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Crown Solicitor,  
State Law Building,  
50 Ann Street,  
Brisbane, Queensland. 4000.

8 February 1990

Mr B Stewart  
Director-General  
Department of the Attorney-General  
Treasury Building,  
BRISBANE Q 4000

Dear Mr. Stewart,

Re: John Oxley Youth Centre

On 17 January 1990 I was telephoned by Ms. Matchett, Acting Director-General, Department of Family Services and Aboriginal and Islander Affairs, concerning certain staff problems at the above Centre.

It appeared that on 13 November 1989 a retired Stipendiary Magistrate, Mr. N. Heiner, had been appointed by the former Director-General, Mr. Pettigrew, to investigate and report on problems besetting the Centre.

The problems appeared to relate to the management of the Centre by the Acting Manager, Mr. Coyne.

The matter was initiated because the two Public Service Unions provided certain written complaints by former and present staff to the Department.

These complaints were provided more as symptoms of the problem than as individual matters for investigation.

It appears that Mr. Heiner adopted an approach of investigating only those complaints and intended to present a report which made certain findings of fact but made no recommendations. In the event, no report has been submitted.

Mr. Heiner was not appointed to conduct a commission of inquiry and did not purport to exercise any powers such as compelling attendance before him or requiring people to answer any questions.

It appears he interviewed approximately 35 people and may have tape recorded many of those interviews.

In the circumstances of this inquiry, there is no absolute protection from action for defamation for either the informants or Mr. Heiner although a qualified privilege would exist.

On 17 January 1990 just prior to the completion of the investigation, the Solicitors for Mr. Coyne and another employee, Mrs. Dutney, wrote to Ms. Matchett asking to be informed of the legal basis for the inquiry and additionally to be supplied with material gathered by Mr. Heiner as well as having the right to cross-examine witnesses.

I provided certain interim advice to Ms. Matchett on 18 January 1990 concerning the various provisions of the Public Service Management and Employment Act.

On 19 January 1990 Ms. Matchett met with Mr. Heiner who indicated in writing he would not continue further with the inquiry until he received written confirmation that his appointment and authority to act were valid. He supplied all the material he had collected to Ms. Matchett in a sealed envelope.

On Monday, 22 January 1990 a conference took place between Ms. Matchett and Ms. Crooke of the Department and Mr. Thomas of my office concerning the issue. On 23 January 1990 a letter of advice, including draft replies to Mr. Heiner and the Solicitors for Mr. Coyne and Mrs. Dutney, was provided to Ms. Matchett. The advice was to the effect that Mr. Heiner's appointment was a lawful exercise of the Chief Executive's power under Section 12 of the Public Service Management and Employment Act.

Further, as the inquiry did not seem to be satisfying the needs of any of the affected parties, it should be terminated. The material which had been collected from any Departmental files should be returned to those files but the material created by Mr. Heiner should be destroyed.


If it was desired to constitute a further inquiry into the Centre, my office would give specific advice on the method of appointment and terms of reference when a particular person was identified to undertake the investigation.

Since that time further discussions have taken place between my officers and those of the Department.

It appears that the decision whether to destroy any material is to be referred to Cabinet on 12 February 1990; likewise the issue of an indemnity for Mr. Heiner is to be addressed on that day.

My office was informed that Mr. Coyne was to be reassigned to a project requiring his skills and an announcement was to be made at the John Oxley Youth Centre on 6 February that the inquiry was terminated.

Yours faithfully,

  
(K. M. O'Shea)  
Crown Solicitor.