

**The Secretary  
Select Committee into the Lindeberg Grievance  
The Senate  
Parliament House  
CANBERRA 2600**



Dear Sir/Madam

### **Introduction**

In response to the Committee's advertisement seeking submissions in this matter I provide the following information.

1.1 All material I have recently published about the abuse of children in the John Oxley Youth Detention Centre, the associated cover-up by public officials at the time, and since, matters related to the meaning and operation of the Rule of Law and the double standards that operate in that regard in Queensland, the charging, committal and trial of a citizen for destroying evidence, deceit and dishonesty by public officials in Queensland, and other related matters can all be accessed via: [www.justiceproject.net](http://www.justiceproject.net) and the link to abuse of children at the John Oxley Youth Detention Centre. A substantial amount of this material has already been provided to the Children in Institutional Care and Crime in the Community committees of the federal parliament.

2.1 In addition a great deal of material extending back many years is also available via the Internet at *The Weekend Independent* and *The Queensland Independent* archives. Recent stories in *The Independent Monthly* are accessible as pdf files via *The Justice Project* web site.

3.1 I have also provided two written submissions, two opening verbal submissions and two brackets of evidence to the House of Representatives Legal and Constitutional Affairs Committee of Inquiry into Crime in the Community. I suggest this material is available via the federal parliament's Hansard record.

4.1 Further, and in particular, I enclose a copy of material I provided to the House Committee relating to the pack rape of a 14-year-old girl in the custody of the State of Queensland at the John Oxley Youth Detention Centre (Enclosure A). I also draw your attention to the evidence given to that Committee by a former youth worker at that facility, the transcript of an interview he gave ABC Radio regarding that incident (Enclosure B) and to an audio tape I subsequently provided to that Committee. The man concerned has said he appeared before the Heiner Inquiry into the John Oxley Centre and was questioned about the rape.

5.1 The documents relating to the rape incident have been in the possession of the government of Queensland since they were created in 1988, and their contents known to an unknown number of officials and former officials (and certainly to some former Ministers). Those documents reveal that a crime was committed and covered-up by a range of public officials and agencies.

Given the Goss government's decision to instruct public officials in Queensland not to cooperate with the Senate's Unresolved Whistleblower Cases Inquiry, it is for you to determine whether this cover-up extended to misleading your colleagues in the Senate. Naturally I am unaware of the nature of the contact the Senate's 1995 Committee (or any other) had with the government of Queensland at that time and the extent to which the matter of the rape comes within your terms of reference. I am simply responding to the wording of your advertisement calling for submissions to your inquiry.

6.1 It is quite clear, however, given the passage of time since I first ran the story (November 2001), that the authorities in Queensland have no intention of doing anything about the matter of the rape and indeed, on the contrary, go on perpetuating the cover-up of one of the most serious of crimes. They also intend doing nothing about those who destroyed evidence (Heiner Inquiry) of what happened in the John Oxley Centre despite a citizen being convicted in a case involving a much less serious destruction of evidence. In other words, we have two systems of law in Queensland, one for politicians and senior public officials and one for the rest of us, and if nothing is done, that system will remain in place to the great advantage of some and the great disadvantage of others.

7.1 These are serious issues and the question I wish to raise is, how does the Federal Parliament deal with such a reality – a reality that allows one member of the Federation to operate outside the demands of The Rule of Law, while as a nation we assert across the globe that we adhere strenuously to such a concept, and that all our citizens are treated equally before it. As a nation we sign international covenants to that effect thus making claims that are clearly not true. What does the Senate and the Federal Parliament of this Federation intend to do about these things?

8.1 If nothing can be done, then we have a serious situation on our hands. And we should cease misrepresenting ourselves.

8.2 The Senate has determined to look at this matter many times. But each time all that has been achieved is a negative outcome. Its findings have only given comfort to those who assert (disingenuously) that this matter has been investigated "to the nth degree", or more times that the current state premier has had "hot breakfasts" or "dinners" as the case may be.

