, because of my duty to keep both parties in respect of the investigation I was conducting fully apprised of relevant matters.

It is obviously appropriate that Fr Farrugia through his solicitors be informed that I would be taking no further steps in relation to determining the validity or otherwise of the complaint (pending the completion of the police investigation...) To suggest that I should effectively conceal from Fr Farrugia that the matter had been referred to the police would be in breach of my ethical and legal responsibility to one of the parties to the complaint".

I have forwarded by mail to you at Moreland Crime Investigation Unit, 630 Sydney Road, Brunswick the following documents:

- (i) Transcript of my interview with [redacted] of 21 July 2009;
- (ii) A copy of my letter to the complainant including a draft of the letter proposed to be written to Fr Farrugia, which she authorised me to do;
- (iii) The letter to me from Mulvaney and Co the solicitors for Fr Farrugia and my proposed reply to that letter which is all incorporated in my letter to [redacted] of 25 August 2009 together with copies of [redacted] letters to the Vicar General as referred to in that letter.

I am happy to provide whatever else you require of me.

I confirm that I would be obliged if you advise me if you intend to charge Fr Farrugia with a criminal offence. In that event I would almost certainly recommend to the Archbishop that Fr Farrugia be placed on administrative leave (ie. cease to practise as a priest) pending the determination of such charge. I have so advised the solicitors for Fr Farrugia.

I trust the above clarifies the situation, and I again record my regret at the "Murphy's Law" situation in respect of the terms of appointment. I reiterate my willingness to provide whatever cooperation and assistance that I can.

Regards.

Yours sincerely

Peter J O'Callaghan
Independent Commissioner

Telephone: [REDACTED]

IMPORTANT:

This transmission is intended only for the use of the addressee and may contain confidential or legally privileged information. If you are not the intended recipient, you are notified that any use or dissemination of this communication is strictly prohibited. If you have received this transmission in error, please notify us immediately by telephoning on [REDACTED] and delete all copies of this transmission together with any attachments.

Peter O'Callaghan Q.C.

Owen Dixon Chambers West
18/15
205 William Street
Melbourne 3000

3rd December 2009

Tel: [REDACTED]
Fax: 9225 7114

E-mail [REDACTED]

Dear Inspector Davies

I refer to my letter describing Procedures (attached). That letter was dictated yesterday.

I have this morning noted statements attributed to you in today's Age, which at least imply criticism of the Archdiocesan process, and of the Independent Commissioner.

Naturally, this is concerning, and be assured that if you have concerns at the Archdiocesan process, I will be anxious to deal with same.

In that context, would you have any objection to Richard Leder of Corrs Chambers Westgarth, (the firm who retained me, and who are the Solicitors for the Archdiocese) and Mr Francis Moore the Business Manager for the Archdiocese, attending the meeting tomorrow.

I would appreciate your advices.

Kind regards.

Yours sincerely

Peter J O'Callaghan
Independent Commissioner

Peter O'Callaghan Q.C.

Owen Dixon Chambers West
18/15
205 William Street
Melbourne 3000

3rd December 2009

Tel: [REDACTED]
Fax: 9225 7114

E-mail [REDACTED]

Dear Inspector Davies

RE: PROCEDURES

I endeavour to set out hereunder a broad description of the procedures I follow in carrying out my role as the Independent Commissioner. I hope this will be helpful in our discussions on Friday next.

The receipt of complaints

Most complaints are received directly from persons who have complained they have been sexually abused.

I arrange to meet with the complainant and conduct an interview so as to ascertain the details of the complaint. It is my invariable practice to inform a complainant that if the conduct of which he or she complains might constitute criminal conduct then he/she has a continuing and unfettered right to report the matter to the police, and I appropriately encourage the exercise of that right.

On only a few occasions has this resulted in the complainant forthwith taking their complaint to the police. To some extent, this is a function of the fact that many of the complaints I have received, are in respect of priests who have been convicted in respect of the conduct complained of, or alternatively they are dead.

A number of complainants are most concerned, first to avoid the stress and strain consequent upon reporting the complaint to the police, and being involved in the Court process, and secondly because of the desire for their complaint to remain confidential and to the extent possible anonymous. If there is one feature which has been consistent throughout the years of my appointment, it is a desire on the part of the complainant to keep things as confidential as possible. Albeit, that a complainant can if he or she wishes publish the name of the priest, the fact that he was guilty of abuse, and that

they have received compensation for that abuse, the general consensus is to keep it all private.

I conduct an interview with the complainant which is transcribed. I then forward a transcript of the complaint to the complainant inviting amendments and additions. Typically I also forward a letter which subject to the consent of the complainant I will forward to the respondent. That letter contains the relevant extracts of the transcript in which the complainant details the alleged offence.

In that letter I invite the respondent to respond to the complaint by writing to me or attending upon me accompanied by such person as they wish.

If the respondent denies the offence, then I invite the complainant and the respondent to participate in a confidential hearing which I conduct much the same as a Magistrate would conduct the hearing of an information. In all the contested hearings I have conducted, I have had Counsel Assisting the Commission namely Jeffery Gleeson SC. Sometimes, the complainant is also represented, but if not Counsel Assisting has the responsibility to adduce all the relevant evidence to the Commission.

In all but one of the contested cases the respondent has been legally represented. I attach herewith a copy of the confidentiality agreement and the undertakings which are signed prior to embarking upon the hearing.

Whether via a hearing, or because of my acceptance of the credibility of the complainant in the interview, I can refer the complainant to Carelink which is an agency set up to provide free counselling and psychological support. Sometimes, before making a decision as to the validity of the complaint, and because of the palpable stress that the complainant is suffering, I refer the complainant to Carelink and support is provided. If it turns out that the complaint is not established, and this has only occurred very rarely, there is still no requirement of the complainant to pay for therapeutic fees.

If the respondent was a priest in active practice, then depending upon the seriousness of the allegation, and the potential for risk to other persons, I recommend to the Archbishop that the respondent be placed on administrative leave (ie. his faculties to act as a priest are withdrawn), pending the completion of the police investigation and the proceedings (if any) emanating therefrom.

Likewise if I have conducted a hearing which establishes that sexual abuse has occurred and whether or not I have made a prior recommendation that the priest be placed on administrative leave, I will make a recommendation to the Archbishop as to what action should be taken in respect of the offending priest. I stress that I make a recommendation only and the decision as to what should be done with the priest is exclusively that of the Archbishop. However, the Archbishop has generally adopted my recommendations, and certainly in the case of a priest whom I am satisfied has engaged in paedophilia, that priest no longer acts as a priest.

I have from time to time been approached by the police requesting information in respect of their investigation of allegations of sexual abuse against a priest. In those circumstances I provide whatever information I have, and advise the police to inform the victim that at the end of the police and Court process, the victim has the opportunity of making application under the Archdiocesan process.

There have been some cases in which after I have conducted a hearing and made findings, and regardless of the confidentiality agreement, the complainant reports the offence to the police. There is of course nothing to prevent a complainant from doing this, albeit that I have undertaken that all information received by me will remain confidential unless compelled by law to do so. By way of illustration of what is my procedure in respect of the police requiring me to produce documents, I attach herewith the Decision of Chief Magistrate Adams in respect of a complaint, which I had heard, but which the complainant then reported to the police.

You will note that through Counsel I took the objection that the documents I had were protected by the privilege of public interest immunity. I so took that objection pursuant to my undertaking of confidentiality.

As appears from the Chief Magistrate's decision, he held that public interest immunity did not apply nor were the documents protected because of undertakings of confidentiality, albeit he suggested some restrictions upon the use of the documents to be produced.

Since that decision, when I have been the subject of a subpoena or summons to produce documents, I have formally taken the objection, having referred to the Decision of Chief Magistrate Adams. Judge Rizkilla and Chief Judge Waldron of the County Court have approved the decision of Adams CM.

I mention also that in at least two instances the police having been informed of complaints, required or issued warrants for the production of documents and which resulted in those documents being produced. However because the complainants in each instance specified that they did not wish to involve themselves in Court proceedings there were no prosecutions.

I am presently in a case in which I have been asked by the investigating policewoman to produce further documents, and I have communicated that request to the solicitors for the respondent. I would envisage that I will be authorised to produce the further documents, without the issue of a warrant subject to a confidentiality term similar to that given in the Judgment of Chief Magistrate Adams.

Finally there is the question of my informing the parties to an enquiry that the complaint has been referred to the police and consequently I will for that reason be taking no further steps in my enquiry until the police investigate and proceedings (if any) emanating therefrom.

If a complainant does not wish to report the matter to the police, despite being advised he/she has a continuing and unfettered right to do so, I then conduct an enquiry as to the validity or otherwise of the complaint. Typically, I transmit the complaint to the respondent inviting a response. If the complaint is denied, I invite the parties to participate in a confidential hearing which I conduct in much the same way as a Magistrate would conduct the hearing of an information.

I stress that the vital condition to the above process is that the complainant does not wish to report the matter to the police. That enables me to enquire into and investigate the complaint to determine its validity or not. In doing so, I am doing what the police would do in investigating the complaint, and what a Court would do in determining whether the offence is made out.

If having embarked upon the above process, I become aware that the police are investigating the matter, I cease my process immediately. This is not an option, but a mandatory requirement. To continue my process ie. *"investigate and make findings on matters the same"* as the police and a Court would do would place me potentially and actually in contempt of Court. Obviously the way to cease my process is to advise the parties, that I am taking no further steps in the process until the completion of the police investigation and the proceedings if any emanating therefrom, because the matter is now in the hands of the police.

I point out that if I merely told the parties that I was taking no further step in the matter, the inevitable inference the experienced solicitors for the complainant and the respondent would draw is that the matter has been referred to the police. I stress again that regardless at what point of time I become aware that the police are seized of the matter I would cease my process by advising the parties I would be taking no further step. Even if I had completed a hearing and heard submissions from the parties but the matter then went to the police I would abstain from making any findings.

The two cases mentioned are the only ones in which a complainant part way through my process has had the matter referred to the police, or the police have on their own motion commenced an investigation.

In the most recent case raising this issue (there being one other), when upon being advised that there was a police investigation I advised both parties that I would be taking no further steps. The problem arose because of the complainant changing his/her mind from deciding not to refer the matter to the police, and then doing so. Senior Constable _____ stated her disappointment at my having advised the Solicitors for the parties. By email of 18 November, I explained why I had so advised. I attach my email and her reply. I will be pleased to have your views on the matter.

I trust the above discursive remarks will be of assistance in facilitating our meeting.

Kind regards.

Peter J O'Callaghan
Independent Commissioner

C

C

Marilyn Stefanile

From: Marilyn Stefanile
 Sent: Friday, 11 December 2009 10:04 AM
 To: 'Davies, Glenn'
 Subject: Email from Peter O'Callaghan

Dear Glenn

Re: Transcripts

I provide herewith as agreed, in strict confidence, a number of Transcripts of my interviews with complainants and relevant letters (with appropriate blank outs). The transcripts are marked numerically in ink and comment on them as follows:

1. Transcript 1 – This matter went to hearing, and leaving aside preliminary applications, it took a number of days. Counsel Assisting was Jeff Gleeson SC, and Counsel for the priest was a renowned QC in Criminal Law. I attach herewith an extract from my Reasons for Decision in that matter which describes my process. I have also enclosed a statement (1A) of a witness taken by Jeff Gleeson SC as a sample of how Counsel Assisting the Commission collects evidence. The Offender had been previously acquitted in County Court Trials for very similar charges of sexual abuse.
2. Transcripts 2 – This was a case where I initially took no action because of police investigation and potential Court proceedings involving the complainant (T2). I confirmed this in a letter (2A). When the police decided not to prosecute the priest in respect of the complainant I found the complaint established then referred him to the Compensation Panel and Carelink (T2B).
3. Letter 3 – This was a letter which I had written to a complainant recommending that the complaint be reported to the police. The complainant did this and the priest stood trial inter alia in respect of charges laid in respect of the complainant. Subsequently the complainant applied for and was awarded compensation.
4. Letter 4 – This was a case in which I raised with the complainant his right to report his complaint to the police. In the result he did not do so because the offender was already serving a substantial sentence in respect of other counts of sexual abuse. I must add that I have no doubt that the complainant was influenced in not reporting the matter to the police because had he done so I would have taken no further steps in the matter and the issue of whether or not he would receive compensation would be delayed for a lengthy period.
5. Transcript 5 – This was a case where the complainant did not know the offending priest had died.
6. Transcript 6 – This was an interview of the complainant in the presence of her husband. The complainant made it clear that she understood her rights to report to the police but did not intend to do so. (See p. 21-22)
7. Transcript 7 – These were complaints by two sisters in respect of an offending priest, who was a friend of their uncle. They did not want to report the matter to the police, albeit they had suffered serious abuse. I might add that the older sister applied for and obtained compensation and was given considerable assistance by way of psychological and counseling support from Carelink and other practitioners. Unfortunately despite my entreaties the other sister has not sought compensation and declined treatment albeit the need for it is palpable.
8. Transcript 3 – This was reflected in the letter attached which I wrote to that sister (7A).

I believe the above is typical of my procedures, though no two cases are precisely alike. I confirm that the great majority of complaints are in respect of priests who have been convicted, for the subject complaint, or the priest has died. Thus there is no point in referring to the police.

If you have any queries, do not hesitate to contact me. Due to the size of the attachments I have sent them in three separate emails.

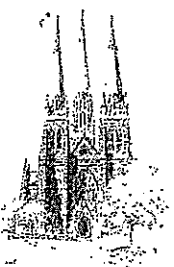
Kind regards

P.J. O'Callaghan
Independent Commissioner

Telephone: [REDACTED]

IMPORTANT:

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CATHOLIC ARCHDIOCESE OF MELBOURNE

BUSINESS MANAGER

James Goold House
228 Victoria Parade
East Melbourne, 3002
(PO Box 146, East Melbourne. 8002)

Telephone: (03) 9926 5677
Facsimile: (03) 9639 2860
Email: [REDACTED]

12 April 2010

Superintendent Wendy Steendam and Inspector Glenn Davies
Crime Department
Victoria Police
Level 6, 453 Flinders Street
MELBOURNE VIC 3000

Dear Superintendent and Detective Inspector

I refer to our recent meeting. The Archbishop has asked me to convey his appreciation for the opportunity to refine the assistance and cooperation between the police and the Archdiocese in dealing with complaints of sexual abuse. I enclose a proposed agreement which I trust satisfies the requirements of the police and the Archdiocese. It is based upon the proposition that there can be no substitute for the police force in bringing sexual offenders to justice, but it also recognizes the reluctance of some complainants of sexual abuse to engage in any criminal process and the fact that not all complaints could result in the prosecution of an offender.

A number of your proposals reflect the position that has applied since the Commissioner was appointed in 1996, and we have confirmed these and most of your modified or new proposals, including:

- The appointment of a liaison officer;
- The referral of criminal conduct to the police where the complainant agrees;
- The creation of an information document, to be provided to complainants at the outset, with written acknowledgment from the complainant before the Commissioner proceeds;
- Revised arrangements in relation to disclosure to the alleged offender that the matter has been referred to the police.

