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25 MAY 2004

BY: *Gillian Gordon*

**The Chair
Legal and Constitutional Affairs Committee of Inquiry into Crime in the
Community
House of Representatives
Parliament House
CANBERRA 2600**

Dear Madam Chair,

I have just read, with disquiet, the discussion proofs of Mr Heiner's evidence to you (18 May 2004) and note that he says he did not interview a John Oxley Youth Worker who had been a pilot (Mr Michael Roch who earlier appeared before you).

May I make the following points.

1. Mr Heiner also says he did not interview Mr Coyne, the manager of the centre he was investigating.

But he did, at least according to Mr Coyne. For one whole day, on 11 January 1990.

The following is an extract from Mr Coyne's 1 May 1995 submission to the Senate Select Committee on Unresolved Whistleblower Cases.

It says on page 6 under the heading "Giving Evidence".

On 11th January, 1990, I went before Mr Heiner and his Departmental support staff to give evidence. He indicated to me that he had been appointed to investigate grievances under Regulation 63 of the Public Service Management and Employment Regulations.

Before giving evidence I had a discussion with Mr Heiner and he told me something. I then found myself in the position where ... etc

And on page 7:

I then considered my unenviable position and gave evidence because I had done nothing wrong and wanted my name cleared. I answered questions for the whole of the day, 11th January, 1990."

If Mr Heiner does not remember interviewing Mr Coyne, what credibility can we attach to his claim he did not interview Mr Roch? I suggest, with respect, none at all.

2. Mr Heiner was provided with two staff to assist him – Ms Barbara Flynn (to help him understand the workings of the department she told me) and Ms Jan Cosgrove who provided secretarial support.

During a meeting with Ms Flynn on 23 March, 2000, she told me about the meeting Mr Heiner (and she) had with a Youth Worker who had been a pilot. Indeed, she even mentioned the man had told them about a phone call he had had from Mr Coyne that lasted several hours (which I believe Mr Roch mentioned when he appeared before you).

I have already sent some recorded excerpts from that meeting with Ms Flynn to you and suggest they are now particularly relevant given the evidence Mr Heiner provided on 18 May.

3. I also have records of my conversations with Mr Roch. When I asked if he raised the matter of the pack rape with Mr Heiner, he says, emphatically, twice, that Mr Heiner raised it with him and that Mr Heiner already knew about the matter. Mr Roch gave similar evidence before you, on oath.

4. I enclose copies of newspaper articles that appeared in the local press some months before Mr Heiner began his inquiry. The articles refer to the rape of a 15-year-old female John Oxley resident on an outing from the centre, and a subsequent denial from the-then Minister (on advice) that the girl was 15, but was in fact 17, and contrary to advice given to her and her mother, she had requested no charges be pursued.

5. For over two months now we have sought answers from the current Minister (see clippings attached) as to the age and race of the rape victim and to the location of the place where the rape occurred. However, the Minister has not acknowledged our questions nor responded to them.

6. I suggest it is unlikely, given that this matter was the subject of a Ministerial response in the media, that the Opposition (who later in government shredded Mr Heiner's evidence) was not aware of the matter, and that Mr Heiner was not aware of the matter, and that he would not have questioned staff about it when he was asked to investigate the operation and management of the Centre. Such propositions beggar belief.

7. The alternatives are that a second girl (a 17-year-old) was raped on an outing from the centre or that it was instead, the 14-year-old Aboriginal girl who was taken to the Lower Portals for her "socialisation in a natural environment" experience.

8. Either way, to suggest that no one had any inkling of girls being raped in that place is simply nonsense.

9. Minister Nelson said (in a document provided to the Forde Inquiry) that she was aware when she established the Heiner Inquiry that there were allegations of sexual abuse by and for the pleasure of staff at the John Oxley Centre. Given the press coverage mentioned above, it could hardly have been otherwise.

10. With respect, I humbly suggest Mr Heiner's recollections of who he interviewed are plainly wrong, and do not in any way cast doubt on the evidence of Mr Roch. I would also humbly suggest your committee might attempt to ascertain the truth of the matter of who was raped, as this serious issue does seem to be part of the cover-up that has surrounded the shredding affair all these long years.

11. Mr Heiner also says he never read the letters of complaint from staff about Mr Coyne. That seems quite remarkable, but also highly unlikely. He provided summaries of them to Mr Coyne (see Appendix A Morris and Howard Report). Did he summarise them without reading them? Did he get his staff or someone else to summarise them? If that is the case, then we really do have a joke on our hands. Are we to believe Mr Heiner spent a day interviewing Mr Coyne without knowing what the complaints against Mr Coyne were? Mr Heiner says his memory is sketchy and he tried to forget the matter. It seems to me, with respect, that in relation to some key matters he succeeded.

12. In the light of Mr Coyne's evidence to the Unresolved Whistleblowers Committee (mentioned above) in which Mr Coyne says Mr Heiner told him under what authority he was conducting his investigation (Regulation 63 of the Public Service Management and Employment Regulations), what are we to make of Mr Heiner's evidence to your committee that: *Nobody had told me until you just read it out now that that was what my appointment was under—the public service act. I was not aware of that; nobody had ever told me that. That is the first I knew about it.* Did Mr Coyne make up his evidence to the Senate's 1995 committee?

13. Mr Heiner does say he was told over the telephone by someone whose identity he cannot recall that he was given immunity in relation to any proceedings that might arise out of his inquiry. That really comes as no surprise, since Minister Warner told the press as much (despite later claiming the documents had to be shredded to protect Mr Heiner and others from defamation action). See clipping enclosed.

14. One other matter related to Mr Heiner's evidence causes me some concern (in relation to what was going on John Oxley at the time). This involves a comment made by a Youth Worker at JOYC, Mr Trevor Cox, while being examined by Mr Martinez before the Fore Inquiry into the matter of the whereabouts of a handcuff register at John Oxley.

While telling Mr Martinez he did not know where the register was, Mr Cox said:
*... a lot of the paperwork from that period was actually subpoenaed by the
Heiner Inquiry.*

What paperwork, I wonder, and why?

15. I do suggest, however, with great respect, that the inconsistencies raised
above are serious matters for your committee to consider when assessing the
weight to be placed on Mr Heiner's evidence.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Bruce Grundy', written in a cursive style.

Bruce Grundy
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22.05.2004