



SPARK AND CANNON

TRANSCRIPT OF PROCEEDINGS

Telephone:

Adelaide	(08) 8110 8999
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THE HONOURABLE TIMOTHY FRANCIS CARMODY SC, Commissioner

MS K McMILLAN SC, Counsel Assisting
MR M COPLEY SC, Counsel Assisting

IN THE MATTER OF THE COMMISSIONS INQUIRY ACT 1950
COMMISSIONS OF INQUIRY ORDER (No. 1) 2012
QUEENSLAND CHILD PROTECTION COMMISSION OF INQUIRY

BRISBANE

..DATE 23/01/2013

Continued from 22/01/2013

DAY 14

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complaints in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

THE COMMISSION COMMENCED AT 10.36 AM

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COMMISSIONER: Mr Copley?

MR COPLEY: Good morning, Mr Commissioner.
Mr Commissioner, I refer you to exhibit 76 which is a photocopy headed "Secret Collective Minutes of Proceedings of Cabinet Meeting Held in the Cabinet Room Brisbane on 23 October 1989". Exhibit 76 has only three pages attached to it, the first page, the second page and if you look at the foot of the second page, it suggests that there might be a third page which is not attached. What is attached is a letter from a Ms Janet Stone, the acting cabinet secretary in 1999. Since exhibit 76 was tendered in November last year the commission has been provided with the balance of the secret collective minutes of cabinet from that date.

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COMMISSIONER: Yes.

MR COPLEY: What I propose to do is hand up to you the complete copy of the minutes which bear the signature of the then premier and the then secretary to cabinet and ask you to perhaps make the complete copy exhibit 76A.

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COMMISSIONER: Sure.

MR COPLEY: What the complete copy demonstrates really is simply the number of submissions that the cabinet dealt with on that particular date.

COMMISSIONER: Should I replace the complete copy with the current - no, look, I agree with you. We will make the full copy of the collective minutes of cabinet proceedings for 23 October 1989 exhibit 76A.

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ADMITTED AND MARKED: "EXHIBIT 76A"

MR COPLEY: Thank you.

COMMISSIONER: Mr Woodford?

MR WOODFORD: Yes, Mr Commissioner, I call David Ernest Lloyd.

LLOYD, DAVID ERNEST affirmed:

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ASSOCIATE: For recording purposes please state your full name and your occupation?---David Ernest Lloyd, retired.

Please be seated?---Thank you.

COMMISSIONER: Good morning, Mr Lloyd, welcome?
---Thank you very much.

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LLOYD, D.E. XN

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Yes, Mr Woodford?

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MR WOODFORD: Thank you, Mr Commissioner.

May Mr Lloyd see a three-page document that has been supplied to this Commission of Inquiry?

Mr Lloyd, could you have a look at that document and just confirm for us that that is the statement that you supplied to this Commission of Inquiry?---Yes, it is.

I have some questions for you this morning about the John Oxley Youth Centre?---Yes.

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From your statement it's true, is it, that you were at the centre from 1988?---Approximately, yes.

Around that time through till 1994?---Yes, approximately them dates.

You started out as a floater?---Yes.

That's how you described it. You had a number of roles? ---Yes, well, it was on a part-time to begin with and I used to be called in when they were short of staff or somebody was sick or something like that and I used to rotate between the wings when they needed me as extra staff.

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Right. That later moved on to be a full-time youth worker? ---Yes, eventually.

While you were working at the centre Mr Peter Coyne was a manager there?---Yes.

That was when you started, was it?---Yes.

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Moving into paragraphs 5 and 7 of your statement, your reflection or recollection is that you personally didn't have any difficulties with the management at the centre. I'm picking that up from paragraph 7. Is that correct? ---Can you repeat that again, please?

Sure. When you worked at the John Oxley Youth Centre, did you yourself have any difficulties with the management of the centre?---No, I just got on with my job and I didn't have much to do with management at all, to be quite honest with you.

