

Justice Peter McLellan

Chair, Royal Commission into Institutional Responses to Child Abuse.

GPO Box 5283

Sydney NSW 2001.

Dear Mr McLellan,

Re: Criminal Justice Discussion Paper – Call for Submissions.

I refer to the abovementioned discussion paper and offer two apologies – first for presenting my thoughts to the Commission at this late point, and second for the less than robust manner in which I have presented my views. I am sure you will appreciate that it is sometimes difficult to muster the energy needed to continue making contributions on this issue – each one for me is often a new ordeal – or at least an event which reawakens old injuries. Nonetheless, attached you will find a brief biography and curriculum vitae which give you some sense of my credentials, together with three papers on topics relevant to your Inquiry. You will note that I am both a survivor of childhood sexual abuse and a long-time advocate for other people who were abused as children within an institutional setting.

A complaint I made to NSW Police in 2010 led in part to the establishment of NSW Police Force Strike Force “Lantle” and to the NSW Special Commission of Inquiry into certain matters within the Catholic diocese of Newcastle. These two processes in turn led to the making of charges against Catholic Archbishop Philip Edward Wilson under s 316(a) of the NSW Crimes Act. This matter is currently before the NSW Courts and has been the subject of significant legal debate.

The papers I have provided relate to:

1. Tendency Evidence under the *Uniform Evidence Acts* (NSW – 1995).
2. S316 of *the NSW Crimes Act*.
3. Crimes Against Humanity perpetrated by the hierarchy of the Catholic Church and the role of the International Criminal Court in investigating those crimes.

Unfortunately, I have not done “justice” (pardon the pun) to your discussion paper, and in particular, my comments on S 316 of the NSW Crimes Act lack academic rigour. I trust however, that you will form the view that I am very concerned at the lack of progress in our Criminal Justice System over many years to address the inadequacies in calling to account those people who have abused children and those people and institutions which have enabled those abusers.

My recommendations for law reform in this area are:

1. **Amendments to the Uniform Evidence Acts** to provide for the peculiarities of child sex abuse trials – in particular recognition of the well documented reality that child abusers almost never have a single victim; that child abuse survivors often take decades to disclose their abuse, and; that childhood sexual abuse seldom occurs in circumstances where there are witnesses other than the victim.
2. **The creation of the specific offence of concealing child abuse** – similar to that contemplated under section 316 (a) of the NSW Crimes Act – but which addresses the specific circumstances of child abuse concealed by officials of institutions which have a responsibility

for the care of children. Such offence should be retrospective. Such offence should be uniform across all Australian jurisdictions.

3. The Federal Government, by virtue of its membership of the United Nations and its ratification of relevant treaties, encourage the UN General Assembly, the Security Council and the Office of the Prosecutor of the International Criminal Court to investigate members of the Catholic church – particularly Emeritus Pope Benedict, members of the Congregation for the Doctrine of the Faith and members of the College of Cardinals for **Crimes against Humanity** as defined by the United Nations.
4. **Law Reform Commissions across all jurisdictions be “re-energised”** with a view to implementing all recommendations of the present Royal Commission.

Finally, while acknowledging that I have had the good fortune of regularly speaking my mind on this issue in public, I wish to confirm my preparedness *and desire* to appear at an upcoming public hearing of the Royal Commission. I am acutely aware that the work of the Royal Commission will soon be winding up and that the “call to action” will then fall on our federal, state and territory governments. My personal path to “wellness” compels me to continue to argue for fortitude and leadership from our Politicians and Institutions and this is a topic I would be delighted to explore in a public hearing.

Yours Sincerely,

Peter Gogarty.

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15 November 2016.