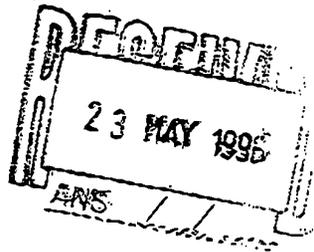




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21st May 1996

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**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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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.

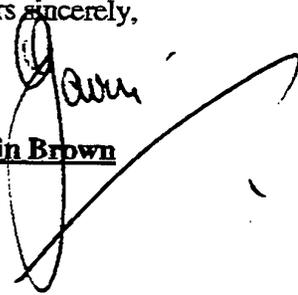
Because of the delay while the investigation occurs, it would be better for the advice to the accused to be given in writing at the time he is placed on administrative leave. That is, those matters in Para. 8.2, 9.2, 9.3, 9.4, 9.5. It is not unusual for such a step to occur at the earliest possible phase, 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