



**Special Commission of Inquiry into matters relating to the  
Police investigation of certain child sexual abuse allegations in  
the Catholic Diocese of Maitland-Newcastle**

**Opening Address of Ms Julia Lonergan SC**

**Newcastle Supreme Court - Monday, 6 May 2013**

1. Was Detective Chief Inspector Fox asked to cease investigating matters about alleged cover-ups of church paedophilia in the Maitland-Newcastle Diocese?
2. If so, why did that happen?
3. What were the circumstances in which Detective Chief Inspector Fox was asked to cease investigating those matters?
4. What exactly was Detective Chief Inspector Fox investigating in 2010 and where were his investigations up to when he was asked to cease and hand over his material?
5. Were these matters investigated or shelved?
6. Were alleged cover ups of child sexual abuse allegations relating to the Catholic Church in M/N diocese being properly investigated or put to one side as too complex or too difficult?
7. These are the sort of questions I am sure are circling in the minds of people who heard about or watched that ABC *Lateline* program in November last year or read DCI Fox's open letter to the Premier.
8. They are very important questions. They strike at the heart of the administration of justice and child protection in this region. Although an inquiry into local matters, the concerns are universal.

9. Shortly I will indicate what evidence I expect this Commission will hear which will explore those questions.
10. Before turning to certain matters that may provide some context for the evidence I anticipate may be given, it might be helpful Commissioner, for the benefit of those who are present in the Courtroom, to set out a little about the Commission's processes.
11. First, my role as Counsel assisting you, along with Mr Kell and Mr Hunt, instructed by the Crown Solicitor's Office, is to present, fully and fairly, relevant evidence that has been uncovered in the course of the Commission's investigative phase. Evidence of a more non-contentious nature will be dealt with by the tendering of written statements. Where necessary, the oral evidence, that is what witnesses say here before you under oath, will be tested, so Commissioner you can determine what evidence is reliable for the purposes of the final report you are required to prepare for the Governor.
12. Various interested parties are represented here, including in particular relevance to this Term of Reference 1, the New South Wales Police Force, and Detective Chief Inspector Fox. I expect on occasion, Commissioner that you might give legal representatives leave to ask questions to clarify the evidence of particular witnesses or to address matters that relate to their client's particular interests in the subject matter of this Inquiry.
13. Since the announcement of the Inquiry in November last year, and following the public opening of proceedings in February this year, much work has been done. The Commission has conducted over 100 private hearings and interviews, and many thousands of pages of documents have been obtained from Church agencies and the NSWPF, and closely reviewed.

14. A large number of statements have been sought and obtained. A great deal of information has been provided on request without the need for a formal process.
15. In other cases, compulsory processes have been used in order to obtain information.
16. A number of persons have come forward with important information and been seen at the Commission's Inquiry Information Centre in Wallsend in March and April and as recently as yesterday.
17. Apart from oral evidence, I expect that you, Commissioner, will ultimately be required to consider and assess a great deal of relevant documentary material that has been extracted from the voluminous materials considered during the investigative phase.
18. Our specific purpose over the next two weeks is to examine the assertion by a senior police officer of 34 years' experience, that he was ordered to cease investigating things that touch upon firstly, the safety of children and secondly, suspicions and allegations of cover up by church officials of knowledge of sexual abuse of children by two priests who were incardinated to the M/N Diocese. Their names are Denis McAlinden and Jim Fletcher and from now I will refer to them simply as McAlinden or Fletcher.
19. By way of history, I anticipate that the Inquiry will hear evidence that despite documented knowledge of allegations of sexual abuse as far back as 1976 (and some undocumented knowledge as far back as the mid-1950s) being held by the M/N Diocese, and/or its personnel, it was not until late 1999 that any complaint about McAlinden sexually abusing children was conveyed to the NSW Police Force.
20. That complaint was taken to the police by the victim, not by the Church.

