

Submission 171.1

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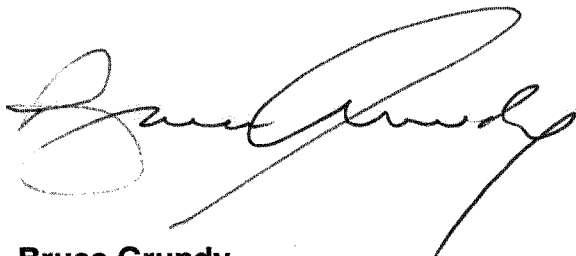
BY:.....

**Ms Jillian Gould**  
**Committee of Inquiry into Crime in the Community**  
**House of Representatives Legal and Constitutional Affairs Committee**  
**Parliament House**  
**Canberra 2600**

Dr Ms Gould,

In response to your telephone call on Tuesday February 24, 2004 I provide the following material for the Committee's consideration.

Yours sincerely,



**Bruce Grundy**  
Senior Lecturer and Journalist in Residence  
School of Journalism and Communication  
The University of Queensland 4072

3.03.2004

## Statement:

**Grahame Bruce Grundy, Senior Lecturer and Journalist in Residence,  
The University of Queensland to the House of Representatives Legal and  
Constitutional Affairs Committee of Inquiry into Crime in the Community**

I have been asked to appear before you again in connection with evidence already given to your Committee.

My understanding is the Committee wishes to pursue matters I raised when I appeared before it in October last year and as a consequence I should provide evidence to support claims I made at that time.

May I point out that in the meantime further material related to that evidence has come to my attention and I have published it in the Journalism's School's newspaper and on the website I operate with students involved in The Justice Project. That material is attached.

I will deal firstly with providing support and justification for the claims I made in October which I believe the Committee wishes to pursue.

In providing material to support those claims I advise the Committee of the following.

It is now almost three years since I found the girl who was the victim of a rape while she was held in custody in the John Oxley Youth Detention Centre. At that time we met she said she hoped I might get to the bottom of what had happened to her in John Oxley, and subsequently she gave me permission in writing to use any of the records or materials she passed on to me to bring about that result.

Over the years she has consistently supported that arrangement. Nevertheless, after being asked to reappear before you, I contacted the woman again in that regard to seek her response to my passing her private material to the Committee and she explicitly approved my doing so – on the condition that her name be removed from any documents to protect her privacy. No doubt the Queensland authorities know who she is, but she obviously seeks to have her identity protected from the wider public. In case I have missed obscuring her name from any of the attached documents, I would ask, Madam Chair, that in such a case you order that her name not be published. I can say that the woman is not coping very well at times because of the re-emergence of this matter in her life and I suggest she should be spared any unnecessary further intrusion into her unfortunate past.

In the attached documents (apart from one which named the boys involved in the rape) the only material I have obscured is her name. All other information blanked out was done by the agencies concerned.

I attach these documents so that the Committee may gain an appreciation of: (1) what is considered by Queensland agencies and the Criminal Justice Commission to be acceptable behaviour on the part of public officials in charge of dealing with a criminal matter; (2) the way a crime within a closed State institution can be "dealt with"; and (3) the kind of matter that was "covered-up" when the Heiner inquiry documents were destroyed in 1990.

I am also mindful that a document detailing matters involving the abuse of children in the care of the Anglican Church was given the protection of parliament, and I believe it would be appropriate to treat matters that occurred in a State institution in a similar manner.

When I appeared before the Committee in October I was asked if a former member of the John Oxley staff (who told me he had been questioned by the Heiner Inquiry about the rape of a girl in custody) might be prepared to appear before you. I have contacted him and he said he would do so.

I believe the material that follows reveals that by not acting appropriately a crime was covered up (because it never went to court). In addition that matter involved grave dereliction of duty, failure of duty of care, and cover-up on the part of senior officers of the John Oxley Youth Detention Centre at the time and by the Department of Family Services at the time. The police service also failed to do its job and the Criminal Justice Commission's recent assertion that there was no cover-up involved in this case (which led the Head of the Families Department to claim his officers had been cleared) was a travesty and a further denial of justice to the woman concerned in these matters.

