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Church fires back at police on abuse

JOHN FERGUSON, VICTORIAN POLITICAL EDITOR THE AUSTRALIAN JUNE 19, 2013 12:00AM

A VICTORIAN police deputy commissioner and the force have been accused of false and misleading evidence to the state's child sex abuse inquiry in a withering takedown of their allegations.

An eminent lawyer has accused police and Deputy Commissioner Graham Ashton of "blatant untruths", a "travesty" of justice, "utterly false" claims and of "malicious nonsense" in evidence obtained by The Australian.

Peter O'Callaghan, QC, independent commissioner in charge of the Catholic Church's Melbourne-based complaints system, has exposed weaknesses in the police submission and provided evidence that contradicts the most damaging claim by Mr Ashton and the force that the church failed to report a single case of abuse to police.

His comments mark the first significant backlash by a figure involved in the Catholic Church's response to the abuse scandal, based on what it sees as inaccurate accusations against its attempts to remedy the situation. It also sets the scene for the church - and commissioners - to more vigorously defend itself before the national royal commission into the issue. Mr O'Callaghan's submission exposes a split at the highest levels of the force about the way the Catholic Church has responded to its sex abuse epidemic.

On criticism by police of the alleged restrictions placed on sex abuse victims in relation to future legal action and reporting to the police, Mr O'Callaghan writes: "This is utterly false.

"It is astounding that a responsible organisation such as Victoria Police could put forward to a most important inquiry such blatant untruths. The above passage epitomises what is contained in the police submission and Ashton (evidence), namely that a great deal of it is misconceived, misleading and damagingly wrong."

Mr Ashton claimed in his evidence to the inquiry that police had not "had a single referral of a child sexual abuse allegation by the Catholic Church".

This assertion is repeated in the police submission to the inquiry. However, these allegations, which have been among the defining evidence of the inquiry, are wrong, according to Mr O'Callaghan's submission.

Mr Ashton is a former deputy director of the now defunct Office of Police Integrity who was a key figure in the failed investigation into leak allegations involving former assistant commissioner Noel Ashby and former police union boss Paul Mullett. Mr O'Callaghan submits to the inquiry that he contacted the police Child Exploitation Squad on October 21, 1997, and arranged for a victim to be interviewed and charges were later laid against the abuser.

On June 1, 1999, Mr O'Callaghan says he arranged for another victim of the same perpetrator to be interviewed by another detective and charges were later laid in relation to the same case.

On June 2, 1997, he wrote to another victim and Mr O'Callaghan then contacted police and the offender was charged again.

Mr O'Callaghan's response in reply to Mr Ashton and the police submission also contains five examples from his files in which he says complainants reported abuse at the encouragement of or with his direct assistance.

Mr O'Callaghan also reveals that, of the 304 complaints made to him to June 30 last year, 97 have been reported to police, 115 related to offenders who were already dead at the time of the complaint, nine were for offenders who were overseas and 76 complainants were encouraged by him to go to police.

The O'Callaghan submission also reveals that there was constant contact between police, him and the church, and that former police chief Simon Overland had inadvertently overruled attempts by his nemesis Ken Jones and the church to set up a protocol to allow a better exchange of information in relation to child sex offending.

Sir Ken wrote to the church on October 6, 2010, declaring: "Unfortunately the agreement that the church and Victoria Police were developing for some time has been caught by our change of policy and cannot now be completed." Despite the Jones letter, the police submission asserted to the sex abuse inquiry the reason for not entering into a protocol with the church was that "no agreement should exist with the Catholic Church given Victoria Police concerns regarding the (O'Callaghan) process".

Mr O'Callaghan described this statement in the police submission as "demonstrably false". Mr O'Callaghan also quotes from a transcript of a meeting between senior police, himself and the church at the St Kilda Road Police Centre on February 19, 2010, when a draft memorandum urging closer relations was discussed.

Those present included Assistant Commissioner Wendy Steendam, the record shows. Ms Steendam is quoted in the transcript denying that the church was failing to co-operate with police, stating "that's not our position at all".

The police submission claims that to obtain an ex gratia payment for compensation from the church, victims must enter into an agreement discharging the church from any further liability.

It claims that some of these deeds include confidentiality clauses agreeing not to disclose or discuss the circumstances of the complaint.

But Mr O'Callaghan states: "Victims of sexual abuse who accept the offer of compensation provided pursuant to the Melbourne Response are not required to sign a confidentiality agreement. Moreover, they are specifically advised that there is no obligation of confidentiality and that they are free to discuss with anyone the facts and circumstances of the abuse and the compensation obtained.

"It is quite wrong to say, as the police submission and Ashton do, that there is a prohibition upon a victim reporting his or her complaint to the police after they have received compensation."

A police spokesman said: "Victoria Police has made its submission. It will be up to the inquiry to make its determinations. As the inquiry is ongoing, we will not comment further."

A committee spokeswoman said all evidence to the inquiry would be reviewed and analysed to help inform the committee.

"As a general proposition, one submission alone is unlikely to establish a sufficient basis to draw conclusions, particularly an adverse one," she said. "Accordingly, the committee has ensured there are adequate reliable materials on which to make findings. Any false or misleading evidence provided to a parliamentary committee is a contempt of parliament which can have serious penalties."