In our discussions the police have suggested that "The Independent Commissioner (shall) not refer to or liken his role to that of a Royal Commissioner or a Royal Commission". Whilst the Commissioner in the past on occasions likened or equated his role to that of a Royal Commissioner, obviously he has never said that he was one. Summarily stated, the reason the Commissioner has sometimes likened his role to that of a Royal Commissioner, is to demonstrate and emphasise that he has and will act independently of his appointor, the Archbishop of Melbourne.

The point was well made in the brochure entitled The Melbourne Archdiocese Response which was circulated at the time of his appointment 31 October 1996:

"Mr Peter O'Callaghan QC has been appointed to enquire into allegations of sexual abuse by priests, religious and lay people who are, or were, under the control of the Archbishop of Melbourne.

In much the same way as a Royal Commissioner appointed by a Government, the Commissioner will operate independently of the Church. He will be subject to the

rules of natural justice and the relevant provisions of Canon law". (Emphasis supplied)

Complainants have frequently expressed disquiet at the fact that it is the Archbishop which has appointed the Commissioner, and that the alleged offender is or was a priest of the Archdiocese. Likewise they express concern that he is "a representative" of the Church. These are people who are understandably distressed and concerned at having been abused by a priest of the Archdiocese, and are suspicious of a process initiated by the Archdiocese of whom those priests were part.

The reason that the Commissioner sometimes advises that he is acting akin to a Royal Commissioner, is because the average person is familiar with that term, and with the independence of Royal Commissions. The Commissioner has the independence from the Archbishop that a Royal Commission has from Government. Typically he receives a complaint, investigates it and sometimes conduct a hearing in order to determine whether or not the complaint is established. Evidence in a hearing before the Commission is given on oath or affirmation, pursuant to s110 of the Evidence (Miscellaneous Provisions) Act.

You have also suggested that "The Independent Commissioner is not a Royal Commissioner but a Solicitor who is employed by the Archdiocese of Melbourne to determine if a compensatory payment will be made to you". The Commissioner is not a Solicitor employed by the Archdiocese. The Commissioner is a member of the Independent Bar, and is retained by the Archdiocese's Solicitors to act as Independent Commissioner quite independently of the appointor. Notwithstanding the Archdiocese through its solicitors pays his fees, this does not detract from that independence any more than a Government paying the fees of a Royal Commission detracts from his/her independence. I point out that in 1996 the Commissioner was briefed by the Archdiocese's solicitors because he was one of Melbourne's leading and senior barristers. The Archdiocese chose an Independent Commissioner whose reputation, skill and experience was such as to assure complainants and accused that they would be fairly dealt with

I also note that you have also referred to the Compensation Panel as "representing the Catholic Archdiocese of Melbourne". That is not a fair or adequate description of the Compensation Panel. The Panel does not represent the Archdiocese, it is independent of it.

The Compensation Panel has been successively chaired by Alex Chernov QC (until appointed to the Victorian Supreme Court and the Court of Appeal), David Habersberger QC (until appointed to the Supreme Court), Susan Crennan QC (until appointed to the Federal Court and later to the High Court); and the current Chairman David Curtain QC a Senior Barrister of great competence and experience and a former Chairman of the Victorian Bar Council. The other members of the Panel are a psychiatrist, a practicing solicitor and a pharmacist/social worker.

Finally, I reiterate that the Archdiocese is anxious and willing at all times, to cooperate with and assist the police force. The Commissioner and the Archbishop look forward to your comments on the enclosed agreement.

Yours sincerely



Francis Moore
Business Manager

The Most Reverend Denis J Hart, DD, Catholic
Archbishop of Melbourne

Peter John O'Callaghan

Superintendent Wendy Steedham for and on behalf
of Victoria Police

PROTOCOL

Date

Parties

**The Most Reverend Denis J Hart, DD, Catholic Archbishop of Melbourne
(Archbishop)**

Peter John O'Callaghan (Commissioner)

**Superintendent Wendy Steedham for and on behalf of Victoria Police
(Police)**

Background

- A On 31 October 1996 Archbishop Pell, then the Archbishop of the Catholic Archdiocese of Melbourne, appointed the Commissioner to enquire into and report upon allegations of sexual abuse by priests, religious and laypersons within the Archdiocese of Melbourne pursuant to Terms and Conditions of Appointment (the Terms), a current copy of which is annexed hereto as Schedule 1. When Archbishop Hart succeeded Archbishop Pell, Archbishop Hart continued the appointment of the Commissioner.
- B The Terms were formulated in consultation with the Victoria Police and it was then acknowledged and agreed, as it is now, that there can be no substitute for a Police investigation into complaints of sexual abuse, which may constitute criminal conduct. It is also acknowledged and agreed that some complainants do not wish to take their complaints to the Police. In that context and in order to continue and to facilitate cooperation and assistance between the Archdiocese, the Commissioner and the Police the parties have recorded this agreement.
-

Agreed terms

1 Liaison Officer

- (a) The squad manager of the Sexual Crime Squad or his delegate shall be appointed the Victorian Police Liaison Officer to liaise with the Archbishop (or his delegate) and the Commissioner, and shall meet regularly with the Commissioner.
- (b) If a complainant informs the Commissioner that it is desired to refer the complaint to the police, the Commissioner will refer the complainant to the Liaison Officer, and subject to sub paragraphs (c) and (d) shall take no further steps in relation to the complaint, until the police investigation and any proceedings emanating therefrom are completed.
- (c) If the complainant so wishes, the Commissioner may refer the complainant to Carelink for the provision of free counselling and psychological support.
- (d) The Commissioner may make recommendations to the Archbishop in respect of the alleged offender.

2 Disclosure to Complainants

The Commissioner agrees that save where the alleged offender the subject of a complaint is dead, he will inform each Complainant of sexual abuse that if the conduct about which complaint is made may constitute criminal conduct that:

- (a) the Complainant has a continuing and unfettered right to report that complaint to the police;
- (b) the Commissioner encourages the exercise of that right; and
- (c) the Police have greater powers of investigation than does the Commissioner.

The Commissioner will provide such Complainants with an information sheet in the form of Schedule 2 and will obtain the Complainant's written acknowledgment on a copy of that document.

3 Disclosure to Alleged Offender

When an alleged offender the subject of a complaint is advised of the complaint by the Commissioner, he will include information in writing in the form set out in Schedule 3.

4 Notification to Victoria Police

On each occasion that the Commissioner obtains from a Complainant acknowledgement in the form set out in Schedule 2 and advises the alleged

offender in the form set out in Schedule 3, he will inform the Liaison Officer that this has occurred.

5 Compliance with Agreement

- (a) If at any time the Police consider the Commissioner is not complying with the Terms or with the provisions of this Agreement, the Police may complain in writing to the Archbishop specifying the details of the non compliance, and shall provide a copy of that complaint to the Commissioner.
- (b) Forthwith upon the making of such complaint the Archbishop or his delegate, the Commissioner and the Liaison Officer or his delegate shall meet in order to deal with such complaint.

Schedule 1

[To be attached]

Schedule 2

THE INDEPENDENT COMMISSIONER AND COMPLAINTS TO VICTORIA POLICE

Information for and acknowledgement by Complainant

- 1 The Independent Commissioner has explained to me that he has been appointed by the Catholic Archbishop of Melbourne to investigate allegations of abuse.
- 2 The Commissioner has informed me that because the conduct about which I have complained of may constitute criminal conduct, I have a continuing and unfettered right to report the matter to the police. He has encouraged me to exercise that right. He has informed me that if I did wish to report the matter to the police, he would refer me to an appropriate police officer to deal with the complaint.
- 3 The Commissioner has explained to me that the police have powers which he does not have, including the power to issue search warrants and to arrest offenders, and that it is only through the police that the offender can be brought before a Court and punished for criminal conduct.
- 4 Aware of these matters I do not at this time wish to take my complaint to the police, and:
 - (a) I request the Commissioner to exercise the powers conferred upon him by the Archbishop to deal with my complaint; and
 - (b) I require the Commissioner to keep my identity confidential to the best of his ability and save as compelled by law.
- 5 I further acknowledge that I can refer the complaint to the police at any time, and if I do so the Commissioner will take no further steps in relation to the complaint until the police investigation and any proceedings emanating there from have been completed.

NAME: _____

SIGNED: _____

DATED the day of 2010

This information is provided to complainants in accordance with the protocol agreed with Victoria Police. Both the Commissioner and Victoria Police are happy to provide further information and advice about these matters.

Schedule 3

Advice by the Independent Commissioner to an Alleged Offender

If and when the alleged offender is advised by the Commissioner of the complaint the Commissioner will inter alia inform the offender as follows:

"The complainant at least at this stage does not wish to report the complaint to the police, despite being told that there is a continuing and unfettered right to do so, and having been encouraged to exercise that right. If subsequently, the complaint is referred to the police, I upon becoming aware that this has occurred will take no further step in dealing with the complaint, and will advise the police in writing that I will not advise you that the complaint has been referred to the police for at least four weeks or such further period as is agreed with the police."

Executed as an agreement.

**Signed by The Most Reverend Denis)
J Hart, DD, Catholic Archbishop of)
Melbourne in the presence of:**

.....

.....
Witness

.....
Name of witness (print)

**Signed by Peter John O'Callaghan in)
the presence of:**

.....

.....
Witness

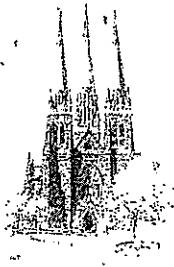
.....
Name of Witness (print)

**Signed by Superintendent Wendy)
Steedham for and on behalf of)
Victoria Police in the presence of:**

.....

.....
Witness

.....
Name of Witness (print)



CATHOLIC ARCHDIOCESE OF MELBOURNE

15
VIC POL

BUSINESS MANAGER

James Gould House
228 Victoria Parade
East Melbourne, 3002
(PO Box 146, East Melbourne, 8002)

Telephone: (03) 9926 5677

Facsimile: (03) 9639 2860

Email: [REDACTED]

13 May 2010

Detective Inspector Glenn Davies
Crime Department
Level 6, 452 Flinders Street
MELBOURNE VIC 3000

Dear Glenn

Many thanks to you and Wendy for meeting with us and for the constructive comments that you made.

As I said during the meeting, I am keen to finalise this agreement as soon as possible, although I understand that once we have reached agreement between ourselves, you will need to obtain legal "sign off".

I enclose a marked up copy that seeks to address the issues that you raised. In relation to the provision of information to victims, I confirm that subject to its contents being acceptable, the Commissioner is happy to provide complainants with literature you may wish to provide. Pending provision of such literature we have not dealt with this specifically in this draft. More generally in relation to his dealings with victims, the Archbishop considers it appropriate to rely on the long experience of the Independent Commissioner in dealing with victims in a sensitive and appropriate manner. It should not be forgotten that he has, regrettably, been required to deal with over 300 victims.

You will note that we have proposed a process whereby the name of the accused priest would be provided on a limited basis and subject to restrictions as to its use. This proposal is made to progress the discussions between us. Once the detail has been agreed between us I would need to obtain the Archbishop's formal approval on this issue.

I look forward to hearing from you.

Yours sincerely

Francis Moore
Business Manager

The Most Reverend Denis J Hart, DD, Catholic
Archbishop of Melbourne

Peter John O'Callaghan QC

~~Superintendent Wendy Steedham~~ Assistant
Commissioner Dannye Moloney for and on behalf of
Victoria Police

PROTOCOL

Date

Parties

The Most Reverend Denis J Hart, DD, Catholic Archbishop of Melbourne
(Archbishop)

Peter John O'Callaghan QC (Commissioner)

~~Superintendent Wendy Steedham~~ Assistant Commissioner Dannye
Moloney for and on behalf of Victoria Police (Police)

Background

- A On 31 October 1996 Archbishop Pell, then the Archbishop of the Catholic Archdiocese of Melbourne, appointed the Commissioner to enquire into and report upon allegations of sexual abuse by priests, religious and laypersons within the Archdiocese of Melbourne pursuant to Terms and Conditions of Appointment (the Terms), a current copy of which is annexed hereto as Schedule 1. When Archbishop Hart succeeded Archbishop Pell, Archbishop Hart continued the appointment of the Commissioner.
- B The Terms were formulated in consultation with the Victoria Police and it was then acknowledged and agreed, as it is now, that there can be no substitute for a Police investigation into complaints of sexual abuse, which may constitute criminal conduct. It is also acknowledged and agreed that some complainants do not wish to take their complaints to the Police. In that context and in order to continue and to facilitate cooperation and assistance between the Archdiocese, the Commissioner and the Police the parties have recorded this agreement.
-

4 Notification to Victoria Police

- (a) On each occasion that the Commissioner obtains from a Complainant acknowledgement in the form set out in Schedule 2 and advises the alleged offender in the form set out in Schedule 3, he will inform the Liaison Officer that this has occurred and the name of the accused.
- (b) The Liaison Officer will advise the Commissioner if there is a current police investigation in respect of the accused, and may request the Commissioner to take no further steps in relation to the investigation, until advised otherwise, which the Commissioner will agree to do.
- (c) The Liaison Officer shall make no record of the name of the accused save for the purposes of the enquiries referred to in sub paragraph (b).
- (d) The Police including the Liaison Officer shall not use the name of any accused person provided by the Commissioner for any purpose save for the purposes of the enquiries referred to in sub paragraph (b).
- (e) If the Commissioner is requested to take no further steps in relation to the investigation he shall not do so save that
 - (i) He may inform the Complainant that he has been requested by the Police to take no further steps in relation to the complaint; and
 - (ii) He may provide such information to the Archbishop as he considers necessary and appropriate in the circumstances including, for the avoidance of doubt, a recommendation that the Archbishop take action in relation to the accused.

5 Compliance with Agreement

- (a) If at any time the Police consider the Commissioner is not complying with the Terms or with the provisions of this Agreement, the Police may complain in writing to the Archbishop specifying the details of the non compliance, and shall provide a copy of that complaint to the Commissioner.
- (b) Forthwith upon the making of such complaint the Archbishop or his delegate, the Commissioner and the Liaison Officer or his delegate shall meet in order to deal with such complaint.

Schedule 2

THE INDEPENDENT COMMISSIONER AND COMPLAINTS TO VICTORIA POLICE

Information for and acknowledgement by Complainant

- 1 The Independent Commissioner has explained to me that he has been appointed by the Catholic Archbishop of Melbourne to investigate allegations of abuse.
- 2 The Commissioner has informed me that because the conduct about which I have complained of may constitute criminal conduct, I have a continuing and unfettered right to report the matter to the police. He has encouraged me to exercise that right. He has informed me that if I did wish to report the matter to the police, he would refer me to an appropriate police officer to deal with the complaint.
- 3 The Commissioner has explained to me that the police have powers which he does not have, including the power to issue search warrants and to arrest offenders, and that it is only through the police that the offender can be brought before a Court and punished for criminal conduct.
- 4 Aware of these matters I do not at this time wish to take my complaint to the police, and:
 - (a) I request the Commissioner to exercise the powers conferred upon him by the Archbishop to deal with my complaint; and
 - (b) I require the Commissioner to keep my identity confidential to the best of his ability and save as compelled by law.
- 5 I further acknowledge that I can refer the complaint to the police at any time, and if I do so the Commissioner will take no further steps in relation to the complaint until the police investigation and any proceedings emanating there from have been completed.
- 6 I further acknowledge that the Commissioner will inform the police of the name of the person against whom my complaint is made, but without disclosing my identity, or anything else which I have informed him of.