These documents raise serious questions about: the delivery of justice in this state, the motivation for the illegal shredding of the John Oxley/Heiner inquiry documents, the legality of that shredding, and the issues that surround the charging of a citizen for destroying evidence while others who did the same have been excused.

### **The excursion to The Lower Portals**

The incident covered by much of the attached documentation occurred on 24 May, 1988, when a group of residents from the John Oxley Youth Detention Centre at Wacol in Brisbane was taken on an outing.

At the outset I can say that other documents I have in my possession reveal a number of John Oxley staff, and in particular the senior person involved in supervising this excursion, were aware that the girl taken on this excursion had been the victim of sexual abuse as a child prior to her admission to the centre.

That knowledge alone should have been sufficient to ensure that the girl in question was never taken on an excursion such as this.

Given that some of the staff at least had such knowledge, I believe the reality that she was taken on this trip raises the serious possibility that the girl was, in fact, "set up" for what happened to her.

Whatever the truth, she alone was the only female resident selected to accompany six boys to the most remote and isolated of places in south-east Queensland, on a trip entitled "Socialisation Within A Natural Environment".

The venue chosen for such "socialisation" was what is called "The Lower Portals" in the Mt Barney National Park.

The girl was Aboriginal.

Mt Barney is "out of bounds" to Aboriginal women.

And she was just 14-years-old.

She was, therefore, below the age of consent ... and a minor in terms of matters of responsibility. She was, in fact, a child, in the custody of and under the control of, her guardian -- the State of Queensland.

The car-park entrance to the start of the trek to The Lower Portals is an hour and half's (110 kilometres) drive from the John Oxley Centre. Thereafter follows an hour and a quarter's rough and difficult walk through the bush to reach two rocky waterholes in an area of dense undergrowth, with huge boulders and rock formations leading to a precipitous gorge. There is only one small area of flat ground in the vicinity. A few feet away a person could be out of sight behind the boulders or in the undergrowth, and the sound of the water rushing and gurgling over the rocks (depending on the season) can make even a shouted conversation unintelligible.

From the attached documents you will see there were no custodial officers on this trip and three of those who were involved (including the two women) became lost on the walk in to The Portals anyway. Having made the trek several times I do not understand how that was possible, but that is what the documents say.

Consequently, when she reached The Lower Portals the girl was a lone female in the company of five boys and two men. Shortly afterwards she slipped on the water-washed rocks (as I have done) and fell into the water. The men allowed her to remove her jeans (she says they insisted that she do so). And then they (and subsequently the three other staff members when they eventually arrived) left her unsupervised in that place with the boys.

In the spot where the group had lunch while the children were off "exploring" it is almost impossible to see anything of the waterholes because of protruding rock formations. So if the children were not actually in that confined lunch area, they would be almost certainly out of sight.

When it was noticed that they were missing, one of the staff set off whistling in an effort to locate them. Which seems an interesting thing to do.

Another says he and a colleague "scaled a small nearby hill" in search of the children. This is nonsense. There are no small hills at The Lower Portals. Quite the opposite. The sides of the gorge are extremely steep to perpendicular.

When he discovered the children, the person who found them became suspicious that there had been "sexual contact" with the girl (she says he saw exactly what was happening to her). Regardless, at that point, because of his suspicions, the welfare of the 14-year-old girl should have been paramount. But it was not.

What happened after this point is simply appalling.

The documents reveal the man's suspicions were then passed on to the other members of the group and his suspicions were further reinforced on the return trek.

Back at the car-park four of the boys (in fact the four who had either participated in the "sexual contact" with the girl, or acted as lookouts) absconded. The girl was then sent off with two men (the ones who had allowed, or supervised, the removal of her jeans) with two of the boys to raise the alarm and to return to John Oxley. Neither of the women accompanied her.

John Oxley was contacted by phone from a farmhouse.

(I was told by a former officer who was on duty that day that there was "panic" at the Centre when the phone call came in. He said: "...their story was the girl had egged them [the boys] on". Some hours later he rang me back to say he had been wrong. Whoever called from the farmhouse had only mentioned the absconding, he said. My caller said he had been wrong -- nothing had been mentioned about sex or rape or anyone being "egged on".

His change of mind intrigued me at the time. I can only speculate as to why he switched his story. After all, he had earlier told me he had been troubled by that incident for years.

