

A

Phone interview with "Michael" by Steve Austin ABC Morning  
Radio Brisbane  
7 November 2001 (following my story)

I feel too many people are protecting their posteriors in the interest of self improvement at that time ... you know ... in getting on in the bureaucracy, government .. it was pure self interest.

Q. What do you know of the alleged rape of this young girl?

A. I cannot remember ... as I say ... this is going back about 1988 -- 87-88 ... I cannot remember if I was on duty or not ... everybody knew ... I wasn't told directly ... but we all knew ... we were summonsed down a couple of days later to Peter Coyne's office and we were told it would be handled internally, we were under the Secrecy Act and we were not to discuss it outside ... and they would handle it internally.

Q. What was the Secrecy Act that they cited as the reason why you couldn't speak?

A. That everybody who was a government employee in that sort of job, basically, you didn't discuss what went on outside of duty ... concerning the children.

Q. Did it surprise you when you were told that you could say nothing?

A. It did. It did .. because, quite frankly, I thought it would be taken to the highest level. I mean, rape is rape, isn't it ... and especially those children were in the care of ... us ... Peter Coyne being the manager.. and the other staff there ... they were in the protection ... OK, they weren't little angels, there were often nasty little children there, but the point is ... or, that is beside the point, that they were under the protection of the Family Services and they weren't getting it.

Q. The current government's attitude seems to be that this matter has all been dealt with by the Forde Inquiry, and that's essentially the end of the story ...

A. It's not ... because I was interviewed by ... oh what's his name ... then ... very nice man and his assistant ...

Q. This is way back in '89 are you talking about ... Noel Heiner ...

A. That's it ... and he was very nice ... put it all on tape and everything. I spent oh ... a lot of us spent time in there ... I can't give you the other names because I can't remember , but I was there and I know other people went and then I think Anne Warner had it all shredded.

Q. Well the government's attitude seems to be that the Forde Inquiry has dealt with all these matters so there is no further investigation ...

A. No, I don't agree with that. I don't. I think it has all been pushed under the carpet.

C

Mmm?-- Good question. I don't really have much to do with that, I'm - like, I'm the unit coordinator, I'm charge of the unit and all the staff.

But you'd be aware if it exists or not?-- Sorry?

You'd be aware if it exists or not?-- The register itself?

Mmm?-- Actually I saw it yesterday.

Good. Is that the same handcuff register that was used back in-----?-- No.

-----1989?-- No.

Where's that one?-- I don't know. I know all the things are archived at Wilson. We don't do any archiving at John Oxley. So it's either at Wilson or - ~~a lot of the paperwork from that period was actually subpoenaed by the Heiner Inquiry.~~

XXN: MR MARTINEZ  
J

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WIT: COX T

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ATTACHMENT 2

Mrs. Beryce Nelson signed statement

15 May 1998

D

Beryce Nelson

States

I live at 6/63 Montpelier St. Clayfield, Queensland 4011.

I own and operate a public relations consultancy. Tel. 07-3257 0666.

From September to December 1989 I was the Minister for Family Services in Queensland. I lost my seat in Parliament in the elections held on 2 December 1989 and resigned my ministerial commission accordingly.

Whilst holding that ministerial office I became more aware of very serious problems occurring at the Department's John Oxley Youth Detention Centre - usually designated JOYC. Some of these concerns surfaced in a number of ways, including:

- information from staff members and constituents,
- reports in the press, including reports alleging regular cases of children absconding from the Centre, and committing illegal acts whilst away from the Centre,
- numerous disciplinary reports indicating that some staff were not doing a reasonable job and that they were not being held accountable for their work..

An example of the latter - the one that was the last straw for me - concerned a case where one staff member at JOYC had obviously allowed a group of four detainees (2 boys and 2 girls) to spend a night together and his superiors wanted me to approve his being merely admonished.

Other reports and allegations included the following:

- ~~that some boys and some girls were being forced into sexual activity against their wishes, for the benefit of others;~~
- that illicit drugs and prescribed medications were being brought into the Centre, sometimes by staff and sometimes by detainees who had simply walked out and returned apparently without any permission;
- ~~that some staff were physically and sexually abusing children in their care.~~

1/3

I knew that I had a duty of care towards the children and I was determined to ensure they were properly protected against abuse, but these persistent reports and indications caused me to ask just what was happening at

SW

*[Handwritten signature]*

JOYC, and if there were major problems, what were they and how were they to be satisfactorily resolved..

I was also aware of difficulties in the relationships between the JOYC manager, Peter Coyne, and some staff, but 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 properly protected against any maltreatment.

There was a meeting with representatives of some of the unions involved at JOYC. I remember that those present included Mr. Lindeberg, Mr. Martindale ( POA ) and Mr. Laurie Gillespie (SSU ) Also present were my Director General Mr. Alan Pettigrew, other senior officers including Mr. George Nix and myself.

These union representatives raised their concerns about the staff/management relationship and JOYC and I gave them my perception of how the department, including JOYC was running (which was that the whole show was badly run down and staff needed proper selection, good training and motivation with ongoing performance monitoring. The union representatives were surprised (perhaps shocked) that I agreed with their views and shared their concerns.

I 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.

The Director General, Alan Pettigrew and I then had detailed discussions. I set out my requirements that

1. a suitable person from outside should be retained for a fixed fee and be required to report initially within three months, and
2. be given a wide enough brief to encompass all of the issues mentioned above, but also sufficient to allow any other matters which arose during the course of the inquiry to be also brought to light.

I wanted a " real " outcome - so that I knew what actually needed to be done, on the basis of authoritative and reliable arms-length advice.

I also did not want the person conducting the inquiry to be inhibited in any way, so the terms of reference of the inquiry needed to be wide ranging.



I am confident that Mr Pettigrew created files and other records reflecting my wishes and specifications, but I did not have those records, and I understand that they no longer exist . The department simply could not have started the inquiry without such a record being created.

I am also confident that George Nix knew exactly what my concerns were, including the priorities of those concerns. I am sure that the senior department officers knew 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.

Following the establishment of the Fitzgerald Commission of Inquiry , legislation had been enacted to provide for the conduct of other inquiries, which may be held in the future with corresponding operating guidelines.. There had been serious concern expressed about the length, expense and lack of outcome of some inquiries, and I directed that my Ministerial inquiry into the operation of JOYC be structured to avoid those sorts of difficulties.

Mr. Pettigrew obtained legal advice which I followed, that a ministerial inquiry could be established which would provide ample protection for both witnesses and the person conducting the inquiry. Further, if it became necessary to move to a full inquiry under the Commissions of Inquiry Act, this could be done by way of extension via a cabinet minute without the need to go back and repeat work already done by the initial ministerial inquiry.

Overall I was, and remain satisfied that the inquiry I set up did not place either the person running it, or the people who gave evidence to it, at any risk.

I am shown a one-page document entitled " Terms of Reference for the investigation of complaints by certain members of staff at John Oxley Youth Centre " which appears to contain the terms of reference in eight points - which were the ones I required to satisfy my aims as set out above. Items 5-8 inclusive were the issues of most concern to me and my Director General

Alan Pettigrew actually located Mr. Heiner, a retired Children's Court Magistrate who agreed to conduct the inquiry, and briefed him. I am confident that he was not told that the last seven points were encompassed

*per*

*JS*

within the first one, because the last four were the most important from my perspective and Alan Pettigrew and senior departmental officers knew that. 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.

I am told that serving staff were encouraged by the department to come forward and air any issues they wished with Mr. Heiner, and this supports my contention on this point.

Heiner was selected by Pettigrew because of his experience in the Children's Court, knowledge of the juvenile correctional system and knowledge of the law.

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

I have been shown a copy of my successor's response to a question in Parliament on 18 May 1993 (printed from page 2870). That response insofar as it refers to the setting up of the Heiner inquiry is incorrect. The facts are set out above.

I believe that "once you are out you stay out", and I am now out of Parliament and out of politics. I have refrained from commenting publicly upon matters relating to my previous portfolio, but this is too serious and the protection of children in custody is too serious a matter for me to stay silent on this subject.

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.

I have information that Mr. Heiner saw my successor, Ms. Warner, in early January 1990 and told her that he was discovering evidence of serious malfeasance, and wanted to bring the inquiry under the Commissions of Inquiry Act. We had set up the initial inquiry to allow for that and it could have been achieved by a brief submission to Cabinet or by Cabinet Minute..





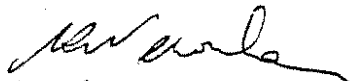
I have reason to believe that on that date Mr. Heiner gave Ms Warner some form of report, but I do not know what it contained.

Mr. Nix, who continued in employment in the Department after the election, 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 were more serious issues at stake - essentially whether the children in the Centre were at risk and if so in what way or ways.

I remain satisfied that neither Heiner nor his witnesses were ever seriously at any risk from litigation. Even if I am incorrect on that, they could quickly and easily have been given complete protection, made effective retrospectively if necessary.



Statement taken and signature witnessed  
by me at Newstead on 15 May 1998.



N.R. Newnham

E  
RUTH:

JOHN OXLEY YOUTH CENTRE INQUIRY

Below are my thoughts about a possible process for your consideration.

1. Interview Anne Dutney

- She has requested an interview urgently.
- She considers herself a victim of a "defamatory process".
- I understand that she has not yet decided what action she will take but intends to consult a solicitor.

2. Informal discussion with Kevin Lindeberg

- Managers and some senior staff at John Oxley are members of the POA and have had several meetings with Kevin Lindeberg. So far, that Union has not declared a position on the Inquiry but they are observing the process. I understand that they have had reservations.
- His views about a process might be clearer by now.

3. Informal discussion with Janine Walker

- In the beginning, the QSSU acted on behalf of youth workers who had made complaints. ~~They did not request this form of investigation.~~ Since then, I understand that a number of members have expressed their unhappiness about the process to the Union. This would include some senior members of staff.

4. Interview Mr Noel Heiner

- It may be useful to discuss his understanding of the Terms of Reference and/or what is required of him. It may also be useful to ask for an interim report which indicates the way in which he will approach this task. (*his report.*)
- ~~He could be requested to report in a particular form to overcome some of the potential dangers.~~

If Mr Heiner makes a report with findings based on the weight of allegations, rather than on properly tested evidence (like care and control applications), or if he presents a collection of personal opinions, including his own, and if that report is harmful to reputations then it will be dangerous.

If it is a written report then there will be three choices:

- 1) not to release the report;
- 2) release the report but disclaim its findings; or
- 3) release the report unconditionally.

If it is not released, there will be allegations of a cover-up and intrigue about its contents will continue into the future. If it is released but disclaimed, it will be embarrassing to everybody concerned. If it is released and potentially harmful to individuals, the Department will probably face legal action as well as loss of senior staff at the Centre.

It is suggested, therefore, that Mr Heiner should be requested to present his report in three parts.