NAME: _____

SIGNED: _____

DATED theday of2010

Schedule 3

Advice by the Independent Commissioner to an Alleged Offender

If and when the alleged offender is advised by the Commissioner of the complaint the Commissioner will inter alia inform the offender as follows:

"The complainant at least at this stage does not wish to report the complaint to the police, despite being told that there is a continuing and unfettered right to do so, and having been encouraged to exercise that right. If subsequently, I become aware the complaint is referred to the police, ~~I upon becoming aware that this has occurred~~ will take no further step in dealing with the complaint, and will advise the police in writing that I will not advise you that the complaint has been referred to the police for at least four weeks or if requested by the police such further period as is agreed with the police."

Francis Moore

From: Davies, Glenn [glenn.davies@police.vic.gov.au]
Sent: Wednesday, 26 May 2010 4:34 PM
To: Francis Moore
Cc: Ridley, Robert; Steendam, Wendy
Subject: FW: PROTOCOL
Attachments: Let-GlennDavies-VicPolice-130510.pdf; Protocol-with-Marked-Changes-130510.pdf

Hi Francis,

As my last formal duties at the Sex Crimes Squad until the 10th of July, I have looked at the proposed Protocol.

I gave your office a call to discuss without success. I am available on the mobile tomorrow and if you would like to discuss another matter with you. It relates to a journalist from Healesville who contacted me today with regard to working with children checks. I told her I would not comment. I did however confirm what has already been published... that we are in discussions over the issue of the Melbourne Archdiocese response....that is all.

I have discussed the proposed amendments to the schedule and protocol with Wendy and I submit them for your consideration.

Point 4(a) -

The change I suggest is and the name of the accused to - *the name and identifying details of the accused.*
Comment: For us it is pointless just having a name. John Brown or Fred Smith. We need to identify the person to check our records.

Point 4(b) -

I would like to amend it to read. *The liaison Officer may advise the Commissioner of a police interest in the accused person, make further enquires in respect to the accused or may request the Commissioner to take no furtheretc.* As a matter of law we cannot advise you of a police investigation into another person, however if we have an interest or a current investigation it may be necessary to make further enquires with you as a part of this investigation and to request you to take no further action to ensure the investigation is not compromised. (its just in the wording I think)

Point 4(c) - The only addition I see for this point isto in sub paragraph (b) and such recording will be restricted one only held by the liaison officer as it is required by him in his position organisationally. (These details would need to be kept as part of the officers official police diary)

Point 4(d) - I foresee that if a person has been complained about a number of times that we may have a discussion with you on this issue.

Point 4(e) i - Change to *He may inform the Complainant that he has been requested by the police to take no further steps at this time in relation to the complaint.* (It should be explained to a complainant there may be a time at the expiration of a police investigation that the complainant may want to have the matter dealt with by the commissioner.)

Point 4(e) ii - I have a comment on this section. Obviously if any immediate action is taken by the Archbishop with regard to any person it should be done in such a way as to not alert the accused person to police actions or investigations. I understand that the safety of persons would be upper most in his mind however we don't want any actions to be interpreted in any particular manner by an accused person or we would be back to square one.

I know you are keen to keep going with this.

If you would like to send back any further amendments to Rob Ridley and Wendy we will then get them off to be ticked off by the VGSO.

Thanks

*Only with letters on basis of complaint & directly to IC
- NS*

Cheers

Glenn Davies

Glenn Davies | Detective Inspector
Sexual Crimes Squad | Crime Department | Victoria Police

ph: (03) 96118701 | [REDACTED]
fax: (03)96118765 | email: glenn.davies@police.vic.gov.au
address: Level 6, 452 Flinders Street, Melbourne VIC 3000

From: Francis Moore [REDACTED]
Sent: Thursday, 13 May 2010 12:05 PM
To: Davies, Glenn
Subject: PROTOCOL

Glenn

I attach a marked up copy of the Protocol that seeks to address the issues that you raised together with a copy of my covering letter, both of which have also been sent to you in today's post.

As discussed, I am keen to finalise this agreement as soon as possible and I await your response.

Kind regards

Francis Moore
Business Manager
CATHOLIC ARCHDIOCESE OF MELBOURNE
Phone: (03) 9926 5677 Fax: (03) 9639 2860
Email: [REDACTED] - PLEASE NOTE NEW EMAIL ADDRESS old email address discontinued
May 2010
Web: <http://www.cam.org.au>



Please consider the environment before printing this email

Please note our e-mail addressing is changing from [name]@melbourne.catholic.org to [name]@cam.org.au from the 30th May 2010.

Until then both naming formats of e-mail will be supported. If you can kindly update your address books this will ensure that when we change there is not interruption to e-mail services

Note : This does not apply to e-mails from our server with the ctc.edu.au, or css.org.au, or JP2institute.org addressing

This email and any attachment is intended only for the exclusive and confidential use of the addressee(s). If you are not the intended recipient, any use, interference with, disclosure or copying of this material is unauthorised and prohibited. If you have received this message in error, please notify the sender by return email immediately and delete the message from your computer without making any copies. Before opening any attachments, please check them for viruses and/or other defects

Francis Moore

From: Ridley, Robert
Sent: Monday, 7 June 2010 10:33 AM
To: Francis Moore
Cc: Steendam, Wendy
Subject: RE: PROTOCOL

Dear Frances

I tried to ring re this but could not get you on the phone.

I have now read the protocol and need to to clarify some points:

Para 3 - Disclosure to the alleged offender.

This paragraph should reflect that insofar as practical the alleged offender is not to be informed about the alleged complaint until agreement is reached with the Liaison Officer that such notification is appropriate (i.e. will not effect a police investigation)

Para 4 (b) refers to sub paragraph (b) - which part of the MOU is this specifically referring to?

Para 4 (c) same points as above.

I think the point of para 4 (b) is that in order for us to make inquiries into the accused for the purposes of seeing if he is a person of interest etc - we may need to makes some record of same. This may extend to the liaison officer having a subordinate making inquires on his or hers behalf. For instance if we conduct a LEAP check (police data base) a record is made on the computer of the check and record is made in the police members diary/day book.

Para 4 does not cover this.

We will also need to attach schedule one.

Please ring to discuss

Robert Ridley

From: Francis Moore [REDACTED]
Sent: Monday, 7 June 2010 9:26 AM
To: Ridley, Robert; Steendam, Wendy
Cc: Davies, Glenn
Subject: FW: PROTOCOL
Importance: High

Dear Robert and Wendy

Glenn Davies has asked that I deal with you in his absence.

In a conversation which I had with Glenn following my email to him of 27 May he indicated that the changes outlined in the in that email were acceptable to him.

Clearly in the face of criticism such as appeared in The Age last Friday that "The Melbourne Archdiocese is yet to unveil its changes to the 'Melbourne Response'" I would like to ensure that we have no unnecessary delays in finalising the Protocol.

Can you please advise whether the Protocol is in a form acceptable to you so that it can be submitted to the Victorian Government Solicitor for sign-off.

Kind regards

Francis Moore
Business Manager
CATHOLIC ARCHDIOCESE OF MELBOURNE
Phone: (03) 9926 5677
Fax: (03) 9639 2860

Web: <http://www.cam.org.au>



Please consider the environment before printing this email

From: Francis Moore
Sent: Thursday, 27 May 2010 4:40 PM
To: 'Davies, Glenn'
Cc: Ridley, Robert; Steendam, Wendy
Subject: RE: PROTOCOL

Glenn

I refer to your email to me yesterday. Please find attached a revised protocol with changes marked up to reflect the points raised in yesterday's email.

We have adopted your suggestions in relation to 4(a), 4(c) (with slightly modified wording) and 4(e)(i).

In relation to 4(b), we do not think it is necessary to refer specifically to "further enquiries". Clearly it is open to Police to make enquiries of whomever they wish, whenever they wish.

In relation to 4(e)(ii), we understand the point you were making. Each situation would need to be dealt with on a case by case basis and we think the best way to achieve this is to provide that there will be discussion between the Commissioner and the Liaison Officer.

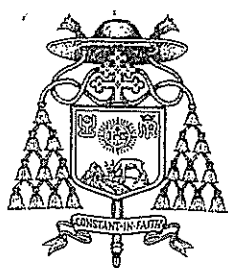
If you, Wendy or Robert can confirm acceptance I will arrange to have the agreement in clean form sent to you so it can be provided to the VGS.

Kind regards

Francis Moore
Business Manager
CATHOLIC ARCHDIOCESE OF MELBOURNE
Phone: (03) 9926 5677
Fax: (03) 9639 2860

PLEASE NOTE NEW EMAIL ADDRESS old email address discontinued

May 2010
Web: <http://www.cam.org.au>



James Gould House
P.O. Box 146
East Melbourne Vic 3002
Australia

9 September 2010

Mr Simon Overland
Chief Commissioner of Police
Victoria Police Centre
637 Flinders Street
MELBOURNE VIC 3005

Dear Chief Commissioner

Over recent months the Archdiocese and Victoria Police have been engaged in discussion about a protocol to improve liaison between us in relation to allegations of clergy sexual abuse. The discussions between my advisors and the Sexual Crimes Squad, principally Detective Inspector Glenn Davies and Superintendent Wendy Steedham have been very productive and I am particularly grateful to D/I Davies in particular for his contribution to our discussions.

A draft protocol has been produced that:

- Confirms the desirability that all allegations of criminal conduct be reported to and investigated by Police, and the practical steps that will be taken by the Independent Commissioner appointed by me to investigate abuse allegations within the Archdiocese to encourage the exercise of that right;
- Consistent with the terms of appointment confirms that the Archdiocese and the Independent Commissioner will take no steps to investigate matters that are the subject of pending Police investigations;
- Sets out a procedure designed to avoid any interference by the Archdiocese with pending Police investigations;
- Provides for enhanced co-operation and liaison between the Archdiocese and Victoria Police.

I believe that the proposed protocol will enhance the relationship between our respective organisations, improve the public's perception of us both in this difficult and tragic context and will clarify for victims of abuse the options open to them and assist them in achieving justice and receiving much needed assistance.

Both the Archdiocese and Victoria Police have been cognisant of privacy issues and from our perspective, we believe that the proposed protocol causes no concerns in this regard.



I am writing to convey my desire that the protocol be finalised as soon as possible to forestall any attempt by the media to suggest agreement cannot be reached and to express my appreciation for the constructive dialogue that has taken place to date.

I would be most pleased to meet with you to discuss these issues.

With every best wish

Yours sincerely in Christ

A handwritten signature in black ink, reading '+ Denis J. Hart'. The signature is written in a cursive style with a cross at the beginning.

ARCHBISHOP OF MELBOURNE

CC: A/C Dannye Moloney
D/I Glenn Davies.



VICTORIA POLICE

Chief Commissioner's Office

Victoria Police Centre
637 Flinders Street
Melbourne 3005
Victoria Australia
Telephone [REDACTED]
Facsimile (61 3) 9247 6869

Our Ref: 10/005297

PO Box 415
Melbourne 3005
Victoria Australia

COPY

Denis Hart
Archbishop of Melbourne
James Goold House
P.O. Box 146
East Melbourne Vic 3002

Dear Archbishop Hart,

I write on behalf of the Chief Commissioner to acknowledge your correspondence dated 9 September 2010 regarding the protocol to improve liaison between the Archdiocese and Victoria Police in relation to clergy sexual abuse.

I have sought advice on the draft proposal and will advise you of the outcome in due course.

Yours sincerely,

Stephen Leane
Superintendent
Chief of Staff to the
Chief Commissioner

15/9/10

Francis Moore

From: Davies, Glenn [glenn.davies@police.vic.gov.au]
Sent: Sunday, 26 September 2010 2:51 PM
To: Francis Moore
Cc: Fraser, Murray
Subject: RE: PROTOCOL

Good afternoon Francis,

I understand your concerns and its my understanding that with the meeting I have had with A/C Moloney the file has been progressed.

I don't beleive in the working arrangement we have proposed that we are providing any personal police information. On that basis the file has once again been sent to our legal policy area to ensure this is correct. I will enquire on Monday at to where the file is.

Thank you.

Glenn Davies

Glenn Davies | Detective Inspector
Sexual Crimes Squad | Crime Department | Victoria Police

White Ribbon Day Nov 25th. Helping end violence against women.

ph: (03) 96118701 | [REDACTED]
fax: (03)96118765 | **email:** glenn.davies@police.vic.gov.au
address: Level 6, 452 Flinders Street, Melbourne VIC 3000

From: Francis Moore [REDACTED]
Sent: Saturday, 25 September 2010 10:02 PM
To: Davies, Glenn
Subject: RE: PROTOCOL

Dear Glenn

I have noted the following article appearing in today's edition of The Age. While I do not believe that the Protocol we have been discussing fits the description of "deals...over the exchange of personal ploice information" I note the Chief Commissioner's comment that Police would only enter into MOU's with government agencies. It would be helpful to have a clear position from Victoria Police as soon as possible so that we can determine how we are to proceed.

Because the position remains unresolved the questions remain:

(a) Is there any way we can describe the situation as it stands?

(b) How do we handle media inquiries which will inevitably come-because we know The Age is continuing to monitor the situation?

Responding to media inquiries that we are "still negotiating" with Victoria Police, and declining to nominate when agreement is likely to be reached is unlikely to suffice for much longer. If we continue to say discussions are continuing eventually media and the victims groups will come to a view that there must be a problem or to reflect adversely on the negotiating skills of the Church and the Police. They will ask questions such as:

- o "Why is it taking so long, there must be a problem?"
- o "Why can't you agree a protocol?"
- o "You must have lost police support".
- o What are the stumbling blocks?

Any steps that you can take to bring closure will avoid us both being put in the difficult position of not being able to provide truthful responses when progress is questioned.

VICTORIA Police will no longer make deals with private companies over the exchange of personal police information, following a damning report into an arrangement with the builders of Victoria's \$5.7 billion desalination plant over secret police files.

Chief Commissioner Simon Overland admitted that a deal between AquaSure, the private consortium building the water plant, and the police should never have been done.

A scathing report by Victoria's police files watchdog found that the agreement had failed to comply with privacy and human rights laws.

Yesterday, Mr Overland said police would no longer enter into memorandums of understanding with private companies and only do such deals with government agencies.

"The MOUs are drafted by lawyers. So we just don't race around doing these things in a slapdash fashion, but I do accept the criticisms that are being made," he told 3AW.

Last year The Age revealed that police and the government had signed a memorandum of understanding with AquaSure to manage security threats at the desalination building site.

That document stated police "will release law enforcement data" to AquaSure.

The deal sparked an outcry from opponents of the Wonthaggi desalination plant.

Police have struck at least 36 memorandums of understanding since January 2008, including with the AFL, Consumer Affairs and the Australian Sports Anti-Doping Authority.

Opposition Leader Ted Baillieu called on Mr Overland to publicly release the deals.

Premier John Brumby said the desalination agreement had been sloppily worded, but the report into the deal found there had been no breach of the law or inappropriate behaviour.

