

**Wilson, Frances (REPS)**

1424  
Submission No. 1424  
RECEIVED

---

**From:** Kevin Lindeberg [kevlindy@tpg.com.au]  
**Sent:** Wednesday, 19 May 2004 12:06 PM  
**To:** Committee, LACA (REPS)  
**Subject:** The Heiner Affair - Qld Auditor-General & The February 1991 Deed of Settlement  
**Importance:** High

19 MAY 2004  
BY: Gillian Gould

Ms Gillian Gould  
Secretary  
Legal and Constitutional Affairs Committee  
Parliament House  
**CANBERRA ACT 2600**

Dear Ms Gould

**RE: THE HEINER AFFAIR**

Please find attached relevant material concerning the February 1991 Deed of Settlement and the position taken by the Queensland Auditor-General Mr Len Scanlan in respect of my recent complaint lodged with him of 9 February 2004 which was attached to my 5 March 2004 submission to your Committee for consideration.

Yours sincerely

KEVIN LINDEBERG  
11 Riley Drive  
**CAPALABA QLD 4157**  
19 May 2004

Kevin Lindeberg  
11 Riley Drive  
**CAPALABA QLD 4157**  
3 April 2004

Mr. Len J. Scanlan  
Auditor-General  
Queensland Audit Office  
Level 11  
Central Plaza One  
345 Queen Street  
**BRISBANE QLD 4000**

Dear Mr. Scanlan

**RE:                    The Shredding of the Heiner Inquiry Documents and Related Matters**  
**YOUR REF:        00-1071**

---

I write in good faith.

I wish to record my reasons for wanting to meet with you on Friday 2 April 2004 which unfortunately you could not arrange because of other commitments on your time. I relayed my reasons for the meeting to your personal secretary over the phone and she requested that I put them in writing.

I believed that it was important for you to know of the following:

1. On 1 April 2004 the Australian Senate established the Senate Select Committee on the Lindeberg Grievance. Its Terms of Reference are set out below;
2. *ABC-TV Australian Story* was currently putting together a story on my 14-year struggle for justice in the so-called Heiner Affair;
3. The relevant details of the Queensland District Court trial of the *State of Queensland v Mr Douglas Ensbey*.

I made it clear to your secretary, and restate it again, that no adverse inference or motive should be drawn against me in my wanting to put the above to you personally because I believed that it was right and proper for you should know of such things, particularly Points 1 and 3.

#### **TERMS OF REFERENCE**

The Terms of Reference of the Senate Select Committee on the Lindeberg Grievance are set out below. They are primarily based on the May 2001 Mr Robert F Greenwood QC Submission to the Senate setting out key points where compelling evidence exists suggesting that the Senate was deliberately misled, and the fresh material found on the University of Queensland's *The Justice Project*:

## **Lindeberg Grievance Committee - Senate *Hansard* pp22182-83 - 1 April 2004**

### **Establishment**

**Senator HARRIS (Queensland) (9.43 a.m.)—I move:**

(1) That a select committee, to be known as the Select Committee on the Lindeberg Grievance, be appointed to inquire into and report by 5 October 2004 on the following matters:

(a) whether any false or misleading evidence was given to the Select Committee on Public Interest Whistleblowing, the Select Committee on Unresolved Whistleblower Cases or the Committee of Privileges in respect of the matters considered in its 63rd and 71st reports; and whether any contempt was committed in that regard, having regard to previous inquiries by Senate committees relating to the shredding of the Heiner documents, the fresh material that has subsequently been revealed by the Dutney Memorandum, and Exhibits 20 and 31 tabled at the Forde Commission of Inquiry into the Abuse of Children in Queensland Institutions, and any other relevant evidence; and

(b) the implications of this matter for measures which should be taken:

(i) to prevent the destruction and concealment by government of information which should be available in the public interest,

(ii) in relation to the protection of children from abuse, and

(iii) for the appropriate protection of whistleblowers.

(2) That the committee consist of 7 senators, 3 nominated by the Leader of the Government in the Senate, 2 nominated by the Leader of the Opposition in the Senate, 1 nominated by the Leader of the Australian Democrats, 1 nominated by the One Nation Party.

(3) That the committee may proceed to the dispatch of business notwithstanding that not all members have been duly nominated and appointed and notwithstanding any vacancy.

(4) That:

(a) the chair of the committee be elected by and from the members of the committee;

(b) in the absence of agreement on the selection of a chair, duly notified to the President, the allocation of the chair be determined by the Senate;

(c) the deputy chair of the committee be elected by and from the members of the committee immediately after the election of the chair;

(d) the deputy chair act as chair when there is no chair or the chair is not present at a meeting; and

(e) in the event of the votes on any question before the committee being equally divided, the chair, or deputy chair when acting as chair, have a casting vote.

(5) That the quorum of the committee be a majority of the members of the committee.

(6) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings and the evidence taken, and such interim recommendations as it may deem fit.