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

- ~~Is there any evidence which should warrant a police investigation?~~
- Is there evidence upon which disciplinary action by this Department might be based?
- As a result of the Inquiry, are there any procedural guidelines that he would recommend?
- As a result of the Inquiry, did he form any opinions about the design or adequacy of the building?

If he wishes then to list any "evidence" upon which police investigations or disciplinary action should be based, this could be included in a confidential Part B report to the Director-General. There could be reference to such a confidential report in the Part A document but it should protect any individuals involved.

The third part of the report should be a verbal report to the Director-General, and possibly to the Minister should she anticipate political issues as a result of the Inquiry. Recommendations by Mr Heiner that may fall into the realm of personal opinion can be presented in this way but also discussed and examined. Any response or any action arising out of this interview would be left with you.

5. Report to the Unions

- The union representatives may then be called to a meeting in which:
  - Part A of the written report can be presented;
  - any action that may be taken as a result of Part B can be indicated while explaining that individual rights must of course be protected while matters are investigated; and
  - views expressed about how matters of complaint should be dealt with in the future.

My own views in this regard are as follows:

- It seems to me that the broad industrial process prefers conciliation before arbitration, and the Family Law Court prefers non-legal mediation before going to a court. This two stage process should apply also within the Department. The Department should provide access to mediators to resolve issues as quickly and simply as possible. If that fails and an arbitration process is required, it must be specific in nature and sufficiently formal to ensure that people are justly treated. I have doubts that the existing grievance procedures would stand a serious test.
- The present Inquiry was launched without mediation of specific complaints occurring first. It had an enormously wide brief, no legislative base, no declared rules and no appeal process. This part of discussion with the Unions will probably be coloured by the views that they indicated they held about the Inquiry.

6. De-briefing

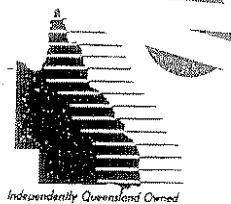
- Because of the high level of feeling that has been aroused by this process and the likely after-effects of the Inquiry, I think that some effort should be put into a de-briefing process. This could include:
  - letters of thanks to Mr Heiner, Barbara Flynn and Jan Cosgrove;
  - letters to Peter Coyne and Anne Dutney;
  - a memo to staff at John Oxley Youth Centre which might indicate outcomes of the Inquiry, confidence in management and staff, processes for dealing with difficulties in the future;

- a visit to John Oxley Youth Centre by yourself or George Nix for an event, such as afternoon tea, with the opportunity "to" speak to individuals or groups and perhaps respond to comments.

I hope this is useful.

*lan*

# THE Sun



FRIDAY  
WEDNESDAY, APRIL 11, 1990  
Phone 231 3222  
Cable 231 3111

There's  
Nunn  
better

# LABOR BLOCKS

# SECRET PROBE



SMILING Belinda Nunn (pictured above) is the winner of Sun Newspapers' Model Search contest. Belinda defeated some of Queensland's brightest young modelling talent at the Mary St nightclub last night.

She was one of five finalists who paraded the latest fashions from Staggers' winter wardrobe. The girls joined three professional models from Buckingham Model Management and a gridiron football team.

Staggers' jeans and shirts were presented to the beat of dance music, with the visual display built around a Harley Davidson motorcycle.

Photo: TERRY NORDERN

## Nats' blunder

A secret judicial inquiry into the troubled John Oxley youth detention centre set up by the former National Government in its last few weeks of power has been scrapped after a legal bungle.

All documents and material tendered at the inquiry have been destroyed.

But the destruction of the material has led to claims of a Labor Government cover-up of problems at the centre.

Retired Brisbane magistrate Noel Heiner was commissioned to head the inquiry last November by then Family Services minister, Beryce Nelson.

After four weeks of secret sittings into the operation of the youth centre - described by critics as "a zoo run by the animals" - the hearings were called off.

Labor's Family Services Minister Anne Warner said the Nelson commissioned inquiry had not been properly constituted.

This had left Mr Heiner open to civil action by staff accused of corruption and velvet-gloved treatment of inmates.

The problems came to light when Mr Heiner asked for clarification of his position.

Ms Warner said State Cabinet had wished to give Mr Heiner indemnity from prosecution.

In setting up the in-

By  
**MILES KEMP**

vestigation, no statutory protection from civil action was provided to either Mr Heiner or informants, she said.

But Cabinet's destruction of all inquiry documents provoked claims that grave problems at the centre had been swept under the carpet.

Ms Warner said: "Because the inquiry was terminated there was no point in retaining the information."

But Mrs Nelson said the inquiry was never intended to be a full judicial probe, just an internal departmental investigation.

"It sounds like the Minister is trying to get herself off the hook because she abandoned a much-needed inquiry," Mrs Nelson said.

Cont P3

**OFFICIAL:  
BIG WET  
WAS WET**

Story P3



## Inquiry blocked by ALP

From Page 1

"It wasn't an inquiry into the whole system - it was a magistrate's review of staffing and other matters at John Oxley."

The destruction of documents has brought a storm of protest from the Opposition, witnesses - who say they put their jobs on the line - and those who were named at the inquiry.

Problems at the centre were highlighted on the weekend of a violent riot and escape of seven teenagers.

A similar riot last year brought allegations of staff misconduct.

Allegations at the inquiry centred around charges of corruption and misconduct by two youth workers.

Two witnesses at the inquiry claimed today serious allegations of funding rorts and jobs-for-the-boys had been raised before Mr Heiner.

P3

**WIN! \$2000 in FOOTYSKILL** SEE PAGE 67

## Other Developments

43. In the meantime, there had been two further developments of some note.
44. On 27 February 1990, Mr. S. Knudsen, the Acting General Secretary of the Queensland Teachers' Union, wrote to Ms. Matchett on behalf of a teacher employed by the Department at the Oxley Centre. The letter relevantly stated<sup>94</sup>:

"Following the ... investigation by Mr. Noel Heiner last November, [a teacher employed at the Oxley Centre] has expressed a number of concerns to the Union.

"These concerns are outlined below, with a view to seeking your urgent response.

- "1. Despite assurances from the then Director-General, Mr. Alan Pettigrew, that the inquiry would observe the principles of natural justice, our member ... has not been given an opportunity to verify if any complaints were made against her, to hear or read any such complaints, or to correct any problems or prejudicial statements therein.
- "2. The recent decision (apparently) to nullify the inquiry has further removed the possibility of our member's being afforded natural justice in the matter.
- "3. Any complaints against our member thereby remaining unchallenged may have adverse consequences for her future career prospects.

"In consideration of these foregoing factors, the Union requests that [its member] be granted access to all material (letters of complaint, transcripts of proceedings) - pertaining to her - received by or emergent from Mr. Heiner's inquiry.

"This request is made pursuant to Regulations 46, 63 and 65 of the Public Service Management and Employment Act."

45. On 1 March 1990, Mrs. Dutney provided a memorandum to the Director (Organisational Services) of the Department of Family Services, with copies to the Deputy Director-General (Community and Youth Support) and to Mr. Peers in his capacity as Executive Director (Youth Support), headed "STAFF RELATED ISSUES - JOHN OXLEY YOUTH CENTRE"<sup>95</sup>. What is significant about that memorandum is that it contains quite serious allegations against, and criticisms of, a number of the staff at the Oxley Centre. In two instances, the staff against whom such allegations and criticism were directed are individuals who provided statements to the QSSU, which were then provided to the Department by the QSSU on 10 October 1989 "on the understanding that they will not be circulated widely"<sup>96</sup>. The allegations and criticism in respect of those individuals all relate to matters pre-dating the investigations undertaken by Mr. Heiner. In respect of another individual, Mrs. Dutney's memorandum stated:

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<sup>94</sup> FAM-1, Doc.54

<sup>95</sup> FAM-1, Doc.55

<sup>96</sup> FAM-1, Doc.7

REPORT BY:

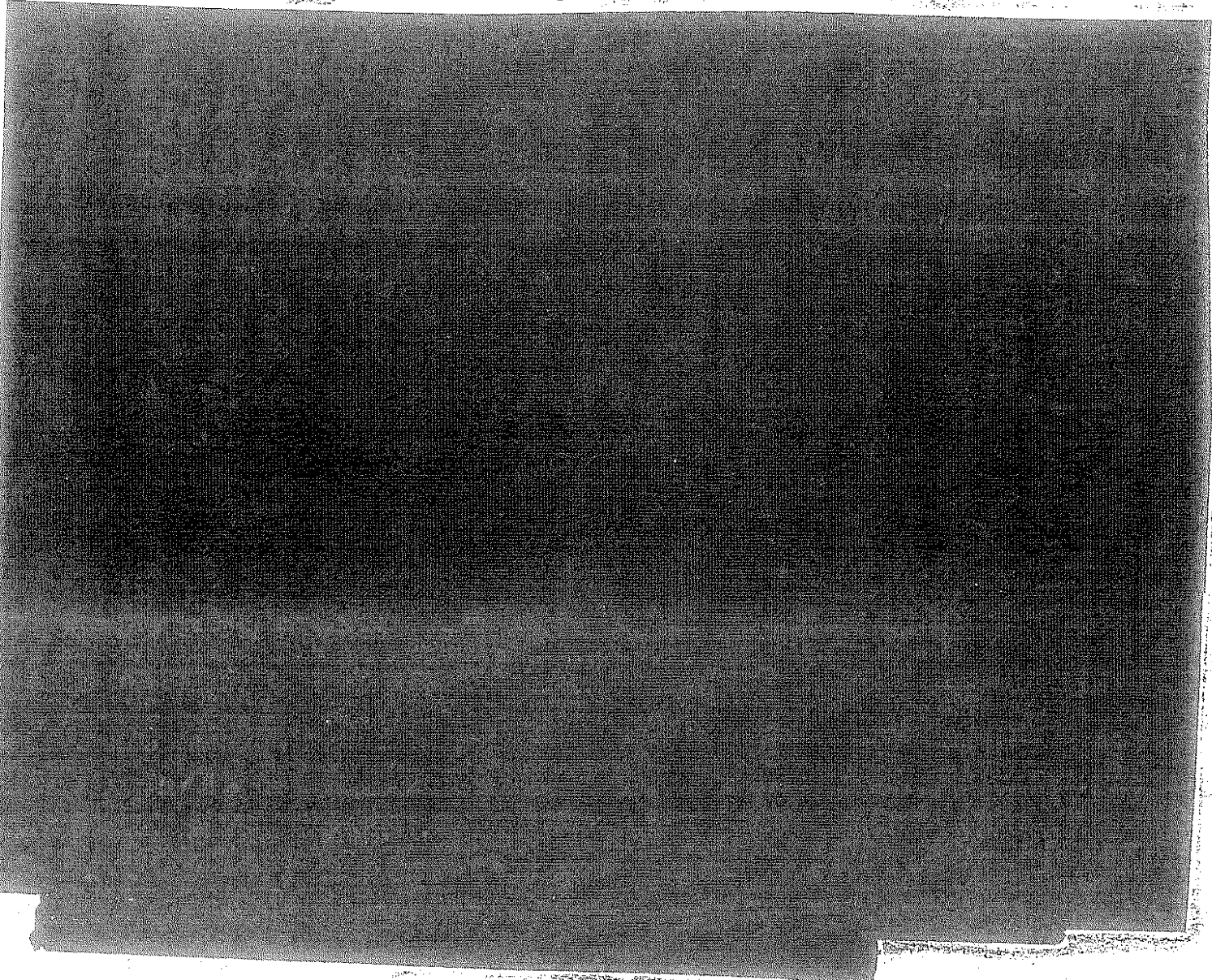
Mark J FREEMANTLE  
John Oxley Youth Centre  
Youth Worker - Blaxland Wing

INCIDENT:

Conversation with [REDACTED]  
(resident of Blaxland Wing) and  
consequent actions thereafter.