Kind regards

Francis Moore

Business Manager

CATHOLIC ARCHDIOCESE OF MELBOURNE

Phone: (03) 9926 5677

Fax: (03) 9639 2860

Email: [REDACTED] - PLEASE NOTE NEW EMAIL ADDRESS old email address discontinued
May 2010

Web: <http://www.cam.org.au>



Please consider the environment before printing this email

From: Davies, Glenn [mailto:glenn.davies@police.vic.gov.au]
Sent: Monday, 20 September 2010 11:51 AM
To: Francis Moore
Subject: RE: PROTOCOL

Francis,
I have had a conversation with the A/C Mr Moloney last week and the file is now progressing. I will let you know as soon as I know anything further. I note the article over the weekend in the Australian may also be causing you some concern and I have been asked to brief the Chief Commissioner. I will be drawing to his attention the subject of our discussions and he may be referring to it in his replies to the media. As soon as I get the ok regarding the agreement with this I will be convening a meeting.

Thank you.

Glenn Davies

Glenn Davies | Detective Inspector
Sexual Crimes Squad | Crime Department | Victoria Police

White Ribbon Day Nov 25th. Helping end violence against women.

ph: (03) 96118701 | [REDACTED]
fax: (03)96118765 | email: glenn.davies@police.vic.gov.au
address: Level 6, 452 Flinders Street, Melbourne VIC 3000

From: Francis Moore [REDACTED]
Sent: Friday, 17 September 2010 3:33 PM
To: Davies, Glenn
Subject: RE: PROTOCOL

Hi Glenn

Checking to see whether there is any progress following the Archbishop's letter to the Chief Commissioner.

Kind regards

Francis Moore
Business Manager
CATHOLIC ARCHDIOCESE OF MELBOURNE
Phone: (03) 9926 5677
Fax: (03) 9639 2860
[REDACTED]

Web: <http://www.cam.org.au>



Please consider the environment before printing this email

From: Davies, Glenn [mailto:glenn.davies@police.vic.gov.au]
Sent: Wednesday, 4 August 2010 2:36 PM
To: Francis Moore
Subject: RE: PROTOCOL

Francis,
I have checked it's progress.
It's back from legal services and now with the Assistant Commissioner.
His PA tells me she will remind him to look at it.

Cheers

Glenn Davies

Glenn Davies | Detective Inspector
Sexual Crimes Squad | Crime Department | Victoria Police

h: (03) 96118701 | [REDACTED]
fax: (03)96118765 | email: glenn.davies@police.vic.gov.au
address: Level 6, 452 Flinders Street, Melbourne VIC 3000

From: Francis Moore [REDACTED]
Sent: Wednesday, 4 August 2010 1:26 PM
To: Davies, Glenn
Subject: FW: PROTOCOL

Hi Glenn

The Archbishop has a meeting with his Council of Priests next Tuesday and is keen to provide an update on the current status of the Protocol. I would be grateful if you could advise if we are close to a resolution.

Kind regards

Francis Moore
Business Manager
CATHOLIC ARCHDIOCESE OF MELBOURNE
Phone: (03) 9926 5677
Fax: (03) 9639 2860
[REDACTED]

Web: <http://www.cam.org.au>



Please consider the environment before printing this email

From: Francis Moore
Sent: Monday, 2 August 2010 3:23 PM
To: 'Davies, Glenn'
Subject: RE: PROTOCOL

Dear Glenn

A follow up to see how you are progressing with the Protocol.

Kind regards

Francis Moore

Business Manager

CATHOLIC ARCHDIOCESE OF MELBOURNE

Phone: (03) 9926 5677

Fax: (03) 9639 2860

Web: <http://www.cam.org.au>



Please consider the environment before printing this email

From: Davies, Glenn [mailto:glenn.davies@police.vic.gov.au]

Sent: Friday, 23 July 2010 5:38 PM

To: Francis Moore

Cc: Davis, Campbell

Subject: RE: PROTOCOL

Francis,

I am back in the chair.

I will ensure this is followed up as a priority.

Cheers

Glenn Davies

Glenn Davies | Detective Inspector

Sexual Crimes Squad | Crime Department | Victoria Police

ph: (03) 96118701 | [REDACTED]

fax: (03)96118765 | email: glenn.davies@police.vic.gov.au

address: Level 6, 452 Flinders Street, Melbourne VIC 3000

From: Francis Moore [REDACTED]

Sent: Friday, 23 July 2010 5:39 PM

To: Davis, Campbell

Cc: Ridley, Robert; Davies, Glenn

Subject: RE: PROTOCOL

Dear Campbell

I note that I have not heard from you since 12 July.

We are anxious to finalise

Could you please advise me whether you have received a response from your legal advisors and if not when this advice is expected.

Kind regards

Francis Moore
Business Manager
CATHOLIC ARCHDIOCESE OF MELBOURNE
Phone: (03) 9926 5677
Fax: (03) 9639 2860

Web: <http://www.cam.org.au>



Please consider the environment before printing this email

From: Francis Moore
Sent: Monday, 12 July 2010 12:44 PM
To: 'Davis, Campbell'
Cc: Ridley, Robert; Davies, Glenn
Subject: RE: PROTOCOL

Thanks Campbell

I will await your further advice after you have received a response from your legal advisors.

Kind regards

Francis Moore
Business Manager
CATHOLIC ARCHDIOCESE OF MELBOURNE
Phone: (03) 9926 5677
Fax: (03) 9639 2860

Web: <http://www.cam.org.au>



Please consider the environment before printing this email

From: Davis, Campbell
Sent: Monday, 12 July 2010 12:19 PM
To: Francis Moore
Cc: Ridley, Robert; Davies, Glenn
Subject: RE: PROTOCOL

Hi Francis,

Sorry for the delay in getting back to you. Both Rob and Glenn are still away until next week. The document has been sent to our Legal Advisors Office for assessment and advice. Hopefully we will be in contact with you very soon.

Kind regards

Cam Davis

Detective Acting Senior Sergeant

From: Francis Moore [REDACTED]
Sent: Monday, 12 July 2010 7:45 AM
To: Davis, Campbell
Cc: Ridley, Robert; Davies, Glenn
Subject: RE: PROTOCOL

Dear Campbell

Can you please advise the current status of consideration of the Protocol within VicPol.

Kind regards

Francis Moore
Business Manager
CATHOLIC ARCHDIOCESE OF MELBOURNE
Phone: (03) 9926 5677
Fax: (03) 9639 2860
[REDACTED]

Web: <http://www.cam.org.au>



Please consider the environment before printing this email

From: Francis Moore
Sent: Friday, 2 July 2010 10:20 AM
To:
Subject: FW: PROTOCOL

Dear Campbell

Earlier email to Robert as discussed.

Kind regards

Francis Moore
Business Manager
CATHOLIC ARCHDIOCESE OF MELBOURNE
Phone: (03) 9926 5677
Fax: (03) 9639 2860
[REDACTED]

Web: <http://www.cam.org.au>



Please consider the environment before printing this email

From: Francis Moore
Sent: Monday, 28 June 2010 1:13 PM
To: 'Ridley, Robert'
Cc: Davies, Glenn
Subject: RE: PROTOCOL

Dear Robert

Thankyou for your email.

We believe that the protocol makes it totally clear that except where the alleged offender is dead or has already been the subject of a police complaint (ie the circumstances referred to in paragraph 2 (i) – (iii)), or where the complainant has refused to allow the Commissioner to disclose the name to the police, the Commissioner must act in accordance with the protocol, ie advise the Liaison Officer of the name of the alleged offender, await the Liaison Officer's response, and take no further action if so requested.

To try and summarise all of this in paragraph 4 only leads to uncertainty because the summary will necessarily be less clear than the detailed provisions in paragraphs 2 and 3.

In particular, paragraph 3(a) makes it clear that if the Liaison Officer requests that the Commissioner takes "no further steps in relation to the investigation, until advised otherwise", the Commissioner agrees that he will take no further steps. As such, he will not contact the accused.

It may however be that your concern is that the existing drafting wasn't sufficiently clear for victims. I enclose the attached, with mark ups to schedule 2 that reflect your suggestion.

An amended clean copy is also attached, together with a further copy of Schedule 1.

I am reluctant to make any further changes at this point. I would be grateful if you could submit the document to your legal advisors so that any further comments (of which I hope there will be none) can be addressed between the lawyers.

Kind regards

Francis Moore
Business Manager
CATHOLIC ARCHDIOCESE OF MELBOURNE
Phone: (03) 9926 5677
Fax: (03) 9639 2860

Web: <http://www.cam.org.au>



Please consider the environment before printing this email

From: Ridley, Robert
Sent: Friday, 25 June 2010 8:24 AM
To: Francis Moore
Cc: Davies, Glenn
Subject: RE: PROTOCOL

Dear Francis

I am happy with the changes except as per previous emails my concerns over notifications to Alleged offender.

This paragraph at the start needs to reflect :

An alleged offender is not to be advised by the Commissioner or representatives of the Catholic Church (you may need to tell me how this should be worded), unless the complainant has advised the commissioner that he or she does not wish that police be notified of the incident or the circumstances set out in paragraph 2 (ii) or 2 (iii) exist UNLESS the Liaison Officer (or delegate) has notified the Commissioner that such notification is appropriate.

Robert Ridley
Robert Ridley
Detective Senior Sergeant

From: Francis Moore [REDACTED]
Sent: Tuesday, 22 June 2010 3:23 PM
To: Ridley, Robert
Subject: PROTOCOL
Importance: High

Dear Robert

I refer to our recent telephone discussion. I enclose a further revised document. We have accepted all of the mark ups from the previous draft. I believe the changes should be self explanatory and that they address the issues we discussed. On the assumption that this is the case, I also enclose a "clean" copy of the document without any marked up amendments. In addition I enclose a further copy of Schedule 1.

You will see that we have tidied up paragraph 1. In 3 (b) we have deleted the reference to the Liaison Officer so that records may be held, by whoever they need to be held by, in accordance with police regulations. This clearly includes the Leap database.

Our amendment to paragraph 4 makes it clear that when the Commissioner contacts the accused, he does so in accordance with the protocol. Schedule 3 is amended consistently with paragraph 4.

I understand that Victoria Police now need to obtain legal "sign off" on the document and the "clean" copy is enclosed for that purpose. I hope that this can occur quickly so that we can execute the document.

The Archbishop is very keen to have the protocol in place by 1 July 2010.

Kind regards

Francis Moore
Business Manager
CATHOLIC ARCHDIOCESE OF MELBOURNE
Phone: (03) 9926 5677
Fax: (03) 9639 2860
[REDACTED]

Web: <http://www.cam.org.au>



Please consider the environment before printing this email

From: Ridley, Robert
Sent: Wednesday, 16 June 2010 8:33 AM
To: Francis Moore
Subject: RE: PROTOCOL

Thanks Francis

From: Francis Moore [REDACTED]
Sent: Wednesday, 16 June 2010 8:33 AM
To: Ridley, Robert
Subject: RE: PROTOCOL

Thanks Robert

I have been absent from the office. I will review and respond to you later today.

Kind regards

Francis Moore
Business Manager
CATHOLIC ARCHDIOCESE OF MELBOURNE
Phone: (03) 9926 5677
Fax: (03) 9639 2860

Web: <http://www.cam.org.au>



Please consider the environment before printing this email

From: Ridley, Robert
Sent: Wednesday, 16 June 2010 8:21 AM
To: Francis Moore
Subject: RE: PROTOCOL

Dear Francis

I was wondering how you were going with the below changes

Robert Ridley

Robert Ridley
Detective Senior Sergeant
Victoria Police - Crime Department

From: Francis Moore [REDACTED]
Sent: Monday, 7 June 2010 4:29 PM
To: Ridley, Robert
Cc: Steendam, Wendy
Subject: RE: PROTOCOL

Dear Robert

Thank you for the response and for your useful comments which I am currently considering. I will give you a call tomorrow to discuss.

Kind regards

Francis Moore
Business Manager
CATHOLIC ARCHDIOCESE OF MELBOURNE
Phone: (03) 9926 5677
Fax: (03) 9639 2860

Web: <http://www.cam.org.au>



Please consider the environment before printing this email

From: Ridley, Robert
Sent: Monday, 7 June 2010 10:33 AM
To: Francis Moore
Cc: Steendam, Wendy
Subject: RE: PROTOCOL

Dear Frances

I tried to ring re this but could not get you on the phone.

I have now read the protocol and need to clarify some points:

Para 3 - Disclosure to the alleged offender.

This paragraph should reflect that insofar as practical the alleged offender is not to be informed about the alleged complaint until agreement is reached with the Liaison Officer that such notification is appropriate (i.e. will not effect a police investigation)

Para 4 (b) refers to sub paragraph (b) - which part of the MOU is this specifically referring to?

Para 4 (c) same points as above.

I think the point of para 4 (b) is that in order for us to make inquiries into the accused for the purposes of seeing if he is a person of interest etc - we may need to make some record of same. This may extend to the liaison officer having a subordinate making inquiries on his or hers behalf. For instance if we conduct a LEAP check (police data base) a record is made on the computer of the check and record is made in the police members diary/day book.

Para 4 does not cover this.

We will also need to attach schedule one.

Please ring to discuss

Robert Ridley

Robert Ridley
Detective Senior Sergeant
Victoria Police - Crime Department

From: Francis Moore [REDACTED]
Sent: Monday, 7 June 2010 9:26 AM
To: Ridley, Robert; Steendam, Wendy
Cc: Davies, Glenn
Subject: FW: PROTOCOL
Importance: High

Dear Robert and Wendy

Glenn Davies has asked that I deal with you in his absence.

In a conversation which I had with Glenn following my email to him of 27 May he indicated that the changes outlined in the in that email were acceptable to him.

Clearly in the face of criticism such as appeared in The Age last Friday that "The Melbourne Archdiocese is yet to unveil its changes to the 'Melbourne Response'" I would like to ensure that we have no unnecessary delays in finalising the Protocol.

Can you please advise whether the Protocol is in a form acceptable to you so that it can be submitted to the Victorian Government Solicitor for sign-off.

Kind regards

Francis Moore
Business Manager
CATHOLIC ARCHDIOCESE OF MELBOURNE
Phone: ((03) 9926 5677
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[REDACTED]

Web: <http://www.cam.org.au>



Please consider the environment before printing this email

From: Francis Moore
Sent: Thursday, 27 May 2010 4:40 PM
To: 'Davies, Glenn'
Cc: Ridley, Robert; Steendam, Wendy
Subject: RE: PROTOCOL

Glenn

I refer to your email to me yesterday. Please find attached a revised protocol with changes marked up to reflect the points raised in yesterday's email.

We have adopted your suggestions in relation to 4(a), 4(c) (with slightly modified wording) and 4(e)(i).

In relation to 4(b), we do not think it is necessary to refer specifically to "further enquiries". Clearly it is open to Police to make enquiries of whomever they wish, whenever they wish.

In relation to 4(e)(ii), we understand the point you were making. Each situation would need to be dealt with on a case by case basis and we think the best way to achieve this is to provide that there will be discussion between the Commissioner and the Liaison Officer.

If you, Wendy or Robert can confirm acceptance I will arrange to have the agreement in clean form sent to you so it can be provided to the VGS.

