



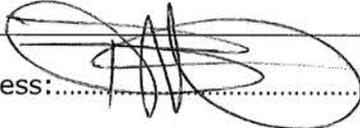
Royal Commission
into Institutional Responses
to Child Sexual Abuse

Statement

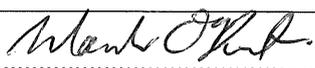
Name Father Mark Andrew O'Keefe
Address Immaculate Conception Parish, 48-58 Princes Hwy, Unanderra NSW 2526
Occupation Catholic Priest of the Diocese of Wollongong NSW
Date 12 June 2014

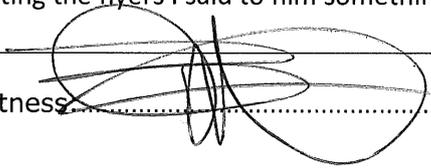
1. My name is Mark Andrew O'Keefe.
2. I am the Parish Priest for the Immaculate Conception Parish in Unanderra. I have been Parish Priest at Unanderra for 17 years. I have been a priest of the Diocese of Wollongong for 27 years.
3. I have been asked to provide this statement in connection with my involvement in the case of John Gerard Nestor, a former priest of the Wollongong Diocese. I have known John Nestor in a personal capacity since 1984 when we studied together at St Patrick's Seminary in Manly, Sydney.
4. In making this statement I will make reference to various documents relating to John Nestor. Apart from these few documents, I have not independently reviewed the files on John Nestor held by the Wollongong Diocese or any other entity.
5. Unless I state otherwise, I have set out in this statement my independent recollection of the events that are the subject of this statement.
6. This statement has been prepared in response to a request from the Royal Commission and it is produced to the Royal Commission on the basis that it will be tendered and received in evidence by the Royal Commission pursuant to a Summons and on the basis that the use of the statement will be governed by section 6DD of the *Royal Commissions Act 1902* (Cth) and sections 17(2) and 17(3)(b) of the *Royal Commission Act 1923* (NSW).
7. I was born in Kiama, NSW on REDACTED 1961 and I attended school in Kiama and Bowral.

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8. In 1981, after completing high school, I commenced studying at St Patrick's Seminary in Manly, Sydney. Following the completion of my studies, I was ordained as a deacon for the Diocese of Wollongong in 1986 and as a priest of the Diocese in 1987.
9. Since my ordination I have served as a priest in various parishes within the Diocese of Wollongong. On 13 June 1997 I was appointed as Parish Priest of the Immaculate Conception Parish in Unanderra.
10. I first met John Nestor in 1984 when he began studying at St Patrick's Seminary. At that time I had already been at the Seminary for several years. I was not close to Mr Nestor during our time at the Seminary although we were generally on friendly terms. At the time the seminary would have had about 85 students and about seven of these were for the Diocese of Wollongong.
11. After my ordination in 1987 I continued to have occasional contact with John Nestor. He was ordained for Wollongong Diocese in 1991 and as it is a fairly small Diocese I would sometimes come into contact with him in the course of my work. However, we never worked in the same parish.
12. I recall that in approximately 1990 I became aware that John Nestor was running summer camps for boys. At that time I was the assistant priest at Nowra and John Nestor sent me flyers for an upcoming camp and asked me to distribute them in the parish, which I did.
13. Sometime later, I remember hearing a story to the effect that boys on one of John Nestor's camps had been required to run from the bus to a waterhole and back naked, or something like this. I thought that this seemed strange and unnecessary. I also recall coming to understand at about this time that the camps involved an emphasis on "manliness" and group showering was involved and this too struck me as odd and made me feel slightly uncomfortable. I do not recall now who told me these things about the camps. In about the second or third year of conducting these camps, there were also organised some separate camps for girls.
14. In the following year, John Nestor again asked me to distribute flyers for the summer camps in my parish but this time I did not do so because of the slight discomfort I felt about them. When Fr Nestor asked me why I was not distributing the flyers I said to him something like,

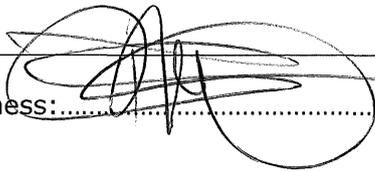
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"In this parish it is my responsibility to look after the young people here". I did not go into any other detail because I did not have any concrete misgivings about the camps at that stage, just a vague feeling of uneasiness. The matter was not further discussed.