FOI  
RELEASE

On the morning of 25 May 1988, following an "environmental bush-walk" outing and abscondings the previous day (24 May), the residents in our section were quite unsettled.



.../2

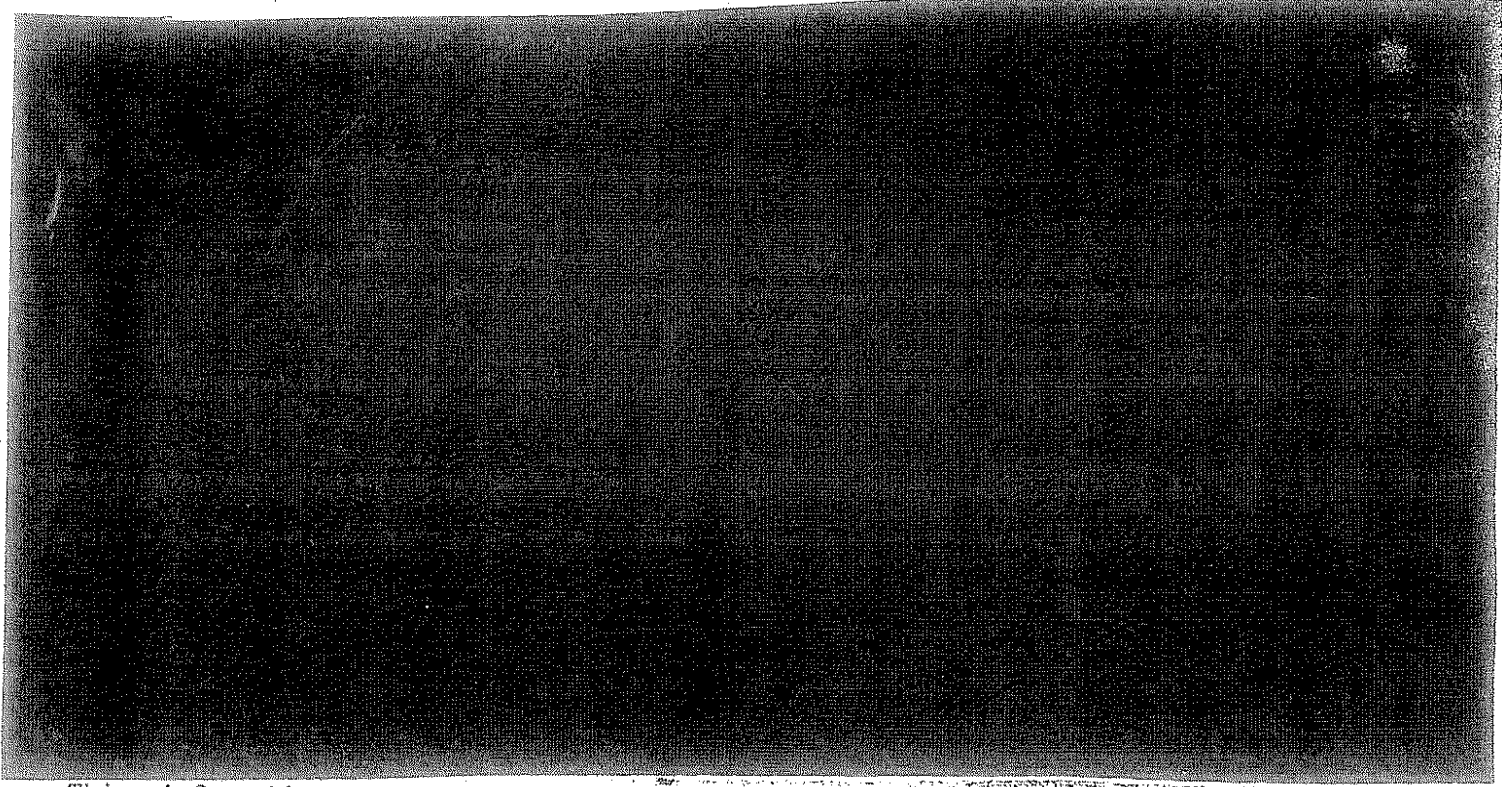
FOI  
RELEASE

FOI  
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FOI  
RELEASE

PAGE TWO



This information was to say the least, startling and in my opinion, had to be passed onto management as soon as possible.



At this time, I went to see Wendy Kropp who had already arranged for Peter Coyne to be present. I just simply reiterated all the information to Peter and Wendy (to the best of my ability).

Peter requested that I not speak to other staff members about this incident until he had had the opportunity to speak to all the persons involved and gather more information himself, this I did.

At this stage, my direct involvement ceased until 5.00pm Tuesday, 31 May 1988, when Peter asked me to complete this report and this report took a few days to complete.

MARK J FREEMANTLE

Youth Worker  
Blaxland Wing  
John Oxley Youth Centre

FOI  
RELEASE

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"Keep up the good work, [Mr. K.'s Christian name]."

11.2 On 22 March 1989, Mr. Coyne wrote to Mr. K. in these terms<sup>11</sup>:

"I wish to sincerely thank you for your performance on Wednesday, 15 March 1989. The circumstances were extreme and only overcome by true determination. I failed to realise how much I cared for you until this crisis and I felt great relief when your safety was ensured. I hope you never have to endure such hardships in the future. May God bless you."

11.3 In a memorandum<sup>12</sup> dated 29 August 1989 addressed to the "Manager, Personnel Services" from J.A. Luth, a Senior Personnel Officer, reference is made to "four (4) copies of letters from the Manager (or Acting Manager) and the Principal Youth Worker who all acknowledge this officer's satisfactory performance standard", as well as to Mr. K.'s "Salary increase Report completed by the Principal Youth Worker for 4th January, 1989", recommending payment of a salary increment and referring to Mr. K.'s "excellent punctuality, conduct and diligence".

12. The only indication in Mr. K.'s file of any adverse disciplinary issue is a hand-written note appended to the memorandum of 28 August 1989. It would appear that this note was made by the "Manager, Personnel Services" on or about 6 September 1989. It reads<sup>13</sup>:

"I have discussed this matter with Mr. Coyne. The person to whom [Mr. K.] wrote (his letter) is a 14 year old girl in care. This matter should have proceeded as a disciplinary Action under S.29." [the underlining appears in the original]

13. Out of fairness to Mr. K., we consider it relevant to observe - at this point - that nothing in the material made available for our inspection provides any foundation for any possible inference of wrong-doing on the part of Mr. K. in respect of his having allegedly written a letter to "a 14 year old girl in care". Indeed, apart from the cryptic hand-written note of a discussion between the "Manager, Personnel Services" and Mr. Coyne, there is no evidence on the Departmental files that such a letter was written. Assuming that such a letter was written by Mr. K., in the absence of any evidence as to the contents of the letter, it would be grossly unfair to jump to any adverse conclusions concerning the contents of that letter, or Mr. K.'s conduct in allegedly writing it. And, there being no evidence on Departmental files that Mr. K. was ever afforded an opportunity to answer the allegations against him concerning that letter, it would be contrary to natural justice to make any inference or assumption, adverse to Mr. K., in respect of this matter.

14. It appears that Mr. K. was due to receive his twelve monthly Probation Report on 17 April 1989. For reasons which are not apparent, the twelve monthly Probation Report was not completed until 6 July 1989. That delay would not appear to justify any adverse inference so far as Mr. K. is concerned. However, the Probation Report - when completed - recommended that Mr. K.'s period of probation be extended for three months. But, by the time that the Probation Report was completed, most of that three-month period had already elapsed. Accordingly, on 18 July 1989, the Acting Manager of the Oxley Centre, Mrs. Dutney, wrote to the "Manager, Personnel Services" in the Department of Family

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<sup>11</sup> FAM-1, Doc.3

<sup>12</sup> FAM-1, Doc.3

<sup>13</sup> FAM-1, Doc.3

Services, requesting that Mr. K.'s probationary period be extended for a further period of three months - that is to say, a total extension of six months<sup>14</sup>. On 9 August 1989, J.A. Luth (Senior Personnel Officer) recommended that the further extension be granted. Mr. K. was notified accordingly on 14 August 1989. He was given the opportunity (albeit very belatedly) to "show cause" against the proposed extension. He immediately took advantage of that opportunity, and on 16 August 1989 wrote to the Manager, Personnel Services, in the following terms<sup>15</sup>:

"I am replying to your letter to me dated 14 August 1989, in reference to the proposal to extend my probationary period for six (6) months. I have been a Youth Worker (Residential Care) at John Oxley Youth Centre for approximately twenty-one months. I have been on probation for a period of sixteen months.

"In relation to my performance in my position as Youth Worker I have attached copies of four (4) letters forwarded to me during the last twelve months. The contents of these letters state that my work has been favourable and acknowledge additional efforts, and high standards I have put into my work.

"During this time I have received no written or verbal indication that my performance, as at any time, deteriorated or warranted the extension of my probation.

"Given the feedback I have received while on probation, I believe that an extension of my probation period for another six (6) months is unjustified."

15. On 29 August 1989, J.A. Luth (Senior Personnel Officer), in a memorandum to the "Manager, Personnel Services", recommend that Mr. K.'s probationary period "not be extended"<sup>16</sup>. That recommendation was based on the evidence, earlier mentioned, of very positive reports concerning Mr. K.'s standard of performance in his capacity as a Youth Worker. The Memorandum concluded that, "Having regard to these reports and evidence presented, there appears little justification to extend this officer's probationary period".
16. That recommendation was, however, over-ruled by the "Manager, Personnel Services", who decided that Mr. K.'s probationary period should be extended until 17 October 1989<sup>17</sup>. The only apparent justification for over-ruling the recommendation that Mr. K.'s probationary period not be extended is contained in the hand-written notation, earlier referred to, relating to a discussion with Mr. Coyne concerning a letter allegedly written by Mr. K. to "a fourteen year old girl in care". As previously observed, it does not appear that Mr. K. was given any opportunity to answer that allegation. Undoubtedly, if such a serious matter were to be taken into account in deciding to extend Mr. K.'s probationary period, he ought to have been afforded an opportunity to answer it. As the "Manager, Personnel Services" observed in the hand-written notation, this allegation - if it was going to be relied upon in reaching a decision which may adversely affect the progress of Mr. K.'s career - "should have proceeded as a disciplinary Action under S.29".