Kind regards

Francis Moore

Business Manager

CATHOLIC ARCHDIOCESE OF MELBOURNE

Phone: (03) 9926 5677

Fax: (03) 9639 2860

[REDACTED] - PLEASE NOTE NEW EMAIL ADDRESS old email address discontinued

May 2010

Web: <http://www.cam.org.au>



Please consider the environment before printing this email

From: Davies, Glenn [mailto:glenn.davies@police.vic.gov.au]
Sent: Wednesday, 26 May 2010 4:34 PM
To: Francis Moore
Cc: Ridley, Robert; Steendam, Wendy
Subject: FW: PROTOCOL

Hi Francis,

As my last formal duties at the Sex Crimes Squad until the 10th of July, I have looked at the proposed Protocol. I gave your office a call to discuss without success. I am available on the mobile tomorrow and if you would like to discuss another matter with you.

relates to a journalist from Healesville who contacted me today with regard to working with children checks. I told her I would not comment. I did however confirm what has already been published... that we are in discussions over the issue of the Melbourne Archdiocese response....that is all.

I have discussed the proposed amendments to the schedule and protocol with Wendy and I submit them for your consideration.

Point 4(a) -

The change I suggest is and the name of the accused to - *the name and identifying details of the accused.*
Comment: For us it is pointless just having a name. John Brown or Fred Smith. We need to identify the person to check our records.

Point 4(b) -

I would like to amend it to read. *The liaison Officer may advise the Commissioner of a police interest in the accused person, make further enquires in respect to the accused or may request the Commissioner to take no furtheretc.* As a matter of law we cannot advise you of a police investigation into another person, however if we have an interest or a current investigation it may be necessary to make further enquires with you as a part of this investigation and to request you to take no further action to ensure the investigation is not compromised. (its just in the wording I think)

Point 4(c) - The only addition I see for this point isto in sub paragraph (b) and such recording will be restricted one only held by the liaison officer as it is required by him in his position organisationally. (These details would need to be kept as part of the officers official police diary)

Point 4(d) - I foresee that if a person has been complained about a number of times that we may have a discussion with you on this issue.

Point 4(e) i - Change to *He may inform the Complainant that he has been requested by the police to take no further steps at this time in relation to the complaint.* (It should be explained to a complainant there may be a

time at the expiration of a police investigation that the complainant may want to have the matter dealt with by the commissioner.)

Point 4(e) ii - I have a comment on this section. Obviously if any immediate action is taken by the Archbishop with regard to any person it should be done in such a way as to not alert the accused person to police actions or investigations. I understand that the safety of persons would be upper most in his mind however we don't want any actions to be interpreted in any particular manner by an accused person or we would be back to square one.

I know you are keen to keep going with this.

If you would like to send back any further amendments to Rob Ridley and Wendy we will then get them off to be ticked off by the VGSO.

Thanks

Cheers

Glenn Davies

Glenn Davies | Detective Inspector

Sexual Crimes Squad | Crime Department | Victoria Police

ph: (03) 96118701 | [REDACTED]

fax: (03)96118765 | email: glenn.davies@police.vic.gov.au

address: Level 6, 452 Flinders Street, Melbourne VIC 3000

From: Francis Moore [REDACTED]

Sent: Thursday, 13 May 2010 12:05 PM

To: Davies, Glenn

Subject: PROTOCOL

Glenn

I attach a marked up copy of the Protocol that seeks to address the issues that you raised together with a copy of my covering letter, both of which have also been sent to you in today's post.

As discussed, I am keen to finalise this agreement as soon as possible and I await your response.

Kind regards

Francis Moore

Business Manager

CATHOLIC ARCHDIOCESE OF MELBOURNE

Phone: (03) 9926 5677 Fax: (03) 9639 2860

[REDACTED] - PLEASE NOTE NEW EMAIL ADDRESS old email address discontinued

May 2010

Web: <http://www.cam.org.au>



Please consider the environment before printing this email

Please note our e-mail addressing is changing from [name]@melbourne.catholic.org to [name]@cam.org.au from the 30th May 2010.

Until then both naming formats of e-mail will be supported. If you can kindly update your address books this will ensure that when we change there is not interruption to e-mail services

Note : This does not apply to e-mails from our server with the ctc.edu.au, or css.org.au, or JP2institute.org addressing

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VICTORIA POLICE

Office of the Deputy Commissioner
Victoria Police Centre
Level 7, Building D
637 Flinders Street
Melbourne 3005
[Redacted]
Fax: 9247 6855

Our Ref: 10/005297

Archbishop Denis J. Hart
Archbishop of Melbourne
James Gould House
P.O. Box 146
East Melbourne Vic 3002

Dear Archbishop Hart,

Protocol between Victoria Police and the Catholic Church to improve liaison in relation to clergy sexual abuse

You may have read in various media reports that Victoria Police has recently changed its policy with regards to entering into agreements with non government or non law enforcement agencies who are involved in our investigations or operations. The Chief Commissioner, or any of his staff, can no longer enter into such agreements with organisations external to government and law enforcement. Essentially our position now is that there is no need for such agreements and that our relationships with such bodies ought to be solely regulated by the extant laws and procedures that apply to everyone.

Unfortunately the agreement that the Church and Victoria Police were developing for some time has been caught by our change of policy and cannot now be completed. Consequently any previous similar agreement between Victoria Police and the Catholic Church is now effectively rescinded.

I have discussed this decision with Detective Inspector Glenn Davies and feel that a meeting be arranged to agree a way forward which ensures that Victoria Police and the Catholic Church continue to work closely together. Inspector Chris Gawne, from my office, will be in contact shortly to arrange that.

Yours sincerely,

Sir Ken Jones QPM
Deputy Commissioner
06/ 10/ 2010

Corrs File Note

Author	Richard Leder	Date	3 February 2011
Client	CATH5800	Start	11am
Matter No	5683690	End	
Subject	Meeting with Sir Ken Jones on 12 November 2010		

Attendance type

Attendees	Sir Ken Jones, Peter O'Callaghan, Francis Moore, Richard Leder
Further action	No further action required

Sir Ken Glenn has briefed me on the background.

FM We've had friendly and productive discussions with Glen.
 Protocol had initially been suggested by Glen
 Agreement had effectively been reached.
 Then news hit regarding AFL and Desal. We thought we were still OK
 because own protocol didn't involve information going from police to us.
 From Archdiocese's perspective, we seek to be law abiding. We will continue
 to be. We wanted to have a process that allowed people who come to us to
 be able to deal more easily with police.

Sir Ken Things seem to have been proceeding very smoothly.
 Crime department got into habit of reading commercial agreements because
 of data security.

- We are happy to response to public criticism where we have to.
- There can be single points of contact, e.g. Glen.

Letter of 9 September set out where we need to be.

We are very content with the process and we are content that victims are
 being properly cared for.

- I was involved in enquiries with Cardinal McCormack.

P O'C We will supplement the Terms to reflect what was discussed.

Sir Ken Develop a position statement that we jointly rely on.

No problem in saying that the Terms were formulated in consultation with the
 police.

Liaison person will be head of sex offences squad.

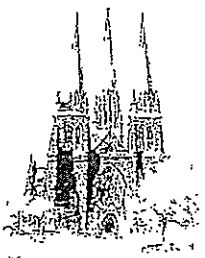
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FM

We will develop a position statement and put it to you.

Query issuing a joint statement.

file



CATHOLIC ARCHDIOCESE OF MELBOURNE

BUSINESS MANAGER
James Goold House
228 Victoria Parade
East Melbourne Vic. 3002
PO Box 146, East Melbourne 8002
Telephone: [REDACTED]
Facsimile: (03) 9639 2860
Email: [REDACTED]

2 December 2010

Sir Ken Jones QPM
Deputy Commissioner
Victoria Police Centre
Level 7 Building D
637 Flinders Street
Melbourne VIC 3005

Dear Sir Ken

Many thanks for meeting with Peter O'Callaghan QC, Richard Leder and me on 12 November 2010.

We appreciated your frankness and candour and, in particular, the support that you expressed for the processes that the Archdiocese has in place to respond to abuse allegations. It was gratifying to hear your confirmation that our processes deal with victims in an appropriate way.

As we discussed, the previous publicity attracted by these issues and the public statements to the effect that a protocol was being developed between the Archdiocese and Victoria Police, and the recent change in Police policy regarding such protocols, may require a public statement.

We welcome the suggestion that we mutually agree on this statement, and I enclose a suggested draft.

Thankyou again for your time, we very much enjoyed meeting you.

Yours sincerely

Francis Moore

Francis Moore
Business Manager

A JOINT STATEMENT FROM THE CATHOLIC ARCHDIOCESE OF MELBOURNE AND VICTORIA POLICE

CATHOLIC CHURCH'S MELBOURNE RESPONSE PROCESS ENDORSED BY VICTORIA POLICE

Recent changes made to the Melbourne Response, which is the process the Catholic Archdiocese of Melbourne has in place for the handling of sexual abuse cases, have been endorsed by Victoria Police.

Deputy Commissioner Crime, Sir Ken Jones, said: "Victoria Police welcomed having discussions with representatives of Archbishop Denis Hart and with the Independent Commissioner Peter O'Callaghan QC about aspects of the Melbourne Response process and I am supportive of the modifications that have been made."

Archbishop Denis Hart said: "I believe the Melbourne Response has been very successful in dealing with some 300 cases of abuse. The victims have been treated fairly, compassionately and with respect. We are always willing to consider ways the system can be improved so that's why we have made these changes."

"The changes came about as a result of discussions between the Independent Commissioner and representatives of the Archdiocese and the Police. From time to time we review the process to see if we can make further improvements and this is one such occasion. I am pleased Victoria Police are satisfied with the changes made."

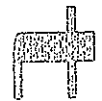
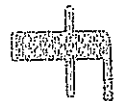
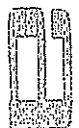
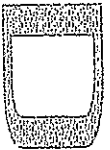
"Back in 1996 when the Melbourne Response was first introduced the Victoria Police approved the process, and the Independent Commissioner's Terms of Reference were formulated in consultation with the Police."

"Over the years we have learnt valuable lessons from cases that have proceeded through the Courts and cases that have proceeded through the Melbourne Response", the Archbishop said.

Sir Ken Jones said: "Having examined the Melbourne Response processes in detail, I am very satisfied that victims who choose to use this process are dealt with properly."

"To further enhance co-operation and liaison between the Archdiocese and Victoria Police it has been agreed that the Head of the Sexual Crimes Squad will meet regularly with the Independent Commissioner and representatives of the Melbourne Archdiocese to discuss issues of mutual interest and concern". Sir Ken Jones said.

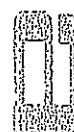
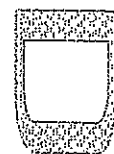
Archbishop Hart said: "To continue to ensure fairness to both victims and accused, the Archdiocese and the Independent Commissioner have agreed that



once the Independent Commissioner becomes aware that a complaint he has been investigating has been referred to the Police, he will not for a period of four weeks, or such further period as agreed with the Police, inform the alleged offender that the complaint has been referred to the police. The Police have approved this approach.

"As we have always said, victims should be encouraged to report these matters to the Police, if they want to, and we encourage them to do so as we have always said our system is no substitute for a Police investigation. So we are now re-affirming our position on this and the Police have welcomed our affirmation.

"The Independent Commissioner will continue to ensure that where appropriate victims are encouraged to exercise their right to report matters to the Police. Often victims do not wish to report their complaints to the Police, and their right to do so is recognized and respected." The Archbishop said.





10 DEC 2010

VICTORIA POLICE

Office of the Deputy Commissioner
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DX 210096
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Fax: 9247 6855

Mr. Francis Moore
Business manager
Catholic Archdiocese of Melbourne
PO Box 146
East Melbourne 8002,

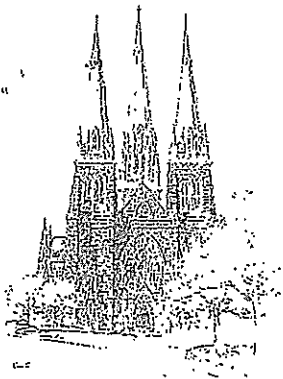
Dear Mr Moore,

Thank you for your letter of 2nd December and draft copy of the document titled "Joint Statement From Catholic Archdiocese of Melbourne and Victoria Police".

The documents have been forward to Deputy Commissioner Sir Ken Jones for his perusal and consideration. Deputy Commissioner Jones will provide his response in due course.

Yours sincerely,

Chris Gawne
Inspector
Staff Officer to Sir Ken Jones QPM Deputy Commissioner
07/12/2010



CATHOLIC ARCHDIOCESE OF MELBOURNE

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4 February 2011

Sir Ken Jones QPM
Deputy Commissioner (Crime)
Victoria Police Centre
Level 7, Building D
637 Flinders Street
MELBOURNE VIC 3005

Dear Sir Ken

Welcome back, I hope you had a good break. In your absence I have been working with Charlie Morton and through him, ADC Pope, to try and finalise our media release.

As you know, our discussions with the Police began in 2009 and were around an agreed protocol. I understand why your position on a protocol changed, but had been hoping that a joint public position would be possible. I accept that you do not want to take this course, but I must express some frustration and disappointment at the most recent changes proposed by Police to the Archbishop's proposed release, which represent a fundamental shift from the discussions that we have been having, since late 2009, with Glenn Davies, Wendy Steedham and with you. They are also not consistent with Mr Morton's indication last Friday that the only change sought to our draft was to remove your name from the draft.

Prior to Police withdrawal of support for a protocol, Detective Inspector Davies asked the Independent Commissioner to proceed on the basis that its key terms applied, i.e. the liaison arrangements between the Independent Commissioner and the Head of the Sexual Crimes Squad and the alleged offender not being informed for 4 weeks or such further period as agreed when a complainant decides to take their complaint to the Police.

When we met with you, you agreed that we should proceed with the implementation of the new arrangements through an amendment by the Archbishop to the Terms of Reference of the Independent Commissioner to address those matters that were to be covered by the protocol.

It has been acknowledged by Police in all of our previous discussions that the Independent Commissioner has an important role to play that cannot be filled by Police for varying reasons, including that the victim does not wish to report their complaint to the Police, or because the accused is dead, or because the complaint has previously been reported to Police but no action has been taken.

I do understand that Mr Pope may not be familiar with all of the background, which is why decided to await your return in order to finalise this matter, albeit that the Archbishop is extremely concerned by the ongoing delays.

I am looking forward to meeting with you as soon as possible and in this regard, I am awaiting a response from your Executive Assistant, Loretta Fazzino, as you a suitable meeting time. In the interim, some points of clarification may assist. The paragraph numbering refers to our proposed statement prior to the Police mark ups:

Paragraph 5: The proposal that there be regular discussions between investigators and the Independent Commissioner was initiated by Police. We were happy to agree with the suggestion but it is surprising that we now have to defend the proposal. It was never envisaged that there would be discussions about on-going cases. Mr Pope's comments suggest a possible misconception. Our clear, and repeatedly stated intention, is to avoid any situation where there is a concurrent investigation by the Police and the Independent Commissioner. I reiterate that if the Independent Commissioner ever becomes aware of a concurrent police investigation, the Commissioner immediately takes no further step. It is therefore difficult to conceive of a situation where investigators would wish to discuss any matter with the Independent Commissioner. If such a situation did occur, the Commissioner would stand ready to assist as would any other citizen of this State, but that is not a matter being referred to in this paragraph. The discussion of matters of "mutual interest and concern" relate to systemic issues. We have no difficulty with it being clarified that the discussions are at a senior level, but it is important that I provide this clarification.