15. On 1 May 1996 Fr Nestor was charged with indecently assaulting ABA. I became aware that he had been charged on the following day when I was attending a conference for clergy in Campbelltown. I arrived at the conference a little late and I was immediately approached by a few priests who told me that Fr Nestor had been charged with sexually assaulting a boy and asked me whether he could be accommodated at my presbytery at St Thomas More Parish, Ruse. I do not remember now whether I was also told that Fr Nestor had been instructed to stand aside from public ministry but I think that it is likely that I was aware of this because this was probably why he needed new accommodation. I am no longer sure who the people were who approached me at the conference but I think that one of them may have been Fr Mark de Battista.
16. The presbytery at St Thomas More Parish had a separate unit which at that time was unoccupied. I agreed that Fr Nestor could stay there.
17. To the best of my recollection, I did not have any particular belief during the time that Fr Nestor lived with me at the Presbytery about whether or not he was guilty of the things that he had been charged with. I understood that he was being tried in accordance with the law and I trusted in the legal process to resolve the matter. From time to time Fr Nestor would profess his innocence to me and try to engage me in discussion about the details of his case. While I remember there being some conversations, I did not form any particular opinion about the matter, as I expected that the legal process would sort it all out. But, I did tire of these conversations and after a time, I tended to avoid them.
18. I considered I had no cause for concern that Fr Nestor might pose a danger to children while he was living at the presbytery because the location of the St Thomas More presbytery is somewhat remote and his only real opportunity for contact with children was during Sunday Mass when I was present and able to supervise him. The parish school was two or three kilometres away.

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19. Fr Nestor remained living with me at the St Thomas More presbytery for approximately 10 months until his conviction in the Wollongong Magistrate's Court. Once he had been convicted I felt that the situation had changed and that it was not appropriate for Fr Nestor to continue living at the presbytery and I asked him to find other accommodation. He then moved to a parish house in the next parish which was Campbelltown. It was an old house in Lithgow Street, owned by the Campbelltown Parish.
20. There were several letters sent by me to the Diocesan Office in Wollongong. Several replies were also received. Initially these were from Fr Paul Ryan the Diocesan Administrator and then Bishop Philip Wilson. Mostly these concerned financial issues involved in providing for Fr Nestor in his time at the presbytery. These letters span from approximately 21 June 1996 until 2 May 1997. I do not now recall discussing the matter of reimbursement with Fr Ryan or any specific correspondence about the matter with either Fr Ryan or Bishop Wilson but I remember generally that the Wollongong Diocese agreed to reimburse the St Thomas More Parish for the costs of accommodating Fr Nestor.
21. On 22 October 1997 Fr Nestor's appeal against conviction was upheld by the District Court and he was acquitted. By this time I had commenced in Immaculate Conception Parish, Unanderra.
22. On 16 November 1997 I wrote to Bishop Wilson about Fr Nestor [CTJH.001.03002.0009]. In the first paragraph of this letter, I refer to "the process of assessment referred to in your recent press release." I have been shown a copy of a statement dated 7 November 1997 which has been signed by Bishop Wilson [CTJH.001.03002.0037]. The statement includes the following:

Tab 24

CTJH.001.12001.1219

Tab 22

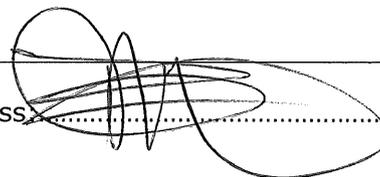
CTJH.001.12001.1247

An assessment process will soon begin and Fr Nestor will remain on administrative leave until this process is complete. The assessment will focus on the question of Fr Nestor's suitability for a future appointment – whether in a parish or otherwise, and whether in the Diocese of Wollongong or elsewhere. This process will proceed in such a way that the personal integrity of Fr Nestor and others will be respected.

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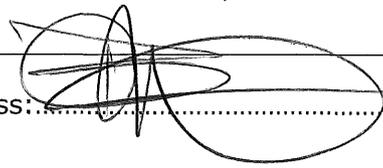
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I believe that it was this paragraph that I was referring to in my letter as "*the process of assessment referred to in your recent press release.*" Although I cannot be certain of this, I would think that this press release was provided by fax to all parishes.