14 FAM-1, Doc.3

15 FAM-1, Doc.3

16 FAM-1, Doc.3

17 FAM-1, Doc.3

M

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

Dear Madam Chair,

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

May I make the following points.

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

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

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

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

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

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

And on page 7:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

What paperwork, I wonder, and why?

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

Yours faithfully,

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

22.05.2004

ATTACHMENT A

[TRANSCRIPTION OF FAM-1, Doc.13, AMENDED TO PROTECT THE ANONYMITY OF CERTAIN COMPLAINANTS]

ATTACHMENT 3

LANNEN

- re Probation Reports - Management/staff relations not promote positive working environment - directly impacting and resulting in affecting the quality of relationship between staff and resident children

[complainant A]

- believed subject to harassment and work performance over-scrutinised subsequently to appointment as Union Delegate - inconsistency

[complainant B]

- harassment - inordinately lengthy interviews - irrational - ridicule - reduced to tears - domineering - overbearing - directed to resignation

[complainant C]

- style of management - support only those who actively supported him - inconsistency towards staff - harassed over trivial matters necessitating written reports - witnessed incidents of intimidation of [certain Youth Workers] - specifically an incident at 3 p.m. shift change concerning allegations of unsupervised residents and compulsion of imputing blame - alienation of the experience of long serving staff

[complainant D]

- working conditions and care of the children had deteriorated subsequently to Mr. Coyne's appointment as Manager - staff morale had deteriorated

[Mr. K.]

- told not to associate with fellow workers in the Wings or at any other time as so many were out to "get" him (COYNE) and it would be unwise for him (McNEVEN) to be a part of it - such remarks inappropriate and unprofessional

UNSIGNED

~~- 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~~

[complainant E]

- harassed about his conduct or unsatisfactory performance of his duties - unjustified criticisms and treatment - oppressive and intimidating management attitude - over-reaction by management resulting in intimidation - trivial matters over-emphasised - victimisation - unwarranted reprimands forming part of his file - transfer to Floaters Roster allegedly persistent pressure on persons or harassment would have desired effect of resignation by persons whom he saw as not supporting him - general management incompetences.

[complainant F]

- staff harassed and victimised to point of resigning - management unprofessional, insensitive and inconsistent as well as devious and calculating

29th November, 1989



# Disease hits hospital leaving 3 babies dead

SYDNEY.— A deadly bowel disease has swept through one of Sydney's biggest maternity hospitals, killing three babies and infecting another 17.

Every emergency bed for newborn babies in New South Wales is full and some premature babies may be transferred interstate for care this weekend as a result of the outbreak at the Royal Hospital for Women at Paddington.

Experts believe it is possible the infecting organism may still be present in the hospital.

An angry NSW Health Minister, Mr Collins, said last night that authorities knew of the problem at the Royal Women's Hospital earlier this month but had reported it to him only yesterday.

He said the delay was "absolutely inexcusable" and has ordered a series of emergency procedures to contain the disease.

Mr Collins said 20 cases of the disease, neurovisceral enterocolitis — an infection of the bowel — were reported at the hospital during the first three months of the year.

This was more than the total number of cases reported at the hospital for the whole of last year, he said.

Doctors have blamed the disease for the death of three babies, and another six newborn infants have required urgent surgery.

Premature babies are most at risk of contracting the illness.

Mr Collins said all 46 neonatal intensive care beds in NSW were full — including four at the Royal Hospital for Women.

# Repression 'not way' to youth reform

HARSH discipline was not the way to reform young offenders, the manager of the John Oxley Detention Centre at Wacol, Mr Peter Coyne, said yesterday.

He said he and his staff supported the centre's philosophy, despite the allegations that the centre had become a holiday camp for young criminals.

The Family Services Minister, Mr Sherrin, said the allegations were "a case of sour grapes".

They had been made by a former centre employee who had been transferred because he had been unable to perform.

Mr Sherrin said: "His feelings are certainly not representative of the majority of the centre's staff."

"There may be a few staff members here who don't agree with my principles," he said.

"But the majority are most supportive."

"We are aiming to create a family-type situation where there is appropriate discipline but where the kids have to make their own choices."

The John Oxley Centre has been operational for two years. It allows inmates privileges such as television, their own rooms and piped music. It also has bars and locked doors.

It is a State Government project aimed at changing the

penal system.

Mr Sherrin said: "We do not want the John Oxley Centre to become a punishment."

Mr Coyne, who has a seven-year background in dealing with victims of child abuse, has been with the centre for 16 months.

He said the centre, which took boys between 10 and 15 who had been committed and sent to the centre for rehabilitation services.

Mr Sherrin said he was more than impressed with what was being achieved by the centre and shared Mr Coyne's belief that it should be taken to dinner by staff at taxpayers' expense was being taken by staff in their own time and with their own money."

Mr Sherrin described the three incidents referred to in The Courier-Mail yesterday as misleading.

"First, the young female murderer who allegedly was taken to dinner by staff at taxpayers' expense was being taken by staff in their own time and with their own money."

Mr Sherrin said the sister of the Ipswich arsonist who was allegedly flown from Cairns for a birthday party at taxpayers' expense actually lived at Childers. She had been offered a bus fare to visit her brother at the centre but refused.

"The girl involved had been a female inmate who was 15 years old."

Mr Sherrin said the staff at the centre had been told that the girl was 17 and that no charges had been laid.

"Since then the girl's attitude has been much more positive and she feels she has a life ahead of her. That is the type of thing John Oxley wants to achieve."

Mr Sherrin said the staff at the centre had been told that the girl was 17 and that no charges had been laid.

"Since then the girl's attitude has been much more positive and she feels she has a life ahead of her. That is the type of thing John Oxley wants to achieve."

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JOHN Oxley Centre manager, Mr Peter Coyne... bars, but rehabilitation is aim

charges it will be done," he said.

"And if the staff assault, the inmates the same applies," Mr Coyne said that he had asked Mr Sherrin not to overreact to Wednesday night's fight, the centre's reputation, and that Mr Sherrin agreed.

The 14-year-old boy responsible has since been sent to Westbrook, on the Darling Downs, which handles more difficult cases.

Mr Sherrin said he was annoyed that a couple of people's grievances could tarnish the positive work the staff at John Oxley put into its inmates.

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# Aust peace force denies brawling allegation

CANBERRA.— The Australian Defence Force has denied allegations that Australian troops in Namibia were involved in bar room brawling and breached UN impartiality.

A Namibian African newspaper, the *Republikein*, has alleged the Australian troops in Namibia with the UN peacekeeping force, attended a party organised by the South-West African People's Organisation (SWAPO) and wished it well in forthcoming elections.

SWAPO is one of the military forces involved in the complex conflict which has plagued Namibia.

The acting chief of the Defence Force, Vice-Admiral Michael Hudson, said the reports suggesting impropriety were wrong.

Some Australian troops did attend a party on Tuesday, but it had been organised by the senior UN regional administrator and not by SWAPO as suggested.

He said an Australian officer made a speech at the party outlining why they were in Namibia and how Australia came to be part of the peace-keeping force, but had not mentioned SWAPO.

He also denied a story broadcast on South African radio which claimed Australians were involved in a bar room brawl in the Namibian capital of Windhoek last week.

"There were no Australian troops on leave on the night in question."

Captain Cook had exceeded his authority as he was told only to take possession of "convenient situations" on the continent "with the consent of the native people," he said.

# Aborigine loses bid to fight State control of Stradbroke

AN Aborigine yesterday appealed to the High Court.

Walker, charged with one count each of wilful and unlawful damage, contumacious behaviour, and contempt of the native people, he said.

Walker, charged with one count each of wilful and unlawful damage, contumacious behaviour, and contempt of the native people, he said.

# Man sought over hotel's missing cash

DALBY detectives are searching for a man who disappeared after he was given \$6901 to bank by the hotel at which he was staying.

The man had been living at the Centre Inn

Over 1,000

# Wacol centre 'paradise' for young crims

THE State Government's John Oxley Youth Detention Centre at Wacol was a holiday camp for young criminals, staff said last night.

"They have their own rooms, fully carpeted ensembles, piped music, video recorders, TVs, tennis courts, basketball courts," a worker said.

Another cited a \$16,000 motocross track, fully equipped with trail bikes, as one of many abuses of public funds at John Oxley.

Staff said they were scared to go to work at the centre where, if they did not have a rapport with the children, they were "dead meat".

The staff members asked not to be named, for fear of reprisals.

Three teenagers went on a rampage of destruction at the centre on Wednesday night. See story below.

A serving officer with more than seven years' experience said staff had called repeatedly for extra workers to police the centre's three main wings.

By PAUL WHITTAKER

There were only two officers on each shift. "If one goes to the toilet, the other is placed in a potentially volatile situation," the worker said.

"The public would be surprised to learn that most of these children, some as young as 13, behave like hardened criminals. We have rapists, murderers, arsonists — you name it, they are all here.

"The whole philosophy of John Oxley is wrong. These kids are living in a paradise here, not a secure disciplined environment that is needed.

"The place has not been designed to cope with these children — it was designed for welfare cases, not the hard cases we have now."

A former youth worker, who resigned from the centre six months ago after serving there for two years, said the children were free to do as they liked without fear of retribution.

One worker said the children lived in an environment similar to motel accommodation.

"They are coming into a situation they can't comprehend, a world where anything goes," the worker said.

"We can't even touch these children, other than the use of basic restraint. We are forced to explain every single action or decision while these delinquents are being treated with kid gloves."

One worker said: "This is a jail full of criminals who should be treated accordingly.

"But the kids are allowed to do as they please. Workers are spat at, kicked and punched.

"These children know now that if they are picked up on the street and go to court, there is a better life waiting for them at Oxley with pocket money, cigarettes and all of life's little pleasures, which explains why we have so many re-offenders."

Workers cited many examples of lax security at John Oxley including:

- A young female murderer, serving life, who was taken for dinner on her birthday in the company of five other staff at taxpayers' expense.

- An Ipswich arsonist whose sister was flown from Cairns for a birthday party, also at taxpayers' expense.

- A 15-year-old female inmate who was raped during an art excursion by three 14-year-old fellow inmates.

"Any perceived need these kids have, they get it. If they ask for a pinball machine, they will probably get that too," a worker said.

"They can all smash their rooms up as an expression of the frustration and injustice of being in a detention centre.

"The department believes it is better to replace damaged equipment than have children physically restrained by staff.

"The punishment meted out to these offenders can range from a \$1 fine, or the loss of privileges, such as the daily ration of cigarettes."

