

ANNEXURE "D"

OUR REFERENCE
201300042

YOUR REFERENCE

DATE
19 August 2014OFFICE OF THE DIRECTOR
OF PUBLIC PROSECUTIONSLevel 1
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Mr Sashi Shukla
Solicitor
Legal Aid Commission
DX 5 Haymarket

"This is the annexure
marked "D" referred to
in the Affidavit of
Sashi Shukla sworn
before me on 29 August, 2014"

REDACTED

Dear Mr Shukla

NOTICE: TENDENCY EVIDENCE

PURSUANT TO : SECTION 97 OF THE EVIDENCE ACT 1995 NSW
MATTER : PROSECUTION of FRANCIS WILLIAM CABLE
REFERENCE : 2012/393036
DPP CASES NO : 201300042

Notice is hereby given that the Prosecution presently intends to adduce evidence of "tendency" pursuant to the tendency rule in sub-section 97(1) of the Evidence Act 1995, ie. evidence of the character, reputation or conduct of a person, or tendency that a person has or had to prove that a person has or had a tendency (whether because of the person's character or otherwise) to act in a particular way or to have a particular state of mind.

1. The person whose "tendency" is the subject of the evidence sought to be adduced is Francis William CABLE.
2. The tendency sought to be proved is his/her tendency to act in a particular way and to have a particular state of mind, namely
 - To have a sexual attraction towards young male students aged between 10 and 16 years.
 - To engage in sexual activity with young male students aged between 10 and 16 years in various ways and at various times.
3. The substance of the "tendency" evidence which the Prosecution intends to adduce is contained within the following documents which previously have been served upon you.

DOCUMENT	DATE	PARAGRAPH
1. <input type="text" value="CFN"/>	1. 28 April 2013	11, 12, 20, 24-31
2. <input type="text" value="CFK"/>	2. 7 January 2013	6, 9-16, 18, 21
3. Peter Anthony HENRY	3. 1 October 2013	9-12, 14-16, 18-22, 24, 26, 27
4. <input type="text" value="CHE"/>	4. 21 May 2013	17-20, 24, 28 - 30

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DOCUMENT	DATE	PARAGRAPH
5. <input type="text" value="CFQ"/>	5. 1 August 2013	10-17

4. So far as is known to the Prosecution, particulars of the date, time, place and circumstances at or in which the conduct referred to in paragraph 3 above occurred are contained within the documents referred to in paragraph 3 above.
5. So far as is known to the Prosecution, the names of each person who saw, heard or otherwise perceived the conduct referred to in paragraph 3 above are contained within the documents referred to in paragraph 3 above.
6. In the view of the lawyer with the current conduct of the matter, the tendency evidence sought to be adduced bears upon the facts in issue in this prosecution, including the following facts in issue:
 - That the accused had sexual contact with each of the complainants.
 - That the alleged contact with children was not accidental.
 - That the relationship with each of the children was not innocent.

Signed:

REDACTED

Printed Name:

Melanie O'Connell
Solicitor in the employ of the
Office of the Director of Public Prosecutions

Telephone:

02 9285 8636

Note: Clause 5 Evidence Regulation 2005 states:

5 The tendency rule and the coincidence rule – form of notices

- (1) This clause is made for the purpose of section 99 of the Act.
- (2) A notice given under section 97(1)(a) of the Act (relating to the tendency rule) must state:
 - (a) the substance of the evidence of the kind referred to in that subsection that the party giving the notice intends to adduce, and
 - (b) if that evidence consists of, or includes, evidence of the conduct of a person, particulars of:
 - (i) the date, time, place and circumstances at or in which the conduct occurred, and
 - (ii) the name of each person who saw, heard or otherwise perceived the conduct, and
 - (iii) in a civil proceeding – the address of each person so named, so far as they are known to the notifying party.