Paragraphs 8 and 9: The Police comments relate to natural justice insofar as it applies to the Police. However the comments attributed to the Archbishop in these paragraphs relate to the Independent Commissioner. It is not to the point that the Police might withhold from a suspect for many months the fact that they are under investigation. The fundamental issue here is that in circumstances where:

- A complainant has approached the Independent Commissioner
- The Independent Commissioner has encouraged the complainant to go to the Police
- The complainant has declined to go to the Police
- The Independent Commissioner has commenced his process by taking a detailed statement from the complainant
- He has then referred the detailed complaint to the alleged offender
- If the alleged offender denied the complaint the Independent Commissioner with the consent of both parties will have then commenced a hearing process to determine the validity or otherwise of the complaint. Once he has commenced that process, the Independent Commissioner is bound to observe the rules of natural justice, including the duty to keep each party informed of what the other has told him
- If - as has occurred on only two occasions - the complainant changes their mind and goes to the Police, the Independent Commissioner forthwith takes no further step in the process, and informs the solicitors for both parties that because the matter has been referred to the Police he will be taking no further step until the Police investigation and any resulting proceedings are completed
- The Archbishop has so described the procedures described in the two cases, so as to refute the Age's allegation of "tip off". Attached is an extract from a letter from the Independent Commissioner of 25 September 2007 to Detective Senior Constable Mark Molloy which precisely describes the events of the matter which the Age has sought to characterise as a tip-off

Paragraph 12: Our text here is based specifically on information provided to the Independent Commissioner by Detective Senior Constable Mark Molloy.

The Independent Commissioner had first written to Detective Molloy on 25 September 2007 responding to his request for information in respect of then Fr Paul Pavlou. The following chronology of events set out in the aforesaid letter illustrates the Independent Commissioner's procedures and his reaction to the fact that the complaint had been referred to the Police.

The Commissioner from time to time contacted Detective Molloy as to the progress of the case and on 23 March 2009 provided to Detective Molloy (at his request) a CD disk.

On 12 August 2009 the Independent Commissioner contacted Detective Molloy and was informed that access to the Pavlou computer was "all over the place, and it was hard to say conclusively the dates on which deletions occurred, save that the last access dated was 2 July 2007. He said there was one deletion (of a movie file) on 16 June 2007 and there were deletions in the middle of 2006 and some in early 2007.

I would be pleased to hear in what respect your information differs from this. Subject to that it would seem appropriate to contact Detective Molloy.


In all of our discussions with the relevant senior Police including Mr Davies and with you, it was made very clear to us that the Police's position was as we described it and that the allegation of a "tip off" was not one that Police supported.

The proposed text in relation to "the second case" was also deleted, without explanation. As these words are attributed to the Archbishop and not to Police, I do not understand the deletion.

Paragraph 16: The modification of the Independent Commissioner's processes and Terms of Reference to include the delay of four weeks or such further period as is agreed with Police is absolutely fundamental to the discussions that have been underway between us over the last year or so. This has previously been accepted by Police as addressing your concerns in a manner that is also acceptable to the Archbishop and the Independent Commissioner. The modification relieved the natural justice obligation because the alleged offender is told at the outset that if the matter is referred to the Police the alleged offender will not be told of this for at least four weeks or such other period as is agreed with the Police. If it is no longer your position then this is something that the Archbishop wishes to raise directly with Mr Overland.

I would appreciate urgent clarification of these issues and look forward to meeting with you at the earliest opportunity. It may be in the light of your response that it will be helpful to make some alterations to the text of the Archbishop's statement.

Yours sincerely



Francis Moore
Business Manager

Encl.

From: "Morton, Charles"
Date: February 9, 2011 11:21:21 AM GMT+11:00
To: Francis Moore [REDACTED]
Subject: RE: Melbourne Response - Media Statement

Thanks for this Francis - looks fine to us.

Regards

Charlie

Charlie Morton | Assistant Director- Media & Corporate Communications Department | Victoria Police

web address: www.vicpolicenews.com.au

 Please consider the environment before printing this email

From: Francis Moore [REDACTED]
Sent: Tuesday, 8 February 2011 9:01 PM
To: Morton, Charles
Subject: RE: Melbourne Response - Media Statement

Dear Charlie

Thank you for your comments, which were most helpful.

We think that it is important for the Archbishop's statement to provide the background in paragraph 8 (formerly paragraph 9) as this is the answer to the unfounded criticism repeatedly levelled on us by the Age. Therefore we have retained this paragraph.

Unless I hear from you to the contrary by 12 noon tomorrow the statement will be released.

Many thanks for your assistance.

Kind regards

Francis Moore
Business Manager
CATHOLIC ARCHDIOCESE OF MELBOURNE
Phone: (03) 9926 5677
Fax: (03) 9639 2860

Web: <http://www.cam.org.au>



From: Morton, Charles
Sent: Tuesday, 8 February 2011 9:17 AM
To: Francis Moore
Subject: RE: Melbourne Response - Media Statement

Hi Francis

Happy to confirm my comments.

1) We request that you remove reference to Sir Ken and senior police in para 3. We would ask that this para simply refers to discussions between your organisation and Victoria Police, which does support the changes.

2) We request that para 16 is elevated to flow on from para 7, before para 8. We believe this would set out the changes that have occurred more clearly, which can only be of benefit to both the Archdiocese and Vic Pol.

3) We would suggest that if para 16 was elevated, then paras 8,9 and 10 could be omitted.

If approached by media it is very unlikely we would offer up a spokesperson for interview, though obviously we will always need to judge the situation as it evolves.


It is much more likely that we would issue a statement along the lines of the below which makes clear our support for the changes, attributable to a 'Victoria Police spokesman' only.

Thanks

Charlie

Charlie Morton | Assistant Director- Media & Corporate Communications Department | Victoria Police

web address: www.vicpolicenews.com.au

 Please consider the environment before printing this email

From: Francis Moore [REDACTED]
Sent: Tuesday, 8 February 2011 8:56 AM
To: Morton, Charles
Subject: RE: Melbourne Response - Media Statement

Charlie

I apologise for any misunderstanding but understood you to say yesterday that you would be sending an email confirming your comments to me which was the reason for my follow up email.

Could you advise if contacted by the media whether you or Sir Ken will be the spokesperson for the Police. I expect if approached you will be asked whether Police support the Independent Commissioner and representatives meeting with the Head of the Sexual Offences Squad and the changes set out in para 16 of the statement ie delaying by 4 weeks informing the alleged offender. In addition to the following comments foreshadowed in your email of 13 January if questioned will you confirm Police support in relation to these matters?

We would be prepared to provide them with some supportive quotes along the lines of:

- We welcome and actively support the Archdiocese's efforts to continually improve its processes for supporting victims of historic sexual abuse.*
- Protecting the interests of victims and ensuring justice is achieved for them, their families and the wider community, is our joint concern and we are encouraged by their ongoing commitment to this important principle which is set out in the independently governed "Melbourne Response" process.*
- We continue to work well together to ensure that cases are dealt with fairly and in accordance with the law*

I await your response.

Kind regards

Francis Moore
Business Manager
CATHOLIC ARCHDIOCESE OF MELBOURNE
Phone: (03) 9926 5677
Fax: (03) 9639 2860
[REDACTED]

Web: <http://www.cam.org.au>



From: Morton, Charles
Sent: Tuesday, 8 February 2011 8:24 AM
To: Francis Moore
Subject: RE: Melbourne Response - Media Statement

Hi Francis


Apologies, but were you waiting for an email from here? I'm happy to provide a marked up copy with our comments, though I think we covered this off on the phone yesterday. Or was there something else? Apologies if I missed something.

Thanks

Charlie

Charlie Morton | Assistant Director- Media & Corporate Communications Department | Victoria Police

web address: www.vicpolicenews.com.au

 Please consider the environment before printing this email

From: Francis Moore [REDACTED]
Sent: Monday, 7 February 2011 7:00 PM
To: Morton, Charles
Subject: RE: Melbourne Response - Media Statement

Dear Charlie

Thanks for the call today and for clarifying the position of the Police and Sir Ken.

I look forward to the receipt of your email so that we can finalise and issue our statement.

Kind regards

Francis Moore
Business Manager
CATHOLIC ARCHDIOCESE OF MELBOURNE
Phone: (03) 9926 5677
Fax: (03) 9639 2860
[REDACTED]

Web: <http://www.cam.org.au>



From: Morton, Charles
Sent: Monday, 31 January 2011 2:54 PM
To: Francis Moore
Cc: Brown, Rhonda
Subject: RE: Melbourne Response - Media Statement

Dear Francis

I am forwarding the below on behalf of Jeff Pope, the acting Deputy Commissioner whilst Sir Ken is on leave.

I trust this is all satisfactory with you. Happy to discuss.

Regards

Charlie Morton | Acting Director- Media & Corporate Communications Department | Victoria Police

web address: www.vicpolicenews.com.au

 Please consider the environment before printing this email

<<FINAL STATEMENT 1.docx>>

Dear Francis.

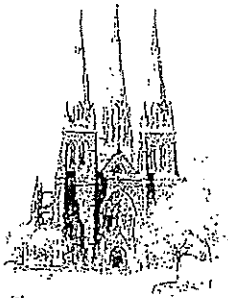
I have provided Victoria Police's response to the Archdioces's media release through 'marked up' comments in the attached document. Thankyou for providing us with the opportunity to comment.

Yours Sincerely,

Jeff Pope
Acting Deputy Commissioner

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CATHOLIC ARCHDIOCESE OF MELBOURNE

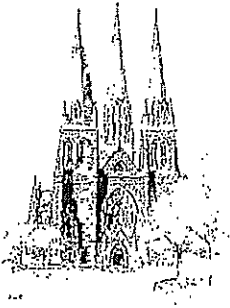
MEDIA RELEASE – 15 FEBRUARY 2011

CHANGES TO THE MELBOURNE RESPONSE PROCESS

The Catholic Archbishop of Melbourne Denis Hart has announced changes to the Melbourne Response, the Archdiocese's response to victims of sexual abuse.

THE ARCHBISHOP'S STATEMENT FOLLOWS:

1. I am pleased to announce that changes have been made to the Melbourne Response by supplementing the Terms of Appointment of the Independent Commissioner Peter O'Callaghan Q.C.
2. The original Terms of his Appointment in 1996 were formulated in consultation with Victoria Police.
3. The supplementary changes have followed lengthy discussions over many months between my representatives, the Independent Commissioner and Victoria Police. All parties support the changes made.
4. The Archdiocese continues to maintain that there can be no substitute for the Police in the investigation of sexual abuse complaints. Complainants have always been told by the Archdiocese and the Independent Commissioner of their right to report their complaint to the Police, and have always been encouraged to do so. The changes enhance the way in which the Independent Commissioner informs and encourages complainants to take their complaints to the police.
5. Over the years, the Independent Commissioner has fully co-operated with and assisted Police investigations. It has been agreed with the Police that the Independent Commissioner and my representatives will meet regularly with the Head of the Sexual Crime Squad of Victoria Police to discuss matters of mutual interest and concern.
6. It should be recognised that some complainants do not wish to go to the police. They are under no legal obligation to go to the police, and if they decide not to do so, that decision is recognised and respected by the Melbourne Response.
7. Previously, if a complainant had said they did not wish to go the Police, but then subsequently decided to do so, the Independent Commissioner would immediately inform solicitors for both the complainant and the alleged offender that because the complaint had been referred to the Police, he would be taking no further step, until the Police investigation and any resulting proceedings were completed.
8. This was because both the Independent Commissioner's current Terms of Reference and Victorian law required the Independent Commissioner to comply with the rules of natural justice, which include acting fairly, without bias, in an even handed way, towards both parties, and keeping both parties informed of what the other has told him, while respecting the presumption of innocence.



CATHOLIC ARCHDIOCESE OF MELBOURNE

MEDIA RELEASE – 15 FEBRUARY 2011

9. The supplementary changes provide that:
 - the Independent Commissioner, when informing an alleged offender of a complaint, will advise that if a complainant changes their mind and refers their complaint to the Police, the Independent Commissioner will take no further steps in his inquiry, and
 - if the Independent Commissioner becomes aware that the complaint has been referred to the Police, he will not inform the alleged offender of this for at least four weeks, or such further period as is agreed with the Police. Because the alleged offender is so advised at the outset, there is no denial of natural justice.
10. It is important to note that a complainant changing their mind has occurred on only two occasions in the 15 years that the Melbourne Response has functioned.
11. One of these cases generated front-page articles in The Age newspaper, which characterised the Independent Commissioner's actions as a "tip off" - thereby implying misconduct when there was none.
12. The Age also asserted that the actions of the Independent Commissioner resulted in the alleged offender wiping his computer.
13. This was wrong because subsequently, the Independent Commissioner was informed by the prosecuting Police officer that the last occasion on which the computer had been accessed for wiping, was 18 days before the Independent Commissioner advised the solicitors for both parties he would be taking no further steps, because the complaint had been referred to the Police.
14. In the second case, The Age characterised the Independent Commissioner's actions as a tip off, again implying misconduct on his part when there was none.
15. I have complete confidence in the workings of the Melbourne Response process and the Independent Commissioner, and believe that the Melbourne Response - through the Independent Commissioner, the Compensation Panel and the Carelink service – has treated victims in more than 300 cases of abuse fairly, compassionately and with respect.
16. I do recognise, however, that in many cases nothing can eradicate the memory of the abuse and its effects, for which I have repeatedly apologised personally, and in public, to victims of sexual abuse.
17. The full text of the changes appear on the Archdiocese's website www.cam.org.au

For further information please contact: Peter Mahon, Royce 0418 351 754



VICTORIA POLICE

Graham Ashton, AM
Assistant Commissioner Crime
Level 14, 412 St Kilda Road
Melbourne 3004
Ph: [REDACTED]
Fax: 9865 2769
DX: 210094

Our Ref: 060838/09

COPY

Denis J.Hart
Archbishop of Melbourne
James Goold House
P.O. Box 146
East Melbourne Vic 3002

Dear Archbishop Hart,

Victoria Police draws your attention to information contained on the Catholic Archdiocese of Melbourne website, <http://www.cam.org.au/>. In particular documents *Changes to the Melbourne Response Process* and *Sexual and Other Abuse the Melbourne Response* which make reference to Victoria Police and our support for the changes contained in those documents.

As stated in the letter dated 6 October 2010, signed by former Deputy Commissioner Sir Ken Jones, any agreement between Victoria Police and the Catholic Church is rescinded. I reiterate that the Chief Commissioner no longer enters into binding agreements with organisations external to government and other law enforcement bodies.

I formally ask that you remove any reference to agreement(s) made between Victoria Police and the Catholic Church from this website or any other public document portraying that an agreement has been met.