8.3 It is my submission that if the Senate does not have the capacity to get to the bottom of the crimes involved in this case (because it cannot question those involved), then it would be better to either establish a body such a Royal Commission to do the job, or simply leave the field. Yet another exercise in either accepting that Queensland authorities can do what they like because the federal parliament has no constitutional power over them, or another exercise in accepting nonsense as evidence from Queensland public officials (such as Mr Barnes, Mr Le Grande and Mr O'Regan) as occurred in 1995), will just bring the process into disrepute.

8.4 The Senate has an opportunity to show that indeed the Rule of Law does exist in Australia; to expose those who allowed some people to escape justice while others have had to face the music in Queensland; to expose the cover-ups that have occurred in relation to serious crimes (rape and destruction of evidence, for starters) and to expose those who put those cover-ups in place and those who, over the years, have supported and perpetuated them.

8.5 Queensland has to be purged. Fitzgerald did not solve the problem of corruption in this state. What has happened since is worse than anything he discovered. Now we have an attack on the very fabric of what defines a democratic, civilised society. If the Senate cannot deal with the issue, then it must say so. As it stands, ours is not a modern, 21st Century, enlightened, democratic society at all. It is Dodge City. The sheriff can shoot you if he wishes. It is the Wild West.

8.6 If this matter is not brought to a head, if crimes against girls can be ignored, if cover-ups are acceptable, if there is nothing that can be done, then all that will happen is the matter will drag on. We have not yet reached the bottom of the John Oxley case. There is more to come. And it will come out. When one does not have coercive powers, or access to the records, it just takes time to get there. But one gets there in the end.

9.1 And in my case, at least, I will get there. I have now revealed that at least three girls were raped in that place (one three times) and I have revealed other serious abuses of residents in John Oxley (and Sir Leslie Wilson) and will press on with my inquiries because the above is not an exhaustive list.

9.2 So, the stories, I am confident, will continue to emerge, month after month as they have for years now. My inquiries will go on.

9.3 After all these years the public of Queensland and now Australia has finally come to realise it has been duped by governments and politicians and the lazy media about the Heiner matter. It is now demonstrable that rapes were covered up; and that a citizen was tried and convicted for doing something less serious than others who were conveniently excused by the legal establishment in this state. These are not matters of conjecture or wild assertion. These are facts. And unless the matter is cleared up, we will all be able to laugh out loud each time we hear politicians and public officials and judges and others go on about the Rule of Law and the independence of the police, and the courts, and the prosecuting agencies, and the separation of powers, and the like. The system has been reduced to the status of the Emperor. No clothes. Naked.

10.1 It is my submission that:

10.2 Serious crimes were committed at John Oxley before and after the closing down of Heiner Inquiry;

10.3 Some of these at least were covered up (knowingly) by those who closed down the inquiry and shredded the evidence it had taken;

10.4 The cover-up was perpetuated and maintained against the interests of the law, justice, certain individuals and the public at large by a variety of politicians, public officials, senior legal officers, the Criminal Justice Commission (Crime and Misconduct Commission) while others (including the legal profession, civil liberties groups, the Bench, and even the Governor) chose to look the other way;

10.5 In the process of the above a range of illegal activities were entered into by various people referred to above in an attempt to conceal the truth and to subvert the rule of law and the interests of justice.

11.1 I will address the above step by step.

### 12.1 **The closing down of the Heiner Inquiry.**

12.2 We do not know precisely what was destroyed when the Heiner material was shredded, but what we do know is very disturbing. For example:

12.3 We have been told by a youth worker in interviews given to me, to the ABC and from evidence given to the Bishop Committee that Heiner raised the matter of a girl in custody in John Oxley being raped.

12.4 We are also told from evidence given to the Forde Inquiry by Youth Worker Mr Trevor Cox (Enclosure C) that "a lot of paperwork from that period was subpoenaed by Mr Heiner". Was the document relating to the Lower Portals incident (Enclosure A) among that material, as would seem likely? If so, it was shredded.

