

## Understanding the Memorandum

Recently, the ABC's Lateline program broke a story regarding draft Memorandum of Understanding (MoU) written in the 90's between the Catholic Church and NSW Police.

It is alleged that the draft agreements between the Church and the police contains a clause that would allow the Church to withhold evidence from the police. The documents were unsigned and it is unclear, at this stage, whether they were ever used.

When presenter, Tony Jones, asked me about the MoUs, I explained that I had only very recently heard about the issue, and I was both alarmed and concerned about it. I said the Truth Justice and Healing Council (TJHC) would look into the matter.

We have now begun exploring what went on in those years. We are talking with key people involved in the Church and the NSW Police during that period to get a thorough understanding about these draft MoUs. We want to know where they came from, who initiated them, what status they had then, whether they have any status now and if indeed they were ever enacted upon.

To assist us to investigate this professionally and methodically we have engaged our legal team and have put in formal FOI requests with police agencies. Our investigations will not only cover NSW Police, but any discussions between the Church and Police Departments across the country.

Anything we discover will be provided to the Royal Commission and will be made public.

These are very serious issues. The inference is that the Church was involved in some type of non-transparent arrangement, where it was holding back important information. The community has a right and should know exactly what went on.

It seems likely to me the rationale behind these MOUs was to address a complicated, fundamental tension between victims who come to the church wanting to maintain their privacy and confidentiality and the need for police to be able to investigate sexual abuse crimes.

In many cases people come to the Church with allegations of abuse, but make it abundantly clear, emphatically clear, that they do not wish their information to go anywhere else, particularly to the police. This is the right of every adult person. However, the Church, is very mindful that the police must have this information in the interest of protecting the community. This tension between the privacy rights of an individual and the security needs of a community needs to be addressed.

In our recent submission to the Royal Commission on Towards Healing the TJHC made the following observation under section eight - 'Interaction with the Criminal Justice System'.

*Towards Healing recognises that the most appropriate avenue for the investigation of allegedly criminal conduct is the police. It states expressly that the strong preference of the Church is that matters that involve alleged criminal conduct should be reported to police.*

*Towards Healing aims to strike an appropriate balance between the rights of an adult victim to privacy and confidentiality when seeking assistance from the Church, and the public interest in ensuring that the police are able to investigate and prosecute crimes by encouraging victims to report alleged crimes to police.*

To read our full submission on [Towards Healing click here.](#)

Our investigation into this issue will be detailed and comprehensive so it is difficult to determine exactly when we will be able to release what we find out about the genesis and use of the MoUs. But as I have said when we have a final report on the MoUs it will be provided to the Commission and made public.

The Royal Commission has also flagged that - 'interaction with police' - is likely to be an Issues Paper and the TJHC would also submit our findings from our investigation of these MOUs as part of this important paper.

The development of the MoUs came about at a time when the Church was working hard to ensure victims of sexual abuse were treated with respect and with compassion.

It was at a time, post the 1996 introduction of *Towards Healing* and the Melbourne Response, which refocused the Church's approach to sexual abuse away from inward protection to a pastoral commitment to victims.

That said our investigation, and the examination by the Royal Commission, will reveal the detail behind these draft MoUs between the Church and the NSW Police.

Francis Sullivan

15 October 2013

[www.tjhcouncil.org.au](http://www.tjhcouncil.org.au)