Yours sincerely,

Graham Ashton, AM
Assistant Commissioner Crime
24 / 08 /2011



CATHOLIC ARCHDIOCESE OF MELBOURNE

31 August 2011

Mr Graham Ashton AM
Assistant Commissioner Crime
Victoria Police
Level 14
412 St Kilda Road
MELBOURNE VIC 3004

Dear Mr Ashton

Archbishop Hart has received your letter of 24 August 2011 and asked me to respond.

Following the letter from Sir Ken Jones of 6 October 2010, I met with Sir Ken, together with the Independent Commissioner under the Melbourne Response, Mr Peter O'Callaghan QC and our legal advisor. In that meeting Sir Ken:

- confirmed that Victoria Police was "very content" with the Melbourne Response and "very content that victims are being properly dealt with";
- noted the considerable efforts on the part of the Archdiocese and Victoria Police to reach an agreed protocol prior to Victoria Police's change of policy;
- apologised for the time wasted;
- accepted our suggestion that the Independent Commissioner's Terms of Appointment be supplemented to reflect the principles contained in the draft policy;
- proposed the preparation of a jointly agreed position statement;
- confirmed that Victoria Police "had no problem in saying that the Independent Commissioner's Terms of Appointment were formulated in consultation with the police", as indeed they were; and
- advised that the liaison officer between Victoria Police and the Archdiocese would be the head of the sexual offences squad.

I wrote to Sir Ken on 2 December 2010 (see attached) and we exchanged various emails in the weeks that followed. I wrote to Sir Ken again on 4 February 2011 and a copy of that letter is also attached. After further email exchanges with Mr Charlie Morton, the attached Media Release was approved by Mr Morton on 9 February 2011 on behalf of Victoria Police and released by the Archdiocese on 15 February 2011.

I believe that what is said on the Archdiocese's website is fully consistent with and approved by Victoria Police. With respect, fairly read, the website does not seek to nor does it convey that there is an agreement between the Archdiocese and the Police.

Business Manager

James Goold House, 228 Victoria Parade, East Melbourne VIC 3002 Australia. PO Box 146, East Melbourne VIC 8002 Australia
Telephone: (03) 9926 5677 Facsimile: (03) 9639 2860 Email: [REDACTED]
www.cam.org.au

What the Archdiocese has in place is a process which includes encouragement for all victims to report crimes to the police and which, since February 2011, has included enhanced measures to avoid any perception of interference with police investigations. We have engaged in detailed discussions with Victoria Police, back in 1996 when the Independent Commissioner was appointed, at various times over the intervening 15 years and most recently in the period between early 2010 and early 2011, culminating in the position as set out on our website and referred to in your letter.

Both the Independent Commissioner and I would be very pleased to meet with you to provide you with further background if required and to address any additional queries you may have.

Yours sincerely

A handwritten signature in black ink that reads "Francis Moore". The signature is written in a cursive style with a large initial 'F' and 'M'.

Francis Moore
Business Manager

Encl.

Business Manager

James Gould House, 228 Victoria Parade, East Melbourne VIC 3002 Australia. PO Box 146, East Melbourne VIC 8002 Australia
Telephone: (03) 9926 5677 Facsimile: (03) 9639 2860 Email: francis.moore@cam.org.au
www.cam.org.au

FILE NOTE – 21 September 2011

Meeting with Assistant Commissioner, Graham Ashton & Staff Officer, Detective Inspector, Tony Silva, on 21 September 2011

Also attending – Peter O’Callaghan QC

1. Mr Ashton advised of his appointment as the Assistant Commissioner and that at senior levels of the force the positions are in a state of flux with a current Acting Chief Commissioner and Acting Deputy Commissioner.
2. In his role as Assistant Commissioner for the Crime Department, Mr Ashton had reviewed the file dealing with police engagement with the Melbourne Response, but had not been able to locate on the file any record of police support. FM showed him the email from Charlie Morton of 9 February 2011 as a record of support from Victoria Police and referred to Para 3 of the Media Release of 15 February 2011.
3. Mr Ashton advised that his position was that the arrangements of the Archdiocese are for it and that he would publicly neither support or indicate a lack of support, endorse or dis-endorse our process.
4. FM outlined the discussions which had occurred commencing in late 2009 with Detective Inspector Glenn Davies, Superintendent Wendy Steedam and Deputy Commissioner Sir Ken Jones and how the concept of the protocol by Victoria Police and that they had in fact provided the initial draft.
5. Mr Ashton noted that as a result of direction from the Head of Crime Intelligence that Victoria Police were not longer in a position to enter into such agreements and this was acknowledged by FM and Peter O’Callaghan (POC).
6. POC advised of discussions which he has had over many years with Victoria Police and in particular with the Sexual Crimes Squad and of his recent discussions with John Langmore as the Acting Head to arrange a meeting with the new head, Paul Binyon.
7. Mr Ashton encouraged the keeping open the lines of communication between the Independent Commissioner and the Head of the Sexual Crimes Squad.
8. Mr Ashton advised that once the positions of Chief Commissioner and Deputy Commissioner have been filled, that he will be briefing the Chief Commissioner on the arrangements in place following which he may need to contact us again if there is any change in the position of the police.
9. POC explained the effect of the amendments to the Terms of Reference implemented this year and in particular highlighted the obligation if a complainant comes to the Independent Commissioner later decides to refer the complaint to Victoria Police, that he will advise the alleged offender when the complaint is received that he will not advise the offender that the complaint has been referred to the police for at least 4 weeks or such further period as is agreed with Victoria Police.
10. FM provided Messrs Ashton and Silva with a copy of the Terms of Appointment of the Independent Commissioner.
11. Mr Ashton advised that he will respond in writing confirming our discussions.

29 SEP 2011



VICTORIA POLICE

Graham Ashton, AM
Assistant Commissioner Crime
Level 14, 412 St Kilda Road
Melbourne 3004

[REDACTED]
Fax: 9865 2769
DX: 210094

Our Ref: 060838/09

Mr Francis Moore
Business Manager,
Catholic Archdiocese of Melbourne
Level 8, 250 Victoria Parade,
East Melbourne

Dear Mr Moore,

Thank you for meeting with Peter O'Callaghan QC and me on 21 September 2011.

I think it is worth while that I articulate the Victoria Police position on its relationship with the Catholic Archdiocese of Melbourne. As stated in our meeting, I am aware that you held discussions with former Deputy Commissioner, Sir Ken Jones, and he had offered his support for a jointly agreed position statement that was near complete prior to his departure.

The Commissioner for Law Enforcement Data (CLEDS) has provided advice which has shifted our position on all such joint position statements. As stated in my letter to Archbishop Hart on 24 August 2011, any previous agreement between Victoria Police and the Catholic Church is now rescinded. The reporting and recording of any crime committed by your staff is a matter for you to manage in accordance with the law and natural justice.

Our expectations are that those matters are reported to Police at the first available opportunity. To assist with the reporting of sexual assault related crime, I fully support your ongoing professional relationship with the Officer in Charge of the Sexual Crimes Squad.

If the Victoria Police position changes in the future, I will notify you.

Yours sincerely,
Graham Ashton, AM
Assistant Commissioner Crime
23/09/2011



CATHOLIC ARCHDIOCESE OF MELBOURNE

4 October 2011

Mr Graham Ashton AM
Assistant Commissioner Crime
Victoria Police
Level 14, 412 St Kilda Road
MELBOURNE VIC 3004

Dear Mr Ashton

Thank you for your letter of 23 September and for the opportunity to meet with you and Detective Inspector, Tony Silva.

The position statement to which you refer was a media release approved by your Media and Corporate Communications Department on 9 February prior to the departure of former Deputy Commissioner, Sir Ken Jones.

While the discussions which led to the formulation of a protocol between Victoria Police, Independent Commissioner and the Archbishop of Melbourne were initiated by Victoria Police, they did not lead to an agreement being entered into between the parties and therefore rescission by you is unnecessary.

Victims are encouraged by the Independent Commissioner to report allegations of criminal conduct to Victoria Police. This is confirmed in the Terms of Appointment of the Independent Commissioner and in publicly available information about the Melbourne Response. Additionally, the Terms of Reference require, except where the alleged offender is deceased or the complaint has previously been reported to the Police and been resolved or no action has been taken by the Police in the two years proceeding the making of the complaint to the Independent Commissioner, that the Independent Commissioner provide a complainant with an information sheet containing this information and seeks an acknowledgment that the conduct may constitute criminal conduct and their continuing and unfettered right to report the matter to the Police.

When a complainant wishes to report a matter to the Police and requests the assistance of the Independent Commissioner to do so, the Independent Commissioner will refer the complainant to the Head of the Sexual Crimes Squad.

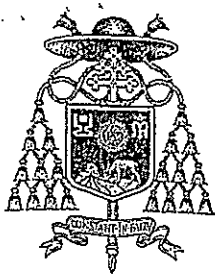
The Archdiocese and the Independent Commissioner support cooperation with Victoria Police and acknowledges your support for an ongoing professional relationship between us and the Officer in Charge of the Sexual Crimes Squad.

Yours sincerely

Francis Moore
Business Manager

Business Manager

James Goold House, 228 Victoria Parade, East Melbourne VIC 3002 Australia. PO Box 146, East Melbourne VIC 8002 Australia
Telephone: (03) 9926 5677 Facsimile: (03) 9639 2850
www.cam.org.au



James Goold House
PO Box 146
East Melbourne Vic 8002
Australia

15 May 2012

Mr Ken Lay APM
Chief Commissioner
Victoria Police
Level 10, Tower 1
637 Flinders Street
DOCKLANDS VIC 3008

Dear Chief Commissioner

Now that a little time has passed, I wanted to write to you in relation to comments made by Deputy Commissioner Graham Ashton in the media, and particularly in an interview with Neil Mitchell on 3AW, on 13 April 2011.

By way of background, there were various meetings and discussions in 2010 in relation to the Archdiocese's Melbourne Response, between representatives of the Archdiocese and the Archdiocese's Independent Commissioner Mr Peter O'Callaghan QC and the then Deputy Commissioner Sir Ken Jones, with Superintendent Wendy Steedham and Detective Inspector Glenn Davies and then in 2011 with Detective Inspector Paul Binyon.

More recently, Mr Ashton met with Mr Peter O'Callaghan QC and the Archdiocese Business Manager Mr Francis Moore, on 21 September 2011. At that meeting, Mr Ashton said that the arrangements in place within the Catholic Archdiocese of Melbourne for responding to clergy sexual abuse are a matter for us, and that he would publicly neither support nor indicate a lack of support, endorse or dis-endorse our process. He encouraged the keeping open of lines of communication between the Independent Commissioner and the head of the Sexual Crimes Squad.

He referred to the vacancies, at that time, in the positions of Chief Commissioner and Deputy Commissioners, told us that he would be briefing the new Chief Commissioner in due course and that he would contact us again if there has been any change in the Police's position.

Mr Ashton wrote to Mr Moore on 23 September 2011 to confirm our discussions. In that letter, he referred to Victoria Police's shifted position on joint position statements (such as those that had nearly been concluded between the Archdiocese and Sir Ken Jones). He said that *"the reporting and recording of any crime committed by your staff is a matter for you to manage in accordance with the law and natural justice."*

He went on to express the expectation *"that those matters are reported to Police at the first available opportunity. To assist with the reporting of sexual assault related crime, I fully support your ongoing professional relationship with the Officer in Charge of the Sexual Crimes Squad."*



He concluded by confirming that he would notify Mr Moore if the position changed. Neither Mr Moore nor I have heard from Mr Ashton since that time.

With this background, I was astonished to hear Mr Ashton's comments on the Neil Mitchell program on Friday 13 April, a number of which he appears to have repeated on the ABC and at a media conference later that day.

I refer in particular to Mr Ashton's statements that:

1. *"we certainly have told them again and again that if they come across any criminal offending ... they need to tell us about it"*
2. *"the onus is really on them to tell us about when they find that offending"*
3. *"I can't think of a single referral we've had from the Catholic Church in the last couple of years I've been around"*
4. In response to the question of whether you believed this was despite the Church being aware of offending he said yes and said you have *"made that plain"*.
5. *"We need the opportunity to make those investigations. And we can't just wait for victims on their own volition to come to us"*.
6. *"I'm frustrated by the whole issue, it's one that we've been trying to get addressed for some time with the Church"*.
7. *"The report hasn't gone to the Coroner yet"*
8. *"You were under an obligation to tell the police if you discover criminal offending"*
9. *"We'll just continue to ... talk to the Church about it and press home our concerns"*
10. In response to a question about how long the police have been trying to get answers from the Church, he responded *"certainly in the period that I've been involved in this over the last year, I've been certainly endeavouring to that over that period of time"*.

As I have said publicly on a number of occasions, the fact is that many of the sexual abuse victims who approach the Independent Commissioner do so on the condition of confidentiality, having been urged to take their complaint to the Police but having declined to do so.

It is not my expectation that Victoria Police would want the wishes of victims to be ignored.

Mr Ashton seemed to be suggesting that there is an obligation at law to report crimes to the Police. My advice is that there is no legal basis for this statement.

I wish to state that the Archdiocese is not aware of any instance in which Victoria Police has made statements or inquiries along the lines referred to in paragraphs 1, 4, 6 or 10 above.

I also want to emphasise once again our strong preference, which is made clear to all victims, that their complaints be reported to the Police. To that end I made very clear public statements, most recently on the afternoon of Friday 13 April, and on subsequent occasions including in an interview with Neil Mitchell on Tuesday 17 April, affirming that it is for the police to investigate crimes.



However, I have also made the point that "if a victim comes to us and they refuse to go to the police, we're in a difficult position". I do not resile from the view that it is imperative that, for victims who for their own varied and personal reasons do not want to go to the police despite being urged to do so, an independent alternative avenue must be made available to them so that they can seek the assistance they need and that so that offending priests can be revealed and dealt with.

I am looking forward to meeting with you on 26 June to discuss these matters further.

At that time, I would also be interested to receive an update on the Police investigations into suicides that have been linked to clergy sexual abuse, and whether that report has now been provided to the Coroner.

Yours sincerely in Christ

+ *David Phillip*

ARCHBISHOP OF MELBOURNE



VICTORIA POLICE

Chief Commissioner's Office

Victoria Police Centre
637 Flinders Street
Melbourne 3005
Victoria Australia

Telephone [REDACTED]
Facsimile (61 3) 9247 6869

PO Box 415
Melbourne 3005
Victoria Australia

Our Ref: 12/002936

24 MAY 2012

Archbishop Denis Hart
James Goold House
East Melbourne Vic 8002

Dear Archbishop Hart,

I write on behalf of the Chief Commissioner to acknowledge your recent correspondence dated 15 May, 2012.

I have noted that a meeting has been scheduled between yourself and the Chief Commissioner on 26 June to discuss this matter further.

Yours sincerely,

Shane Patton
Superintendent
Chief of Staff to the
Chief Commissioner

22/5/12



VICTORIA POLICE

Ken D. Lay *APM*
Chief Commissioner of Police

Victorian Police Centre
637 Flinders Street
Docklands 3008
Victoria Australia
Telephone [REDACTED]
Facsimile [61 3] 9247 6669

P.O. Box 913
Melbourne 3001
Victoria Australia

Archbishop Denis Hart
James Goold House
PO Box 146
East Melbourne
Victoria 8002

Dear Archbishop Hart,

Thank you for your letter dated 15 May 2012 in which you expressed concerns about public comment by Victoria Police on sex offences committed by clergy. I appreciate your concerns and I would like to take this opportunity to respond. I also hope to continue this dialogue at our forthcoming meeting on Wednesday, 1 August.