12.5 We also know from material provided to the Forde Inquiry (Enclosure D) that the Minister who established the Heiner Inquiry had received information that "some boys and girls were being forced into sexual activity against their wishes, for the benefit of others" and that "some staff were physically and sexually abusing children in their care". It is surely time the people who gave this information were questioned about such matters. If these matters were brought to the attention of the Minister prior to the establishment of the inquiry, is it not likely they were raised with Mr Heiner during the interviews (35 we are told) he had with staff?

12.6 We also know, that prior to the closing down of the inquiry, Mr Peers who had line responsibility for the running of John Oxley, raised in a document (Enclosure E) to his ultimate superior, Ms Matchett, the possibility that Mr Heiner might recommend a police investigation. Mr Peers said, for instance, "... He [Mr Heiner] could be requested to report in a particular form to overcome some of the potential dangers". Potential dangers? What kind of dangers? Abuse of inmates perhaps?

12.7 Mr Peers suggested Mr Heiner might report in three parts.

*"Part A should be a written document able to be released publicly. It should do no more than answer the specific issues in line with the Terms of Reference, for example:*

- Is there any evidence which should warrant a police investigation?
- Is there any evidence upon which disciplinary action by this Department might be based?"

Given that a member of the Family Services staff had been provided by the department to assist Mr Heiner, is it not likely that the department was aware of at least some of the material being placed before Mr Heiner? The woman concerned was certainly present when the Youth Worker who said Mr Heiner asked him about the rape was interviewed.

12.8 We also know that within a matter of days of the Heiner evidence being shredded, the Acting Manager, Ms Dutney, wrote a memorandum (Enclosures F and G) to her superiors pointing out a number of very serious disciplinary matters relating to staff performance and behaviour (the Dutney Document ). Is it not likely she, or others, would have raised these matters with Mr Heiner, or that he would have become aware of them via the "subpoenaed" materials he obtained?

12.9 In documents tendered at the Forde Inquiry, former Youth Worker Fred Feige said he raised the matter of handcuffing at the Centre, and specifically the incident in which residents were handcuffed in the open overnight, in a submission to Mr Heiner. If so, this highly significant material concerning the abuse of children in the care of the state, was consigned to the shredder. Document can be provided.

12.10 In his evidence to the Forde Inquiry, former John Oxley manager Peter Coyne referred to a document he produced in which he assessed the suitability of JOYC staff. Two of the criteria he used in the production of that document (Enclosure H) was whether staff physically or sexually abused JOYC residents. Did Mr Coyne not raise such matters with Mr Heiner?

12.11 In other words, there is direct evidence, and circumstantial evidence, that extremely serious matters were covered-up by the closing down of the Heiner Inquiry and the subsequent shredding of the material it had gathered.

### 13.1 The shredding.

13.2 This was an illegal act. Cabinet documents released to the state parliament reveal Cabinet knew the material was being sought by a firm of lawyers. That is the end of the matter. The Premier of the day was a lawyer. The Attorney was a lawyer. The rest of Cabinet were law-makers. It is and always has been inconceivable that that group of people did not know that shredding material likely to be needed for a legal proceeding was against the law. And whether they claim they got legal advice approving such action is irrelevant. Bad legal advice does not overwhelm the processes and demands of the law. Otherwise we would have no need for police and the courts. We would all go and get bad legal advice and go free.

13.3 Apart from the above, the Director-General of the Department and the Archivist had a duty under their relevant Acts to ensure the documents were protected.

13.4 Claims that the material had to be destroyed to protect public servants from legal action are, first of all, nonsense (given the reality of the existence of qualified privilege in the Heiner inquiry environment and revelations in the media that Cabinet had approved immunity for those involved in the inquiry – see Enclosure I ) but secondly, such an admission acknowledges that a legal action was potentially likely, and therefore the documents had to be preserved. The claim is self defeating. And Mr Heiner told the Bishop Committee on May 18 that he had been given immunity from any action arising out of his inquiry.

