

**THE PARLIAMENTARY INQUIRY INTO THE HANDLING OF CHILD
ABUSE BY RELIGIOUS AND OTHER NON GOVERNMENTAL
ORGANISATIONS**

**SUBMISSIONS IN REPLY TO SUBMISSION
OF JAMES SHANAHAN**

**BY PETER O'CALLAGHAN QC
INDEPENDENT COMMISSIONER**

INTRODUCTION:

1. In this Reply I set out relevant extracts from James Shanahan Submission in italics, followed by my comments.
2. *"In 2000 Peter O'Callaghan the Church investigator accepted my claim that I had been abused by a satanic cult which included at least one Priest (since then I have been able to identify a second Priest in this cult Fr Kevin O'Donnell). I had not wanted to go through the Church process as I knew they would only pay me only part of the maximum \$50,000 and I couldn't bear the insult. The Church hierarchy was in complete sympathy with the paedophiles. What sort of persons, through their actions, show they are in complete sympathy with paedophiles. The only people I can think of, are fellow paedophiles".*

COMMENT:

3. This is, to say the least, inconsistent with Mr Shanahan's attitude on 19 October 1996, when he wrote to Archbishop Pell a letter which I received via the Pastoral Response Office. The relevant extracts of that letter are:

"My name is Jimand I am a survivor of sexual abuse and torture by a Priest, now deceased. I was at the Forum this afternoon and I was, and still am, very upset at the behaviour of some of my fellow survivors towards you and others. I want to apologise to you on their behalf.

I would like to thank you for coming to the Forum. It showed to me empathy and courage. I would like to also thank you for the consideration you showed in

announcing your new measures at the Forum before announcing them publicly....My dawn is approaching while you are just beginning your journey into night 'but be of good cheer – the dawn will follow for you and the Church. We have a marvellous opportunity before us to witness to the World of the glory of Jesus by loving one another....You impress me with your sincerity to have justice done and I feel sure God will honour that.

My God Bless you Your Grace and hold you in the palm of his hand. Your Brother in Christ, Jim”.

4. I have no evidence that Kevin O'Donnell was, as Mr Shanahan describes him, 'a second priest in this cult' nor do I know how Mr Shanahan identified him.
5. Prior to the above, Mr Shanahan had been receiving counselling support authorised by the Vicar General. His therapist at that time was MB. On 13 February 1997, I wrote to MB stating inter alia:

“The file of the abovenamed (James) has been referred to me by the Pastoral Response Office, whom I understand wrote to you on 4 October 1996. I am concerned to obtain details of the abuse suffered by Mr Shanahan and have accordingly written to you on the presumption that you will have been so advised and could forward some description of the matter to me.....”

6. On 14 April 1997, I wrote to Mr Shanahan:

“I refer to your fax of 9 April 1997 and note that you have revoked any authorisation of Ms H to provide information inter alia to me until further notice.

Naturally I am happy to respect that revocation, and I wrote both to acknowledge and also to enquire as to whether you wish to pursue any claim as a victim of sexual abuse by a church person as defined in my Terms and Conditions of Appointment.”

7. On 17 March 1999, I wrote to Mr Shanahan:

“I have been informed by Carelink that they are continuing to provide to you counselling services etc.

I am concerned to formalise the position in the sense that I can make a formal referral of you to Carelink, which is essential if Carelink is to continue meeting fees for your treatment. Likewise, if appropriate, I can make a referral of you to the Compensation Panel....”

8. On 7 April 1999, I wrote to Mr Shanahan stating inter alia:

“There the matter rested until 17 March 1999 when I wrote to you pursuant to the fact that Carelink are continuing to meet the fees of your treatment. If this is to continue it is essential for me to be satisfied as to the fact of and the details of the abuse of which you complain.

You state that because of ‘the fact that you act on behalf of the Catholic Church in a legal capacity, I have decided to seek legal advice before I see you’.

Let me say at once that I would encourage you to seek such legal advice as you consider appropriate. However it is not correct to say that I act on behalf of the

Catholic Church in a legal capacity. Whilst I was appointed by the solicitors acting for Archbishop Pell I am quite independent of the Church in just the same way as a Royal Commissioner appointed by a State of Federal Government is independent of his or her appointor”.

9. On 21 July 1999, I was advised that Lewis Hutchinson (Paul Holdway) acted for Mr Shanahan. They wrote to me on 25 August 1999:

“We advise that we are preparing a statement by our client which we then intend to have verified by the client in your presence at a convenient time...”

10. On 19 November 1999, Lewis Holdway wrote to me:

“We now enclose statement of Mr Shanahan for your consideration....”

11. I wrote to Mr Holdway on 13 December 1999:

“I refer to your letter of 19 November 1999. I find the contents of the letter most concerning. The letter is replete with allegations of serious crimes perpetrated not only against your client but other persons”.

