

Statement of Donald Mark Brown

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

On 13th day of May 2013, I say:

Preliminary matters

1. My full name is Donald Mark Brown and I am an Investigative Officer with the Department of Education.
2. This statement is prepared by me for the sole purpose of responding to a summons dated 3rd May 2013 issued on the 3rd May 2013 by the Special Commission of Inquiry (established by way of letters patent dated 21 November 2012 and varied by letters patent dated 25 January 2013) for me to produce a statement in relation to a number of defined issues. This statement is produced by me to the Special Commission of Inquiry pursuant to the said issued summons unwillingly and only on the basis that, without exception, section 23(2) of the *Special Commissions of Inquiry Act 1983* applies to restrict the use of this statement and the documents referred in it, and attached to it.
3. Pursuant to section 23(2) of the *Special Commissions of Inquiry Act 1983*, I object to the information contained within this statement, and the attachments to the statement, being used in any criminal, civil or other proceedings or inquiries or investigations of any kind.

Background

4. I was attested as a police officer in 1990. After date of attestation, I served within the New South Wales Police Force (NSW Police Force), carrying out general duties for a period of about 9 or 10 years. After my service in general duties, I then was engaged in plain clothes duties, in areas such as the Regional Anti-Theft Squad, various detectives' offices in and around the Newcastle and Lower Hunter areas, New South Wales. I was also engaged on task forces and carried out duties with the JIRT team. The JIRT team was responsible for the investigation of sex crimes. My duties with JIRT were carried out in the Newcastle and Central Coast areas of New South Wales.
5. I was designated as a detective in 2004. After designation, I carried out duties in the Lower Hunter and Lake Macquarie areas of New South Wales. For a period of 18 months, I was attached to the State Crime Squad undertaking investigations relating to sex crimes.
6. I left the NSW Police Force in 2010 with the rank of Detective Leading Senior Constable. I left on medical grounds.
7. I was involved in the investigation relating to Father James Fletcher. The circumstances in which I came to be involved were as follows: at the time, I was working at the Maitland Detectives' Office with Detective Sergeant Peter Fox as my supervisor. My duties at that time required me to investigate serious crime. However, as part of my duties as a detective within the Detectives' Office, I was called upon from time-to-time to assist other detectives with their investigations. In

the case of the investigation involving Father James Fletcher, the person responsible for that investigation was Detective Sergeant Peter Fox and not myself. I was called upon by Detective Sergeant Fox to assist him on occasions when aspects of the investigation were required to be carried out.

8. It is within that context that I was approached by Detective Sergeant Fox to assist him in the arrest and charging process of Father James Fletcher. I was required to engage in those duties as the corroborative officer. On 14 May 2003, together with Detective Sergeant Fox, I was involved in the formal arrest of Father Fletcher. Father Fletcher attended the Maitland Police Station by appointment and upon his attendance he was formally placed under arrest by Detective Sergeant Fox in my presence. After being taken into custody, Father Fletcher was given the opportunity of participating in an electronically-recorded interview. I was present during the course of the interview again in the capacity of a corroborative and supporting police officer to the investigator. Annexed hereto and marked with the letter "A" is a true copy of a statement prepared by myself on 29 May 2003, setting out part of my involvement in the investigation. At paragraph 3 of Attachment A, reference is made to the date of 14 June 2003. I confirm that there is an error in the recording of this date and the correct date should have been 14 May 2003, being the actual date of arrest.
9. Within the week after the arrest of Father Fletcher, I was again approached by Detective Sergeant Fox for the purpose of obtaining a statement from Father Robert Searle, who was then located at Nelson Bay. Prior to my travelling to Nelson Bay Police Station in order to obtain the statement, I was made aware by Detective Sergeant Fox of the matters that were to be covered in any statement to be obtained. Annexed hereto and marked with the letter "B" is a true copy of a statement dated 19 May 2003 obtained from Father Robert Searle. I witnessed this statement on the same date.
10. As to other involvement I may have had in terms of the Fletcher investigation, I may have witnessed statements obtained from other witnesses, however, I do not have any clear recollection of this having occurred without any such statements being provided to me. There may have been one or more occasions in which Detective Sergeant Fox may have requested that I make inquiries on his behalf, but again I do not have an independent recollection of what they were at this point of time. As far as I am concerned, my involvement in the Father Fletcher investigation was more of a peripheral nature, for reasons set out previously within this my statement, and I was not heavily engaged in that investigation.
11. Annexed hereto and marked with the letter "C" is a copy of a document dated 29 May 2003. I do not have any recollection of having seen that document prior to it being forwarded to me for the purposes of the provision of this my statement, on 2 May 2013. In terms of the contents of that document, I refer to the last paragraph commencing at the bottom of page 2 and the first paragraph commencing at the top of page 3. In relation to the contents of those paragraphs, I can provide the following information. The only statement that was obtained from a member of the Catholic Church by myself was that which was obtained from Father Robert Searle. To the best of my recollection, I did not take any statements from any other member of the Catholic Church, and I did not have access to any other statements taken. For that reason, I was not in a position to form any impression that there was collusion between Father Searle and any other person who may have provided a statement to the investigating police officer.

