

The Heiner Affair – motives for the shredding

Introduction

- 3.1 Chapter 2 of this Volume discussed the legal issues associated with the shredding of the Heiner inquiry documents. The Committee found sufficient evidence to recommend that those responsible be charged under section 129 of the Queensland *Criminal Code Act 1899* and possibly under a number of other sections.
- 3.2 This Chapter examines the motives for the shredding and evidence with regard to child abuse at JOYC. The Committee considers that, apart from the legal issues involved, a second question in the Heiner Affair relates to competing claims concerning the Cabinet's motive in taking the decision to shred the Heiner documents.
- 3.3 In order to come to a conclusion in this regard, the Committee thought it imperative to hear directly from Mr Noel Heiner in terms of the evidence he gathered during his inquiry, as well as Mrs Beryce Nelson, the Minister who set up the inquiry.
- 3.4 In order to assess the competing explanations for the shredding of the Heiner inquiry documents, the Committee considers the following to be essential issues:
 - the extent and nature of abuse (physical and sexual) at JOYC;

- the extent of evidence relating to child abuse provided to Mr Heiner during his inquiry;
 - the state of knowledge of the Queensland Cabinet and officers of the Department of Family Services and other government institutions; and
 - whether the Cabinet and officers of government bodies have engaged in a cover-up and if so, why.
- 3.5 The Committee considers that the extent of awareness of abuse at JOYC within the Goss Cabinet is not relevant in determining whether the Cabinet had a case to answer under section 129 of the Queensland *Criminal Code Act 1899*. As the previous Chapter discussed, section 129 applies simply on the basis that the documents might have been required in judicial proceedings. Extensive reference was made to Mr Coyne's requests for the documents and hence Cabinet's undoubted knowledge that the documents would indeed be required.
- 3.6 It is open to the Committee to conclude, however, that the documents may well also have been required by other staff and, most importantly, the victims of abuse at JOYC.
- 3.7 If the Heiner documents contained evidence of abuse – physical and/or sexual – it does not change the nature of the charge itself. It does, however, make the offence much more serious.

Evidence of child abuse at JOYC and culpability

- 3.8 The Committee heard evidence, particularly from Mr Bruce Grundy, of significant abuse at JOYC, including sexual abuse.
- 3.9 The Committee notes that a considerable amount of evidence concerning abuse at JOYC has come to light since the Senate first investigated the Heiner Affair. In that sense, the Senate inquiry was limited.
- 3.10 Indeed, when Mr Lindeberg first pursued the issue of the shredding of the documents, he did so without awareness of the allegations of abuse at JOYC. He pursued the issue on the basis that the Government wilfully destroyed records required for legal proceedings. The Committee notes Mr Lindeberg only became aware of abuse allegations in 1997 when he met a youth worker from JOYC who:

after the closure of the Heiner Inquiry ... had been contacting the CJC on a regular basis to ask them to investigate the allegations of suspected child abuse.¹

- 3.11 Mr Lindeberg only became aware of allegations of sexual abuse, and the alleged cover-up of a rape of a minor earlier this year, with the disclosures made by Mr Bruce Grundy.²
- 3.12 Mr Grundy provided the Committee with much evidence that abuse, including a pack-rape of a then 14 year old resident, occurred at JOYC and further, that nothing was done about it. The pack-rape took place in May 1988, some 18 months prior to the Heiner inquiry commencing. The Committee holds the view that if evidence such as knowledge of the pack-rape or other abuse was given to Mr Heiner, it potentially adds a further dimension of criminality to the shredding of the documents.

The Forde inquiry findings

- 3.13 There is no doubt that JOYC was a volatile environment throughout the 1980s and 1990s. As found by the Forde inquiry,³ which tabled its report into the abuse of children in Queensland institutions in June 1999, JOYC was an overcrowded youth detention centre, with inadequate facilities, low staffing levels and inexperienced and untrained staff and management. Management practices were divisive and there were 'factional tensions'.⁴
- 3.14 There is little doubt that many of the staff recruited to JOYC were inexperienced and underqualified. The report of the Forde inquiry cites a yardsman and a kitchenhand who became youth workers without qualifications.⁵ The Committee also notes that Michael Roch, who was employed by JOYC to look after detainees at the time of the

1 Mr Kevin Lindeberg, quoted by 'Queensland's Secret Shame', Channel NINE *Sunday* program, 21 February 1999.

2 Mr Kevin Lindeberg, *Submission 142.3*, p. 3.

3 The Commission of Inquiry into Abuse of Children in Queensland Institutions was established by the Queensland Government in 1998. It is hereafter referred to as the Forde inquiry.

4 *Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions*, 1999, p. 164.

5 *Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions*, 1999, p. 164.

Heiner inquiry (and who gave evidence to the Committee), had no formal training in this area; he was a qualified airline pilot.⁶

3.15 A staff member told the Forde inquiry that the lack of training led to volatility in JOYC. Another said that staff had resorted to force in some circumstances because they had no training and therefore did not know how to deal with problems. Staff often acted 'out of fear rather than professional intervention'.⁷

3.16 The Forde inquiry report noted that JOYC had been 'plagued by disturbances'. The report stated that this:

is not surprising given the combination of inappropriate premises, lack of staff training and an absence, over much of its history, of operational plans and procedures to deal with major disturbances.⁸

3.17 In terms of incidences during the period in question, the Forde inquiry recorded a riot at the centre on 15 March 1989. Detainees 'went on a rampage through the Centre'⁹. There was also a history of self-harming behaviour at the Centre by inmates.¹⁰

3.18 The Forde inquiry investigated three specific instances of alleged abuse at JOYC, all involving the handcuffing of inmates. It found the following to be substantiated: the handcuffing of two girls and one boy on 26 September 1989. Mr Coyne had written a report about the incidents to the Executive Director, Department of Family Services, on 9 October 1989. Apparently, Mr Coyne had instructed a youth worker over the phone to handcuff the residents involved. He claimed that his actions were 'to prevent a major incident such as a riot from occurring at the Centre'.¹¹

3.19 The inquiry found that Mr Coyne's behaviour was inappropriate and unnecessary. His behaviour was interpreted as an overreaction due to

6 Mr Michael Roch, *Transcript of Evidence*, 16 March 2004, p. 1632.

7 *Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions*, 1999, p. 164.

8 *Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions*, 1999, p. 164.

9 Report on riot, quoted in *Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions*, 1999, p. 165.

10 *Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions*, 1999, p. 166.

11 *Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions*, 1999, p. 171.

a number of factors that were primarily the responsibility of the Department of Family Services and its senior officers,¹² including:

- the appointment of Mr Coyne despite the fact that he was inexperienced and untrained in the management of a juvenile detention centre;¹³
- a lack of adequate training for Mr Coyne following his appointment;
- Mr Coyne's immediate supervisor had no hands-on experience in the management of a youth detention centre;
- the building had major design faults, particularly when the resident mix changed as a result of closure of other centres;
- little action from the Department to improve the design faults of the building and defects in security as recommended by Mr Coyne following the riot in March of that year; and
- no response from the Department to Mr Coyne's complaints about the quality of staff at JOYC.¹⁴

3.20 The Forde inquiry found that it was unable to substantiate another alleged incident of handcuffing due to inconsistencies in accounts of the incident.¹⁵

3.21 The report concluded that:

events such as the handcuffing incident of 1989 exemplifies how untrained, unsupervised and unsupported people can make careless decisions. Well-trained staff can prevent major disturbances and reduce the risks of abuse.¹⁶

Alleged sexual abuse at JOYC

3.22 The Committee notes that the Forde inquiry did not report any evidence of sexual abuse at JOYC during the late 1980s.

12 *Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions*, 1999, pp. 172-3.

13 This was confirmed by Mr Michael Roch who described Mr Coyne as 'totally immature and inexperienced', *Transcript of Evidence*, 16 March 2004, p. 1635.

14 *Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions*, 1999, p. 173.

15 *Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions*, 1999, p. 174.

16 *Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions*, 1999, p. 171.

3.23 The Committee notes from the documents provided by Mr Grundy, however, that there is ample evidence to demonstrate that a 14 year old girl was sexually assaulted while in the care of JOYC staff in May 1988. The evidence also demonstrates that the police, JOYC staff and management, as well as the Department of Family Services failed in their duty of care in relation to the girl.¹⁷

3.24 Mr Grundy first discovered evidence of the alleged pack-rape of a JOYC female resident in 2001. The incident occurred on 24 May 1988 during an outing of JOYC inmates. Based on documentation released under Freedom of Information legislation with copies provided to the Committee, Mr Grundy told the Committee that:

- the girl had been sent on an outing in the bush with six boys without adequate supervision. This alone should not have occurred, as staff had been aware that the girl had been a victim of sexual abuse as a child.¹⁸
- what happened after staff had suspicions that ‘sexual contact’ had occurred on the excursion is ‘simply appalling’.¹⁹
- rather than immediately calling the police, the manager and staff discussed the incident that evening and agreed to meet the following day, to ‘develop a strategy for investigating the concern about [the girl] being sexually assaulted’.²⁰
- when Mr Coyne met with the girl on the following day, she confirmed that she had had sexual intercourse with two of the boys and had ‘indicated that she felt under a lot of pressure from the boys’. Mr Coyne then ‘asked if she wanted the boys to be charged by the Police and she tentatively said yes’.²¹ According to Mr Grundy, this is an:

indication of the outrageous treatment the girl received ...

That the girl’s desire to have the boys charged was described as ‘tentative’ is a disgrace.²²

17 *Exhibits 117 to 122*, provided by Mr Bruce Grundy.

18 Mr Bruce Grundy, *Submission 171.1*, p. 3.

19 Mr Bruce Grundy, *Submission 171.1*, p. 5.

20 *Exhibit 121*, Memo from Mr Peter Coyne to Mr George Nix, Deputy Director-General, Community and Youth Support, 27 May 1988.