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Were you aware that some others had some difficulties, some other staff?---There was always people complaining about things, yes, that they weren't getting the backup they felt they needed and stuff like that, but it didn't involve me.

Those sorts of rumblings, if you like, from the staff - was that just during the time when Mr Coyne was at the helm or did it continue after he left?---No, it seemed to continue on. 1

At paragraph 9 of your statement you refer to the words "Heiner inquiry". I understand that you had no involvement in that whatsoever?---No, not that I can recall.

Apart from this document that you supplied the commission you haven't given any prior statement in relation to the centre?---No. 10

Just moving to the last page of your statement there, paragraph 11, during your time at the John Oxley Youth Centre you had no direct knowledge whatsoever about any sexual abuse or allegations thereof at the centre?---None at all, no.

Right. Yes, I have no further questions, Mr Commissioner.

COMMISSIONER: Thank you. Mr Hanger?

MR HANGER: I have got no questions. 20

COMMISSIONER: Mr Harris?

MR HARRIS: I have no questions, sir.

COMMISSIONER: Mr Lindeberg?

MR LINDEBERG: I have no questions.

MR WOODFORD: May Mr Lloyd be excused, Mr Commissioner?

COMMISSIONER: Yes. 30

Mr Lloyd, you are excused, with thanks?---Thank you very much.

Thank you?---Thank you.

MR WOODFORD: That document - we will hold onto that? ---Right.

Thank you, Mr Lloyd?---Thank you.

WITNESS WITHDREW 40

MR WOODFORD: I will tender that statement, Mr Commissioner. There is one matter to take you to.

COMMISSIONER: Yes.

MR WOODFORD: Perhaps we could deal with the tender of it first.

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LLOYD, D.E. XN

COMMISSIONER: Mr Lloyd's statement will be exhibit 274. 1

ADMITTED AND MARKED: "EXHIBIT 274"

MR WOODFORD: It's paragraph 12, Mr Commissioner. There's a name on the second line and again on the third line. Consistent with other rulings that have been made my submission is that that name would not be published.

COMMISSIONER: All right. The name mentioned in paragraph 12 will be deleted before publication. 10

MR WOODFORD: Thank you. I call Jennifer Louise Foote. Just while Ms Foote is coming in, Mr Commissioner, if you will excuse me, there's a document referred to in a statement that we have located which I will circulate to my friends.

FOOTE, JENNIFER LOUISE sworn:

ASSOCIATE: For recording purposes please state your full name and occupation?---Jennifer Louise Foote. I'm retired.

Thank you. 20

COMMISSIONER: Yes, good morning, Ms Foote. Thank you for coming. Yes, Mr Woodford?

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MR WOODFORD: Thank you, Mr Commissioner. May Mrs Foote see a seven-page document that's been supplied to the commission under her name?

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Mrs Foote, I've had placed in front of you there a document. It's a seven-page document and it appears to carry your signature. Could you just have a look at it for me, please, just to confirm that that is the statement that you've supplied this commission of inquiry?---Yes, it is.

Thank you. I have some questions for you this morning about the John Oxley Youth Centre. Most of the matters I want to talk with you about are dealt with in your statement, there are just some things we need to go into in some greater detail?---Mm'hm.

10

As I understand it you were appointed the deputy manager of the centre from the time it opened. Is that correct? ---That's correct, yes.

You didn't stay there that long from what I understand. You left in about January 1989. Is that - - -?---That's right. I was there for two years.

20

While you were there initially you worked under a gentleman by the name of Terry McDermott. Is that correct?---Terry McDermott was the manager, yes.

Indeed, for the bulk of the time that you were at the centre, as I understand your statement, it was Mr McDermott that you worked with as his deputy?---That's right.

Paragraph 2 of your statement there, if I could just direct your attention to that part, in particular the last couple of lines. You make mention there of care and control orders back at that time when you were working at the centre. Your recollection now, back in those days was it only through care and control orders that children entered the centre?---Yes, that's my recollection.