I am confident that Victoria Police and the Catholic Archdiocese of Melbourne share a commitment to preventing further criminal offending and to providing appropriate victim support and welfare. To that end, it may be helpful for me to reiterate the Victoria Police position to enable a clear platform for future discussions.

I am very supportive of the need for the Archdiocese and Victoria Police to work together to ensure that allegations of sexual abuse are investigated by police and alleged offenders are brought to justice.

I must stress how important it is for Victoria Police to be notified of allegations of sexual abuse by clergy when they come to the attention of the Archdiocese, and where the victim consents to such notification. This allows police to conduct a thorough investigation, identify potential additional victims, bring perpetrators to account through the criminal justice system, and ensure safeguards are in place for the community. We also have obligations to support and assist victims through referrals to appropriate victim support services.

I appreciate that some victims of sexual abuse may not wish to make a formal complaint to police. However, there may be circumstances where the Archdiocese becomes aware of alleged offending through other avenues. In these circumstances, I would expect the Archdiocese to inform Victoria Police at the earliest opportunity of any concerns regarding an individual. This would allow police to investigate these concerns and take appropriate action.

There are two additional matters that I would also like to bring to your attention. Firstly, I am concerned that Victoria Police has not received any notifications from the Archdiocese in relation to sexual abuse over the last 12 months; I would be pleased to discuss this with you at our meeting.

Secondly, the materials on the Archdiocese's website imply that Victoria Police supports the Archdiocese's current model for dealing with allegations of sexual abuse by clergy. Our expectation is that allegations of sexual abuse should be reported to police, who are the appropriate authority to conduct investigations and enable offenders to be held to account through the criminal justice system.

There have been significant advances in the methods police now use to interview victims of sexual crimes. Interviewing victims in a manner that seeks to minimise trauma is now a specialist task that requires extensive training. When matters are not reported to police we cannot offer victims this important service. A lack of reporting also operates to deny the community the protection mechanisms in place under the Sex Offender Registration program. I would be pleased to arrange a briefing for you on these initiatives should you wish.

I am in no doubt that we share a commitment to preventing further criminal offending and to providing appropriate victim support and welfare. It is critical therefore that we work together to provide the best possible outcomes for the victims of these serious criminal offences and bring perpetrators to account through the criminal justice system.

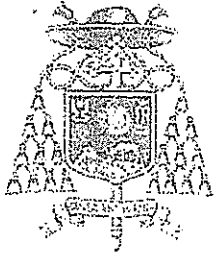
I look forward to discussing these matters with you personally at our meeting next week.

Yours sincerely,



Ken D. Lay APM
Chief Commissioner

26/7/2012



James Gould House
PO Box 146
East Melbourne Vic 3002
Australia

2 August 2012

Mr Ken D Lay APM
Chief Commissioner
Victoria Police
PO Box 913
MELBOURNE Vic 3001

Dear Chief Commissioner,

Thank you for your letter of 26 July 2012.

I regret that the funeral of a brother priest prevented us meeting as planned on 1 August.


I confirm my commitment to the prevention of criminal offending and the provision of appropriate support and welfare for the victims of criminal behaviour of clergy and personnel of the Archdiocese.

I am grateful for your acknowledgement, in the absence of a statutory regime which allows reporting without the consent of the victim, that the consent of victims is required for matters to be reported to Police.

I look forward to discussing these and the other matters you have raised when we have an opportunity to meet.

With every good wish,

Yours sincerely in Christ

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ARCHBISHOP OF MELBOURNE*



VICTORIA POLICE

Ken D. Lay *APM*
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Archbishop Denis Hart
James Goold House
PO Box 146
East Melbourne
Victoria 8002

Dear Archbishop Hart,

I again acknowledge and thank you for your commitment to work with police to prevent criminal offending and the provision of appropriate support and welfare for victims of criminal behaviour.

Thank you for your letter dated 2 August 2012. I must apologise for the need to correspond again, however, your response indicated to me that I had not been as clear as I might have in outlining my expectations. In particular, your observation that I acknowledged "*...in the absence of a statutory regime which allows reporting without the consent of a victim, that the consent of victims is required for matters to be reported to Police*".

Victoria Police expects that some victims would report crimes to the Church and then be prepared to assist Police in further investigations. In cases such as these, I believe there is an obligation on the Church to refer such matters to Police. I am unaware of any such referrals occurring, particularly in recent times. I am happy to take your advice if this has occurred.

There is little doubt that sexual offending by any member of the clergy is a gross breach of trust. Attacks are often against the most vulnerable people in our community, particularly when young children are involved. Often these crimes are heinous and at the most serious level of offending. Experience has shown that offenders of this type can be predatory and offend on many occasions against multiple victims. Sadly, both Victoria Police and the Church are aware of many such cases.

Victoria Police accepts that some victims may wish to report matters to the Church but do not wish Police to be involved. However, there is a significant risk that an isolated offence the Church becomes aware of may well be part of a far broader and destructive pattern of offending.

In cases such as these, there is still an opportunity for the Church to refer matters to Victoria Police. If the Church simply disclosed the offender's identity and the offending behaviour, a broader investigation and even a prosecution may occur. This would also facilitate a rehabilitative process for any other identified victims.

Victoria Police does not believe that the Church is best placed to work with victims of sexual abuse when that abuse has been perpetrated by a member of the clergy, or any other person within the Church. This view has been expressed both verbally and in previous correspondence between my staff and your staff.

This concern is based on Victoria Police's understanding that Church personnel are not appropriately trained to use the very latest interview techniques that are employed by investigators of sexual related crimes. This lack of expertise does run the risk of re-traumatising victims who have already suffered terribly.

Again, Victoria Police offer's the Church an opportunity to be briefed regarding the latest forensic interview techniques. This will give the Church an appreciation of recent advances. Should my understanding of the Church's interview and investigative techniques be incorrect, then I would appreciate your further advice.

You are no doubt aware that a Sex Offenders Registry has operated in Victoria since 2004. The aim of the Registry is to reduce the likelihood of reoffending, facilitate the investigation of sex offences and prosecution of recidivist offenders, and to prevent registered sex offenders from working in child related areas.

If the Church does not provide advice about all offending clergy, Victoria Police's ability to investigate, and perhaps prosecute these offenders, will result in a weakening of this very important regulatory process. Again, Victoria Police would be happy to provide a further briefing on the aims of the Sex Offender's Register which may help the Church further understand its importance in investigating and preventing recidivist sexual offending.

In conclusion, I would like to restate that Victoria Police has significant concerns with the Church's internal process of responding to allegations of sexual assault against members of the clergy and others.

Once again, thank you for your stated commitment to work with police to prevent criminal offending and the provision of appropriate support and welfare for victims of criminal behaviour. I am hopeful we could facilitate a process that protects the rights of victims whilst also holding offenders to account for their actions.

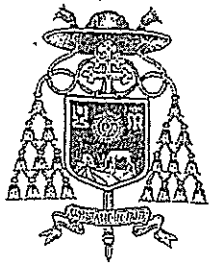
I would be very pleased to personally discuss with you any of the matters raised in this letter. I would also be happy to facilitate any of the offered briefings for you or your staff.

Yours sincerely



Ken D Lay APM
Chief Commissioner

20 August 2012



James Goold House
 PO Box 146
 East Melbourne Vic 8002
 Australia

COPY

25 September 2012

Mr Ken D Lay APM
 Chief Commissioner
 Victoria Police
 Level 10, Tower 1
 637 Flinders Street
 DOCKLANDS VIC 3008

Dear Chief Commissioner

Thank you for your letter of 20 August 2012 in which you seek a response to a number of matters raised by you.

In your letter you state that there is an obligation on the Church to refer to the Police matters where victims are prepared to assist in further investigations. The Archdiocese and the Independent Commissioners agree with that view.

You state that you are unaware of any referrals to the Police in recent times of criminal conduct reported to the Church. In this regard I can provide you with the following information in relation to matters reported to the Independent Commissioners in the period 1 July 2011 to 30 June 2012:

During this period, the Independent Commissioners received 15 complaints alleging abuse of children:

- 14 concerned allegations of child sexual abuse;
- 1 concerned allegations of child physical abuse;

Of the 15 complaints:

- The Independent Commissioner upheld 11 of the complaints;
- 1 is still under investigation;
- 2 were not within the Independent Commissioners' jurisdiction; and
- 1 of the complaints awaits a response to the Independent Commissioner from the complainant as to whether the complaint is to be pursued.



The 12 complaints that were within the Independent Commissioners' jurisdiction and that were upheld or remain under investigation concerned the following abuse:

- None of the complaints concerned current abuse or related to victims who are still children:
 - 1 complaints concerned abuse in the 1960s;
 - 5 complaints concerned abuse in the 1970s;
 - 6 complaints concerned abuse in the 1980s.

I now provide some statistics in relation to reporting to Victoria Police and the 15 complaints:

- 4 of the complaints were reported to the police. All 4 had been reported to the police before the victim contacted the Independent Commissioner. Of the 4 complaints reported to the police:
 - 3 of the offenders were dead at the time of reporting. Therefore, the police were unable to investigate; and
 - 1 complaint had been investigated, the offender pleaded guilty, was convicted and imprisoned.
- 6 further complaints concerned allegations in relation to offenders who were deceased at the time of the complaint to the Independent Commissioners. Had they been reported to police, there would therefore have been no police investigation;
- 3 victims have signed forms acknowledging that the Independent Commissioner had encouraged them to report the matter to police and confirming that they did not wish to report the matter at that time but that they were aware they could refer their complaints to the police at any time;
- 1 complaint concerned conduct alleged to have occurred interstate which was considered under Towards Healing and the Redress WA board; and
- 1 complaint was made by telephone to the Independent Commissioner. The Independent Commissioner wrote to the complainant inviting him to arrange a meeting, advised that the alleged perpetrator is currently in prison and no longer a priest and encouraged the complainant to report the matter to the police.

Criticism of the Archdiocese for failing to report any alleged offences to the police is based on the misplaced assumption that there have been cases that could have been reported. In the 12 month period referred to above, there have been none. This is broadly reflective of our experience over the last 16 years.

The Archdiocese does encourage the reporting of crimes to the Police. However it is the Archdiocese's view that if an adult makes a complaint to the Melbourne Response in relation to allegations of abuse that occurred when they were a child, and that adult requests privacy, the Archdiocese must respect that right. In the absence of a legal obligation to report, the Archdiocese believes that the decision to report or not to report an allegation to the Police is a matter of choice for the individual victim.



Many victims of sexual abuse do decide to go to the Police, and it is through the courage of these victims that offenders are convicted and imprisoned. Conversely it is the Archdiocese's experience that many victims seek healing and anonymity without reporting offences to the Police. Further, it must be noted that some victims who come to the Independent Commissioners do so after having gone to the police but found, for varying reasons, that their complaint would not be pursued or could not be established.

Within the Archdiocese, our processes under the Melbourne Response are only invoked if a complainant declines, in writing where appropriate, to go to the Police. If a complainant does go to the Police, the Melbourne Response process, if underway, is suspended until any Police investigation and resulting proceedings are completed.

In circumstances where a victim provides information to the Independent Commissioner in confidence, and does not agree to any disclosure being made to the police, the Archdiocese would nevertheless be keen to disclose the identity of the alleged offender to the police, so long as there was an assurance that in doing so, the identity and confidentiality of the complainant is respected. It is for this reason that the Archdiocese sought to reach agreement with Victoria Police on a protocol that would allow this to occur.

The Church's submission to the Parliamentary Inquiry addresses this issue in detail.

We are particularly keen to hear Victoria Police's proposal as to how the prosecution of an alleged offender could occur without intruding on the expressed desire of a complainant to confidentiality. We would welcome such prosecutions if they are possible.

The Melbourne Response and the corresponding process in the rest of Victoria, Towards Healing, fill an important gap that a Police investigation cannot in circumstances including:

- Where the victim does not want to go through the process of a public trial;
- Where the victim has already been to the police;
- Where the accused is deceased and there will therefore be no police investigation;
- Where the allegations are very old and the prospects of establishing a crime beyond reasonable doubt are difficult;
- Where the victim is fearful of the police, perhaps because of a prior criminal record; and
- Where the allegations do not involve criminal conduct. Some concern the standard of care in children's homes. Others involve apparently consensual sexual relations between adults where the abuse lies in the exploitation of the pastoral relationship.

The Independent Commissioners under the Melbourne Response are both experienced barristers and senior counsel. In the case of Mr O'Callaghan QC, he has investigated over 330 complaints of abuse. The Melbourne Response only deals with complainants who bring forward their complaint to the Melbourne Response and then only proceeds with the investigation after the complainant declines to the Police.



It is also interesting to note that since the establishment of the Melbourne Response, there have been 331 complaints that fall within the terms of reference of the current Parliamentary Inquiry, of which:

- 308 were upheld;
- 8 were unsubstantiated;
- 15 remain undetermined.

In other words, of the complaints that have been determined, over 97% have been upheld in favour of the victim. The great majority of these complaints were unable to be dealt with by the police for the reasons stated above. As such the Independent Commissioners are the only ones able to investigate these complaints which, when established, allow the victims to receive assistance through the Melbourne Response.

Notwithstanding the above, I think it is helpful and I would like to take up your generous offer for a briefing for my representatives and the Independent Commissioners on the latest forensic interview techniques and on the operation of the Sex Offenders Register and invite you to have your office contact Mr Francis Moore on 9926 5636 to make the required arrangements.

I am pleased that the Parliamentary Inquiry will allow the Church the opportunity to address, in a public forum, our process for responding to allegations of sexual abuse by members of the clergy and others. The Church is cooperating fully with the Inquiry and will carefully consider any recommendations made by it and the Government on receipt of its report.

I look forward to an opportunity to discuss the matters contained in this letter and our previous correspondence at the earliest opportunity.

Yours sincerely in Christ

A handwritten signature in black ink, appearing to read "Ainslie Hart", with a cross symbol to the left of the name.

ARCHBISHOP OF MELBOURNE



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Chief Commissioner of Police

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Archbishop Denis Hart
James Goold House
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Dear Archbishop Hart

Thank you for your letter dated 25 September 2012 in which you provide an overview of child sexual abuse allegations reported to the Catholic Church's Independent Commissioner in the period 1 July 2011 to 30 June 2012.

As you know the Parliamentary Inquiry into the Handling of Child Abuse by Religious and Other Organisations is in progress, and these matters are currently being considered by the Inquiry. It is anticipated that the Parliamentary Inquiry will make recommendations at the conclusion of public hearings and I look forward to meeting with you at that time to discuss a way forward.

Victoria Police remains committed to working with the Catholic Church to ensure that criminal offences are investigated and prosecuted through the criminal justice system. My primary focus is to ensure that the rights of victims are protected and that the risk of further offending against children, who are the most vulnerable members of our community, is reduced.

As indicated in my previous letters I strongly encourage the Catholic Church to inform Victoria Police at the earliest opportunity of any known or suspected offending by clergy or other members of the Catholic Church.

Yours sincerely

Ken D Lay APM
Chief Commissioner

5/11/2012