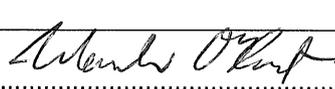
23. When I wrote this letter I felt strongly about what I perceived to be the injustice of the Diocese continuing to investigate Fr Nestor after a proper legal process had acquitted him of any wrongdoing. I was concerned that the Diocese's actions, both in failing to restore Fr Nestor's faculties to celebrate Mass or give him a parish appointment, and in launching a new investigation after he had already been acquitted, were out of step with the law and that the Diocese seemed to be indicating that for some reason Fr Nestor was not entitled to the presumption of innocence. I believed that the Diocese's assessment would primarily be looking at the question of whether Fr Nestor could be restored to ministry, and, given his acquittal, I thought that such an assessment was unnecessary and that it was unfair to keep Fr Nestor in limbo any longer.
24. I was not aware at this time that there had been any complaints against Fr Nestor other than by ABA. Although Bishop Wilson later indicated that there had been additional issues raised about Fr Nestor, I have, even to this day, no knowledge of who raised these additional issues or even the content of these issues. While I would have had a grasp of the differences of the level of proof required in different types of legal matters of "beyond reasonable doubt" and "balance of probabilities", I am sure that I would not have heard of the concept of "unacceptable risk" which is heard nowadays. My comments made in the letter simply referred to the issues raised by ABA.
25. I accept that, in the circumstances in which Bishop Wilson found himself, in light of the existence of other complaints, it was appropriate for the Diocese to conduct an assessment of Fr Nestor's suitability for future appointment. At the time of writing the letter I had no knowledge of these other complaints. If I had known of them, I would probably have written a very different letter. Indeed, I may not have written a letter at all.
26. I have also reconsidered my position on what such an assessment should have entailed. While I think that I was generally aware in November 1997 of *Towards Healing*, I cannot now remember whether I understood that the investigation it required the Diocese to conduct into allegations of child sexual abuse by clergy was intended to be independent. Knowing

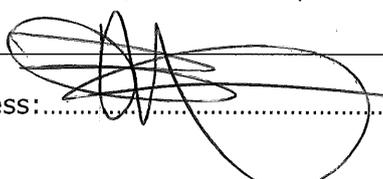
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this, as I now do, I can see that my expressed purpose in writing the letter, to *"be of some influence in the process of the assessment"*, could be interpreted as being inconsistent with the requirement of independence under *Towards Healing*. I also now accept that the primary purpose of such an assessment should be to determine the truth or otherwise of the allegations, and that I was not correct to suggest that the assessment must or should have had *"as its principal aim, the restoration of John's good name and character, including the restoration of his priestly faculties and freedom to minister in the active life of the Church."*

27. In the preparation of my letter, I was writing in support of John Nestor. I did not intend to make any comment about ABA or any member of his family, as they were and still are, completely unknown to me. Generally, however, the proper protection of children is something that I will always uphold. The church has failed in this area in the past. On the rare occasions that someone has raised with me a child protection issue, I have always guided the person to take the matter to the police. This I have done for two reasons. The first is that any alleged crime should be investigated by police. The second reason is that I believe the church does not have appropriate resources to investigate such matters.
28. On or about 10 September 1998 I received a letter from Bishop Wilson referring to reports that Fr Nestor had celebrated public Mass in my parish church [CTJH.001.12001.1198]. Fr Nestor had, with my consent, celebrated Mass at the Unanderra church. I have been shown a Decree issued by Bishop Wilson on 7 August 1998 restricting Fr Nestor from celebrating the liturgy publicly [CTJH.001.12001.0556]. I cannot be certain now whether or not I was aware of this decree when I gave Fr Nestor permission to celebrate Mass at Unanderra but I think that I probably was not aware of it. I am quite certain that a notification of the decree was not sent to the priests of the diocese.
29. Bishop Wilson's letter to me enclosed a letter addressed "To the Parish of the Immaculate Conception Unanderra" [CTJH.001.03005.0071]. Bishop Wilson instructed me to *"read the enclosed message before the homily at every Sunday Mass on the weekend of 12 and 13 September 1998."* I advised the people that copies of the bishop's letter were available and some were taken.
30. I have been shown a newspaper article published in the Illawarra Mercury on 11 September 1998 titled *"Rebel priest defies Bishop"* [CTJH.001.12001.0866]. In the week prior to this

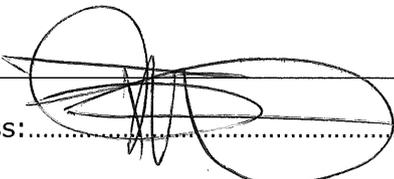
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article being published a reporter from the Mercury contacted me and asked whether anyone had complained about Fr Nestor celebrating Mass. I told the reporter that there had been one complaint and that the matter had been satisfactorily settled with this one person.