30

Were they two separate orders, if you like, or were they one order?---It was one order, care and control, yes.

Were there more than one source of those orders in the sense of were different courts imposing those sorts of - or making those sorts of orders?---My memory is that a court could make an order for care and control, which generally meant that young person would be sent to a detention centre; or an application for care and control could be made by a departmental officer.

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I see?---And that was for grounds such as if the child was deemed to be uncontrollable.

So if you like, one stream was more criminal in nature and the other wasn't?---Yes one - that's right, one order was made by the court and the other was an application by a departmental officer.

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The other aspect of those few lines, when such an order was made on your recollection is it the case that it was up to the management of the centre to determine when the child can be discharged on that order. Is that - - -? ---That's right, my memory was that a court would make an order for care and control, for example for six months. That didn't mean that the young person would be detained for six months, but there was a panel that was convened at the detention centre which was made up of usually the manager, myself as deputy manager, and caseworkers and the psychologist. And we would discuss what the offences were, what the child's history was, and determine how long they would be detained at the centre.

10

Right. In terms of the order that may be made by the court, would six months set a limit on the amount of detention?---Yes, that was the upper limit.

Okay, so the discretion was that management team, as you've just described, may allow release prior to that time? ---Yes, that's my memory. Unless it was an order - for example, it was a two-year care and control order that was made by a higher court, the young person would be detained. That was seen to mean yes, the child would be detained for the full period.

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I see?---If it was a serious offence and it was a higher court.

In terms of superior courts you mean the District or Supreme Court?---District or the Supreme Court, yes.

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Just moving back to the management of the centre - and I'm looking at paragraph 7 of your statement, thereabouts - you did work with Mr Peter Coyne for some time. That was towards - that was at the end of your time of employment at the John Oxley Youth Centre?---Yes.

I'm trying to get a feel for how long you were there with Mr Coyne. From your statement are you indicating that you may have been there for up to about six months with Mr Coyne but in the midst of that you were away on leave for two months or thereabouts?---It was, yes, about seven weeks. I've seen my leave records and it was a period of 50 days in one block and I think there was another period of a couple of weeks, perhaps, that I was away during that time.

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Okay. In paragraph 8 of your statement do I understand that while you were there working with Mr Coyne you didn't have any appreciation of any issues between staff and management?---No, I didn't.

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I want to move to something referred to as the Heiner inquiry. This is dealt with in paragraph 11 of your statement. I understand that you yourself had no direct or indirect involvement at all in that inquiry?---No.

From paragraph 11 is it correct that your only appreciation of the Heiner inquiry is what you read in the press? ---That's right.

10

While you were at the John Oxley Centre you never supplied any statement to any person about the centre?---No, that I can recall, no.

In paragraph 13 you make mention of something called the Forde inquiry. Do I understand from paragraph 13 that you never attended any formal proceedings such as these in relation to that inquiry. Is that correct?---That's correct.

20

Do I understand from that paragraph that you may have spoken to someone from the Forde inquiry but you're not sure?---Yes, I'm unclear. I didn't attend a formal proceeding like this but I may have spoken with someone.

Right. I want to move to a topic of Annette Harding, who was a young girl at the centre, it appears, during the time that you were there, for at least that time or some part of it. From your statement - and I'm around paragraphs 19, 20, thereabouts - sitting here today I understand you've seen some documents recently in relation to Ms Harding, but sitting here today do you have any recollection at all of the Annette Harding incident, or more particularly what took place at the John Oxley Centre after it?---As I've said in my statement, I do remember Annette but I don't remember that particular incident. And I have seen my statement, which indicates that I interviewed Annette on two occasions following the incident, but I do not recall interviewing Annette.

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I'll place that document in your hands just to be fair to you, and we might pick up some detail. May the witness see exhibit 243, please.

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Now, I've had placed in your hands and one-page document dated 27 May 1988. You see that in the top right corner? ---Yes.