Two points can be made about this person's recollections of the event. If the man who phoned the Centre from the farmhouse had mentioned the matter of "sexual contact" or "egging on", procedures to have the girl examined, and the matter properly dealt with, should have been implemented immediately.

If during that phone call from the farmhouse the person involved had failed to mention such a matter, then the abuse of this girl only gets worse.

By approximately 5pm on the day in question the two men who brought the girl back to John Oxley spoke with the manager. It is unclear whether they

raised the matter of what might have happened to the girl. If they did, appropriate action should have been taken. If they did not, their inaction in this regard is a grievously serious failure on the part of a supervisor responsible for the welfare of a child.

Regardless, management was certainly made aware of "suspicions" of "sexual contact" that evening.

The manager and three of the staff discussed "a suspicion" that the girl had been "sexually assaulted" and agreed to meet again the next day to, amongst other things, "... develop a strategy for investigating the concern about [the girl] being sexually assaulted".

The girl had been sent to her room and left to go to sleep. No attempt was made to have her examined or to have possible evidence secured.

At nine o'clock the next morning there was a one-a-half hour meeting between management and the staff members who had been on the trip. It is recorded "... their [sic] was a concern that [the girl] had been sexually assaulted but no direct evidence was available".

The lack of "direct evidence" is hardly surprising since the girl had not been examined and no attempt had been made to preserve any evidence.

If that had been done, direct evidence might well have been obtained.

The abuse of the girl and the abuse of her right to proper care and protection gets worse.

By mid-morning management had been told of boys having had sex with the girl the previous day, and that her safety was now in jeopardy (because she wanted action taken against them).

What had happened to her the day before was then confirmed to management by the girl herself, and also by at least some of the boys involved.

The girl said she wanted the boys charged by the police.

An indication of the outrageous treatment the girl received is revealed in the following paragraph taken from a report prepared at the time for a senior departmental manager.

"I then asked if she wanted the boys to be charged by the police and she tentatively said yes".

That the girl's desire to have the boys charged was described as "tentative" is a disgrace.

But, in any event, it was not a matter to be determined by the girl. She was a minor. It was not her call. She had been raped (since she was under the age of 16, consent was not an issue) and there was a clear demand that the police be informed (as they should have been the previous day).

But nothing of that nature happened.

What did happen provides only further evidence that management knew the girl had been raped. The Centre's private GP was contacted and he prescribed (over the phone) a "morning after" dose of a proprietary contraceptive preparation to be given to the girl.

Little wonder then that a senior departmental bureaucrat was happily able to inform his superior that he had been advised "there was very little chance of [the girl] becoming pregnant".

All his statement means is that people at a senior level in the department knew what had happened to the girl, and did nothing.

Staff involved in the excursion were then advised that management believed the girl had been sexually assaulted and they were asked to prepare reports on the outing.

After reviewing the reports, management contacted the Family Services officer in the town where the girl lived.

The officer concerned advised his superior of the matter in the following terms.

"[The girl] and five other boys disappeared into the bush on Tuesday 24.5.88 while on an outing to Mt Barney. During the course of events [the girl] apparently had sex with two of the boys. There may have been considerable verbal pressure put on her, however there is no allegation of rape ... there is no suggestion to indicate that force or threats were made ...".

Such remarks are, of course, extraordinary. And nonsense.

There is considerable disagreement between the accounts of what followed, as revealed in the documents prepared by staff, and that given to me by the girl's family. Indeed the family say the first they knew of the entire incident was when I went to see them in 2001 and asked why they had not pursued the issue.

However, the documents say after reviewing the staff reports management made contact with the girl's family.

And it is recorded that both the girl and her mother wanted a complaint made to the police.

This was done, eventually, three days after the assault.

At the request of the police, the girl was examined by a doctor.

The next morning the police arrived and spoke with the girl. Staff then spoke with her, and shortly after she signed a note in one of the policewomen's notebooks in relation to a "sexual type incident" in which she said she did not want to make an official complaint and she was happy with the police enquiries made in relation to the matter.

There is no evidence that the police interviewed any of the staff or the boys concerned.

Indeed a notation in the notebook makes it clear that the matter was closed.

The girl was a minor and under the age of consent.

According to the documents, the girl's change of mind was based on the time it would take for the matter to go to court and the fact that she was being threatened by other John Oxley residents.