21 *Exhibit 121*, Memo from Mr Peter Coyne to Mr George Nix, Deputy Director-General, Community and Youth Support, 27 May 1988.

22 Mr Bruce Grundy, *Submission 171.1*, p. 6.

- the police were not contacted until Friday, 27 May 1988, three days after the rape; they then interviewed the girl on the following day.
- 3.25 Management response to the incident appears to have been inadequate. The Chairman noted that those in authority should have contacted police immediately and that not doing so was covering up a criminal act.²³
- 3.26 The Committee notes however that:
- some of the boys had absconded on the outing which had preoccupied staff and resulted in inadequate supervision;
 - upon the return of the party to JOYC, there was unrest and some of the inmates were provoking physical confrontations with staff;
 - Mr Coyne had left the Centre but, on being informed of the unrest, returned and met with staff at which point he was informed of staff's suspicion about a sexual assault; and
 - following the calming of the children, Mr Coyne checked on the girl and she was asleep.
- 3.27 Mr Coyne should have contacted police. That he did not do so certainly appears to be negligent. The Committee considers, however, that he acted appropriately in contacting the girl's parents, in seeking advice from his immediate supervisor, Mr Ian Peers, in requesting staff reports on the outing, and in informing his supervisors at the Department of Family Services with a full report.²⁴
- 3.28 Mr Coyne however also interviewed the girl – a job that should have been left for police - and asked her whether she wished the boys to be charged. Clearly:
- 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).²⁵
- 3.29 Mr Coyne also interviewed the boys involved on the day following the excursion; however, due to large parts of the document being blacked out when released under Freedom of Information legislation,

23 Chairman, *Transcript of Evidence*, 27 October 2003, p. 1618.

24 *Exhibit 121*, Memo from Mr Peter Coyne to Mr George Nix, Deputy Director-General, Community and Youth Support, 27 May 1988.

25 Mr Bruce Grundy, *Submission 171.1*, p. 7.

the Committee was unable to determine the outcome of these interviews.

- 3.30 Mr Grundy also commented on the amount of material that has been blacked out in the released documents. It is clear that one person was referring to particular incidents that demonstrated that 'what he knew was going on in the centre at that time is absolutely critical, but we do not know' because the information had been blacked out.²⁶
- 3.31 Mr Coyne's further actions indicate that he wished to establish the veracity of the claims first, and perhaps ascertain whether the sexual contact was consensual. It is obvious that he did not consider the fact that the girl's age would mean consent would not be an issue; it is conceivable to suggest that he was not aware of the girl's age, or, alternatively, not aware of the law.
- 3.32 The Committee notes that the then deputy manager, Ms Jenny Foote, had also spoken with the girl on the day following the outing prior to Mr Coyne's conversation with her. At first, the girl had told her that there had been no sexual contact, but, when told that the boys had spoken of what had occurred, she told Ms Foote that she had had sexual intercourse with two boys.²⁷
- 3.33 Following a visit by the girl's mother and the girl's decision that she wanted a complaint to be made to police, Mr Coyne then contacted the police, who, as previously mentioned, interviewed her on the Saturday, four days after the incident. The Committee notes that the girl was not examined by a paediatrician until Friday 27 May 1988.²⁸
- 3.34 Mr Grundy also referred the Committee to a report by *The Courier-Mail* newspaper on 17 March 1989 which relates the rape of a 15 year old resident on an outing from JOYC.²⁹ The following day saw then Family Services Minister the Hon Craig Sherrin claim that the girl was 17 and that, although encouraged to do so, she did not wish to lay charges.³⁰
- 3.35 It is not clear whether the rape referred to is in fact the pack-rape of the 14 year old uncovered by Mr Grundy, incorrectly reported as the rape of a 15 year old by *The Courier-Mail* newspaper. However, if, as

26 Mr Bruce Grundy, *Transcript of Evidence*, 27 October 2003, p. 1410.

27 *Exhibit 122*, memo from Ms Jenny Foote to Mr Peter Coyne, 27 May 1988.

28 *Exhibit 121*, letter from Dr Maree Crawford to Dr Harold Forbes, 9 June 1988.

29 Mr Bruce Grundy, *Submission 171.2*, p. 2; 'Wacol centre 'paradise' for young crims', *The Courier-Mail*, 17 March 1989, p. 3.

30 'Repression 'not way' to youth reform', *The Courier-Mail*, 18 March 1989, p. 5.

Minister Sherrin pointed out, the girl was in fact 17, this may mean that there were two rapes on outings that were not investigated.

- 3.36 Mr Lindeberg told the Committee that, assuming there had only been one rather than two pack-rape incidents, the Minister was either misled by his bureaucracy or was part of the cover-up, whereby:

a picture could be painted that the girl was above the age of consent thereby creating a false impression that it was highly likely – in the mind of the reader – that she was perhaps a consensual party to multiple-sexual partners on the bush/art outing and had thought the better of laying charges despite the department being happy for her to bring them forward at the time.³¹

- 3.37 Mr Grundy also related some evidence of further sexual misconduct at JOYC. He advised the Committee that, shortly after his first story appeared in *The Courier-Mail* newspaper in 2001, another woman mentioned:

she was raped in her cell by a worker and taken on weekend release to his place, and many staff knew what was happening.³²

- 3.38 The Committee has also become aware that abuse at JOYC may have continued into the 1990s. There has been an allegation of a further rape at the JOYC, which was reported in *The Independent Monthly* in August 2004 and was also the subject of an interview on ABC Radio.³³ The former female resident at JOYC claims that she was raped by a male youth worker while on an excursion to Wivenhoe Dam in Queensland on 11 April 1991. Upon return to the Centre, she was assaulted by several other female residents whom she claims were sexually involved with the youth worker in question. When her complaints were taken to JOYC management, the youth worker was offered the opportunity to be sacked or voluntarily resign; he chose the latter. At the time the girl also chose not to press charges. Shortly after the resignation of the youth worker, the girl in question received several death threats, presumably from the female inmates who assaulted her.

31 Mr Kevin Lindeberg, *Submission 142.3*, p. 5.

32 Mr Bruce Grundy, *Transcript of Evidence*, 27 October 2003, p. 1399.

33 'Death Threats Latest Detention Centre Scandal', *The Independent Monthly*, August 2004, p. 1; 'Interview with 'Shelley'', *Mornings*, ABC Radio Brisbane, 19 July 2004.

The actions of government agencies

- 3.39 The Committee was most concerned with the apparent inaction by the police in relation to the rape. The police notebook records an interview on Saturday, 28 May 1988. The incident was recorded as a 'sexual type incident', occurring on Tuesday, 24 May 1988. Signed by the girl and witnessed by two officers and a youth worker, it states: 'I do not wish to make an official complaint to the Police and I am happy with Police enquiries made in relation to this matter'. The police notebook also stated that the girl was 14 years old.³⁴
- 3.40 According to Mr Grundy, there is no evidence that any of the staff or boys concerned were interviewed by police.³⁵ If consent was a non-issue given the girl's age, it would appear that the police were negligent in not charging the boys involved with rape.
- 3.41 Given that Mr Coyne provided his supervisors at the Department of Family Services with a full report on the rape, there is no doubt that relevant officers at the Department, as well as the Minister at the time, were aware of the incident. However, there is little indication that the welfare of the girl was a matter of major concern.
- 3.42 The Committee was particularly concerned about a memorandum from the then Director-General of the Department of Family Services, Mr Alan Pettigrew, dated 30 May 1988, to the then Minister. By that time, the pack-rape had become 'interference' by four boys with the girl. Further, Mr Pettigrew wished to assure the Minister that no blame had been placed on JOYC staff. He also expressed some concern that it may leak to the media.³⁶
- 3.43 The Committee was also provided with a copy of a memo of 30 May 1988 to Mr Pettigrew from Mr George Nix, Deputy Director-General Community and Youth Support, to which Mr Coyne's report of the incident was attached. The memo is a summary of Mr Coyne's report. Of note is that Mr Nix does not comment on the management response as inadequate. Mr Nix appears to be greatly relieved at the fact that 'it was very unlikely that she would fall pregnant'.³⁷
- 3.44 No-one appeared to question the fact that the girl did not want to lay charges because of the apparent length of a court process and that she

34 *Exhibit 119*, Notes from police notebook, 28 May 1988.

35 Mr Bruce Grundy, *Submission 171.1*, p. 8.

36 *Exhibit 121*, Memo from Mr Alan Pettigrew to Minister, 30 May 1988.

37 *Exhibit 121*, Memo from Mr George Nix to Mr Alan Pettigrew, 30 May 1988.

was being threatened at the Centre. Moving her to another location did not seem to occur to JOYC management, nor to Mr Coyne's supervisors. According to Mr Grundy, this demonstrates that 'people at a senior level in the department knew what had happened to the girl, and did nothing'.³⁸

3.45 The Committee also notes that the memo from Mr Nix, passed on to the Minister by Mr Pettigrew, carried a notation that it had been seen by the Minister. The Committee was concerned to learn that despite this knowledge, an inquiry into JOYC was only set up when Mrs Beryce Nelson was appointed Minister by Premier Cooper. The Committee also found it unusual that no action was taken by Messrs Pettigrew and Nix at the time.