13.5 Hypocritically, the claim was later made that the material had to be destroyed to protect Mr Heiner (and others) from legal action (see statement to parliament by Minister Warner in enclosed material provided to the Bishop committee). In the matter of hypocrisy it was later claimed that the Anglican Church Child Abuse Inquiry report had to be preserved ... and was given the protection of the state parliament to ensure that protection! Again, one rule for some, another for others.

#### 14.1 **The Cover-ups.**

14.2 Almost the entire gamut of government, including members of parliament, Ministers, parliamentary committees, the police, the so-called watchdog agencies (CJC/CMC), the office of the Director of Public Prosecutions, court officials and numerous senior public officials have either been directly involved in the cover-up, or have deliberately and against the demands of their office, looked the other way to protect their mates and political masters. In the interests of brevity, I believe the identity of most of these individuals and agencies have been revealed over the years this matter has been alive. I am confident Mr Lindeberg's various submissions will have brought them to your attention and will not go over them again unless you wish me to. The separate contribution I could make would be to expand on the Freedom of Information cover-ups I encountered, the detail of the rapes and abuse of children in care and the deceit I encountered in connection with my attempts to obtain court records. I would be happy to expand on these matters should you wish (given the relevance of such matters to the wording of your advertisement).

15.1 **The Dutney Document.** This document is specifically mentioned in the advertisement seeking submissions to your inquiry.

15.2 The existence of this document was revealed by the Morris Howard Report (paragraph 45 page 63 Enclosure J). The content of the document became public for the first time after I sought a copy of it through the processes of Freedom of Information legislation in Queensland.

15.3. Given the Committee's stated desire to consider this document, I raise the following.

15.4. At the outset, like the rest of us, Freedom of Information officers are supposed to be subject to the provisions of the statutes that govern them and to subsequent determinations made by those qualified to do so. However, it is clear that Freedom of Information officers, or some of them at least, march to the beat of a different drum – perhaps in the interests of their superiors, or perhaps their own perceived career prospects. They too, play the cover-up game.

15.5 In the first instance the material I obtained when I sought Ms Dutney's document of March 1, 1990 (written within days of the shredding) had all the names of the staff involved in the various activities raised in that memorandum blanked out (Enclosure F). Such concealment was, frankly, not legal. And I appealed. That my appeal was successful is not the point (Enclosure G). The point is, an attempt was made to conceal from me that which I was entitled to see. That act of attempted concealment should never have occurred. Other applicants, unaware of their rights, may well be put off by such actions. When such actions are discovered, some form of penalty should apply to the public official/s involved. Attempts to conceal information from legitimate applicants is even more starkly revealed in the documents relating to the Lower Portals incident, in particular the blanked out document prepared by Mr Mark Freemantle (Enclosure K). I would humbly suggest the committee seek to interview Mr Freemantle about the contents of that document. Those blanked-out appear to be particularly serious.

15.6. In relation to the Dutney Document, my question to the Committee is this. If it were seen fit for the Queensland government to provide Document 13 (a conveniently manicured version of the overnight handcuffing incident) to the Unresolved Whistleblowers Inquiry, why was the Dutney Document not similarly provided? And further, why were the documents relating to the matter of the rape at the Lower Portals not provided? What made Document 13 special – when other documents relating to serious cases of abuse or failure of care were not afforded such attention? Perhaps there is an answer to this question. But I do not know it. Which is why I raise it.

15.6.1 **On the matter of Document 13**, at first blush I might seem that material provided to the Senate, (keeping in mind that the public service had been instructed not to cooperate with the Committee and was therefore unlikely to be interrogated), was somewhat selective. In other words, at first blush it might seem that material detrimental to the interests of former manager Coyne was provided, but anything detrimental to the interests of others (including union members and officials, and, one can speculate, party members), was not.