Wednesday night's rampage was "the tip of the iceberg," a worker said.

An entire wing of the centre was closed down recently because of destruction.

## Police late as youths run riot at detention centre

POLICE took more than an hour to attend a disturbance at a Wacol youth detention centre where at least one female staff member was threatened with pack rape.

A boy, 14, who allegedly led the riot was in solitary confinement late yesterday.

Criminal charges will be laid against the youth, another teenage boy and a teenage girl allegedly involved in Wednesday night's fracas.

The Family Services Minister, Mr Sherrin, told State Parliament about the incident yesterday.

Staff at the centre fled and locked themselves in a control room while waiting for police and dog squads.

Eight of the centre's inmates

By LINDY ROWETT and DAVID ROSS

were on the loose at one stage. Five of these refused to join in, despite being bashed and threatened.

The drama ended suddenly when the centre's manager arrived and confronted two youths, armed with metal pipes, as they were trying to escape.

The manager, Mr Peter Coyne, disarmed the two agitated youths and took them to a "secure room".

"One of the youths — the 14-year-old — has been placed in what we call a seclusion room to keep him under observation," Mr Coyne said yesterday afternoon.

## Fitz should probe MP waste: Labor

THE Fitzgerald inquiry should be given the power to search Ministers' offices and State Government buildings, the Labor Party said yesterday.

The Opposition Justice spokesman, Mr Wells, told State Parliament this power

Cabinet Ministers of expense account riots when giving evidence to the Fitzgerald inquiry.

Mr Wells called for an amendment to allow the commission to enter Ministers' offices and government buildings, to indicate to the commission

told Parliament that two staff members of the former Health Minister, Mrs Harvey, had spent \$709.75 at a Sydney hotel over three days last December.

He said Mrs Harvey's daughter, Ms Janine Tucker, employed as an assistant

## Elena and ti



GETTING close to Australia's set of the Labor Federal member for Minister, Mr Hawke, could be co

By JANE DOUGHTY

THE Prime Minister, Mr Hawke, yesterday defended the cancellation of a \$1 billion Tasmanian pulp mill and welcomed the tag of "the biggest greenie in Parliament".

But Mr Hawke's talk on the greenhouse effect during a visit to the Labor seat of Petrie was interrupted by about 20 members of the Wilderness Society chanting slogans of "Ban rain-forest imports" and "Don't mine Kakadu".

He told members of the Student Earth Awareness action

Go de

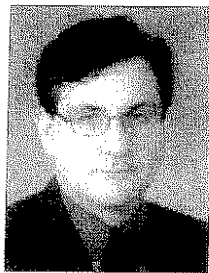
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Senator Len Harris



Senator Santo Santoro



Senator Andrew Bartlett



Senator Claire Moore



Senator John Watson



Senator Alan Eggleston

## Senate probes John Oxley saga

Continued from page 1

In February 1995, the then-Member for Clayfield Santo Santoro tabled a leaked Cabinet document in State Parliament.

It stated: "It is possible that the Committee will invite certain officials involved in the Heiner case to give evidence."

"If such invitations occur, it is proposed that officers concerned be directed not to attend."

The submission also stated the Office of Cabinet, the Department of Family Services and Aboriginal and Islander Affairs, the Queensland Police Service and the Department of Justice and Attorney-General

all agreed to the proposed approach.

Senator Santoro said he hoped the current inquiry would receive the full cooperation of the relevant agencies and public servants it called.

"It's not a Mickey Mouse inquiry, it's a fair dinkum effort," he said.

But Senator Bartlett said he would not be surprised if there was "something less than total cooperation at the State Government level".

Former union representative Kevin Lindeberg said it was not surprising, under the overwhelming weight of new evidence, that the Senate had come back to the issue.

"The Senate has before them an immensely serious task and they must follow all the consequences of any findings of contempt to the full extent of the law," he said.

Senator Harris said he hoped those asked to appear before the committee would do so voluntarily, but if it was necessary to test or establish the authority of the Senate he would seek to have anyone who did not agree to appear brought before the Bar of the Senate.

But Senator Bartlett said there were some limitations to what Senate inquiries could do in terms of demanding evidence and witnesses.

He said the clearest alternative would be a judicial inquiry with the power to compel people to appear.

"Technically a Senate Committee has the same powers, but in reality it won't use them," he said.

Senator Santoro said the committee itself would decide the way it would conduct the inquiry when it met for the first time in May.

Queensland Labor Senator Claire Moore was not available for comment on the matter.

The Committee will be chaired by Tasmanian Liberal Party Senator John Watson.

## Bishop slams state's handling of rape incident ... and Heiner affair

Continued from page 1

"Quite clearly, once there had been a rape it was not a question for the young girl to make any decision about it," Mrs Bishop said.

"It was a question for the authorities to take proper action to have those boys [involved in the rape] prosecuted," she said.

Mrs Bishop said the fact that staff at the John Oxley Centre chose not to report the incident to authorities when several of the boys involved absconded after the incident, was a further indicator of an early cover-up.

"I mean, they called the police to find the boys, and then they sent the police away, and they didn't report it for three days," she said.

"It's mind-bending," she said.

Mrs Bishop also commented on evidence she received about the "loneliness" of the terrain the young girl was taken.

"To be the sole female taken with this group of boys and then left unsupervised was, again, absolutely irresponsible.

"Older boys too," she said.

Evidence taken in the Committee's earlier

hearing indicated the girl had previously been subjected to sexual abuse at an even younger age.

"So the trauma for her would have been even worse," Mrs Bishop said.

"But it's the sheer cynicism of the cover-up, I suppose, that really upsets you, when you hear the evidence starting to spill out and you realise the subterfuge that went on about pretending that they could shred this evidence if there was no other legal proceeding on foot that would have required that documentation as evidence."

*"There's quite clearly one rule for those people who are in power, and exercise power, and a different law for ordinary citizens"*

It has been claimed by the CJC under no less than three separate chairmen, by a former Director of Public Prosecutions, by a currently serving magistrate and by the current State Coroner that destroying material required for legal action was not an offence unless such an action had actually commenced.

Such a claim has been rejected by other senior legal figures and has since been totally discredited.

Earlier this month a Baptist minister was tried and convicted for destroying evidence potentially required for a legal proceeding.

On three occasions the judge in the District Court case rejected the views put forward by Counsel that a legal proceeding had to be on foot before a charge of destroying evidence could succeed.

Those responsible for shredding material about the John Oxley Youth Centre, including information about the rape, however, have never been charged.



Senator Bronwyn Bishop

Mrs Bishop said the Baptist minister was given "quite different treatment".

"There's quite clearly one rule for those people who are in power, and exercise power, and a different law for ordinary citizens," she said.

"Those persons who destroyed documents, just like the pastor destroyed documents, need to be brought to account.

"What the court decides subsequently, is a different question.

"But they should be treated in exactly the same way as the pastor was treated.

"In other words they need to be dealt with in precisely the same manner, with a police investigation, a DPP acting, and, presumably, the DPP bringing charges."

Mrs Bishop was unable to say what her Committee's next move would be.

"Well, that's a matter for the Committee to decide upon and it will be going through those ... looking at the options of where we go next and then, when we make that decision, people will become aware."

She was, however, able to confirm one thing.

"It's certainly not the end of the road," she said.

## No response to questions about rape victim identity

IN THE last edition of *The Independent Monthly* we reported that a news media story in 1989 had referred to the rape of a girl on an outing from the John Oxley Centre.

It was claimed in the story the girl was 17 years old.

We are aware that a 14-year-old girl was raped on an outing from John Oxley.

Three weeks ago *The Independent Monthly* asked the Minister for Child Safety, Mr Reynolds, a series of questions about the 17-year-old girl.

To date the Minister has not yet responded to our inquiry.

THE independent  
MONTHLY

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THE UNIVERSITY  
OF QUEENSLAND



Mount Barney ... rape scene

## Shreddergate latest

## Grievance inquiry starts

Justin Rooks

THE SENATE has begun its investigation into whether false or misleading information was given to previous Senate inquiries investigating the Heiner affair.

The Senate Select Committee on the Linderberg Grievance will consider whether the Goss Labor government deliberately misled two Senate Select Committees and a Committee of Privileges in 1995.

The present committee will be chaired by Tasmanian Senator John Watson, who told *The Independent Monthly* they had begun collecting information and would soon be calling for witnesses and submissions.

Central to the inquiry will be whether the Senate has the ability to summon current or former members of the Queensland state government to give evidence.

"On that matter we are getting advice at the present time," Senator Watson said.

Senate Select Committees have the power to compel witnesses and request documents as evidence, but these powers of compulsion

are rarely used.

In regard to the current inquiry Senator Watson said "in some cases that may be necessary."

"I have requested advice from the Clerk of the Senate about the extent to which the Senate can demand information from officers in terms of limitations of the constitution," he said.

The Clerk of the Senate, Mr Harry Evans, told *The Independent Monthly* that there seemed to be a legal limit on the Senate's ability to compel current state members to appear before a federal inquiry.

"It's an implied limit in the constitution that has never been settled through a dispute in the High Court," he said.

Senator Watson said there were a range of issues that the committee had yet to satisfy itself with before it began to call for witnesses and submissions.

"I've had a lot of experience chairing lots of committees ... and I certainly don't intend to try to pursue matters where I think they are going to lead to a dead-end or to be embarrassed as a result of having limited powers under the constitution," he said.

The senator said there were problems in terms of accountability and transparency in relation to federal and state governments and it was unfortunate that the Senate's ability to investigate issues could be restricted as a result.

"It's a little bit unfortunate from a transparency point of view, because we are all about openness, transparency and accountability nowadays," he said.

There were measures that could be taken to ensure that certain individuals appeared before the inquiry.

"It all depends who the witness is, and how relevant the witness is germane to your terms of inquiry."

"There is a whole list of people we have asked advice on but I don't want to go through the whole list at this stage," he said.

Senator Watson said he expected all parties and individuals involved to be cooperative. "We haven't called for witnesses or submissions yet but they will be advertised shortly."

When asked if the Queensland government would take the same view as the Goss government in 1995 and instruct its public



Senator Watson

servants not to cooperate with a Senate committee, the Premier's office said there had been no contact from the committee and when there was an appropriate decision would be made.

## ... the ABC produces an Australian Story

Milton Sau

FORMER union representative Kevin Linderberg's 14 years battle to expose injustices involved in the shredding of the Heiner inquiry documents will be documented by ABC-TV's Australian Story this month.

Australian Story producer Caitlin Shea said the focus of the story would be on Mr Linderberg's "highs and lows" in his long battle.

"It also focuses on the family side of things, and how difficult it has been for his wife and children," Ms Shea said.

"He got sacked, and his wife had to go out to work, so it has been quite difficult for his family."

"There are a lot of people in the story who believe Kevin is on a futile quest, but there are a lot of credible people who believe that Kevin is exposing a great injustice," she said.

"So I put it all out there, and I'm hoping that people can make up their own minds about this."