3.46 The most poignant observation regarding the pack-rape incident came from Mr Roch, who told the Committee that the girl had been 'happy, full of fun and could have a joke' prior to the incident, whereas following the incident, she was 'withdrawn':

It was a horrific thing that happened to her. What is so sad is that we were there to protect these little children. Okay, they had done wrong, but that is beside the point. We were there to look after their wellbeing. Because of the administration, this was not done in the best way it could have been. In this case, the staff who were supposed to supervise her on this outing did not do their duty. Then, to compound the whole thing, it was hushed up, which I think is pretty disgusting. The manager ... was innocent of the act but he was not innocent of the consequences. He was very culpable of that.³⁹

3.47 The Committee believes that, on the evidence provided to it, if Mr Coyne was culpable of a cover-up, his superiors at the Department of Family Services, the then Minister, the police, and, more particularly, the CJC, were at least as culpable. The investigation of the alleged rape by the CJC is dealt with later in this Chapter.

38 Mr Bruce Grundy, *Submission 171.1*, p. 7.

39 Mr Michael Roch, *Transcript of Evidence*, 16 March 2004, p. 1671.

Goss Cabinet awareness of child abuse at JOYC

- 3.48 There is sufficient evidence that the Goss Cabinet was fully aware of abuse going on at JOYC, even though, arguably, it may not have been aware of the extent and nature of the abuse.
- 3.49 A number of examples which demonstrate the Government's knowledge of abuse at JOYC were brought to the Committee's attention by Mr Lindeberg. In particular, while in opposition, the Hon Anne Warner had called on the Cooper Government to establish an inquiry into JOYC because of allegations of abuse. The Committee notes that the Hon Anne Warner referred to an incident of handcuffing and another of sedation. She also referred to the riot in March and called on the Government to review security measures at the Centre.⁴⁰
- 3.50 The evidence provided by Mrs Beryce Nelson sheds further light on the knowledge of the Queensland Cabinet. Mrs Nelson also advised the Committee that the Hon Anne Warner had run 'quite a strong campaign' on the abuses allegedly happening at JOYC prior to becoming Minister.⁴¹
- 3.51 According to Mrs Nelson, she herself had become aware of problems at the JOYC before she became a Minister.⁴² Allegations centred on lack of accountability for staff, illegal drugs being brought into the Centre and allegations 'that some staff were physically and sexually abusing children in their care'.⁴³
- 3.52 Goss Cabinet Minister the Hon Pat Comben publicly admitted on Channel NINE's *Sunday* program 'Queensland's Secret Shame' in February 1999 that at the time the destruction of the documents was ordered:

In broad terms we were all made aware that there was material about child abuse. Individual members of cabinet

40 *Exhibit 111*, 'Teens Handcuffed: MP', *The Sunday-Sun*, 1 October 1989, p. 18; Mr Kevin Lindeberg, *Submission 142*, pp. 15-16.

41 Mrs Beryce Nelson, *Transcript of Evidence*, 18 June 2004, p. 1789.

42 Mrs Beryce Nelson, *Transcript of Evidence*, 18 June 2004, p. 1785.

43 *Exhibit 115*, p. 1. Mrs Beryce Nelson's signed statement of 15 May 1998, witnessed by former Queensland Police Commissioner N R Newnham, was subsequently tabled in the Queensland Parliament on 25 August 1998. Mrs Beryce Nelson was the Minister for Family Services in the National Party Government from September until December 1989. She lost her seat in the 2 December 1989 election.

were increasingly concerned about whether or not the right decision had been taken [with regard to the shredding].⁴⁴

- 3.53 The Committee notes, however, that the Hon Pat Comben, following the airing of the *Sunday* program, publicly stated that:

We were talking about getting rid of these documents because they were defamatory between the staff members accusing each other of all sorts of things about their professional lives and it was not about child abuse in any way.⁴⁵

- 3.54 The *Sunday* program also quoted former Queensland Police Commissioner Noel Newnham:

Some complaints concerned the handcuffing of children ... allegations the children had been sedated inappropriately to cope with a management problem, and of course there were allegations of bad management practice in general. Those kinds of things were all known in 1989. Quite high up in the department.⁴⁶

- 3.55 Reference was previously made in this Chapter to *The Courier-Mail* newspaper report of 17 March 1989 concerning the rape of a 15 year old at JOYC with a subsequent statement that she had in fact been 17. Although it is uncertain whether this referred to the pack-rape of the 14 year old girl, it certainly means that information about *sexual* misconduct, in addition to other physical abuse, was in the public domain at the time. The Committee thought it unlikely that, at minimum, (then) Opposition spokesperson Anne Warner would not have been aware of these issues, considering her later statements on other instances of abuse at JOYC.⁴⁷

Child abuse evidence to the Heiner inquiry

- 3.56 The public admissions by members of the Goss Government have led Mr Lindeberg to state that:

44 'Queensland's Secret Shame', Channel NINE *Sunday* program , 21 February 1999; see also Mr Kevin Lindeberg, *Submission 142*, p. 15.

45 The Hon Pat Comben, quoted by Premier Peter Beattie, Queensland Legislative Assembly Hansard, 4 March 1999, p. 285.

46 'Queensland's Secret Shame', Channel NINE *Sunday* program, 21 February 1999.

47 *Exhibit 111*, 'Teens Handcuffed:MP', *The Sunday Sun*, 1 October 1989, p.18.

It is therefore open to conclude that the Goss Cabinet and the ALP's transition-into-government team were fully aware of why the Heiner inquiry was established and the type of evidence it was gathering, and to suggest otherwise is not credible. With such a state of knowledge, it was lawfully never open to the Queensland Government to destroy such important evidence as it may have contained evidence of inappropriate and/or criminal behaviour against children in care as was later established, after a decade of cover-up, to be true.⁴⁸

The aim and scope of the Heiner inquiry

3.57 The terms of reference for the Heiner inquiry were:

To investigate and report to the Honourable the Minister and Director-General on the following:

1. the validity of the complaints received in writing from present or former staff members and whether there is any basis in fact for those claims.
2. compliance or otherwise with established Government policy, departmental policy and departmental procedures on the part of management and/or staff.
3. whether there is a need for additional guidelines or procedures or clarification of roles and responsibilities.
4. adequacy of, and implementation of, staff disciplinary processes.
5. compliance or otherwise with the Code of Conduct for Officers of the Queensland Public Service.
6. whether the behaviour of management and/or staff has been fair and reasonable.
7. the adequacy of induction and basic training of staff, particularly in relation to the personal safety of staff and children.

48 Mr Kevin Lindeberg, *Submission 142*, p. 16.

8. the need for additional measures to be undertaken to provide adequate protection for staff and children and to secure the building itself.⁴⁹

3.58 Mr Heiner advised the Committee that he had been told on at least two occasions not to concern himself with issues relating to the treatment of children at JOYC. Indeed, that had been his understanding of the terms of reference:

When I got those eight items, I saw that most of them related to the first one, which was the management of the homes. Then I saw that the last one related to the children and I queried any relation of my own inquiry to the treatment of the children. I was told: no, if any question that came up, it would be the subject of another inquiry. Somebody else would look into that; I was not to.⁵⁰

3.59 Mr Heiner recalled that the first time he was told not to concern himself with the treatment of children was when he met with Mr Alan Pettigrew (then the Director-General) and Mr George Nix (then Deputy Director-General) from the Department of Family Services, to discuss the terms of reference. He was told that the objective of the inquiry was to collect evidence concerning the management of JOYC. Mr Heiner advised the Committee that he had queried the last term of reference about the treatment of children and been ‘told in no uncertain terms that it had nothing whatsoever to do with my inquiry into the complaints about the management’.⁵¹

3.60 Mr Heiner understood the first term of reference to encompass all the others. Indeed, he subsequently re-stated his understanding of this in his letter of 19 January 1990 to Ms Matchett:

I perceived my enquiry to encompass the first of these numbers ... I believed that the other seven matters in that annexure were concomitant with the first matter and they formed part and parcel of my enquiry.⁵²

3.61 The Committee heard that Mr Heiner had approached the Department of Family Services about the evidence relating to the handcuffing and sedation incidents. According to Mr Heiner, he was

49 *Exhibit 125*, Terms of reference accompanying letter from Mr A C Pettigrew to Mr Noel Heiner, 13 November 1989.

50 Mr Noel Heiner, *Transcript of Evidence*, 18 May 2004, p. 1686.

51 Mr Noel Heiner, *Transcript of Evidence*, 18 May 2004, pp. 1676-7.

52 *Exhibit 126*, Letter from Mr Noel Heiner to Ms Ruth Matchett, 19 January 1990.

told again 'in no uncertain terms' that the treatment of children would be inquired into separately; he should only concern himself with the management of the home.⁵³ Mr Heiner thought:

the whole inquiry was curtailed, that the management of the home also involved the treatment of the children. You could not have one without the other. My hands were tied and everything was hamstrung, I believed. I thought that, when I queried it, they may have opened up the terms of reference to enable me to continue with the treatment of the children as well, but they did not.⁵⁴

3.62 Mr Heiner advised the Committee that:

all the people who came before me to give testimony were volunteers. I made it known that it was up to them to volunteer anything that they wanted to tell me about it. My inquiry was into the administration of the home – nothing else. There were eight or 10 different issues I was to inquire into, but they all related to the management of the homes. I queried that when I got it in relation to the treatment of any of the children. I was told in no uncertain terms not to worry myself about that; that would be treated as an entirely different matter altogether. My only inquiry was into the written complaints that had been received by the department in relation to the running and management of the home, and that is what I did.⁵⁵

3.63 Further, 'somebody in the department' had told him that:

If any question of the treatment of children came up at any time, I was to relate that, if I could, back to the management or the running of the home, not to the treatment simpliciter of anybody there.⁵⁶

3.64 This comment is at variance with evidence provided to the Committee by Mrs Beryce Nelson, who disputed that the inquiry was intended to focus on the first term of reference. Indeed, she told the Committee that the inquiry was all about the allegations of abuse at

53 Mr Noel Heiner, *Transcript of Evidence*, 18 May 2004, p. 1685.

54 Mr Noel Heiner, *Transcript of Evidence*, 18 May 2004, p. 1689. Mr Heiner thought the Goss Government was in power at the (second) time he was told to curtail the inquiry. The Committee notes that the first time was when he received the terms of reference.