15.6.2 The selectivity involved in the material contained in Document 13 provided to the 1995 Senate Committee is quite breathtaking. I located the girl involved in the handcuffing incident. What happened to her, and to her companion that night (which was not far off freezing), was an act of torture. However, it had already been documented that the girl was also the victim of an improper relationship with a member of staff and that nothing had been done about the matter (see Morris and Howard Report pages 31, 32

paragraphs 13–16 Enclosure L ). However, the relevant correspondence on this issue was not passed to the Senate. Nor was the Senate made aware that the staff member concerned was required to stay on for a double shift on the night of the handcuffing and sit on a seat just a few metres away and watch over the girl as she sat handcuffed to the bottom rail of the tennis court fence. Why was the matter of the improper relationship and the correspondence involved not communicated to the Senate along with Document 13? Apart from the fact that it might have raised serious concerns about what had been going on in John Oxley, of course. As would the Dutney Document which was also not provided.

15.7 I have spoken with a number of residents in JOYC at, before and shortly after the time of the Heiner episode. The problem with the Dutney document is quite alarming. Apart from the appalling matter of the Panadol supplier, and the failure of staff to follow orders in the case of the suicidal resident, there is also the matter of sleeping on duty. Getting paid to sleep on duty is an ideal circumstance for anyone. Never mind that, instead of sleeping, you are supposed to be "on watch" – in case something happens. Something such as a fire. Or a suicide attempt. According to what I have been told the individual concerned was a wonderful sleeper. She brought her bedding to work. I have been told it is a miracle that secreted matches or lighters, or the effects of prizing a power point away from the wall, and arcing the 240-volt power to light a cigarette, did not cause one, or several deaths.

15.8 Ms Dutney also refers to a matter of assault and the issue of charges possibly being laid against a staff member.

15.9 However, this document was not one seen by Queensland authorities as relevant to the Senate's 1995 inquiry. I, on the other hand, ask why? Or why not? If the handcuffing document (edited) was, why not the Dutney Document? Or the documents relating to the incident at the Lower Portals? I look forward to an answer.

16.1 **The Forde Inquiry**. A Royal Commission into the abuse of children in Queensland's state and church organisations.

16.2 Despite the gravity of the matters involved, there is no mention in its report of the Forde inquiry considering any of the issues raised in the Dutney Document or in the reports related to the incident at the Lower Portals. This was a Royal Commission into the abuse of children in care. How could such an inquiry have failed to address issues of such gravity? Yet we are told constantly by Queensland authorities that Forde inquiry examined the John Oxley matter and we should all move on.

16.3 The Forde inquiry did, however, examine the matter of JOYC residents being handcuffed in the open overnight.

16.4 But the examination was highly selective in what it chose to hear. For example, Morris and Howard, two years earlier, had specifically reported on certain matters that took place in the John Oxley centre just prior to the handcuffing (as indicated above, page 31, 32 paragraphs 13–16) including



evidence of an improper relationship between a member of staff and a 14 year-old-girl in care. Despite the Forde inquiry later having both in the witness box to answer questions, the matter of any improper relationship (and what that might mean about the abuse of children in care) between them was never raised. It is interesting to note that the staff member concerned was the only member of staff kept on for a double shift that night, and he was required to watch over the handcuffed girl from a seat only a matter of a couple of metres away from where she restrained. Why did the Royal Commission not pursue these matters? Perhaps it would not have been convenient (given the shredding affair) for such things as staff having improper relationships with 14-year-old-girls in their care to come to public attention.

16.5 To summarise. In any event, the Forde inquiry did not reveal: the rape of a 14-year-old Aboriginal girl, despite the matter being clearly documented in some detail in the department's records; any of the abuses and failings outlined in the Dutney document (which was also clearly on record in the department and mentioned in the Morris and Howard Report); nor the reality that the victim of an act of torture was also the victim of improper behaviour on the part of one of her carers (while she was being held on a serious charge – at that stage, murder – and suffering serious stress and depression).

16.6 In essence, the Forde inquiry's examination of the John Oxley Centre is yet another example of a whitewash in a long line of officials whitewashes of what was going on in that place.