Now, the subject is Interview with Annette Harding and that document carries your signature at the bottom, does it? ---Yes.

As the deputy manager of the centre. You have seen that document in recent weeks?---Yes, when I was interviewed, when I gave my statement to the police.

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Firstly, you don't take any issue with the fact that you must have signed that document?---Yes, I must have signed it.

You have indicated you have no recollection of matters now. So do we take it - - -?---I beg your pardon?

You have indicated already that you don't have any recollection now of dealing with the Annette Harding incident. That's correct?---That's correct. I don't have any memory of this interview or the subsequent interview with her taking place, but I acknowledge it's my signature.

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You acknowledge that the matters set out in that letter, if you went to the trouble of putting it down in that memo and signing it, you would have attended - those matters would have taken place?---Yes.

Do you have any recollection at all as to why that document was created?---Why it was created? Well, after an incident happened or alleged to have happened, I would have gone through the process of interviewing the young person.

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Are you saying this was a standard response from a deputy manager while you were in that position if such a serious incident was alleged to have occurred?---Yes; either the deputy manager or the manager.

Is it the position that you're unable to add any colour to the detail of that statement beyond what's there?---No, I couldn't.

30

Can I just take you down to the second-last paragraph. You indicate in the letter there, "I explained that we intended to talk to her regarding the events." Now, that's a reference to Annette's mother. We will see that from the preceding paragraph?---Yes.

My question is: do you have any recollection of speaking with Annette's mother?---No, I don't.

The "we" there, could it mean you, yourself, or someone from the centre in terms of - - -?---That we, yes, it may have meant Peter Coyne as manager and I, but I don't know. It would have been myself and someone else.

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Okay. Can you place that document down for the moment. We will move away from that one. Moving forward in your statement and on paragraph 25 here, you were shown another document by the police who took your statement for this inquiry and I'll place a copy of that document in your hands. I'll hand one up for you, Mr Commissioner.

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FOOTE, J.L. XN

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COMMISSIONER: Thank you.

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MR WOODFORD: It's placed into your hand a single page document that's entitled For Your Information and it carries your signature on the bottom. Is that correct? ---Yes.

It's referring to the outcome or the outcomes of a meeting on 24 May 1988. Is that correct?---Yes.

Do you have any recollection, firstly, of signing that document?---No, I don't.

10

Do you have any recollection now of attending a meeting with the persons noted there on that date?---No, I don't.

You see that the letter appears to be undated. Is that how you read it? I ask you that because you're the author of it?---Yes, I can't see. That is the indication of the day that the meeting occurred but, no, I haven't signed it - this copy, anyway.

Mr Commissioner, I'll tender that document and perhaps to keep things simple, we might have it admitted as 243A.

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COMMISSIONER: I'm sorry. Yes, all right. The outcomes report of the meeting of 24 May 1988 signed by Ms Foote as deputy manager will be admitted and marked exhibit 243A.

ADMITTED AND MARKED: "EXHIBIT 243A"

MR WOODFORD: Thank you, Mr Commissioner.

Just going back to the first line of that document where it says, "Outcomes of a meeting, 24 May 1988," sitting here today you're unable to comment on whether or not the meeting actually occurred on that day?---No, I'm not. 25 years down the track, no, I couldn't.

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I guess just looking at the document, given that you authored it, the fact that you wrote, it appears to be indicating from the text of it that it did occur on that date. Why I ask you that is you're the author of the document and perhaps the way stylistically that you write documents and the contents of documents, whether you can help us with that at all?---Sorry? Help you with - - -

Whether or not the meeting would have in fact have occurred on that particular date as you read the document?---Well, yes, I would assume that I had - yes, that the meeting occurred on that day, outcomes of meeting, 24 May 88. Yes.

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As the author of the document, that's how you would read it?---Yes. Yes, that the meeting occurred on that day.