The documents do not contain any reference to the possibility that the girl might be removed to a safe environment so that she might make a complaint without fear for her personal safety.

Of course, the matter is really academic anyway. The girl was a minor and did not have the standing to make a decision not to proceed.

### **My conclusions**

Because there was no investigation and no subsequent court action the matter was successfully covered up for over a decade.

However, the view that there was a cover-up in place was raised almost from the outset. A senior bureaucrat in the department advised his superior that a troublesome staff member was making such an allegation and he would be spoken to. I believe I have spoken to that person and he told me it was quite clear at the time that the incident was hushed-up to protect all those involved.

### **The police and the department**

The attached correspondence between the police and the Department of Families raises further serious issues about this case. These also relate to the matters you are considering.

At the time I was investigating this case, my activities would almost certainly have become known to individuals with an interest in what I was up to. Whether that is what actually occurred I do not know, but in any event someone purporting to be the girl contacted the police claiming to have been raped while a resident of John Oxley. The police said they had no record of such a matter and in turn asked the department if it had any references to



such an incident. The department replied saying there had been a thorough search but "there was nothing".

Some months later my first story on the rape appeared, and lo and behold as you can see, the department did have files on such a matter.

I can only say, in relation to crime in the community, that we have reached a most serious situation when a government department conceals matters such as the above from its own police service.

### **The Heiner Inquiry**

A former John Oxley staff member told me he was questioned by Mr Heiner about the rape of a girl on an outing. Presumably the record of this conversation was destroyed when the Heiner documents were shredded.

It is open to speculation whether Mr Heiner would have reported on this case, but clearly it would have been extraordinary for him not to do so. And if he had brought the matter to light, it is open to speculate that further abuses against this girl may have been prevented.

That they were not is one, but only one, of the serious outcomes of the shredding of the material he had gathered.

### **Rapes two and three**

The incident at The Lower Portals, however, was not the one I had written about in my original story in 2001.

The rapes of the girl I had written about had occurred much later -- during a different period of the girl's incarceration in John Oxley.

But again, on this occasion an isolated national park was the venue, and again the girl had no chance of escape or of getting help. This time she was raped by a number of boys twice.

Had the Portals incident been properly dealt with, and properly reported by Mr Heiner, these incidents should surely have been prevented.

(The fact is that the girl had all but blocked out The Portals matter from her memory -- until I found out about it and we went back to the place together. It was not until then, as we began the long trek in, that the memories came flooding (distressingly so) back to her).

### **A fourth rape -- and worse**

I have no corroborating evidence but the woman has told me of further outrageous abuses (and the identity of the alleged perpetrators) after her release into care from John Oxley.

There is some documentary evidence, however, which offers support to her claim.

### **The Criminal Justice Commission**

Following the publication of my first story, the Criminal Justice Commission was asked to investigate whether there had been any official misconduct in the way the matter had been dealt with at the time.

Indeed the CJC investigated The Portals incident – not the one I had written about.

However, the CJC found “there was no reasonable basis to suspect any official misconduct by any departmental staff in respect of their duty to report the alleged rape of the girl”.

That is a remarkable conclusion and I do not believe anyone who reads the attached documents would find such a conclusion credible.

Following the CJC’s determination, the Head of the Families Department then released a press statement in which he welcomed the CJC’s finding clearing his department of a cover-up.

And so they all got off – scott free.

Just as those who shredded the Heiner documents (which were being sought at the time for legal action) did.

As we know, such destruction was said by the CJC (advised by a private barrister, Mr Noel Nunan) not to be an offence. Except that a citizen is going to trial next Monday in Brisbane because destroying evidence likely to be needed in a legal proceeding is an offence.

So they all got off scott free. But the girl did not. They put her back in jail.

### **The Arrest Warrant**

The woman placed her case in the hands of a firm of lawyers who filed two claims on her behalf (in relation to the two rape incidents).

Within a matter of days of Crown Law being notified of her second claim, a warrant for the woman’s immediate arrest and return to custody was signed by magistrate Mr Noel Nunan.

Shortly after that the woman was arrested and spent nine months in Brisbane Women’s Prison for a parole breach several years before.

She rightly makes the point that she is punished for her transgressions but no one is ever punished for what they did to her.