21. I expect the evidence will reveal that police officers took a statement detailing that particular sexual abuse of that child by McAlinden. That abuse had occurred in the 1950s. A warrant was issued for McAlinden's arrest on 1 December 1999, however evidence suggests that McAlinden was not arrested as he could not be found.
22. The Inquiry will also receive evidence that in 1992, McAlinden had been charged and acquitted of sexually abusing a child in Western Australia in 1982.
23. It is not clear whether the NSW Police Force knew of the Western Australian charges at the time they were dealing with the 1999 complaint.
24. For the next two weeks most of the oral evidence will be from police officers. The Commission will commence with Detective Chief Inspector Fox who will give evidence that is of course central to this Inquiry's terms of reference. His evidence now will focus on matters relevant only to TOR 1. He will be recalled at the beginning of the public hearing re TOR 2, to give evidence regarding those matters.
25. The Inquiry will also hear evidence from Ms Joanne McCarthy, a senior journalist with the Newcastle Herald regarding her role in bringing certain information to the attention of the NSW Police and her subsequent interactions with DCI Fox and other police officers.
26. I expect this will be followed by the evidence of other police officers or former police officers broadly in chronological order in terms of the sequence of events relevant to this Inquiry.
27. By way of general background regarding McAlinden, evidence obtained by the Commission suggests that intelligence regarding a number of other complaints about McAlinden filtered through to the NSW Police Force in the early 2000s. At that time, it was asserted by Church officials that no-one knew where McAlinden was.

28. The evidence is likely to reveal that as a result of matters being followed up by NSW Police in relation to Operation Peregrine, an unrelated police operation concerning outstanding warrants, the outstanding 1999 warrant for McAlinden was actioned. Further investigations were then undertaken by Detective Grono in Western Australia, who ultimately located McAlinden in that state in September 2005. McAlinden was not extradited due to significant health issues.
29. He was still living in WA when he died in November 2005
30. I now turn to some observations regarding investigations into Fletcher. In 2002-2004 DCI Fox successfully investigated and prosecuted Fletcher for repeated sexual abuse of a boy, aided by tendency evidence from another victim of Fletcher.
31. Certain aspects of the handling of that matter on the part of officials of the M/N Diocese were of concern to DCI Fox.
32. That matter and related matters will be explored in the TOR 2 public hearings that commence on 24 June 2013 here again in Newcastle in this court.
33. This Inquiry is likely to hear evidence from DCI Fox over the next few days that in 2004-2006, he sent reports to the police hierarchy, documenting his concerns in relation to a potential paedophile ring operating in M/N Diocese. This was against a backdrop of other police investigations into paedophile behaviour by priests and associates of the Maitland Newcastle diocese which are not the subject of this inquiry – known as Strike Force Georgiana. Some broad background evidence will be given re those investigations by Det Sgt Faber. This Inquiry understands that DCI Fox had no active role in that Strike Force.
34. I anticipate it will be established that by 2007 DCI Fox had been promoted to the position of Crime Manager, Port Stephens LAC.

Some attention will be given to describing the responsibilities of that position within the Police hierarchical structure.

35. Moving now to 2010, I expect the evidence will demonstrate that a series of events in the first half of 2010 activated particular interest in issues relating to McAlinden. Certain confidential church documents were provided to the press, and were published in particular by Ms Joanne McCarthy, who had over the years written a number of newspaper reports raising issues regarding paedophilia in the M/N Diocese.
36. I anticipate that DCI Fox will give evidence that from around early June 2010 he pursued certain investigations that he kept confidential to himself, rather than logging them through the usual police channels and that he will explain why he took that course.
37. The evidence will show that in September 2010, DCI Fox was then allocated a matter to investigate. It was a ministerial complaint regarding certain concerns that at least one other priest knew, or ought to have known, of Fletcher's offending conduct with young boys at, and around the time, it was occurring.
38. I anticipate that the Inquiry will hear evidence that this file - consisting of the complaint letter - came to DCI Fox the day he was to go on leave for a month.
39. The evidence is likely to show that whilst on leave, DCI Fox's office was searched for this and any other material regarding "church investigations". It is anticipated that evidence will be taken from him regarding his reaction to that and evidence from at least one of the officers involved as to why this search was done.
40. I anticipate the Commission will hear evidence relating to the establishment of the police investigation known as Strike Force Lantle, which was directed to investigate allegations of concealing offences by clergy formerly and or currently attached to the M/N

Diocese. Evidence available to the commission suggests that on 12 October 2010, Detective Sgt Kirren Steel of the Newcastle Local Area Command was allocated carriage of that investigation, with assistance from Acting Detective Inspector Quinn and supervised by DCI Tayler.