12. In relation to the first paragraph at page 3 of attachment "C", my recollection of having interviewed Father Searle and obtaining the statement from him, was that he was co-operative and did not appear to be holding back any information that I was asking of him. From the information available to me at the time, I had no reason to doubt that the information he provided to me was full and complete information known to him at the time.
13. I recall that after having come back to the Maitland Police Station with the signed statement of Father Robert Searle, I provided Detective Sergeant Fox with the statement. At the time, he appeared to read the statement and I recall a comment made to the effect that he was expecting a bit more information from Father Searle than that which had been provided.
14. For my part, I have no direct information available to me that suggested that Father Robert Searle concealed any information or hindered me in the carrying out of my duties. As indicated previously, he appeared to be co-operative and freely provided whatever information was requested from him. The only indication given during the course of the investigation carried out, that there may have been a concealing of information or any hindrance of the investigation, came from statements that were made by Detective Sergeant Fox to me at the time. In terms of statements made by Detective Sergeant Fox, as indicated, at no time was any indication given to me or did I have any primary knowledge of any kind that a clergyman attached to the Catholic Church was withholding information. One example of information provided to me that I can recall, in which Detective Sergeant Fox complained about a lack of co-operation or a hindering of an investigation, related to the suggestion that Bishop Malone may have provided Father James Fletcher with information that there may have been a police investigation underway with respect to Father Fletcher's activities.

Signed

Donald Mark Brown

13th May 2013.

"FI"

THIS IS THE ANNEXURE MARKED "A"
ANNEXED TO STATEMENT OF
DONALD MARK BROWN
SIGNED THIS 13TH DAY OF
MAY 2013.
P???



NSW POLICE SERVICE

STATEMENT OF A POLICE/WITNESS

In the matter of:	James Patrick FLETCHER
Place:	Maitland Police Station
Date:	29 May, 2003

Name:	Donald Mark Brown	Tel. No:	49340286
Rank:	Plain Clothes Senior Constable		
Station/Unit:	Maitland Police station		

STATES:

1. This statement made by me accurately sets out the evidence which I would be prepared, if necessary, to give in court as a witness. The statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

2. I am 41 years of age.

3. On Thursday the 14th of June 2003, Father James Patrick FLETCHER attended the Maitland Police Station. At the time he was in company with solicitor Eric CRANEY & Father James SAUNDERS. Detective Sergeant FOX and I escorted them all to an interview room. Detective FOX said to the accused,

"I am Detective Sergeant Peter FOX and this is Detective Don BROWN. As you know we are investigating allegations made by AH that you sexually assaulted him as a child. I want you to understand that you are under arrest for those matters. You are not obliged to say anything unless you wish, as anything you say or do will be recorded and may be given in evidence. Do you understand that?"

He said,

"Yes. I am under arrest then am I?"

Witness: Signed

Signature: Signed
D. M. Brown

Statement of D. M. Brown
the matter of James Patrick FLETCHER

Detective FOX said,

"Yes."

Detective FOX said,

"I would prefer that you do not say anything in response to the allegations at this time as I am required to place you into the custody system before we go any further."

Detective FOX then spoke to all persons and explained the custody system requirements and took them to the charge room where the Custody Process was completed. Whilst in custody the accused had his rights explained to him as per Part 10A of the Crimes Act.

4. Detective FOX later removed the accused from the custody room and along with Father SAUNDERS and Mr CRANEY he was returned to the interview room. I obtained a number of tapes from the ERISP cupboard and prepared them for the accused to be interviewed. During that interview both Detective FOX and I asked the accused a number of questions, those questions together with any answers given by the accused were electronically recorded as the interview took place. The whole of the interview was recorded in this matter. Three sets of ERISP tapes were used during the interview with the accused. Mr CRANEY was present for the entire interview and Father James SAUNDERS was asked to leave towards the end of that interview. At the completion of interview Detective FOX and I left the interview room and had Sergeant SALMOND attend to adopt the interview.
5. At the completion of the interview the ERISP tapes were removed and the accused, Sergeant SALMON and Detective FOX signed three seals. The seals were then placed on the court copy of each audiotape. Detective FOX then handed the accused a copy of each of the audiotapes and he then signed a receipt for the tapes.
6. Detective FOX and I then completed the charging process.