17.1 **Rape at the Lower Portals.** I have included copies of documents already provided to the House of Representatives Legal and Constitutional Affairs Committee of Inquiry into Crime in the Community.

17.2 In short these documents reveal: that a girl under the age of consent and a minor was raped while in the care of the State; that nothing was done to investigate the matter or punish those who committed the rape or those who failed to protect her from being raped, or those who placed her in a situation where she was in serious danger from such an assault; that the matter was then hushed up within the department and the police service; and that the matter was subsequently the subject of a whitewash by the Criminal Justice Commission. A member of staff on the trip said in his report that he saw the girl involved and a person whose name is blanked out "embracing" and later that his "suspicions were aroused about possible sexual contact" between the two. I have been told a much more serious version of what occurred. But it is clear from that moment the matter should have been treated as a sexual assault, and it was not.

17.3 In addition, documents in my possession and oral statements made to me by others, including an inmate at the time, reveal that the girl was being physically and verbally assaulted, punched, and threatened over the incident and nothing was done to protect her from that outrageous treatment or to protect her as a complainant in a matter of a most serious crime. The documents can be provided.

17.4 As far as I am aware none of these matters was brought to the attention of the Senate in 1995. Whether they should have been is not for me to judge. I do know, however, that nothing has been done to put these wrongs against the girl to rights, and, indeed, I believe the state is fighting her claim for compensation.

17.5. According to the victim (now a 30-year-old seriously damaged woman) the rapes (and worse) continued ... before and after her release from John Oxley and her placement in care and after the closure of the Heiner inquiry and the shredding of evidence taken.

17.6. My point is, if the Heiner Inquiry had been permitted to report, it is possible that the subsequent outrages perpetrated against this woman (and others) may have been prevented.

#### **18.1. Other victims.**

18.2 I have already reported on the case of another resident who says she was raped in JOYC (and earlier in Sir David Wilson) by staff. She also says other staff knew what was happening to her.

18.3 I have been told of two other JOYC girls who were molested or raped by staff and a reference to one such matter is contained in the Forde Report (page 168). My work on these cases goes on.

18.4 There is also the extraordinary matter of a man with the same name as one of those involved in the rape of the girl at the Lower Portals not only never being investigated over that matter but also never being investigated over the death of another man in a Brisbane street shortly after the Portals incident (and no inquest ever being held into the death). Details of this matter are contained in several articles on The Justice Project web site.

#### **19.1 Conclusion**

19.2 I do not suggest that the above is a complete and exhaustive summary of matters that might concern the committee and would be grateful of an opportunity to place additional material before you if necessary as your hearings progress.

#### **20.1 Other enclosures:**

I enclose other materials that may be relevant or useful.

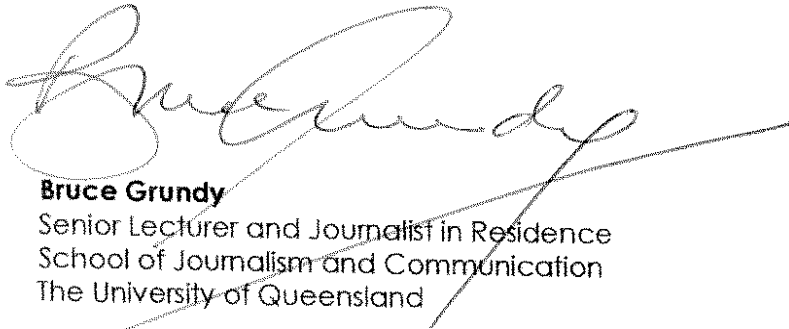
**M.** My letter to the Bishop Committee in which I discuss shortcomings in the evidence given to that committee by Mr Heiner.

**O.** My original stories on the rape matter.

**P.** CJC press release advising there was no official misconduct involved in the Portals incident.

Q. Transcript of a Justice Project story in which former Appeal Court Judge James Thomas dismisses the notion that a legal action had to be under way to trigger s 129 of the Criminal Code.

I would be happy to answer any questions you may have.



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