(There is then set out a series of crimes of great gravity.)

The letter continued:

“These are not all the matters of which your client complains, but they present an astounding chronicle of crimes which seemingly were witnessed by Mr Shanahan before he attained the age of 14 years.

My initial reaction was one of incredulity at the litany of crimes and there apparently having been no Police action taken in respect thereof. Could you advise me whether these matters have been reported to the Police, and if so what action emanated therefrom. If they have not been reported to the Police, then it would seem essential that they are, unless the position is that the crimes are albeit real to your client, the product of hallucinatory or other mental operations.... It is undoubtedly desirable if there is any prima facie truth in the allegations made by your client that they be the subject of immediate Police investigation.....

.....I would certainly be urging your client to report the matter if there is substance in these complaints, or alternatively I would ask his permission to myself reporting the matters to the Police..."

12. I had been provided with a psychiatric report from Dr HD dated 17 July 1998. This report was 25 pages long.

13. On 22 December 1999, Mr Holdway wrote inter alia:

"We are instructed that these matters have been reported to the Police. Our client (ie Mr Shanahan) has contacted Detective Max Schiavon at the Geelong or Werribee CIB. The contact was made in the latter part of 1998.

Our client was informed that the Detective would forward the matters on to the Homicide Squad and if they wished to proceed further with the matter they would contact him, but they did not believe that they would be able to given that

even though our client could give descriptions of the people, there were insufficient details given the passage of time to follow the matter up.”

14. I wrote to that Detective on 14 April 2000, which concluded:

“...and I accordingly would appreciate your advising as to whether there is a current Police investigation. If not then I will endeavour to deal with Mr Shanahan’s complaints”.

15. On 17 April 2000, Detective Schiavon wrote detailing what had occurred and concluded:

“...There is no current investigation of this matter given these circumstances”.

16. On 14 September 2000, I wrote to Mr Holdway:

“I have your letter of 13 September 2000. As at present advised I will be able to see Mr Shanahan from 9 am until 11 am on 20 September. It may be that this will be insufficient time to complete all that requires to be done but certainly it will be a big step forward.”

17. On 11 October 2000, I wrote to Paul Holdway:

“I refer to our conference with Mr Shanahan and yourself on 9 October 2000 and I am satisfied that Mr Shanahan was a victim of sexual abuse inter alia by Fr Thomas O’Keefe (dec’d) substantially in the circumstances described by Mr Shanahan in the statement he made to you in November 1999 and which statement he verified at the conference today...”

18. In my conference on 9 October 2000, the following appears:

“POC: Well right alright well what you relate is a series of criminal offences but it doesn’t appear that anyone has ever been apprehended for these offences or will he....what I will do is to indicate that I am satisfied that you are the victim of sexual abuse. I see no reason why I shouldn’t accept what you say and its certainly supported by what you told Dr D and indeed what you’ve told a number of other people over many years. Amazing as it is, I accept it. And if on that basis that I will do I will send out to Mr Holdway an Application for Compensation....”

19. I comment that at no time did Jim express any reluctance to apply for compensation and, on 28 November 2000, I wrote to Mr David Habersberger QC:

“I am satisfied that the abovenamed was the victim of sexual abuse by Fr Thomas O’Keefe (dec’d). The bizarre, extraordinary and virtually incredible circumstances in which that abuse occurred are set out in the statement of Mr Shanahan which I assume you have received from his solicitor Mr Paul Holdway.

I assume that you will have been provided with the reports of Dr HD. If not please advise. I understand that Dr D is a highly regarded psychiatrist and I have naturally paid regard to the apparent acceptance of the credibility of Mr Shanahan’s complaint”.

20. Mr Shanahan accepted compensation on or about 30 March 2003. Since then I have not had any personal contact with Jim.

CONCLUSION:

- (a) I have replied to Mr Shanahan's Submission because it has been placed on the Parliamentary Committee's website and is thus in the public arena. As appears from the above, Mr Shanahan's Submission conveys a drastically different situation than that which in fact occurred. Because Mr Shanahan identified himself, I was able to respond in detail to what he has asserted. This provides another example of when there is an opportunity to respond to an identified victim, the current criticisms by that victim are shown not to accord with what occurred. I repeat what I have said on many occasions, that a fundamental aid to investigate what is alleged has occurred in the past is to refer to contemporaneous documentation.
- (b) That same contemporaneous documentation as set out above also corroborates and confirms my practice as an Independent Commissioner to ensure the involvement of the Police where that is possible, and to provide psychological support and counselling before a decision is made as to the veracity of the complaint. I again express my concern and amazement that the Committee has not itself inspected those contemporaneous documents, or a sample thereof.

A handwritten signature in black ink, appearing to read "Peter J. O'Callaghan". The signature is written in a cursive style with a long horizontal flourish extending to the right.

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Peter J O'Callaghan QC

26th July 2013