

**ISSUE:** Ministerial Representations from Dr Andrew Morrison RFD SC on behalf of Australian Lawyers Alliance

**BACKGROUND:** Correspondence dated 6 October 2010 received from Dr Morrison concerning enquiries into the abuse by paedophile priest, Denis McAlinden

**COMMENT:** Correspondence dated 13 September 2010 was previously received from Dr Morrison concerning this issue, refer TAB A. Acting Assistant Commissioner (A/AC) Mitchell responded to that correspondence advising that the allegations have and will continue to receive appropriate consideration by the Detectives attached to the Newcastle City Local Area Command (NCLAC), however given the current status of same, no further comment would be made at that time.

This latest correspondence received via the Ministers Office, dated 6 October 2010 is duplicate papers to that received directly within the Northern Region Command. Accordingly, Acting Assistant Commissioner Mitchell responded upon receipt that as previously advised; the matter, to which Dr Morrison referred, is being investigated by Detectives attached to the NCLAC, and whilst this investigation is linked to the cases investigated by Strike Force (SF) Georgiana, it is a separate case. A/AC Mitchell confirmed that SF Georgiana had resulted in a number of persons appearing before the court; however advised that there are some outstanding court matters at this time.

A/AC Mitchell advised that he is satisfied and has every confidence that the current investigation being undertaken by NC will be thorough and professional, with the matters being appropriately managed at this time.

**RECOMMENDATION:** Forwarded for information

Signed

Angie Decus  
Executive Officer, Policy  
NORTHERN  
25 October 2010

- 1. Region Commander

*For information  
Copy to 28/10/10.*

Signed

*1/11/10*

RECEIVED

- 2. Deputy Commissioner (Field Operations)

*The matter raised in the attached correspondence from Dr Morrison is the subject of a current investigation. It is not appropriate to make further comment at this time.*

Executive Officer  
Deputy Commissioner  
Field Operations

*1/11/10*  
DEPUTY  
COMMISSIONER  
FIELD OPERATIONS

- 3. Commissioner

*Noted. Investigations not yet finished.*

Signed

*A. Eric Off. 3/11/10.*

4. MPO

# NSW Police Force

D/10/173963



**To: Asst Comm. Carlene York**  
(Northern Region)

**From: Roger Kershaw**  
*Ministerial Liaison Officer*

**Fax No.: 70945**

**Phone: (02) 8263 6220**

**Tel. No.: 70688**

**E/net: 45220**

**Date: 19 October 2010**

**E/fax: 45233 (8263 6233)**

**No. of Pages to follow: 6**

**Private and Confidential Notice**

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**RML: M 106073**

The Minister has received representations from A Morrison SC on behalf of Australian Lawyers Alliance regarding the NSWPF investigation of alleged offences by supervising clergy in the matter of Denis McAlinden

In order that the Minister can reply to these representations, the Commissioner requests that your Command provide a report addressing the correspondent's concerns, on or by **Friday, November 5, 2010.**

Thank you for your assistance in this matter. Please 'phone if you need any further information.

**Roger Kershaw**  
*Ministerial Liaison Unit*

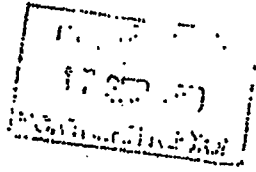
DX 379  
TEL: 9231-3133

WARDELL CHAMBERS  
SIXTEENTH FLOOR  
39 MARTIN PLACE  
SYDNEY, NSW 2000

D/2010/162023

13 September 2010

FILE COPY



A

Assistant Commissioner Carlene York  
Northern Region Commander  
NSW Police  
c/- Newcastle Police Station  
Cnr Church and Watt Streets  
NEWCASTLE NSW 2300

By Email

Dear Assistant Commissioner

**ENQUIRIES INTO ABUSE BY PAEDOPHILE PRIEST, DENIS MCALINDEN**

I write on behalf of Australian Lawyers Alliance, New South Wales Branch.

You will be well aware from the series of articles by Joanne McCarthy in the *Newcastle Herald* that it is alleged that senior members of the Roman Catholic Church in Australia knew about abuse by paedophile priest, Denis McAlinden, but failed to inform the police. The documents strongly suggest that Redacted and two other bishops, believed that the abuse had occurred and chose to "defrock" the priest rather than inform the police. The documents strongly suggest that the good of the Church, and the priest's good name were placed ahead of any legal obligations.

Section 316 of the *Crimes Act 1900* has, since 1983, made it an offence for anyone, knowing a serious indictable offence has been committed, to not then provide all material assistance and information to the police, or other appropriate authority. Failure to do so may amount to up to two years imprisonment. Prior to 1983, an almost identical common law offence made failure to report a felony a crime. There is no requirement for active concealment of the abuse. Mere failure to report seems to be sufficient to constitute the offence. *Sykes v DPP* [1961] 3 WLR 371:

On the face of the documents, very senior members of the Roman Catholic Church were so convinced of the allegations of sexual misconduct against the paedophile priest that they took steps to remove him from the priesthood and prevent him from practising his ministry.

Since these matters reached public attention, a number of other people have come forward with information, including allegations in respect of the conduct of other priests.

Yet it appears that Strike Force Georgina, set up to investigate child sex abuse allegations against a number of Maitland-Newcastle diocese priests, is being wound down. It appears to be merely finalising outstanding cases.

Moreover, there have been disturbing rumours from within NSW Police suggesting that some police do not believe it is in the public interest to investigate the matter.

What is there about there about the Roman Catholic Church which puts it above the law? On the face of it, there appears to be ample documentary evidence, supported by a number of witnesses, giving rise to a prima facie case against at least three senior members of the Church.