55 Mr Noel Heiner, *Transcript of Evidence*, 18 May 2004, p. 1674.

56 Mr Noel Heiner, *Transcript of Evidence*, 18 May 2004, p. 1677.

the Centre; the management by Mr Coyne was never the central issue. She also advised the Committee that both Mr Pettigrew and Mr Nix were well aware of her thoughts on the matter and would have conveyed those to Mr Heiner. Terms 5 to 8 inclusive were ‘the issues of most concern to me and my Director General’.⁵⁷ Addressing all terms of reference gave the Government the opportunity to:

look specifically at the John Oxley youth centre but it also gave us the opportunity to look at the overall issue of the management of staff and the funding of the department and what policy and program changes there might need to be.⁵⁸

- 3.65 Mrs Nelson advised the Committee that she is confident that Mr Heiner was briefed adequately by Departmental staff and that the last seven points were not encompassed within the first point:

That is to say, Heiner was not supposed to act only in respect of ‘the complaints received in writing from present or former staff members’ of JOYC.⁵⁹

- 3.66 In evidence to the Committee, Mrs Nelson said that she found Mr Heiner’s evidence ‘very contradictory’; from reading the transcript of evidence, she thought it was clear that Mr Heiner had taken evidence from people in relation to issues outside the first term of reference (the validity of complaints received in writing) and ‘items 2 to 8 were obviously also superficially examined’.⁶⁰ For Mrs Nelson:

The merit or otherwise of Peter Coyne was never a principal issue ... and the inquiry was not set up aimed at him.⁶¹

- 3.67 However, Mr Coyne ‘became the focus of protection and was paid quite a substantial amount of money as a severance payment to him.’⁶² Indeed:

The objective of the inquiry was never to ‘get’ anybody. It was to obtain facts on which to build a full commission of inquiry which would allow a restructuring and refinancing of the department.⁶³

57 *Exhibit 115*, Signed statement by Mrs Beryce Nelson, 15 May 1998, p. 3.

58 Mrs Beryce Nelson, *Transcript of Evidence*, 18 June 2004, p. 1794.

59 *Exhibit 115*, Signed statement by Mrs Beryce Nelson, 15 May 1998, p. 4.

60 Mrs Beryce Nelson, *Transcript of Evidence*, 18 June 2004, p. 1794.

61 *Exhibit 115*, Signed statement by Mrs Beryce Nelson, 15 May 1998, p. 4.

62 Mrs Beryce Nelson, *Transcript of Evidence*, 18 June 2004, p. 1788.

63 Mrs Beryce Nelson, *Transcript of Evidence*, 18 June 2004, p. 1788.

- 3.68 Mrs Nelson further stated that Mr Nix was:
- just one senior officer who knew that the struggles and troubles between Peter Coyne and his staff were just a sideshow in the Heiner inquiry, and that there more serious issues at stake – essentially whether the children in the Centre were at risk and if so in what way or ways.⁶⁴
- 3.69 Mrs Nelson stated that she was also aware of problems between the staff and the manager of JOYC, Mr Coyne, but she:
- saw that issue as less important than the issue of ensuring that the children detained at JOYC were given proper custodial and rehabilitative care, and [were] properly protected against any maltreatment.⁶⁵
- 3.70 Mrs Nelson had discussed her requirements for the inquiry with Mr Pettigrew, emphasising that the person conducting the inquiry should not feel inhibited; accordingly, ‘the terms of reference of the inquiry needed to be wide ranging’.⁶⁶
- 3.71 She also expressed confidence that Mr Nix and other senior departmental officers understood her concerns, and that:
- so far as I was concerned the internal differences between staff were subservient to the issue of the proper treatment and protection of the detainees at JOYC.⁶⁷
- 3.72 The Committee was unable to reconcile the two accounts of the intent of the Heiner inquiry, or whether it was an issue of interpretation of the terms of reference only.
- 3.73 However, on balance, the Committee contends that it seems improbable that a person would be asked to inquire into the management of a youth detention centre without regard to the treatment of the inmates of the centre. The distinction Mr Heiner was allegedly asked to draw therefore appears to be an artificial one.
- 3.74 The Committee considers that a plausible explanation for this difference in interpretation is that, despite Mrs Nelson’s confidence in her intentions being conveyed clearly to Mr Heiner by her Family

64 *Exhibit 115*, Signed statement by Mrs Beryce Nelson, 15 May 1998, p. 5.

65 *Exhibit 115*, Signed statement by Mrs Beryce Nelson, 15 May 1998, p. 2.

66 *Exhibit 115*, Signed statement by Mrs Beryce Nelson, 15 May 1998, p. 2.

67 *Exhibit 115*, Signed statement by Mrs Beryce Nelson, 15 May 1998, p. 3.

Department executives Mr Pettigrew and Mr Nix, this may not have eventuated.

- 3.75 As mentioned earlier, the documentation provided by Mr Grundy demonstrates that both Mr Pettigrew and Mr Nix had been aware of the sexual ‘incidents’ which had occurred 18 months prior to the establishment of the inquiry, but had taken no action.
- 3.76 The Committee believes that Mrs Nelson’s intent would have been less open to misinterpretation if the terms of reference had adequately reflected her primary interest in the treatment of children at JOYC. It may be that, in designing the terms of reference, the Minister was careful to avoid open criticism of staff so that she would have had the support of the unions for the inquiry. Mrs Nelson recalls a meeting with union representatives, including Mr Lindeberg and Mr Martindale from the QPOA. Mr Pettigrew and Mr Nix were also present. At the meeting, Mrs Nelson:

undertook to institute a short, fixed term, ministerial inquiry, and also to plan for better selection, training and rehabilitation procedures and programs for staff, if the unions would give us a three month period of grace without trying to stir up any further bad feeling against the department or to score any unnecessary political points.⁶⁸

The type of evidence gathered by Heiner

- 3.77 The evidence presented to the Committee on the type of evidence gathered by the Heiner inquiry was sketchy and inconsistent. The passage of time is a major factor. As Mr Heiner told the Committee, his memory of the events of 1989 to 1990 is:

completely at variance with what has been said ... I have done everything in my power to forget it since the inquiry was aborted.⁶⁹

- 3.78 Mr Heiner advised the Committee that he recalls being told of only two incidents of alleged abuse of children at JOYC – one child being sedated and another being handcuffed. The latter was also related by Mr Grundy. However, Mr Grundy thought it was a girl being handcuffed, while Mr Heiner believed it was a boy. Mr Heiner told the Committee that it is not his recollection that the handcuffing had

68 *Exhibit 115*, Signed statement by Mrs Beryce Nelson, 15 May 1998, p. 2.

69 Mr Noel Heiner, *Transcript of Evidence*, 18 May 2004, p. 1674.

anything to do with a fence or a grate or a grille, as Mr Grundy alleged.⁷⁰ Mr Heiner also recollected the sedation of an uncontrollable child, but cannot remember the sex of the child. Mr Heiner's account of two incidents accords with the Hon Anne Warner's statement of 1 October 1989 as reported by *The Sunday Sun* newspaper.⁷¹

- 3.79 Mr Heiner did not know whether these actions, which occurred prior to his inquiry,⁷² were taken by management, but upon hearing of them during the course of the inquiry, he was 'convinced... that it was for the betterment of the child, or for the safety of the child rather than anything else'.⁷³ However, Mr Heiner told the Committee, 'I vehemently deny anybody having spoken to me about a pack-rape'.⁷⁴
- 3.80 The Committee notes that a youth worker confirmed to the *Sunday* program of 21 February 1999 that he had made complaints about abuse at JOYC to the CJC, which were 'the same ones he had made to the abandoned Heiner Inquiry'.⁷⁵
- 3.81 The Committee also took evidence from Mr Michael Roch, a former employee of JOYC. The Committee found a number of gaps and inconsistencies in Mr Roch's evidence regarding the Heiner inquiry. Mr Roch stated that he thought he had been interviewed by Mr Heiner in relation to the rape as well as the disposal of the documents.⁷⁶ As Mr Heiner reminded the Committee, however, 'both of these cannot run together'.⁷⁷
- 3.82 The Committee notes that Mr Roch was previously interviewed by phone by the ABC on 7 November 2001,⁷⁸ when he said that he had been interviewed by Mr Heiner. However, in evidence to the Committee in 2004, Mr Roch could not be sure it was Mr Heiner who had interviewed him, although he was sure it was no-one related to JOYC.⁷⁹

70 Mr Noel Heiner, *Transcript of Evidence*, 18 May 2004, p. 1685.

71 *Exhibit 111*, 'Teens Handcuffed:MP', *The Sunday Sun*, 1 October 1989, p.18.

72 Mr Noel Heiner, *Transcript of Evidence*, 18 May 2004, p. 1678.

73 Mr Noel Heiner, *Transcript of Evidence*, 18 May 2004, p. 1677.

74 Mr Noel Heiner, *Transcript of Evidence*, 18 May 2004, p. 1688.

75 'Queensland's Secret Shame', Channel NINE *Sunday* program, 21 February 1999.

76 Mr Michael Roch, *Transcript of Evidence*, 16 March 2004, p. 1635.

77 Mr Noel Heiner, *Transcript of Evidence*, 18 May 2004, p. 1688.

78 *Exhibit 117*, 'Interview with 'Michael'', *Mornings*, ABC Radio Brisbane, 7 November 2001.