Ms Shea said she had also interviewed Mr Linderberg's daughter, Naomi, who is a journalism student in the University of Queensland.

"Since she's been to university, and realised that people take it seriously, and people lecture on it in universities all over the world, she's realised that her father is pursuing something very important," Ms Shea said.

She said the program would also be showing footage of students delivering the Journalism School's newspaper, *The Independent Monthly*, as well as lectures, tutorials and activities in the student newsroom.

"We also filmed students going on a trip to the Lower Portals, to see for themselves, where the pack rape [of a girl in custody] occurred," she said.

Ms Shea said she had interviewed Mr Linderberg ten years ago as a junior reporter on the Seven-Thirty Report, never thinking she would be doing a major profile on him, ten years later.

"I have seen this Heiner story in the newspaper, and never really fully understood it, so it has been good, through Bruce [Grundy] and Kevin, to learn what it's actually all about," she said.

"Now I have a full understanding of it, and I supposed that's given me some insights into it."

Ms Shea said in recent times the media in Queensland had not been particularly interested in the story.

"The Courier-Mail has decided, it seems to me, not to run any more stories unless something really new breaks," she said.

"So I think there is this general perception in the media in Queensland, that they are a bit tired of it all."

But Ms Shea said it is very timely to be looking at this story because Kevin Linderberg had managed to get another Senate inquiry established.

Australian Story at work ... shooting in *The Independent Monthly* newsroom. Photo: Netar Sau

"Kevin manages to keep getting inquiry after inquiry, and he manages to keep putting it on the public agenda," she said.

"Whether you agree with Kevin or not, you have to admire him for his persistence."

Ms Shea said she had also interviewed Premier Peter Beattie to get a reaction from the government.

"Kevin and Bruce have been making some fairly serious allegations, so I make sure that it is balanced by getting Peter Beattie's side of the story," she said.

The story is due to air on Monday May 17 on ABC TV's Australian Story at 8.00 pm.

Australian Story has an audience of 1.2 million viewers nation wide.

## ... and no response yet to TIM queries

EFFORTS by *The Independent Monthly* to obtain information from the Child Safety Minister about the rape of a girl being held in the John Oxley Youth Centre in the late 1980s have so far been unsuccessful.

As reported in recent editions of the paper, former Minister Craig Sherrin told the press in 1989 that a 17-year-old girl had been raped on an outing from the centre.

Over the last two months *The Independent Monthly* has asked current Child Safety

Minister Mike Reynolds whether the girl was in fact 17, whether she was Caucasian or Aboriginal and where the rape had taken place.

To date there has been no response from the Minister.

And in light of the charging in 2001 (and the recent conviction) of a man for destroying evidence in 1995, we have also asked the Police Commissioner if he intends to charge those who destroyed evidence relating to the

John Oxley Youth Centre in 1990.

To date Mr Atkinson has not provided any response to our questions.

We have also asked CMC Chair Brendan Butler if he wished to respond to a claim by House of Representatives Legal and Constitutional Affairs Committee Chair Bronwyn Bishop that a CJC investigation into the rape of a girl in the John Oxley Centre was a "whitewash".

To date there has been no reply.

THE independent MONTHLY

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THE UNIVERSITY OF QUEENSLAND

# Centre inmate, 14, pack-raped

Bruce Gundy

**A YOUNG** Aboriginal woman has confirmed claims by general informer staff members of a Brisbane youth detention centre that she was gang-raped while being held in the centre as a 14-year-old.

The woman, now in her mid-20s, said she was gang-raped twice on a supervised outing from the John Oxley Youth Detention Centre in the late 1980s.

Former members of staff at

the centre also have claimed the matter was "swept under the carpet" and "hushed up".

One former youth worker said if what had happened to the girl in question had happened to a white girl "there would have been hell to pay".

The woman, who cannot be identified, said she was taken on a bus trip with a group of Aboriginal and white male inmates to an isolated spot in the country.

One staff member accompanied the inmates into the bush and left her with the

boys. "The woman said the boys demanded sex and started arguing about who would 'go through her' first."

She said she told them to leave her alone but they forced her on to a large rock and raped her.

The woman said that what had happened to her during the first walk was repeated later in the day.

When contacted about the incident, Parrishes Department public servant Jeffrey Manitzky, who was allegedly in charge of the excursion,

said: "I'm not interested in talking about that."

Mr Manitzky then denied "go through her" first.

Karen Merstades, who also supervised the excursion, said she would prefer not to comment.

"I know that the manager of the centre informed the girls' mother of the allegations, and she came in to the centre," she said.

Ms Merstades said the mother decided not to pursue the matter because she had

been told the boys involved were "Indigenous".

Former leading criminal lawyer and the director of public prosecutions at that time, Des Sturges, QC, said that "unless the story was credible, the outcome of the matter was not one for the mother to decide".

"That would be for the police to investigate and determine," Mr Sturges said.

However, the girl's parents strenuously denied ever being told of the incident.

They said the first they had

heard of it was when The Courier-Mail asked them why they had decided not to take any action over the matter.

Peter Coyne, who was then the manager of John Oxley, said anyone with allegations about the abuse of children at the centre should take them to the Parrishes Department, the police or the Criminal Justice Commission.

"I would encourage anyone with such allegations to do so," Mr Coyne said.

Former assistant manager of the centre Jenny Foote

also declined to discuss the matter. She now works in the Parrishes Department.

The Courier-Mail has been told by former members of staff they had "no doubt" that the matter of the gang rape had been raised with the 1989 Heiner inquiry into the John Oxley centre.

Following the closing down of the inquiry, the manager of the centre was paid more than \$27,000 in "entitlements" and required to sign a secrecy agreement.

Watched crime, Page 14

## Comman arrested on Coast

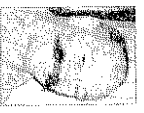
Chris Griffith

**ONE** of Australia's most notorious conmen, Ronald Frederick, 57, pictured, who fled Australia in 1998 after the collapse of his disposable camera business, has been arrested on the Gold Coast.

Frederick led police on an international wild goose chase in 1998 when the Fed overtook after unsuspecting investors lost as much as \$1 million from his disposable camera franchise business.

For 20 years,

Frederick crisis-crossed Australia selling franchises and seeking investments in his failed projects.



In the US, Frederick, alias Ron Levi, and his accomplice Andrew Coker, known as Lee Cooper, perpetrated similar franchise schemes and, despite entering the US on illegal passports, established scam businesses with hundreds of other victims the

## Horses, hats and haute couture stir Cup fever

Leisa Stewart

**MARIE** Louise Theale knows how to back a Melbourne Cup winner — on intuition.

"I have this overwhelming intuition, and once the race starts I get a vibe on who is going to win," she said.

This year the Ten news-reader will be putting her money on Caulfield Cup winner Ethereal.

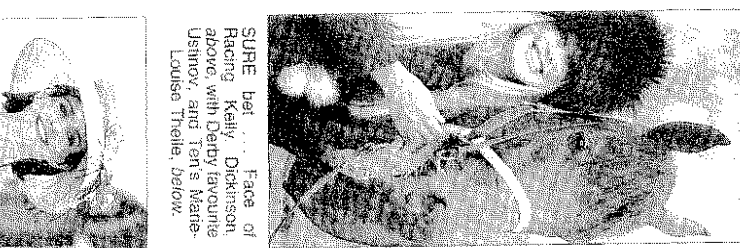
Locals can join Marie-Louise franchisee at Boomtown where she will be MC for New York, Ten and The Courier-Mail's jointly-sponsored Melbourne Cup Luncheon.

"The Melbourne Cup is such a unique thing," she said. "I can't think of another race or sporting event that affects every single person or where everything else stops for the day."

She said her fondest memory of the Melbourne Cup was when she befriended Subzero in her first year covering the Cup at Flemington in 1983.

"I bonded with this horse (the 1992 Cup winner), and even though he didn't win that year we formed a really nice friendship," she said.

A huge part of the Spring Carnival resides in the hats and dresses, with Victorians buying \$25 million worth of fashions — including more than 42,320 hats — for the Melbourne races last year.



**SURE bet** ... Face of Racing Kelly Dickinson, above, with Deputy Jayvonne Usinov, and Ten's Marie-Louise Theale, below.

**CourierMail**  
Expect more next week Monday

**16-PAGE SPECIAL**  
Cup Guide & sweep PLUS

16-page Sport liftout

**Monday**  
THE LAST WORD

8-page Cup guide

**Monday**  
CAP

**Thursday**  
Decision time

**What's**

# Painful recollection of a wretched crime

**A young woman, pack-raped as a 14-year-old, has confronted the demons of her past. Bruce Grundy joined her on the painful journey**

THE odyssey had been worth it. Against all odds I had found what I had been searching for — a large flat rock — almost in the middle of nowhere.

This rock had witnessed a wretched crime and I was taking the young woman next to me, step by step, through what had happened to her here.

At the start her words had flowed freely as we talked it through. Where were you? Who else was here? Where were they standing? What were their names? Where were those who were supposed to be in charge?

But as the questions continued and the crumh they were led- ing to approach, her words be- gan to slow. Then tears filled her eyes and streaked her cheeks. Her answers now were sobs. But she kept going. Until the questions stopped.

"I have to go now," she said through her tears. Gyring, she set off back down the path.

Twenty paces maybe and she sank to the grass beside the track and vomited until there was nothing left to lose.

She stood up and set off down the track again, back towards the car park. Another 10 paces and again she slumped to the grass and retched and

retched ... but there was nothing to bring up.

I took some pictures of the rock and walked back to the car park. She was sitting at one of the rough bush tables there with her mother, somewhere in her thoughts, head bowed, hair covering her face. Crumpled.

Almost doubled up as if she had been winded, I said some- thing inadequate about being sorry. But I knew my words were rotten question. Would she go back with me, where we had just been and recall it all again — so I could report it — absolutely ac- curately? I said I feared someone would say she had made it all up, that she had never been to that place, that it didn't exist and not did she.

Someone would try to confuse her and get her to say she had never been pack-raped — there or anywhere else for that matter. It took lots of courage but she said she thought that was a good idea, and she did as a 14-year- old went through it all again.

The place was just as she had described it to me the second time we had met. On day one she had said nothing. Even on day two she had been very cautious and hesitant — telling some strange white guy, what had been done to her when she was 14 was not something a woman would enjoy.

She remembered where the sun had been — shining through the crevices on her face, the ge- ography and the topography and the vegetation of the place, and who was there.

And then she even agreed to go to try to find the spot again. A crazy idea really. A rock, somewhere in the whole of southeast Queensland! A rock in a few million hectares of bush and farms and national parks and mountains, valleys and ranges. Crazy. But she agreed.

Perhaps there is a journalist's god because we finally found the place where she had been raped all those years ago as a 14-year- old in the care of the state.

And it was just as she said it would be. The trees, the sun, the rock. The job. It was also a place from which there was no escape.