Signed

Witness:

D.A. Scott
4/6/03.

Signature:

Signed

D. M. Brown
D.M.B.
29/5/03.

" B "

THIS IS THE ANNEXURE MARKED " B " ANNEXED TO STATEMENT OF DONALD [unclear] SIGNED THIS 19th DAY OF May 2003.

New South Wales Police

P.190
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STATEMENT in the matter of:
Father James FLETCHER

Place: Nelson Bay
Police Station
Date : 19th May 2003

Name: Father Robert SEARLE
Address: 43 Government Road, Nelson Bay 2315 Tel. No.: 49811069
Occupation: Parish Priest Nelson Bay STATES:-

1. This statement made by me accurately sets out the evidence which I would be prepared, if necessary, to give in court as a witness.

The statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable for prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

2. I am 58 years of age. Redacted at Commissioner's direction

3. I have been the Catholic Parish Priest at Saint Michaels, Nelson Bay for the past five years. I reside at the Presbytery 43 Government Road, Nelson Bay. I arrived at this location on the 31st December, 1997 and have worked in the area since that time.

4. During my time at Nelsons Bay I have met many persons throughout the parish. About five years ago not long after I arrived I remember one evening I was in the Presbytery at Nelson Bay. It was a week day and it was about 7.30pm in the evening, I was watching television. I heard shouting coming from outside the Presbytery. I went out onto my balcony and I saw AH he was standing across the road drinking a bottle of beer. AH was yelling out,
"Nobody loves me, nobody loves me."
I said,

Witness: _____ Signed
Signature: _____ Signed

" AH your family loves you, you come from a great family."

AH continued to yell out the same words over and over again.

5. I know AH through his parents. His father BI is the . His father has performed this role for the Catholic Church for many years. BI is highly respected by all of the clergy and I have never heard a bad word about him from anyone.

6. AH appeared very drunk or under the influence of drugs at the time. He appeared completely irrational and incoherent at the time. I could tell he was well affected because he was unbalanced and having trouble standing upright.

7. AH continued to yell out the same kind of things, I said to AH..

"If you don't leave I will have to call the Police and your parents."

AH then started to walk off up the road towards the Police Station. AH was not walking very well he was staggering along the footpath.

8. I then went inside and I decided to contact his father BI and tell him what had occurred. I rang his father who was living at . at the time. I remember when I called him he told me that he would have to get someone to drive him down because he had been drinking red wine and was unable to drive a motor vehicle for fear of being over the limit.

9. About one hour later may be a little longer BI arrived at the Presbytery in company of another woman. BI introduced me to her but I can't recall her name. This woman was

Witness: _____ Signed _____
Signature: _____ Signed _____

STATEMENT (continued) in the matter of: Father James FLETCHER
Name: Father Robert SEARLE

about 40 years old and *BI* informed me that it was his neighbour.

10. *BI* spoke with me for a short time about *AH* and that he *AH*, had been drinking to much of late. *BI* stayed for about half and hour and then left. He told me that he was going from Presbytery to see his son that night. I did not see *BI* again that night but I remember him calling me a couple weeks later and saying that *AH* was okay.

11. I remember the next morning after this incident I spoke with Sister Paula REDGROVE and related the incident from the previous night to her. Sister REDGROVE was residing at the convent in Marooba Crescent, Nelson Bay.

12. I did not here anything further about this incident after this time. About one year later I remember receiving a phone call from *AH*. *AH* informed me that he was living in and that he was going to get married. I remember that I congratulated him about getting married. I also remember *AH* apologising to me for his behaviour and the way he had carried on out the front of the Presbytery when he was intoxicated.

13. I have never heard or seen *AH* from this time on. The last time I heard of him he was living in *Ma*.

Witness: _____ Signed _____
D. Brown
D/S
1/5/03.

Signature: _____ Signed _____

NSW POLICE SERVICE

Local Area Command, Lower Hunter.



Investigation Unit
Maitland Police Sta
Ph: 4934 6310
29 May 2003.

ISSUE

Ombudsman notification involving Father James Patrick FLETCHER & AH

BACKGROUND

It is alleged by AH that over a 6 years period from 1989 to 1995 Catholic Priest Father James Patrick FLETCHER sexually abused him. These assaults were alleged to have occurred in & about the Maitland Diocese when the victim was aged 12 to 18 years. Following the offences the victim led a very turbulent & volatile life marked by excessive drinking of alcohol, failed relationships & suicide attempts. In 2000 he first began to disclose aspects of his abuse to members of his family, which culminated in his reporting the matter to Police in mid 2002.