79 Mr Michael Roch, *Transcript of Evidence*, 16 March 2004, pp. 1636-7 and p. 1640.

- 3.83 Mr Roch also told the Committee that ‘everybody’ had knowledge of the alleged rape.⁸⁰ He stated that he was told by Mr Coyne that all employees were subject to secrecy provisions that prevented them from speaking about the children’s treatment.⁸¹
- 3.84 Mr Grundy told the Committee that, when he had first interviewed Mr Roch, Mr Roch’s information matched up with the circumstances of the Heiner inquiry in terms of timing and the place of the interview: ‘In light of what he and others have told me, I think it reasonable to assume that it was Mr Heiner (who interviewed Roch)’.⁸²
- 3.85 When Mr Grundy first spoke with Mr Roch, he had only asked him to talk about his work at JOYC and:
- quite of his own volition and quite voluntarily he said, ‘And then, of course, there was the matter of the pack rape’ ... At that time he did not talk about any material being shredded but he was quite clear about what happened to that girl.⁸³
- 3.86 While there are a number of other inconsistencies,⁸⁴ the evidence that Mr Roch spoke to Mr Heiner is solid.⁸⁵ Despite this, however, the Committee is unable to reconcile the differing accounts regarding evidence of the pack-rape that were given to the Heiner inquiry.
- 3.87 While it may seem inconceivable that, although everyone at JOYC apparently knew about the pack-rape, the evidence was not given to Heiner, there are number of possible explanations if this was indeed the case.

80 Mr Michael Roch, *Transcript of Evidence*, 16 March 2004, p. 1640.

81 Mr Michael Roch, *Transcript of Evidence*, 16 March 2004, pp. 1640 and 1634.

82 Mr Bruce Grundy, *Transcript of Evidence*, 16 March 2004, p. 1642; see also Mr Bruce Grundy, *Submission 171.1*, p. 3.

83 Mr Bruce Grundy, *Transcript of Evidence*, 16 March 2004, p. 1643.

84 Mr Heiner’s recollection differed significantly from that of Mr Roch. For instance, Mr Roch recalled giving evidence to someone in a building on the river, *Transcript of Evidence*, 16 March 2004, p. 1635; but Mr Heiner advised the Committee that he supposed ‘the building on the river’ to be the Children’s Courts and he had not taken evidence in this location, *Transcript of Evidence*, 18 May 2004, p. 1691.

85 The Committee was given a tape by Mr Grundy (*Exhibit 124*) where a woman identifying herself as Barbara Flynn, an assistant to Heiner during his inquiry, says Mr Heiner interviewed an airline pilot in her presence. She recalled that an airline pilot had told Mr Heiner that he had spent a number of hours on the phone with Mr Coyne who wanted him to retract a complaint about an inmate who had assaulted him. Mr Roch related this incident to the Committee, *Transcript of Evidence*, 16 March 2004, p. 1669; see also Mr Bruce Grundy, *Submission 171.2*.

Comments on evidence given to the Heiner inquiry

- 3.88 The Committee does not question the evidence of sexual abuse and bureaucratic inaction at JOYC, and indeed the fact that ‘everyone at the Centre knew about it’. It does not follow conclusively, however, that Mr Heiner was informed about this.
- 3.89 Firstly, the Committee notes that Mr Heiner had advised that his inquiry was public – and that ‘I agreed to take evidence from anybody about anything that they wanted to give evidence about in relation to the management of the homes’.⁸⁶ If hearings were public, evidence of abuse may have been withheld, particularly if the evidence was given by the abusers.⁸⁷ The Committee was unable to substantiate Mr Heiner’s claim and notes that the press at the time referred to ‘four weeks of secret sittings into the operation of the youth centre’ while the Senate inquiry also commented in this vein.⁸⁸
- 3.90 The Committee believes Mrs Beryce Nelson’s intention of gathering evidence regarding sexual and other serious child abuse would have been better served by in-camera hearings, however Mrs Nelson did not confirm that this had indeed been the case in evidence.
- 3.91 It is conceivable that JOYC staff refrained from giving evidence about sexual abuse or systemic child abuse because they were concerned that if such allegations were aired, they themselves may have had a case to answer. Instead, if the inquiry was mainly about management of JOYC, as Mr Heiner asserts, it provided an opportunity for staff to complain about Mr Coyne, as well as the deputy manager, Anne Dutney.
- 3.92 An example is the incident of the pack-rape. If, for instance, the supervisors at the outing had given evidence to Mr Heiner, highlighting that incident would also have drawn attention to their failure to provide appropriate supervision on the outing. As Mr Roch told the Committee:

these teachers’ lack of supervision was appalling – just to sit down and smoke in the park. As I said, they were not bad little children; they needed guidance. But they were in there

86 Mr Noel Heiner, *Transcript of Evidence*, 18 May 2004, p. 1675.

87 Mr Noel Heiner, *Transcript of Evidence*, 18 May 2004, p. 1690.

88 ‘Labor blocks secret probe’, *The Sun*, 11 April 1990, p. 1; *The Public Interest Revisited*, Report of the Senate Select Committee on Unresolved Whistleblower Cases, October 1995, p. 65.

for crimes. You do not just let them run around without supervision. That is appalling.⁸⁹

- 3.93 While such a conclusion is purely speculative, it would appear to provide one plausible explanation - particularly in light of the 'Dutney Memorandum' which detailed extensive shortcomings by staff (as opposed to management) at JOYC. The memorandum was written three weeks prior to the shredding of the Heiner inquiry material.⁹⁰ It would be plausible to suggest that staff took the opportunity arising out of the Heiner inquiry to air their grievances about Mr Coyne's management style which may have threatened *their* careers.
- 3.94 Mr Heiner's evidence to the Committee supports some of these suppositions. He told the Committee that much of the testimony that came before him was a 'lot to do about nothing': staff wanted to air their frustrations about the running of the homes; they were 'hard done by' because there was nepotism; they complained about their treatment by the manager, including one instance recalled by Mr Heiner where Mr Coyne allegedly 'crept around during the night shift in soft-soled shoes to see whether people were asleep on duty'.⁹¹ Mr Coyne's behaviour was also mentioned by Mr Roch,⁹² who told the Committee that he 'detested that man (Coyne) and he was detested by 98 per cent'.⁹³
- 3.95 While Mr Roch interprets these actions as management shortcomings, it is equally valid to interpret them as appropriate management responses to the actions of untrained and unqualified staff within a highly volatile environment, as observed by the Forde inquiry report referred to earlier in this Chapter. Staff may well have felt threatened by the arrival of Mr Coyne because of a 'new broom' philosophy and the hard line he may have taken to address incompetence and/or

89 Mr Michael Roch, *Transcript of Evidence*, 16 March 2004, p. 1641.

90 The contents of the Dutney memorandum are summarised in 'Ten year mystery begins to unravel', *The Justice Project*, at <http://gwb.com.au/gwb/news/goss/2000b.htm>.

91 Mr Noel Heiner, *Transcript of Evidence*, 18 May 2004, pp. 1694-5.

92 Mr Michael Roch, *Transcript of Evidence*, 16 March 2004, p. 1632. Mr Roch told the Committee that Mr Coyne used to 'creep around' at night in rubber shoes to check whether people were sleeping on duty. Mr Coyne also allegedly stayed up all night with a friend of Mr Roch's waiting for the friend to sign a statement which was allegedly not true; and Mr Coyne apparently waited for Mr Roch until 2am one morning for him to sign a document relating to an incident where an Aboriginal inmate had spat on Mr Roch. Mr Coyne had allegedly charged Mr Roch with 'using excessive force to restrain him afterwards', *Transcript of Evidence*, 16 March 2004, p. 1635.

93 Mr Michael Roch, *Transcript of Evidence*, 16 March 2004, p. 1639.

misconduct by JOYC staff.⁹⁴ Indeed, as stated earlier, the Forde inquiry had found that management practices at JOYC were 'divisive'.

3.96 There is also evidence to suggest that Mr Coyne's philosophy focused on rehabilitation rather than punishment and this may have had its detractors amongst staff.⁹⁵ One employee was quoted by *The Courier-Mail* newspaper as saying that the management philosophy was wrong:

most of these children, some as young as 13, behave like hardened criminals. We have rapists, murderers, arsonists ... These kids are living in a paradise here, not a secure disciplined environment that is needed.⁹⁶

3.97 However, the Committee also considered that the issue may indeed be one of interpretation of 'child abuse'. A case in point is Mr Heiner's interpretation of the handcuffing of one child and the sedating of another, which differs from that of the Committee; he had been told that the actions were taken 'for their own protection, and for the protection of others, because they were uncontrollable'.⁹⁷ The Committee acknowledges however that Mr Heiner had not accepted this and wanted to find out more.

3.98 The Committee notes that either of these incidents could and should have resulted in legal proceedings where the shredded documents would be required. Clearly, there has been a breach of duty of care to the children in JOYC.

3.99 A strong case has been made that, in addition to the pack-rape, there was, at best, systemic negligence, which in itself may have constituted abuse at JOYC. The 'Dutney Memorandum' reveals other instances, including:

- staff (against instructions) placing a suicidal child in a room with another who was encouraging her to kill herself;
- staff providing painkillers to a child who had earlier overdosed on the same drug;

94 This is supported for example by 'Repression 'not way' to youth reform', *The Courier-Mail*, 18 March 1989, p. 5.

95 'Repression 'not way' to youth reform', *The Courier-Mail*, 18 March 1989, p. 5.

96 'Wacol centre 'paradise' for young crims', *The Courier-Mail*, 17 March 1989, p. 3.