She said it had happened more than once. The sun had been high in the sky the first time and then much lower the second. But by now the memories were more than enough. Please, can we go, she said.

Enough was enough and my companion had had enough. A month later we went back together and found the second spot — where the rest of the boys had raped her that day. This time, when she pointed out where it had happened, she asked if I would leave her for a little while. This time she sat down, as you can in that place, with your back to the rest of the world and for a few minutes just look in the scene in front of her: the ground, the fallen leaves and twigs, and the shrubs.

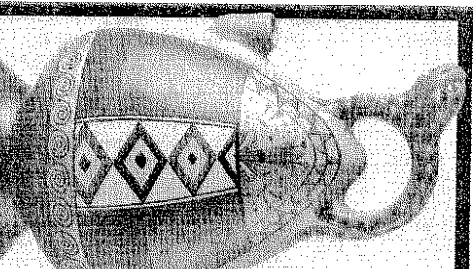
I left her with her thoughts. She clearly wanted some space, some silence, some solitude and perhaps a closing. Whatever it was, it was a wish to be respected.

As we drove away she said she would not go back again. Ever. Not for me. Not for anyone. She said she would never go back.

When next we met I asked if she still wanted to go on with what would follow when the story appeared. There would almost certainly be police, I said, and questions — and God knows what else. She said she did.

That was when I asked, quite casually, when her little girl was born. And just as casually she answered. Then almost to her- self, but loud enough to hear, she said something about what if DNA tests were done.

We agreed I should get on with the story. I went home to check one of my notebooks. And as I had suspected, if one of my con- tacts was right, there might well be a case for some DNA tests.



## Gifts that give twice

The Inca Salamañca jug from Peru, \$39.95 available now from Oxfam Community Aid Abroad Shops. Our shops are packed with a huge array of exotic giftware, homewares and jewellery from around the world. A gift that gives twice from us helps people living with poverty and injustice in overseas and indigenous Australian communities.

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## Vacant castle secures secrets

Phil Barsch  
Gold Coast bureau

CYNTHIA and Ross Greenwood-Smith were pulling the finishing touches to their castle.

It was the retired couple's dream home, perched on a Gold Coast hinterland hill. Now, it is empty.

Mrs Greenwood-Smith, 53, vanished without trace from the couple's 3ha property at Upper Coomera, in the Gold Coast hinterland, on October 1. She is still missing.

Three weeks later, her husband, 55, disappeared. Mr Greenwood-Smith was found dead last weekend in a bushland near the northern New South Wales town of Nimbin.

In an apparent suicide, his body was found with slashed wrists and throat about 500m from a rented white 1992 Toyota HiLux utility.

Shocked friends and neighbours say the Green- wood-Smiths appeared "a reasonably happy couple".

Australian Hibiscus Society member John Richardson went to the couple's house on October 2 after being invited by Mrs Greenwood-Smith to prune her hibiscus bushes.

But before he arrived he got a call from her husband saying "Cynthia's had to go to Sydney early this morn- ing", but he should "come up anyway".

Mr Richardson was ac- companied by two other members and they were greeted by an exhausted Mr Greenwood-Smith.

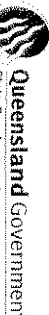
He claimed he had just dug 10m of soil.

Suspicion grew last week after police discovered women's clothes, jewellery, perfume and other personal items under a false bottom of the couple's partly-finished swimming pool.

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# Inquiry boss 'knew of rape claim'

Bruce Grundy

THE former Children's Court magistrate who conducted the aborted 1989 inquiry into the John Oxley Youth Detention Centre was told of claims that a 14-year-old Aboriginal girl in care was gang-raped.

But the inquiry by former magistrate Noel Heiner was terminated by the Goss government whose cabinet directed that all of Mr Heiner's materials be shredded in 1990. Allegations that the centre's

management knew of the rape, and that it had been covered up for 12 years, were raised in *The Courier-Mail* on Saturday.

A former centre youth worker said yesterday that he had been interviewed in 1989 by Mr Heiner, who had specifically asked about the rape.

He said the interview "was about Peter Coyne (the manager of the centre) basically" but the rape "was one of the incidents that came out".

When asked if he had volunteered information about the rape claim or had been questioned about it, the man said:

"Mr Heiner asked ... he knew about it already".

The man said everyone in the centre knew about the rape allegation.

A former minister in the Goss cabinet, Pat Conben, said on television in 1989 that "in broad terms" the cabinet had been aware that the shredded documents had contained information about child abuse.

The next day Mr Conben said his comments had been taken out of context.

Mr Heiner declined to comment on the matter yesterday.

A move by Families Minister

Judy Spence to refer the past rape cover-up allegations to the Criminal Justice Commission for investigation was strenuously opposed yesterday by a Queensland member of the State select committee which examined the shredding of the Heiner documents.

Former Democrats senator John Woodley, a member of the 1989 Senate Select Committee into Unresolved Whitebrow Cases, said it would be inappropriate for the CJC to investigate the matter because at the time of the Senate inquiry the CJC knew about cases of child abuse,

but failed to disclose them to the Senate.

"That was an incredibly serious omission, and one can't have confidence that they will deal with it properly if it is referred to them again," Rev. Woodley said.

According to former members of staff and the girl concerned, the gang rape took place when she was taken on a supervised excursion with a group of male inmates to a remote location in the bush.

The state Opposition yesterday called for a fresh public inquiry into the Heiner shredding.

Opposition Leader Mike Horan said he was shocked to learn of the rape allegations.

This latest allegation of past rape indicated the seriousness of the allegations that were covered up by the members of a Labor cabinet, some of whom still sit in this House," Mr Horan said.

"Nothing short of a full and open inquiry into this matter will ensure that justice can finally be given to victims of abuse."

Premier Peter Beattie said police and the CJC were examining the allegations.

## Prisoner a minder for D'Arcy

From Page 1

"They had no means of protecting themselves as it seems he does," she said.

Mr Shannon said he hoped D'Arcy would try to reduce his liabilities to secure a deal from the victim's compensation to his victims.

In July, two women, one of whom was raped in front of her class by D'Arcy, lost their bid for compensation from the State Government and Education Department.

A Corrective Services Department spokesman said yesterday there was no evidence to support the allegation of D'Arcy paying protection money. Payments to teenage prisoners were reviewed by staff before being processed.

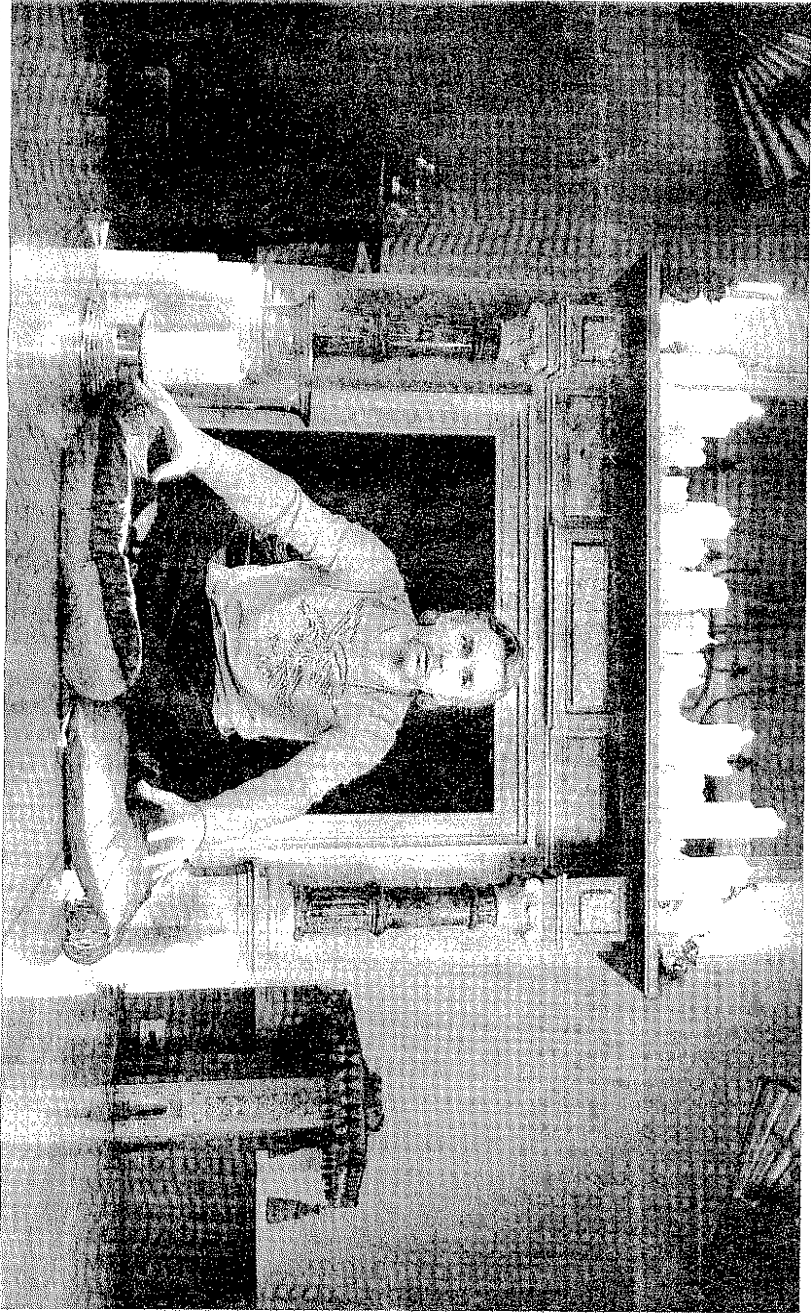
"If it is being paid outside of the custodial environment we have no control over that," he said.

Chang's transfer to another jail was normal, many high-profile prisoners had safely completed their terms and there was no reason why D'Arcy would not.

The spokesman said sections of the Corrective Services Act prevented the disclosure of any specific details regarding D'Arcy and his attendance at programs including the Sex Offender Treatment Program in which participants must admit their guilt.

Corrective Services Minister Tony McGlade said it was "unacceptable" if payments were taken to support the allegation regarding the payment of protection money.

## Baz feels ghostly buzz in his haunted house



Is there anyone there? ... Baz Luhrmann directs his thoughts on the spirits that wife Catherine Martin says are in their Sydney home

Picture: Marco Del Grande

Michael Boddy

GM's Catherine Martin very

"I haven't had the pleasure

of Baz Luhrmann directing me" says Catherine Martin

Picture: Marco Del Grande

# Former inmate alleges abuse

Bruce Grundy

ANOTHER former inmate of the John Oxley Youth Detention Centre at Wacol has alleged sexual abuse by a male staff member.

The woman, now 33, said the man gave her extra cigarettes in exchange for having sex with him while she was detained at the centre in 1988. She said she had also been exploited and raped by a

male staff member in Brisbane's Sir Leslie Wilson Detention Centre just before she was transferred to the John Oxley centre.