41. Evidence will also be heard in relation to DCI Fox's attempts to contact Detective Sgt Steel to "get their heads together" on the investigation, but for reasons which I expect the evidence will explore, this never occurred.
42. The Inquiry will hear evidence from a number of police officers about a meeting at Waratah Police Station on 2 December 2010.
43. I anticipate that DCI Fox will give evidence that as a consequence of a direction given during this meeting, then Superintendent Max Mitchell, the then Commander of the Newcastle LAC, DCI Fox perceives he was ultimately removed from any investigative role relating to child sexual abuse matters within the Catholic Church. There will be significant focus on what occurred at that meeting and in the lead up to it and what various officers did after the meeting. Most officers attending that meeting will be examined as to relevant events.
44. I expect the Commission will receive evidence about the fact that shortly after this meeting, the three officers appointed to Strike Force Lantle went off work on sick leave for a variety of reasons and have not returned to the NSW Police force.
45. In their place, the matter was allocated to Detective Sgt Little on 30 December 2010 and some limited public evidence will be given regarding the progress of the investigation after that.
46. Commissioner, as you have indicated, this Commission must not prejudice or compromise any potential future criminal proceedings which might arise from Strike Force Lantle or any related

investigations. There are good reasons why some aspects of evidence relating to that investigation must be taken "in camera".

47. I anticipate there will be evidence about the degree to which there was consultation with other police agencies in moving the Strike Force Lantle investigation forward.

48. I expect, toward the end of this public hearing, to call expert independent evidence from a highly experienced former crown Prosecutor regarding the quality and sufficiency of the Strike Force Lantle investigation completed by Detective Sgt Little.

49. An important background issue, relevant to the circumstances we are exploring is that Ms McCarthy continued to publish newspaper articles addressing the Strike Force Lantle investigation and its subject matter.

50. I anticipate that there will be evidence from some police officers to the effect that there were some initial concerns as to confidentiality relating to the Strike Force Lantle investigation and that to protect the integrity of the investigation, steps were taken to avoid further information being "leaked" to the press.

51. I anticipate that the Commission will receive evidence that in late March 2012 Superintendent Gralton, the Commander of Newcastle LAC, confirmed that directions given to DCI Fox on 2 December 2010 were to remain in place.

52. In April 2012 there were some exchanges between Det Sgt Little, his supervising officer Detective Inspector Parker and DCI Fox regarding the Strike Force Lantle investigation. I expect evidence to be given about those matters.

53. The evidence will show that by late 2012, Detective Chief Inspector Fox was sufficiently concerned about events as he saw them, and what he regarded as the absence of any obvious investigation, that

he ultimately participated in an interview on the *Lateline* program on 8 November 2012.

54. Police were invited to respond to matters raised by DCI Fox on *Lateline*. Assistant Commissioner Carlene York, the Northern Region Commander, formally responded to the following effect:

- i) Strike Force Lantle was established to ensure a thorough and coordinated investigation was undertaken in relation to the matters raised;
- ii) DCI Fox was the Crime Manager at Port Stephens Local Area Command and it would be unusual for a Crime Manager from a neighbouring LAC to work on a Strike Force in another LAC, particularly one like Newcastle City LAC where there were already two Detective Inspectors overseeing the investigation;
- iii) DCI Fox had been informed that the Strike Force would be fully investigating the allegations; and
- iv) He was consulted on numerous occasions and asked to provide information to assist the investigation.

55. I anticipate the Inquiry will hear evidence from DCI Fox that the first he knew these were the reasons he was asked to cease his investigation was when these answers were published as part of the *Lateline* program on 8 November 2012.

56. It is expected that AC York's evidence will focus on those matters and other decisions made by her in establishing Strike Force Lantle.

57. Commissioner, the focus of the following two weeks will be upon exploring the evidence to find answers to the kinds of questions I raised at the start of this opening. This will assist you Commissioner to fulfil the obligations with which you are charged in relation to TOR 1.

58. To commence that process, after a short adjournment, appearances will be taken and I will commence the oral evidence, first calling DCI Fox.

ENDS