97 Mr Noel Heiner, *Transcript of Evidence*, 18 May 2004, p. 1698.

- staff sleeping on duty to the point where inmates feared for their safety; and
 - staff issuing prescription drugs to a child without authorisation.⁹⁸
- 3.100 This memorandum was addressed to the Director of Organisational Services for the Department of Family Services. Copies were sent to Deputy Director-General Mr George Nix and Executive Director of JOYC, Mr Ian Peers.
- 3.101 The Committee also notes that Ms Dutney provided evidence to Mr Heiner, as did indeed Mr Coyne – apparently for one whole day, although Mr Heiner could not recall this.⁹⁹
- 3.102 Reference had also been made at the Committee’s hearings regarding ‘Document 13’,¹⁰⁰ which allegedly had been made available to the Senate inquiry in 1995 in an altered form.¹⁰¹ The document summarises witnesses’ complaints. The Committee notes that all the complaints bar one listed on this document concern themselves with essentially ‘management style’: staff felt ‘victimised’ and ‘harrassed over trivial matters’. One complaint, however, is summarised as follows:
- report of use of handcuffs as a restraint – chains used to attach a child to a bed – handcuffed to permanent fixtures – medication to subdue violent behaviour – resident child attached to swimming pool fence for a whole night – all inappropriate management.¹⁰²
- 3.103 It is open to the Committee to conclude that this reflects a history of what is appropriately defined as abuse of children, and a failure of duty of care. Further, it is conceivable that some incidents, within the volatile JOYC environment, may have been considered by staff at the time as appropriate, even as ‘trivial’. Indeed, Mrs Beryce Nelson’s comment about a culture of protecting adults rather than children would support this contention.

98 ‘Ten year mystery begins to unravel’, *The Justice Project*, at <http://gwb.com.au/gwb/news/goss/2000b.htm>; see also Chairman, *Transcript of Evidence*, 27 October 2003, p. 1361.

99 Mr Coyne submitted to the Senate inquiry in 1995 that he had answered Mr Heiner’s questions for a ‘whole day’ on 11 January 1990; see Mr Bruce Grundy, *Submission 172.1*, p. 1.

100 Mr Bruce Grundy, *Submission 171.2*, Attachment.

101 Mr Kevin Lindeberg, *Transcript of Evidence*, 27 October 2003, p. 1360.

102 Mr Bruce Grundy, *Submission 171.2*, Attachment.

Motives for the shredding - the role of the unions

- 3.104 Some of the evidence referred to above led the Committee to investigate the role relevant unions may have played at JOYC. As observed previously, the Forde inquiry had found ‘factional tensions’ to be a significant factor in the problems at JOYC.
- 3.105 Mr Desmond O’Neill was an Executive Member of the then Queensland State Service Union (QSSU) at the time of the Heiner inquiry. Mr O’Neill told the Committee that the operation of JOYC had become dysfunctional in 1989, with an ‘us and them’ attitude between members of the four unions represented at JOYC. Managerial and professional staff were represented by the QPOA, teachers by the Queensland Teachers’ Union (QTU), youth workers primarily by the QSSU, and some youth workers and other staff by the Australian Workers’ Union (AWU).¹⁰³
- 3.106 Mr O’Neill apprised the Committee of a QSSU Executive Meeting at which the Executive was advised of plans for the establishment of the Heiner inquiry by the Director of Industrial Services, Ms Janine Walker. The Executive was told that there had been complaints against Mr Coyne by JOYC employees, but there were also ‘complaints of a very sensitive nature which Ms Walker could not disclose to the Executive’.¹⁰⁴
- 3.107 Mr O’Neill stated he believed Mr Coyne held information on some staff members indicating physical abuse, including an AWU workplace representative or union delegate.¹⁰⁵ Mr O’Neill also made this important observation:
- I have no doubt that the youth worker staff were keen to tell Mr Heiner of the pack rape, which occurred at the Portals as only the professional staff were on this particular outing and it was seen as a stuff-up ...
- I believe that if there was any push by the unions at the JOYC to shred the Heiner documents that the most likely source was the AWU.¹⁰⁶
- 3.108 This appears to support Mrs Beryce Nelson’s belief that the findings of the Heiner inquiry created panic:

103 Mr Desmond O’Neill, *Submission 172*, p. 2.

104 Mr Desmond O’Neill, *Submission 172*, p. 2.

105 Mr Desmond O’Neill, *Submission 172*, p. 3.

106 Mr Desmond O’Neill, *Submission 172*, p. 4.

I think the findings were so damaging against some key players at the John Oxley centre that it became a union catfight – it was the fors and the againsts, and anyone that wanted to keep the inquiry going was just destroyed and pushed aside.¹⁰⁷

- 3.109 Mrs Nelson believes that the briefing document written by Mr Ian Peers to Ms Ruth Matchett, the Acting Director-General of the Department, demonstrates that ‘they were not panicking about the abuse that was happening at the centre’; rather, they were ‘panicking about their mates getting into trouble’.¹⁰⁸ According to Mrs Nelson:

It is very clear that pressure was brought to bear on the director-general and the minister to shut down the inquiry ... the briefing document that Ian Peers wrote for the acting director-general at the time in terms of how to deal with the matter of the inquiry ... indicates quite clearly that there was no concern – there is not one mention in there about what was happening to the children. The whole thing is about protecting the people who were on the staff or in the department.¹⁰⁹

- 3.110 Mr Heiner did not recall any particular competition between the AWU and the QPOA during his inquiry¹¹⁰ and did not think unionism played any part.¹¹¹

- 3.111 The Committee notes the following comment in *Archives and the Public Good: Accountability and Records in Modern Society*:

Was the Goss government, which decided to terminate the Heiner inquiry and destroy the records, acting under Labor union pressure to protect the interests of union members? Coyne belonged to one union, The Queensland Professional Officers Association, and his complaining staff to another, The Queensland State Service Union. When the government’s actions were subsequently called into question, the Attorney-

107 Mrs Beryce Nelson, *Transcript of Evidence*, 18 June 2004, p. 1786.

108 Mrs Beryce Nelson, *Transcript of Evidence*, 18 June 2004, p. 1790; Mrs Nelson is referring to *Exhibit 127*, Memo from Mr Ian Peers to Ms Ruth Matchett, undated.

109 Mrs Beryce Nelson, *Transcript of Evidence*, 18 June 2004, p. 1790.

110 Mr Noel Heiner, *Transcript of Evidence*, 18 May 2004, p. 1695.

111 Mr Noel Heiner, *Transcript of Evidence*, 18 May 2004, p. 1696.

General stated: 'The Goss government's sole motivation was to protect Noel Heiner'.¹¹²

- 3.112 The Committee was unable to reach a conclusion concerning the role of the unions in the Goss Government's decision to shred the Heiner inquiry documents. There is however sufficient evidence to demonstrate that there was conflict between unions and the members they represented at JOYC at the time and allegations may have been aired at the Heiner inquiry accordingly. The Committee also notes that the Goss Government was beholden to the AWU and its leadership for its win in the 1989 election. According to Mrs Nelson, the AWU was:

the leading faction in the election of the Goss government and certainly was the powerful force within that government. It remains the powerful force within the current government ...¹¹³

- 3.113 AWU members who were employed at JOYC 'had to be protected at all costs. The children were of less relevance, of less value.'¹¹⁴
- 3.114 The Committee found the following questions asked by Mr Lindeberg indicative of this:

Mr Coyne was a middle-ranking public servant. Why would you move him? You find documents where the minister, Ms Warner, said, 'We knew about the problems before we got into government.' The question is: what were the problems? Were the problems about abuse of kids at the centre? If they were, and if the government were fair dinkum about the rule of law and looking after kids, Mr Coyne and anybody else who was engaged in abusing kids should have been put before police. That is what should have happened. There is no doubt that certain unions, including the AWU and the state service union, wanted Mr Coyne out of the place, and they were both well connected to the ALP at that point in time.¹¹⁵

112 Quoted from *Archives and the Public Good: Accountability and Records in Modern Society* (2002), edited by Richard J. Cox and David A. Wallace, by Chairman, *Transcript of Evidence*, 27 October 2003, pp. 1450-1.

113 Mrs Beryce Nelson, *Transcript of Evidence*, 18 June 2004, p. 1785.

114 Mrs Beryce Nelson, *Transcript of Evidence*, 18 June 2004, p. 1792.

115 Mr Kevin Lindeberg, *Transcript of Evidence*, 27 October 2003, p. 1438.

The response by the Queensland Government

The CJC investigation

- 3.115 The Committee received extensive evidence that the investigation of the rape allegations by the CJC was inadequate and potentially obstructive, lending further credence to Mr Lindeberg's view of the CJC as a protagonist in the matter.
- 3.116 Mr Grundy told the Committee that the CJC investigated the rape allegations following the publication of his first story in November 2001. The Committee notes that the documentation was only made available to Mr Grundy under Freedom of Information legislation following the article in *The Courier-Mail* newspaper.
- 3.117 Prior to publication of the story, Mr Grundy had been advised by the Department of Family Services and the police that no records were held. In light of documentation provided by Mr Grundy, the Committee considers that this was an inaccurate response by the CJC. In particular, the Committee notes that the CJC would have had access to the documentation in full, without the sections as deleted, which may well have provided further information to the CJC. The CJC would have been aware of the age of the girl and the Committee considers their refusal to address the matter to be reprehensible.
- 3.118 Following the 3 November 2001 story by Mr Grundy in *The Courier-Mail* newspaper, the CJC was asked to investigate whether there had been 'official misconduct'. According to its press release, the CJC found:
- there is 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.¹¹⁶
- 3.119 The conclusion appeared to have been reached following a search of Department of Family Services records which showed the allegations had been referred to police and that the girl had been examined by a paediatrician at the time.
- 3.120 The Committee notes however, that the media release occurred only two weeks following the appearance of the story in *The Courier-Mail*

116 *Exhibit 117*, Criminal Justice Commission Press Release, 'CJC Completes Investigation of Alleged Rape Cover-up', 16 November 2001.

newspaper, which does not appear to be sufficient time to investigate thoroughly.