COMMENT

On Sunday the 2nd of June 2002 AH spoke to a family friend (Crown Barrister with the Newcastle DPP Wayne CREASY) to commence action regarding this abuse. That night he watched a '60 Minutes' programme on Archbishop George PELL & child abuse within the Catholic Church in Australia. He became distraught & telephoned his father, BI & mother BJ (Who were separated) disclosing to them that he had endured similar abuse to that depicted on the programme. He then made an abusive telephone call to Father FLETCHER at the Branxton Presbytery.

The following day (3rd June 2002) I was contacted by Wayne CREASY who requested I investigate AH's matter. AH attended my office on Tuesday the 4th of June 2002 to officially commence the police investigation. At the time AH briefly outlined his allegation to myself & it was recorded on COPS entry No. R 14348559 & a Case created being C 16128387.

BJ advised me the following week that she had been contacted by Bishop MALONE on the evening of Wednesday the 5th of June 2002. In that call he advised her that he had spoken to BI & as a result approached Father FLETCHER. In his conversation with Father FLETCHER he disclosed the police investigation & the name of the complainant. BJ then goes on to say in her statement,

"The call ended & I was still stunned. I was very angry with BI for having told the Bishop what was happening. I don't know his reasons for doing this but I don't believe it was malicious. I was angrier with Bishop MALONE for having gone near Father FLETCHER & alerting him to what was going on. He had no legitimate reason to tell Father FLETCHER. I didn't accept he just approached Father Jim as pastoral support, Father Jim didn't know about the allegations at that time so I didn't believe he needed any support. I feel that this was the guise to tell Father FLETCHER & the three other priests what was going on."

I spoke to members of the AH family the following week & learned of the Bishop's contact with Father FLETCHER. As a consequence I contacted the Bishop by phone & a meeting was organized in the Maitland-Newcastle Diocese Office at 11.30am on Thursday the 20th of June 2002. I attended that meeting with Detective Senior Constable Ann JOY & met with Bishop MALONE & the Vicar General, James SUANDERS. (A statement of my conversations is attached hereto.)

In summary I expressed my disappointment in having not been contacted by the church prior to Father FLETCHER being approached. This action seriously impacted on the police investigation & denied investigators a number of options in relation to Father FLETCHER. I also strongly requested that Father FLETCHER be removed from his parish duties & contact with children until investigations were concluded. Despite this request I learned that Father FLETCHER remained in his position until just prior to his arrest this year.

Mr John DAVERON of the Catholic Church Abuse Unit contacted myself in Early September 2002. (I later discovered this call was probably in response to him having been contacted by **BS** days earlier.) He inquired as to the progress of the investigation & we briefly discussed Father FLETCHER remaining in his pastoral position & his continued contact with catholic schools & children. I relayed my discussion on this subject with Bishop MALONE & again conveyed my professional opinion that he should be removed until the investigation was complete. Mr DAVERON appeared to be sympathetic to this proposal & told me he would discuss the matter with Bishop MALONE. I did not make any direct record of that conversation.

AH undertook extensive counseling prior to commencing his statement in November 2002. About the 26th of February 2003, just prior to the completion of **AH**'s statement John DAVERON again contacted me to inquire as to the progress of the investigation. I advised him that I expected the matter to be concluded within two to three months & that charges would probably be preferred against Father FLETCHER. Little more was discussed at that time.

A further similar call took place between Mr DAVERON & myself on the 17th of March 2003. I indicated that the case could be completed within six weeks. On this date I also contacted the Ombudsman's Office after being advised by **BT** that he believed there was an obligation by the church to report the matter to that office & he believed they had failed to do so. I understand that Mr DAVERON has since retired from his employment with the church.

I was advised the following week by both the Ombudsman's Office & Mr Michael McDONALD of the Catholic Church Employment Relations Unit that Father FLETCHER had been 'stood down' from his position in the parish until the investigation was resolved. I remained in contact with Mr McDONALD over following weeks. On the 30th of April I told Mr McDONALD that the interview of Father FLETCHER would probably occur within the next two weeks. On the 7th of May I again spoke to Mr McDONALD & requested he personally approach Father FLETCHER to organise for his attendance at the Maitland Police Station on the 14th of May 2003. He later confirmed to myself that this had been done & Father FLETCHER would be attending at 9.00am with a solicitor Eric CRANEY. On the 13th of May 2003 Mr McDONALD again contacted myself & inquired if Father Jim SAUNDER's would be permitted to attend as a support person for Father FLETCHER. This was agreed to & those persons all attended at the arranged time & place.