(7) That the committee have power to appoint subcommittees consisting of 3 or more of its members and to refer to any such subcommittee any of the matters which the committee is empowered to consider, and that the quorum of the subcommittee be a majority of the members appointed to the subcommittee.

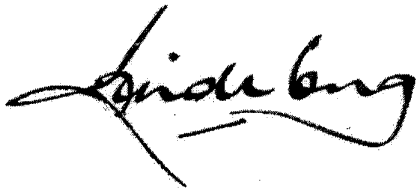
(8) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint investigative staff and persons, including senior counsel, with specialist knowledge for the purposes of the committee, with the approval of the President.

(9) That the committee have access to, and have power to make use of, the evidence and records of the Select Committee on Public Interest Whistleblowing, the Select Committee on Unresolved Whistleblower Cases and the Committee of Privileges in respect of its 63rd and 71st reports.

(10) That the committee be empowered to print from day to day such documents and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public.

Question agreed to.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Lindeberg', with a stylized flourish at the end.

**KEVIN LINDEBERG**



Office of the  
Auditor-General of Queensland

Your ref:

Our ref: 00-1071(2)

31 March 2004

Mr K Lindeberg  
11 Riley Drive  
CAPALABA QLD 4157

Dear Mr Lindeberg

I refer again to your letter of 9 February 2004 and to our subsequent discussions on 15 March 2004 regarding the Heiner Inquiry and other related matters.

I note that you have provided evidence to the House of Representatives Standing Committee on Legal and Constitutional Affairs, which is conducting an Inquiry and is yet to deliver its report on Crime in the Community. I am currently monitoring developments in this area and, at this stage, I do not propose to take any further action pending the outcome of the Commonwealth Parliamentary Inquiry.

Yours sincerely

L J SCANLAN  
Auditor-General of Queensland



Office of the  
Auditor-General of Queensland

Your ref:

Our ref: 00-1071(2)

13 May 2004

Mr K Lindeberg  
11 Riley Drive  
CAPALABA QLD 4157

Dear Mr Lindeberg

I refer to your letter dated 4 May 2004 regarding the shredding of the Heiner inquiry documents and related matters.

There are many potential areas of audit scrutiny over which I must exercise discretionary judgement and in considering your request I note that the Senate Select Committee on the Lindeberg Grievance has formalised its Inquiry into the matters of concern to you.

I have no reason to believe that the Committee's Inquiry will be other than considered, comprehensive and thorough and in discharging my responsibilities I do not wish to duplicate the work of other authorities.

To suggest that I "...advance this matter to a speedy resolution" implies that I may be reluctant to rely upon the work of a Commonwealth Parliamentary Inquiry.

I will consider my position again in conjunction with the Committee's findings.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'L.J. Scanlan'.

L.J. SCANLAN  
Auditor-General of Queensland



Office of the Auditor-General of Queensland  
*Auditor-General of Queensland*

Your ref:

Our ref: 00-1071(2)

31 March 2004

Mr K Lindeberg  
11 Riley Drive  
CAPALABA QLD 4157

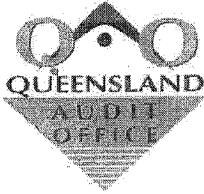
Dear Mr Lindeberg

I refer again to your letter of 9 February 2004 and to our subsequent discussions on 15 March 2004 regarding the Heiner Inquiry and other related matters.

I note that you have provided evidence to the House of Representatives Standing Committee on Legal and Constitutional Affairs, which is conducting an Inquiry and is yet to deliver its report on Crime in the Community. I am currently monitoring developments in this area and, at this stage, I do not propose to take any further action pending the outcome of the Commonwealth Parliamentary Inquiry.

Yours sincerely

L J SCANLAN  
Auditor-General of Queensland



Office of the  
*Auditor-General of Queensland*

Your ref:

Our ref: 00-1071(2)

31 March 2004

Mr K Lindeberg  
11 Riley Drive  
CAPALABA QLD 4157

Dear Mr Lindeberg

I refer again to your letter of 9 February 2004 and to our subsequent discussions on 15 March 2004 regarding the Heiner Inquiry and other related matters.

I note that you have provided evidence to the House of Representatives Standing Committee on Legal and Constitutional Affairs, which is conducting an Inquiry and is yet to deliver its report on Crime in the Community. I am currently monitoring developments in this area and, at this stage, I do not propose to take any further action pending the outcome of the Commonwealth Parliamentary Inquiry.

Yours sincerely

L J SCANLAN  
Auditor-General of Queensland





Office of the Auditor-General of Queensland

Your ref:

Our ref: 00-1071(2)

6 April 2004

Mr K Lindeberg  
11 Riley Drive  
CAPALABA QLD 4157

Dear Mr Lindeberg

Thank you for your letter of 3 April 2004 regarding the Heiner Inquiry and other related matters.

I have noted that the Australian Senate has now established a Select Committee on the Lindeberg Grievance and will be interested in the outcome of the Committee's Inquiry.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'L J Scanlan'.

L J SCANLAN  
Auditor-General of Queensland