- 3.121 The Committee concurs with Mr Grundy that the CJC appeared to have come to a ‘remarkable conclusion’:

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 – scot 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.¹¹⁷

- 3.122 Mr Grundy told the Committee:

what I find staggering about that is that the Criminal Justice Commission excused those people – the manager and the staff. They knew what had happened to the girl the day it happened, before she got back to the centre. She should have been dealt with properly, and she was not.¹¹⁸

- 3.123 Mr Grundy told the Committee that the CJC had contacted him with regard to the incident referred to earlier, where a woman had alleged that she had been raped in her cell by a worker and taken to his place on weekend release. According to Mr Grundy, the CJC had asked him if he would ‘encourage the girl to come forward’ since the CJC had been in touch with the Department, which apparently could not identify who the girl was.¹¹⁹ Mr Grundy related to the Committee the girl’s story, noting that he had asked at the time ‘how many people in care would fit that description? It would surely be no more than one.’¹²⁰ Mr Grundy also pointed out that:

for the department to say that it did not know who she was simply extends the bounds of credulity to a point that is way beyond what I would accept.¹²¹

117 Mr Bruce Grundy, *Submission 171.1*, p. 10.

118 Mr Bruce Grundy, *Transcript of Evidence*, 27 October 2003, p. 1393.

119 Mr Bruce Grundy, *Transcript of Evidence*, 27 October 2003, p. 1400.

120 Mr Bruce Grundy, *Transcript of Evidence*, 27 October 2003, p. 1400.

121 Mr Bruce Grundy, *Transcript of Evidence*, 27 October 2003, p. 1400.

- 3.124 When Mr Grundy subsequently spoke again to the woman, she told him that she had been contacted by the Department and advised that there was no point in suing them.¹²²
- 3.125 The CJC press release was issued just weeks prior to the merger of the CJC with the Queensland Crime Commission to become the Crime and Misconduct Commission on 1 January 2002. According to Mr Lindeberg, he had been advised by the Crime Commission that the alleged pack-rape fell within the legal definition of ‘criminal paedophilia’¹²³ and the Commission had a standing reference to investigate such crimes.¹²⁴ Mr Lindeberg advised that there is no evidence of any action taken, and the *Crime and Misconduct Act 2001* repealed the standing reference to investigate criminal paedophilia as at 1 January 2002. No further action was taken by the Crime and Misconduct Commission.¹²⁵
- 3.126 The Committee also notes that complaints of abuse at JOYC had been referred to the CJC previously: as noted earlier, Mr Lindeberg had told the *Sunday* program that he had met a JOYC youth worker in 1997 who had told him that he had contacted the CJC on ‘a regular basis’ with regard to allegations of suspected child abuse. *Sunday* confirmed complaints to the CJC in 1994 and 1997 with the youth worker.¹²⁶

The Forde inquiry

- 3.127 The findings of the Forde inquiry have already been covered in this Chapter. However, the Committee has also been presented with

122 Mr Bruce Grundy, *Transcript of Evidence*, 27 October 2003, p. 1400.

123 Subsections 6(1) and (2) of the *Crime Commission Act 1997* defined ‘criminal paedophilia’ as follows: ‘“Criminal paedophilia” means activities involving – (a) offences of a sexual nature committed in relation to children; or (b) offences relating to obscene material depicting children. (2) It is immaterial whether the offence is committed in Queensland or elsewhere if the offender or the child is ordinarily resident in Queensland.’ This definition of ‘criminal paedophilia’ is essentially the same as that contained in Schedule 2 of the *Crime and Misconduct Act 2001*.

124 Mr Kevin Lindeberg, *Submission 142*, p. 35.

125 Mr Kevin Lindeberg, *Submission 142*, p. 36. Subsection 355(2) of the *Crime and Misconduct Act 2001* states: ‘However, the standing reference to investigate criminal paedophilia mentioned in section 46(7) of the repealed Crime Commission Act 1997 ended on that Act’s repeal.’ The Committee notes that the website of the Crime and Misconduct Commission states that the CMC ‘combats major crimes such as paedophilia, drug trafficking, extortion and murder, in collaboration with police taskforces’; see <http://www.cmc.qld.gov.au/BEGINNINGS.html>

126 ‘Queensland’s Secret Shame’, Channel NINE *Sunday* program, 21 February 1999.

evidence that the Forde inquiry failed to exhaustively investigate abuse at JOYC.

- 3.128 According to Mr Lindeberg, the Forde inquiry rejected his submission that it examine the shredding of the Heiner documents, claiming it fell outside the terms of reference for the inquiry.¹²⁷ Without judging the appropriateness of that response, there is no doubt that the incident of the pack-rape, as well as other potential instances of sexual and other abuse, would fall within the Forde inquiry's terms of reference.
- 3.129 According to Mr Grundy, 'the woman who created the Heiner inquiry' (it is presumed he referred to Minister Nelson) had provided a submission to the Forde inquiry, mentioning that:

one of the things which bothered her at the time of setting up the inquiry was the information she had that staff at the centre were using children for their vicarious sexual pleasure – or words to that effect.¹²⁸

- 3.130 The Committee notes, however, that the Forde inquiry report, while making a number of general observations about the shortcomings at JOYC in terms of staff, management and facilities, confined its investigation of abuse to three alleged incidents of handcuffing.¹²⁹ There is no mention of any sexual abuse, although the inquiry would have been able to gain access to the relevant documents. Mr Grundy also told the Committee that, at the time of the Forde inquiry,¹³⁰ the inquiry was already aware of a number of other incidents of abuse.
- 3.131 Mr Grundy advised the Committee that when public hearings were conducted by the Forde inquiry into JOYC matters, 'it was the handcuffing incident that was the thrust of the public hearings.'¹³¹ The witnesses were all questioned about that, but:

what they were not questioned about was what was already on the public record in the Morris-Howard report, and that was an improper relationship between the member of staff and that girl.¹³²

127 Mr Kevin Lindeberg, *Submission 142.2*, pp. 18-19.

128 Mr Bruce Grundy, *Transcript of Evidence*, 27 October 2003, p. 1387.

129 *Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions*, 1999, Chapter 7.

130 *The Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions*, 1999, was presented to the Queensland Legislative Assembly on 31 May 1999.

131 Mr Bruce Grundy, *Transcript of Evidence*, 27 October 2003, p. 1397. Mr Grundy here refers to a girl who was handcuffed; Mr Heiner thought it was a boy.

132 Mr Bruce Grundy, *Transcript of Evidence*, 27 October 2003, pp. 1397-8.

3.132 Mr Grundy further advised that there is:

a document referred to in Morris-Howard indicating that a member of staff was recommended for disciplinary action because letters were being exchanged with an inmate ... this exchange of letters had occurred and it was seen as improper to the point that a man was recommended for disciplinary action, but no disciplinary action was taken against him ... he was given permanency and an increase in salary.¹³³

A further cover-up?

3.133 Mr Grundy told the Committee that, shortly after the rape victim had lodged a claim for compensation, a warrant was issued (on 23 December 2002) for her arrest for a violation of parole.¹³⁴

3.134 Mr Grundy told the Committee he had found it a strange coincidence that the warrant was issued at that time, considering the violation of parole had taken place some years prior. He also commented on the fact that the system appears to continue to violate the young woman, while the perpetrators of the rape, as well as those who initiated and continue in the cover-up, go 'scot free'. Mr Grundy said that:

within a matter of days of the state being advised that the girl had filed a second claim, a warrant for her immediate arrest for a parole breach five years ago was taken out by the Department of Corrective Services.¹³⁵

3.135 He also commented that:

when two apparently unrelated incidents intersect, you can call that a coincidence. When three or 300 – or, in this case, 3,000 – intersect, you do not call that a coincidence any longer. You call it a pattern.¹³⁶

3.136 Mr Grundy questioned why there had been no action when she actually breached parole some five years earlier. Rather, the State chose to act shortly after she had lodged a claim against the State for the abuse while she was in the State's care - the warrant was signed

133 Mr Bruce Grundy, *Transcript of Evidence*, 27 October 2003, p. 1398. Mr Grundy advised the Committee that he possessed copies of some of those letters.

134 *Exhibit 117*, Warrant for Arrest and Conveyance of Prisoner to Prison, 23 December 2002.

135 Mr Bruce Grundy, *Transcript of Evidence*, 27 October 2003, p. 1388.

136 Mr Bruce Grundy, *Transcript of Evidence*, 27 October 2003, p. 1389.

on 23 December 2002, '19 days after the writ was filed for the second claim'.¹³⁷

3.137 Mr Grundy also told the Committee he thought it relevant that the warrant for the young woman's arrest had been signed by Mr Noel Nunan, now a Brisbane magistrate. Mr Nunan, when a barrister, had been contracted by the CJC to investigate the Lindeberg allegations concerning the shredding of the documents. As discussed in Chapter 2, the Committee was provided with evidence that the CJC's investigation of the Heiner Affair was, at best, inadequate, and, at worst, a cover-up by the CJC.

3.138 Mr Lindeberg referred to the Labor connection when he told the Committee:

the first time [the Heiner Affair] went to the PCJC [Parliamentary Criminal Justice Commission] Mr Beattie was the chair of that, and I said that it had not been investigated properly. He sent it back to the CJC to be looked at. Mr Barnes had carriage of it at the time. He just happens to be – and this has to be said – a Labor lawyer. He just so happened to commission Mr Noel Nunan, who just happened to be an ALP activist, an ALP member and a Labor lawyer. By any degree of ethics, he should not have been within a mile of that case because of his conflict of interest. He did not declare that to me and he was quite happy to take the case.¹³⁸

3.139 The Committee further notes that Mr Michael Barnes, the former CJC Chief Complaints Officer who signed off on Mr Nunan's investigation of the Lindeberg complaint, was appointed the Queensland State Coroner on 1 July 2003.