The rule of law requires that everyone stand and be judged equally before the law. It is unacceptable for any organisation, however wealthy and however influential, to be treated differently. Australian Lawyers Alliance calls on NSW Police to prepare a brief for the DPP or explain why it is failing in its duty.

I look forward to your urgent response. I would welcome the opportunity to speak to you in person in the near future.

Yours faithfully

Signed

**DR. ANDREW MORRISON RFD SC**

D/2010/162023



**NSW Police Force**  
www.police.nsw.gov.au

Dr Andrew Morrison RFD SC  
Wardell Chambers  
Sixteenth Floor  
39 Martin Place  
SYDNEY NSW 2000

Dear Dr Morrison

I refer to your recent letter dated 13 September 2010, in which you expressed concern in respect to an investigation involving the Catholic Church.

I assure you that the allegations have and will continue to receive appropriate consideration by the Detectives attached to the Newcastle City Local Area Command. Due to the investigation's current status however, I am unable to make any further comment at this time.

Yours sincerely

*Signed*

Max Mitchell APM  
A/Assistant Commissioner  
A/Region Commander  
NORTHERN

September 2010

cc Newcastle City Local Area Commander, Newcastle City

**Northern Region Command**  
**Newcastle Police Station**  
Level 3, Corner Church & Watt Street  
NEWCASTLE NSW 2300

Telephone 02 4929 0602 Facsimile 02 4929 0732 FNet 70802 FFax 70732 TTY 9211 3776 (Hearing/Speech Impaired)

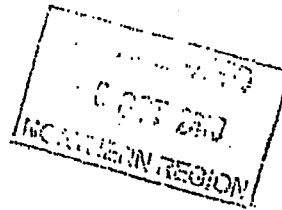
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WARDELL CHAMBERS  
SIXTEENTH FLOOR  
39 MARTIN PLACE  
SYDNEY, NSW 2000

6 October 2010



Your ref: d/2010/162023

Max Mitchell APM  
Acting Assistant Commissioner  
A/Region Commander Northern  
NSW Police Force  
Locked Bag 5102  
PARRAMATTA NSW 2124

Dear Assistant Commissioner

**ENQUIRIES INTO ABUSE BY PAEDOPHILE PRIEST, DENIS MCALINDEN**

Again I write on behalf of Australian Lawyers Alliance. Thank you for acknowledging receipt of my letter of 13 September 2010 by your letter received on 5 October 2010.

I remain troubled that your letter does not deal with the matters of substance raised.

Specifically, you do not confirm that the investigations undertaken by Strike Force Georgina are not being wound down.

You do not confirm that any consideration is being given to the conduct of those senior members of the Roman Catholic Church who had knowledge (on their own correspondence) of and believed in the sexual abuse, but failed to report it to the police, prima facie, in breach of Section 316 of the *Crimes Act* 1900.

You do not suggest that any brief is being prepared for the DPP.

Lawyers Alliance remains deeply concerned that very serious allegations of which there appears to be unambiguous support in the Church's internal documents are not being treated with the seriousness they deserve and there is no indication that such continuing investigation as may be taking place, extends to such matters.

I seek your confirmation that these matters are being actively investigated and a brief is being prepared for the DPP accordingly. I look forward to your early response.

Yours faithfully

Signed

DR ANDREW MORRISON RFD SC  
encs

D/10/162023



**NSW Police Force**  
www.police.nsw.gov.au

Dr Andrew Morrison RFD SC  
Wardell Chambers  
Sixteenth Floor  
39 Martin Place  
Sydney 2000

October 2010

Dear Dr Morrison,

I refer to your communications regarding investigations involving members of the Catholic Church.

As previously advised, the matter to which you refer regarding allegations of senior members of the Church failing to report certain issues to the police is being investigated by detectives attached to Newcastle City Local Area Command. Whilst this investigation is linked to the cases investigated by Strike Force Georgiana, it is a separate case.

As you are probably aware, SF Georgiana resulted in placing a number of people before the courts. Most of those matters have been finalised, however there are still some court proceedings continuing.

Again I confirm that I have every confidence that the current investigation being undertaken by Newcastle City Command will be thorough and professional.

Yours sincerely,

Signed

Max Mitchell APM  
A/Assistant Commissioner  
A/Region Commander  
Northern

**Northern Region Command**  
**Newcastle Police Station**  
L3, Cnr Church & Watt Street

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ABN 43 408 613 180

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Anthony Townsend/20978/Staff/NSWPolice

12/10/2010 15:50

Good Afternoon Joanne

I have been able to contact Acting Assistant Commissioner Max Mitchell who currently the Commander of Northern Region and he has authorised the following response in relation to your enquiry.

*"Northern Region has been made aware of the concerns of the Australian Lawyers Alliance . Newcastle City Local Area Command is conducting an investigation into the allegations surrounding the late Father Dennis McAlinden and I have every confidence their investigation will be thorough and professional."*

Kind Regards



Inspector Tony Townsend

Northern Region Operations Manager • Northern Region • NSW Police Force

☎ (02) 4929 0603 [70603] ☎ (02) 4929 0945 [70945] ☎ 0409 306 341 ✉ [town1ant@police.nsw.gov.au](mailto:town1ant@police.nsw.gov.au)

Jo  
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MEMO

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Dear Inspector Townsend,

Following our phone conversation, and recognising Max Mitchell is not only in an acting capacity, but is not even in the area, I just wanted to advise we will be running the article tomorrow about the Australian Lawyers Alliance correspondence with the northern region command office, and to see if Acting Assistant Commissioner Mitchell would like to respond to the alliance's concerns that police are not investigating the McAlinden matter, or are not treating it seriously. Is Mr Mitchell willing to say it is being treated seriously, and how the alliance can be assured that it is?

Regards. Joanne McCarthy.

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