### **Court officials, lies and deceit**

My efforts to obtain court records involved in a number matters related to the above have been met by a range of dishonest, deceitful or disingenuous responses from public officials that I believe constitute breaches of the law.

However, I imagine these offences might fall outside your definition of "crime".

What they do illustrate though, is the extent to which the bureaucracy in this state has been infected and corrupted by the cover-up associated with the shredding of the Heiner documents.

Any attempt to unravel that matter is obstructed whenever and wherever possible -- regardless of the demands of the law.

Consequently I have not included this correspondence in this submission, but would be only too happy to do so if the Committee should wish.

### **Curiouser and Curiouser**

Shortly after my first rape story appeared in 2001 a man turned himself in to police for murdering another man ten years earlier.

At the time of the killing police had found him at the scene suffering a shotgun wound to the leg.

Lying nearby was a double barrelled shotgun and another man who died shortly after from a shot gun wound to the chest.

Despite his being at the scene and then confined in hospital for some considerable time, the man with the leg wound was never interviewed by the police about the killing.

Nor was any inquest ever held into the death of the victim.

At the time of this incident the wounded man was 16-years-old and under a Department of Family Services Care and Control order.

He was never questioned by the Department about the death or his wounding.

His name happens to be the same as one of those involved in The Portals incident (and, as the attached documents reveal, he was never investigated over his part in that matter either).

### **Cover-up**

In the latest edition of *The Independent Monthly* we reported on the contents of a media report in early 1989 alleging that a "15-year-old" girl from John Oxley had earlier been raped on an "art excursion" from the Centre.

The Minister at the time was quoted as saying "... the female was 17 ...", not 15, and that the girl and her mother had been encouraged to lay charges but had preferred no to do so.

Some questions arise. Does this mean that another John Oxley girl was raped on an excursion, or could this report possibly refer to a 14-year-old girl instead – who was taken on an excursion to The Lower Portals?

If it were to be the latter, was the Minister misled?

If the former, who was the 17-year-old, where did the rape occur, and in what circumstances?

We should know, and I ask the Department to inform us.

If it involved a different girl, all I can say is, if the Portals incident had been properly dealt with, she might never have been raped at all.

Or was it the case that girls at John Oxley were regularly raped? I know of three - and possibly four.

### **Summary**

In placing this material before you, and in clear recognition of your terms of reference, I wish to point out the Criminal Justice Commission determined that the way this case was "dealt with" did not involve any public official being guilty of an action that might result in a disciplinary response or dismissal.

Or, putting it another way, the message that emerges from the Criminal Justice Commission's investigation is clear; what I have outlined above could all be done again. And no one would suffer any penalty.

I would have thought the community would find that unacceptable.

And I suggest, in conclusion, that there was a cover-up of serious crime at the John Oxley Centre which involved officials from that place, from the department, from the police service and finally, in recent times, from the CJC itself.

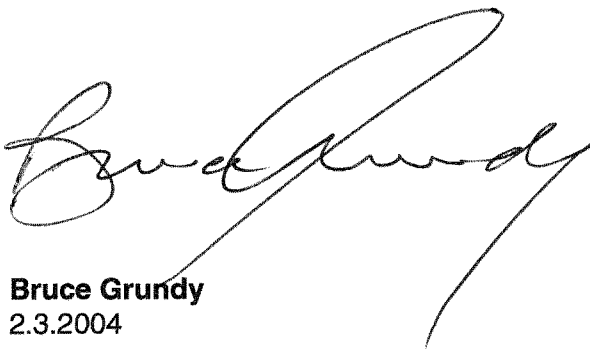
### **Material attached.**

A number of photographs of the rape sites are provided to give the Committee some indication of where the girl was taken and into what kind of environment she was placed with groups of boys.

In addition I have numerous documents, a quantity of video footage, plus audio recordings and other photographs connected with this and other matters associated with John Oxley and what happened to girls in that place.

In particular I have a recording I made at the Portals with the victim of that excursion which reveals something of the trauma the original outing has caused this woman over the years.

I expect she would agree to my providing it to the committee should you be interested in hearing it.

A handwritten signature in black ink, appearing to read "Bruce Grundy". The signature is fluid and cursive, with a large loop at the top and a long, sweeping tail that extends downwards and to the right.

**Bruce Grundy**  
2.3.2004