3.140 Mr Grundy told the Committee of a further incident that was of concern relating to a shotgun murder some 10 years earlier. The injured man found at the scene of the murder had never been interviewed by police nor the coroner. That man had the same name as one of the boys at JOYC involved in the sexual assault of the girl:

I think it is quite remarkable that somebody could be associated with two of the most serious crimes in our Criminal Code – one is murder and the other is rape – and in neither case be investigated or questioned about it.¹³⁹

137 Mr Bruce Grundy, *Transcript of Evidence*, 27 October 2003, p. 1392.

138 Mr Kevin Lindeberg, *Transcript of Evidence*, 27 October 2003, p. 1438.

139 Mr Bruce Grundy, *Transcript of Evidence*, 27 October 2003, p. 1410.

- 3.141 The material presented by Mr Grundy does indicate potential linkages between seemingly unrelated incidents, and the Committee believes further investigation is necessary.

Conclusion

- 3.142 The Committee understands that the two facts of the shredding of the Heiner inquiry documents and the evidence of abuse at JOYC could lead to a conclusion that the Heiner inquiry documents were shredded to protect people *because* they contained serious allegations of abuse. This is the conclusion arrived at by Messrs Grundy and Lindeberg.
- 3.143 The Committee considers this to be a reasonable conclusion. It further accepts the view that, if that were the case – that is, the Heiner inquiry documents did indeed contain serious allegations of child abuse including possibly allegations as a pack-rape of a minor – shredding the documents was not only illegal, but also immoral.
- 3.144 The Committee notes that the very fact that the Queensland Government admitted that the Heiner records included material that was potentially defamatory,¹⁴⁰ along with the hurry with which the documents were destroyed, would certainly suggest that the documents contained allegations of child abuse and (potentially criminal) misconduct by staff at JOYC.
- 3.145 Unlike other inquiries into the Heiner Affair before it, this Committee has had the benefit of evidence given by Mr Noel Heiner, which raises some doubts as to the evidence contained in the documentation gathered by him, including, in particular, the alleged pack-rape incident.
- 3.146 On the other hand, Mr Heiner admitted to the Committee that his memory of the events was sketchy, and Mr Grundy and Mrs Nelson in particular have drawn the Committee's attention to inconsistencies within his evidence.
- 3.147 However, the evidence shows that at minimum, two cases of abuse were brought to the attention of Mr Heiner – one of handcuffing and another of sedation.

140 *Exhibit 70*, Letter from Mr Ken O'Shea to Mr Stuart Tait, 16 February 1990.

- 3.148 The Committee accepts that, for the reasons detailed previously in this Chapter, not all instances of abuse may have been drawn to the attention of Mr Heiner. However, there is sufficient documentation to prove that abuse occurred at JOYC.
- 3.149 The Committee found, without reservation, that the evidence suggests certainly misconduct, possibly extending to criminal conduct, by officers within the Department of Families, the CJC, and possibly the Queensland police, in not investigating – and hence covering up - abuse at the Centre. It is clear these agencies knew about the abuse and did nothing. It is also clear that the Forde inquiry did not adequately address these issues.
- 3.150 While these particular allegations may not have been aired to Mr Heiner, the Committee would think that, at minimum, the Minister for Family Services, the Hon Anne Warner, would have been aware of the extent of abuse at JOYC. It would appear highly unlikely that the Minister would not have been briefed by her Director-General, Ms Ruth Matchett.
- 3.151 The Committee concludes that the Queensland Labor Government at the time, as well as successive Governments, have, at minimum, failed in their duty to protect children in their care at the Centre.

Motive for the shredding

- 3.152 As observed in Chapter 2, in 1995, the Senate Select Committee - without the evidence available today - thought that the most plausible explanation for the shredding of the documents was to protect the public purse from the expenses of litigation. In doing so, the individual rights of Mr Coyne were denied and, it could be argued, sacrificed for a reason.
- 3.153 An argument may be made that, if all the problems at JOYC were due to Mr Coyne's shortcomings as a manager, the Goss Government decided to shred the documents because it did not want him to benefit financially from any potential defamation suit against JOYC employees – it may have been protecting the 'whistleblowers'.¹⁴¹
- 3.154 The introduction to this Volume described the Committee's view of a culture in Queensland that puts the protection of adults ahead of that of children. While the Committee is unable to conclusively ascertain

141 The Hon Peter Beattie MP Press Release, 'Federal Liberal Inquiry Will Waste Thousands of Dollars', 27 October 2003.

the exact content of the Heiner inquiry documents, there is sufficient evidence to show the content was such that, at minimum, the careers of public servants employed at JOYC and the Department of Family Services were threatened.

- 3.155 On the evidence available to it, the Committee contends that a decision was taken to protect certain people at the time and possibly, to guard against potential future litigation by children in the care of the State at JOYC.
- 3.156 The Committee has been presented with significant evidence that there may have been a push by the unions, particularly the AWU, to have the documents shredded. Mr Coyne was seeking access to the complaints against him; it is conceivable that, if he would have commenced a defamation action or other legal proceedings, his defence would have included information about staff at JOYC, including abuse such as that revealed by the 'Dutney Memorandum'.
- 3.157 Mrs Beryce Nelson's comment is pertinent:

I believe the inquiry was not shut down to protect the innocent; the inquiry was shut down to protect the guilty behaviour of some members of the AWU who were operating at the John Oxley centre at the time. That particular union was the leading faction in the election of the Goss government and certainly was the powerful force within that government. It remains the powerful force within the current government, and I think it exercises the same powers of collusion and concealment in cases that are before the public at the moment ...¹⁴²

- 3.158 Mrs Nelson further advised the Committee:

The simple fact is that I set up an inquiry to find out the facts about serious allegations about the operations of JOYC and that children detained there were being seriously physically and/or sexually abused. Evidence was obtained and the newly incoming Government ignored that evidence, destroyed it, and closed down the inquiry. The children remained at risk because their needs were ignored to protect the position of the newly elected Labor government.¹⁴³

142 Mrs Beryce Nelson, *Transcript of Evidence*, 18 June 2004, p. 1785.

143 *Exhibit 115*, Signed statement by Mrs Beryce Nelson, 15 May 1998, p. 4.

- 3.159 The Committee's inquiry into the Heiner Affair has raised further questions. Accordingly, the Committee does not accept the Queensland Government's position that the Heiner Affair has been investigated to the 'nth degree'.
- 3.160 As concluded in Chapter 2, the evidence presented to the Committee demonstrates that the destruction of the Heiner documents constitutes an indictable offence.
- 3.161 However, the question with regard to the motive of the Goss Government in shredding the documents is somewhat less clear. The evidence presented to the Committee raises doubts according to exactly what the Heiner documents contained, although it certainly appears that there was 'a culture of concealment and collusion that occurred in the early part of 1990',¹⁴⁴ which, arguably, continues to this day.
- 3.162 The Committee is also cognisant of the fact that, given the documents have been shredded, the actual content may never be fully brought to light. Having regard to the fact that the paper trail would therefore necessarily be limited has informed the following Committee recommendation:

Recommendation 3

- 3.163 **That a special prosecutor be appointed to investigate all aspects of the Heiner Affair, as well as allegations of abuse at John Oxley Youth Centre that may not have been aired as part of the Heiner inquiry and may not have been considered by the Forde or other inquiries.**

That this special prosecutor be empowered to call all relevant persons with information as to the content of the Heiner inquiry documents, including but not necessarily limited to:

- **Public servants at the time, including staff of the then Department of Family Services, the Criminal Justice Commission, Queensland Police, and the John Oxley Youth Centre**
- **Relevant union officials**

That the special prosecutor be furnished with all available

144 Mrs Beryce Nelson, *Transcript of Evidence*, 18 June 2004, p. 1785.

documentation, including all Cabinet documents, advices tendered to Government, records from the John Oxley Youth Centre and records held by the Department of Family Services, the Criminal Justice Commission and the Queensland Police.

- 3.164 As detailed earlier in this Chapter, there is some evidence to suggest allegations of further sexual abuse have continued at JOYC into the 1990s. One allegation in particular concerns a rape in 1991 of an inmate by a youth worker, revealed in an interview with the woman on ABC radio. The Committee is of the belief that this, and other further abuses, could have been prevented, had government agencies not failed in their duty of care when the pack-rape occurred.
- 3.165 The Committee also concludes that by shredding the evidence provided to Mr Heiner, the apparent culture of abuse was allowed to continue. This has informed the following recommendation:

Recommendation 4

- 3.166 **That the Commonwealth, through the Council of Australian Governments process, obtain a commitment from the States and Territories to legislate to require the retention for 30 years of documentation relating to allegations of abuse of children.**
- 3.167 The Committee also concludes that there is evidence of abuse at JOYC which appears not to have been investigated exhaustively by the Forde inquiry or the CJC. Indeed, the investigation of the CJC at least arguably points to a cover-up. Despite the limitations of the Forde inquiry with respect to abuse at JOYC, it did uncover much evidence of abuse at other institutions, both state and privately run.
- 3.168 Of grave concern to the Committee is the fact that serious abuse in Queensland institutions, and particularly in youth detention centres, appears to be continue unabated – despite the Forde inquiry in 1999. For example, on 17 June 2004, *The Courier-Mail* newspaper reported allegations of staff brutality, including the beating of children while handcuffed, at the Brisbane Youth Detention Centre. That Centre opened in 2001 as the replacement for JOYC.

3.169 Indeed, the Committee tends to concur with Mr Grundy's statement that child abuse in Queensland is an 'endemic problem' and 'not confined to the state-run institutions'.¹⁴⁵

¹⁴⁵ Mr Bruce Grundy, *Transcript of Evidence*, 27 October 2003, p. 1386.