On the 14th of May 2003 Father James FLETCHER was charged with a total of 8 offences of sexual assault following a 2hr 45minute ERISP interview. A transcript of this interview has not been received but will be forwarded in due course. Father FLETCHER denied all allegations. He further stated that he first became aware of a Police Investigation in June after being told of this by Bishop MALONE. He also indicated that Bishop MALONE had also been the person to inform him of the identity of the person making the allegation.

In the week following the charging of Father FLETCHER statements were taken from five members of the Catholic Church. Both Detective BROWN & myself were left with a very strong impression that there had been collusion between these persons & although each could assert they 'cooperated with police' little beyond this was volunteered.

I spoke to Father Robert SEARLE by phone on the 16th of May 2003. I discussed briefly with him an incident some years ago when AH had yelled abuse at him outside the Nelson Bay presbytery. He commented to me, "He seemed to be angry with the world that night & in light of what has now come out that may be understandable." At the time he was sympathetic & seemed more than happy to speak to investigators & assist. When interviewed by Detective BROWN on Monday the 19th of May 2003 he backed away from his former statements recalling only that AH had made comments of, "Nobody loves me." This resulted in him threatening to call the police & telephoning AH's father BI. This might be considered extreme for a drunken young man yelling that he was unloved.

On Tuesday the 17th of May 2003 I obtained statements from Fathers HARRIGAN & BURSTON. Both statements were remarkable for their poor recollection of important conversations & events surrounding Father FLETCHER in the weeks following the 2nd of June 2002. The little conversation that was eventually recorded was anything but free flowing. Father HARRIGAN recalled telephoning the Vicar General (Father SANDERS) soon after AH's abusive call. (Stated but declined to place in statement 'possibly the Monday afternoon or Tuesday morning')

Father SAUNDERS in his statement remembers the phone call from Father HARRIGAN but was again unable to recall the exact conversation other than being told the original call was abusive & alleged Father FLETCHER was a child molester. Despite being the second highest-ranking official in the diocese & working closely with the Bishop he was unsure if he conveyed this important information about Father FLETCHER's call to Bishop MALONE. This did not alter even after Bishop MALONE informed him of BI's conversation concerning FLETCHER.

Bishop MALONE stated that at no time does he recall Father SAUNDERS or any other person telling him of Father HARRIGAN's phone call (regarding FLETCHER's abusive call). In view of BI's conversation with the Bishop on the 3rd of June 2002 this seems incredible to say the least.

Since that time I have been advised from two sources that the victim's name has become public knowledge in the regional catholic community. These persons have expressed concern for the victim as they feel that factions loyal to Father FLETCHER will attempt to slur the name of the victim & his family. It has not been suggested that the church is perpetuating this but nevertheless it may have long-term consequences.

BI has contacted myself & asked if Father BURSTON had mentioned to myself a conversation had between them shortly after the 5th of June 2002 in which BURSTON told him that Father FLETCHER had denied the allegation of abusing AH. More importantly Father BURSTON told him that Father FLETCHER had denied that AH had ever stayed at the Branxton Presbytery (Allegation of the last assault). BI told him that was a lie as he had personally driven AH to the Presbytery that night & spoke to Father FLETCHER himself. He had returned the following morning & took AH home. Father BURSTON allegedly recalled Father FLETCHER having mentioned something about this some time ago & agreed with BI.

Father BURSTON made no mention of this to myself in his statement, however Father FLETCHER readily recalled in his interview with myself that AH did stay at the Presbytery. In view of this it would appear that Father FLETCHER thought about the matter & changed his mind or was possibly told by BURSTON that BI could substantiate his son's assertion. I am to obtain a further statement from BI next week & will again speak to Father BURSTON regarding this issue.

In a recent discussion with Bishop MALONE ~~BI~~ was told, "The matter has to go to the DPP yet & they may decide not to proceed with this case." This may have just been an understanding of processes but ~~BI~~ was concerned that there may have been a hidden suggestion in this comment. I have since spoken to Jillian KILTON of the Newcastle DPP & she has been made aware of the Ombudsman's interest in this matter.

Investigators were also concerned regarding the comments & actions of a police prosecutor ~~AT~~ MAHER when Father FLITCHER appeared at the Maitland Court on the 14th of May 2003. These issues were relayed to the Lower Hunter Crime Manager who has indicated he will be taking managerial action.

Many of the issues raised may not be within the investigation ambit of the Ombudsman's Office but have been included for reasons of completeness.

Signed

Peter R Fox
Detective Sergeant
Lower Hunter