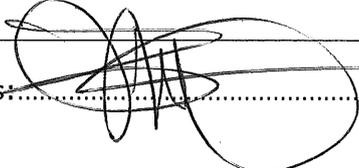
31. On or about 7 October 1998 I received another letter from Bishop Wilson [CTJH.001.03005.0072]. The letter requested acknowledgement that I had carried out the Bishop's instructions. On 13 October 1998 I wrote to Bishop Wilson advising that "*after the Gospel at Masses for 20 September, your letter was brought to the attention of those present*" [CTJH.001.03005.0073]. The reason for the differences in the date (13 or 20 September) is something that I cannot recall now.
32. On 21 December 2000 the Congregation for the Clergy issued a decree upholding Fr Nestor's recourse against Bishop Wilson's decree of 7 August 1998 [CTJH.001.12001.0388]. I recall that at or about this time Fr Nestor contacted me and informed me of the decree. I do not remember now how he contacted me but I think that he was overseas by that time and it is likely that he sent me an email.
33. At the time, I considered that the Congregation's decision was a further demonstration of Fr Nestor's innocence and of the unreasonableness of the Diocese's actions in preventing Fr Nestor from exercising public ministry. I offered to make copies of the decision available to members of my parish. Fr Nestor agreed with this suggestion and sent me a copy of the decision. I made an edited version which was condensed slightly so that it would fit onto a double sided A4 page, and made copies of it available to the members of the parish. Some copies were available for parishioners to take home, but I recall that only a small number were taken.
34. I have been shown a Media Statement from Bishop Wilson dated 3 January 2001 [CTJH.001.12001.0726]. In summary, the statement said that Bishop Wilson had been notified by the Congregation for Clergy of its Decree issued and that the Apostolic Nuncio in Australia had advised that Bishop Wilson take no action until the original Decree itself had been received. I have only a very vague recollection of a statement to this effect being made at about this time.

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35. I am aware that the Wollongong Diocese appealed to the Apostolic Signatura against the decision of the Congregation for Clergy. I cannot recall now how I became aware of this but I think that it is possible that Fr Nestor informed me. Another possibility is that the clergy of the diocese were informed in a circular letter.
36. On 26 February 2001 an article appeared in the Illawarra Mercury titled "*Unholy Row: Priest accuses Bishop Wilson of blind justice*" [CTJH.001.12001.1204]. The article reports that I described Bishop Wilson as "*blind and foolish*" and that I claimed that he was "*conveniently shifted sideways to Adelaide after suffering a personal humiliation when the Vatican decreed that Fr Nestor be restored to full pastoral duties.*"
Tab 155
37. I do recall that at this time I held the view that Bishop Wilson had been humiliated by the decision of the Congregation for the Clergy. However, I think that parts of this article are exaggerated and that I have been quoted out of context. The gospel read at Mass on the previous Sunday made a reference that one blind man cannot led another. It formed the basis of homily and also a letter to the editor of the Illawarra Mercury, in which I drew a parallel between the content of the gospel and Archbishop Wilson and Fr Jones. It was in the context of these words from the gospel that I drew an analogy with what I saw as the mistreatment of Fr Nestor. The Illawarra Mercury did not faithfully report the matter and did not print the letter, but altered it into an inaccurate article. The term "blind justice" was something invented by the Illawarra Mercury, and they were not my words.
38. Over the next three or four years I continued to be in occasional contact with Fr Nestor. I was aware that he was overseas and generally aware that the Wollongong Diocese was denying him permission to function as a priest.
39. On 27 January 2004 I wrote to Bishop Peter Ingham, who had replaced Bishop Wilson as Bishop of Wollongong [CTJH.001.12003.0351]. The letter concerned Fr Nestor's financial situation, and in particular my concern at learning from Fr Nestor that the Wollongong Diocese, whilst continuing to prevent Fr Nestor from commencing ministry in another diocese, had ceased to provide him with accommodation and other financial assistance. On or about 30 April 2004 I received a reply from Bishop Ingham [CTJH.001.12003.0350].
Tab 204
Tab 220

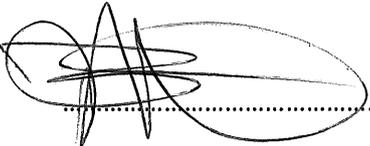
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40. My contact with John Nestor diminished over time, but not for any particular reason. I have not had any contact with him for several years.

Signed: Mark O'Keefe

Date: 12 JUNE 2014

Witness: 

Date: 12th JUNE 2014.

Signature: Mark O'Keefe

Witness: 