The woman said the rape at the Sir Leslie Wilson centre was when she was 14.

Because of the rape, she had slashed her wrists and had been taken to the Royal Brisbane Hospital for treatment, she said.

The woman said she had decided to speak out after seeing

reports in *The Courier-Mail* about the reporting and investigation of the alleged pack-rapе of a 14-year-old Aboriginal girl at the John Oxley centre also in 1988.

She said a man on duty at John Oxley let himself into her room one evening and said: "You must be lonely, you can't go out, you can't get a man", and began massaging her. He then had sex with her. His visits were repeated on a number of occasions.

The woman said she had been 17 at the time, an age when girls often had boyfriends and she thought the man must have had feelings for her because of what he was doing.

She said when she was nearing the end of her detention and was given weekend leave, the man would pay for a cab to take her to his place so that he could have sex with her. She said she had told

another staff member about these incidents and she believed others knew.

She said she told a staff member at the Sir Leslie Wilson centre what had happened there but nothing had been done about it.

The woman said she believed the man who forced himself on her at Sir Leslie Wilson had sex with several female residents. She said other problems started at the age of five

when she was molested by her foster father. The abuse continued until she was 10.

Her sister had told the nurse at the orphanage where she had been living about the abuse but nothing was done.

The woman said that after her release from detention her problems continued. She had a job working on the roads. But she said that being the only woman in the road gang meant she encountered un-

pleasant and distressing harassment and discrimination.

She said her lack of education, her background of abuse, and the pressures of her life caused her to break down and her children had spent time in care.

She claims while her five children were in care, two of them, both boys, were raped. She said despite repeated efforts on her part, as far as she knew nothing was done. She said the children were now living with her.

## 'Russian roulette' shooter convicted

Mark Oberhardt

A MAN who shot dead his "mother figure" in what was described as a "drugland execution" has been convicted of her murder for a second time.

Alan James Lacey, 40, was last year found guilty of the murder of Margaret James, 55, on July 7, 1999.

Lacey appealed on the grounds that vital evidence that he had admitted to a friend he killed James accidentally had been excluded from the trial.

The Court of Appeal agreed to a new trial, and a Brisbane Supreme Court jury took about five hours yesterday to again find Lacey guilty of murder.

Justice Margaret White sentenced Lacey to life in jail. "The trial was told there was no dispute that Lacey had shot James with a pistol at her Calaburra flat.

However Lacey claimed the shooting had been accidental, occurring while they had been playing a Russian-roulette-type game as James lay in bed.

In evidence he told the jury he had not realised the gun was loaded, and at one stage had "fired" an empty chamber at his own head.

However the Crown called evidence it said showed Lacey had been angry with James because he believed she was blackmailing him for "money and dope".

The trial was told James had known Lacey for many years and they had been involved in drug dealing.

There was evidence they had had a relationship like that of a mother and son. The trial was told Lacey had gone to the Calaburra flat after falling earlier in the evening at two streets up to rob stores. After James was shot, Lacey fled and was detained by police two days later.

## Ex-spy admits giving secrets to prostitute

Maria Moscarolo

FORMER spy Simon Lappas yesterday pleaded guilty to two charges of passing top-secret documents to a prostitute.

He never intended to compromise national security, his counsel Paul Wilke, QC, said. He had wanted to help co-accused Sherrill Ellen Dowling so she would stay with him.

Lappas, 28, a former Defence Intelligence Organisation analyst, pleaded not guilty to two other charges of passing three documents useful to a foreign power to Dowling with intent to prejudice the safety or defence of the Commonwealth.

Dowling, 26, has pleaded not guilty to two charges of receiving the documents while being hired by Lappas to do so and that they would be useful to a foreign power.

The ACT Supreme Court was told Lappas had just decided to end his seven-year engagement last July and meet Dowling at a brothel.

Prosecutor Des Fagan QC told the jury Lappas gave Dowling the first document just days later, with instructions on when to contact an embassy for the sale. The weekend after they met,



SIMON Lappas and Sherrill Dowling arrive at the court.

phone call to the embassy but did not follow it up. After Lappas admitted his action, police found all three documents in the glovebox of her car, the court was told.

Dowling's counsel, Ben Salinger, said his client had received the documents, but did not appreciate what they contained at the time.

Mr Wilke said Lappas, who was brilliant but could never make friends, had been in a tortured mental state.

He had started his new job as an analyst at the Defence Intelligence Organisation six months earlier, but despite his abilities was depressed and felt intimidated.

With Doung companionship with Dowling, which he was desperate to bond on to, Mr Wilke said.

## There's rock in that thar country



## Collision haunts

haunts



P



## MEDIA RELEASE

DATE: 16 November 2001

### CJC Completes Investigation of Alleged Rape Cover-up

The Criminal Justice Commission has completed investigations into claims of a cover-up of an alleged rape of a 14 year old female resident of the John Oxley Detention Centre in 1988.

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The investigation was undertaken by the CJC in keeping with its legislative obligations, after the issue was raised in State Parliament by the Minister for Families and Disability Services Hon. Judy Spence following media reports of the allegations.

The media reports suggested that the matter had been 'swept under the carpet' and 'hushed up' by staff of the Detention Centre at the time.

Ms Spence told Parliament she had ordered an immediate search of files by senior departmental officers and had referred the rape allegations to the Queensland Police for investigation.

Ms Spence also announced she had asked the CJC to investigate whether there was any official misconduct by Family Services staff in the way the issue was dealt with at the time.

CJC investigators have since examined Department of Family Services records from 1988 which show that the allegations were referred to the police at that time.

The CJC has also obtained and examined relevant police notebooks and diaries which further confirm this fact.

CJC investigators also inspected medical records confirming that the girl was examined by a paediatrician at the time, at the request of the police.

The CJC has now written to both the Police Commissioner Mr Atkinson and the Director-General of the Families Department Mr Frank Peach, advising that 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.

The CJC has provided copies of the material it has examined to Queensland police.

This information will be available on our website: [www.cjc.qld.gov.au](http://www.cjc.qld.gov.au)

#### Further Information:

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## Public Officials Can Still Be Charged

By Georgina Robinson

ONE of Queensland's most highly respected legal authorities has warned senior public officials who destroyed documents being sought for legal action a decade ago could still face criminal charges.

~~Retired Supreme and Appeal Court Judge and author of the text *Judicial Ethics in Australia*, James Thomas QC, was commenting on a case in which charges were never brought against those who authorised and carried out the destruction of a large collection of records being sought for legal action in 1990.~~

Mr Thomas said it was incorrect to claim that a person could not be charged because at the time he or she destroyed documents no court action related to those documents was actually under way.

The retired judge specifically rejected the view taken by former Director of Public Prosecutions (DPP) Royce Miller QC who said those involved in the 1990 document destruction could not be charged.

Mr Thomas said action could still be taken against the public officials who took part in that destruction.

"There's nothing to stop the present DPP from instituting action if there's a complainant," Mr Thomas said.

"Any police officer could bring a charge if he or she has reason to believe there's been a breach of the law," he said.

In November 1995, Shadow Attorney-General Denver Beanland asked Mr Miller to consider prosecuting the public servants involved in the shredding.

~~In his reply, Mr Miller said: "It is my view that there must be on foot a legal proceeding before this section (s.129 of the Criminal Code) is capable of application".~~

~~But Mr Thomas said the section was never open to such an interpretation.~~

~~"I can't see how it is even arguable that a legal proceeding be on foot."~~

~~"The section itself contemplates that legal proceedings might not be on foot," he said.~~

There were some things in the law that were open to different interpretations, but due to the wording of the section, "this clearly isn't one," he said.

In the Brisbane Magistrates Court eight weeks ago a man who guillotined some pages of a diary at a time when no court proceedings relating to them had been commenced was committed to stand trial for destroying evidence (s.129) or attempting to pervert the course of justice (s.140).

Section 129 states that any person who renders evidence "illegible or























indecipherable", knowing it is, or may be, required for a legal proceeding, is "liable to imprisonment for three years".

Former Police Commissioner Noel Newnham said since a member of the public was now facing trial for a similar offence, police should now "consider the wisdom of not laying charges" against public officials who had done the same thing.

Mr Newnham said the duty of the police service was plain.

"Sometimes it may be unpalatable, but that's beside the point," he said.

"The police oath says 'without fear or favour' and that means without regard to a person's social or political influence, wealth or power.

"It is simply beyond question that the Commissioner should see the members of his service apply the law," Mr Newnham said.

He also said the view attributed to the former DPP in relation to s.129 of the Criminal Code was "always nonsense".

"It's not what the law states," Mr Newnham said.

In early 1990 it was revealed that an inquiry into a Brisbane detention centre conducted by former magistrate Noel Heiner was shut down shortly after it began and all the documents it had gathered were shredded in secret.

The Labor Cabinet of the time ordered the destruction of the documents on March 5, 1990, despite the government receiving numerous communications from parties seeking access to them for legal purposes.

Officers of the State Archive and Family Services Department carried out the shredding two-and-a-half weeks later, on March 23, 1990.

Family Services officers carried out a further shredding of related documents on May 23, 1990.

In 1996 the Borbidge Coalition government commissioned an investigation into the matter.

In their report following the investigation, barristers Anthony Morris QC and Edward Howard said among other things it was "open to conclude that Section 129 of the Criminal Code was breached by an officer or officers of the Department of Family Services".

Cabinet's role in approving the destruction, despite being aware the documents were being sought by a firm of solicitors wishing to pursue court action, was not revealed until two years after the barristers had submitted their report.

In their report they had recommended the setting up of a public inquiry to fully investigate the shredding matter.

Instead, the Borbidge government sought advice from the Director of Public Prosecutions, Mr Miller.

According to a press statement released several months later by Premier Borbidge, Mr Miller had advised against charges being laid under s.132 (conspiracy) or s.140 (attempt to pervert the course of justice) and he had wondered if the public interest would not be better served if the matter were put rest.

No mention was made in the press statement of Section 129.

Mr Thomas said the legal system was a human system and, therefore, had its share of errors.

"The fact there was no further inquiry seems to have been based on bad advice from a public official," he said.

The retired judge's comments also raise serious concerns about the stand taken by the Criminal Justice Commission [now Crime and Misconduct Commission] on the matter.

In 1992 the CJC took advice on the matter from Brisbane barrister Noel Nunan.

Mr Nunan told the CJC a legal proceeding had to be "on foot" (begun) before a charge under s. 129 could be sustained.

Mr Nunan is now a Brisbane magistrate.

Following the Nunan advice, former Misconduct Division Chief Complaints Officer Michael Barnes told a Senate hearing in 1995 and the Sunday program in 1999 that court action had to be under way before a charge of destroying evidence could be sustained.

The organisation has maintained the same position since.

Mr Barnes is currently head of Justice Studies at the Queensland University of Technology. He has just been named as Queensland's first State Coroner.

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