

ANNEXURE "C"

OUR REFERENCE
H.Fitzhardinge [REDACTED] (Tel)
YOUR REFERENCE
«YourRef»
DATE
25 March, 2014

OFFICE OF THE DIRECTOR
OF PUBLIC PROSECUTIONS

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Mr Slade HOWELL
Solicitor
Legal Aid Commission
DX 5 Haymarket

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

[REDACTED]

Dear Sir

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, namely
 - To use his position of authority to gain access to male children 10 – 16
 - Whilst in class
 - During extra curricular activities in particular involving water
 - Using sexual education to target male children.
 - To target male children with difficult family lives
 - To then engage in sexual activity with male children 10 – 16
 -

or to have a particular state of mind, namely

- To have a sexual interest in male children 10 – 16

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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. REDACTED	1. 13 December 2012	8-9, 13
2. CFL	2. 21 November 2012	11-16
3. REDACTED	3. 7 December 2012	14-15, 25
4. CFM	4. 25 June 2013	9-12
5. CFN	5. 28 April 2013	11, 12, 20, 24-31
6. CFO	6. 7 February 2013	6-7
7. CFK	7. 7 January 2013	6, 9-16, 18, 21
8. CFP	8. 23 December 2013	11, 14-19
9. CFP	9. 7 May 2013	6-7
10. Peter Anthony HENRY	10. 1 October 2013	9-12, 14-16, 18-22, 24, 26, 27
11. CHE	11. 21 May 2013	17-20, 24, 28 - 30
12. CFQ	12. 1 August 2013	10-17
13. CFR	13. 14 February 2013	7, 9-11
14. CFS	14. 5 February 2013	8, 9, 13
15. CFT	15. 3 December 2013	7-10
16. CFU	16. 8 February 2013	7-9
17. CFV	17. 8 February 2013	7-9
18. CFW	18. 6 March 2013	9, 10, 12, 13
19. CFX	19. 25 May 2013	7-14, 16, 17, 19-22
20. CFY	20. 14 December 2012	10, 13-14, 16-25
21. REDACTED	21. 1 February 2013	8-10
22. REDACTED	22. 7 February 2013	4 - 5
23. CFZ	23. 23 May 2013	7-10

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DOCUMENT	DATE	PARAGRAPH
24. John Oxley DUNN	24. 17 February 2013	9, 11, 13, 14
25. CGA	25. 16 June 2013	6-7
26. REDACTED	26. 14 February 2013	8,9, 11-13
27. REDACTED	27. 14 December 2012	7
28. REDACTED	28. 15 May 2013	7
29. REDACTED	29. 23 December 2012	10-14
30. REDACTED	30. 5 June 2013	11-16
31. REDACTED	31. 5 January 2013	8
32. REDACTED	32. 30 May 2013	8-9
33. REDACTED	33. 23 May 2013	7
34. REDACTED	34. 6 June 2013	8-9
35. REDACTED	35. 9 January 2013	9-13
36. REDACTED	36. 23 January 2013	9
37. REDACTED	37. 31 January 2013	10
38. REDACTED	38. 6 February 2013	8-9
39. REDACTED	39. 7 May 2013	11-12, 16-29, 30-33, 35-38
40. REDACTED	40. 13 May 2013	8, 10
41. REDACTED	41. 14 May 2013	23-31
42. REDACTED	42. 16 May 2013	8, 10-13
43. REDACTED	43. 21 May 2013	12-24
44. REDACTED	44. 21 May 2013	7-8
45. REDACTED	45. 21 May 2013	8-17
46. REDACTED	46. 23 May 2013	8, 10-12
47. REDACTED	47. 28 May 2013	7-14, 17-18

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.

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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.

REDACTED

Signed:

Printed Name:

Hamish Fitzhardinge
Solicitor in the employ of the
Office of the Director of Public Prosecutions

Telephone:

REDACTED

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.