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FOOTE, J.L. XN

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You can place that document down for the moment. I'm at paragraph 27 of your statement now, apart from the matter concerning Annette Harding, that's a correct statement in paragraph 27 that you don't have any other knowledge of any allegation, sexual abuse, at the centre during your time there?---That's correct. Yes, I don't have any other knowledge.

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Yes, thank you. I don't have any further questions, Mr Commissioner.

COMMISSIONER: Mr Hanger?

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MR HANGER: Yes, thank you.

I appear for the state of Queensland. I just wanted to follow up a little bit about the Annette Harding incident. For how long at this time had you been working in child protection?---Prior to working at John Oxley?

Yes?---I worked at the Westbrook Youth Detention Centre. I started there in May 1979 and I was there for a couple of years and then - I was a child care officer, we would call it in those days, so directly working with the boys at the centre and I was away for a year and then I returned to the department and worked at the Ipswich area office of the Department of Children's Services, I think it was in those days. So I worked as a child care officer. My qualification is a psychologist. I worked there as a child care officer; had responsibility for conducting child protection investigations and I had responsibility as liaison officer for three - there were three family group homes in the Ipswich area. So young people who were living in a residential with a house parent for five or six young people.

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So before you went to John Oxley, you were in fact an enormously experienced person in the field, particularly, I imagine, having worked at Westbrook?---That's right.

Yes?---I was at the Ipswich office for four or five years, so I've conducted, I guess, hundreds of interviews with young people.

You know how to conduct such interviews. There's some skill required?---Yes.

And obviously as the 2IC of John Oxley your concern was for the wellbeing and the care of the children there?---Yes, totally.

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And that would be very important to you?---Yes.

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FOOTE, J.L. XN
FOOTE, J.L. XXN

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Now, in respect of the interview with Annette, I think my learned friend said to you, "Can you give some colour to it?" and you basically were unable to give colour to it. You don't recall, as I understand it, the actual interview?---I don't, no.

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No. Tell me this: if there had been allegations of rape involving any violence or anything like that made against one of your charges, I would expect that would be a matter that you would remember?---Yes.

This wasn't to you something that was - well, obviously it's a matter you didn't remember so it didn't have a big impact on you?---Well, it was - I can tell from the statement that it was - the event, the incident, was treated absolutely as it should have been.

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Yes?---I interviewed Annette and I'm aware of reading outcomes from these proceedings, I guess, what happened following and there was a medical examination and the Juvenile Aid Bureau was involved so I know that the correct procedure was followed.

The procedure you followed you say was a correct procedure. You notified the police who investigated it and you had the girl examined by probably the most experienced paediatrician?---I didn't, but that was organised. As I said, I've read some of the statements that have come from this hearing and, as I say, I don't recall that.

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Quite so; and you yourself interviewed Annette and asked her if she had had sexual intercourse with some boys and she initially denied that?---Yes.

And it was only after, I think, probably Mr Coyne had interviewed the boys and asked each of them separately whether they had had intercourse with Annette that I presume the information came back to you. They said, "Yes, two of us did," and you then went back to Annette and confronted her with that?---Yes, well, that's certainly what it says in that statement.

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That's what it appears to say?---That I interviewed her a second time.

Yes, and she agreed then that she had had intercourse with the two boys?---Yes.

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So obviously she was a young lady and this shouldn't have happened and so the procedure was initiated to take it further?---Yes.

And in the end, as you're aware, she chose not to make a complaint, a formal complaint, to the police?---Yes.

Thank you.

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FOOTE, J.L. XXN

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COMMISSIONER: Did she tell you why she didn't want to make a complaint?---I haven't got the statement to look at again.

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Just from your memory will do?---Well, what I said in that statement was that she said that she - well, she denied that it happened in the beginning and then it was when I interviewed her when - as we just said, when two of the boys acknowledged that something had happened - - -

So she was an unreliable historian about that?---Well, I couldn't say. That was what she chose to say at the time to me.

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All right. You had conflicting versions, conflicting accounts, of whether anything happened or not?---Well, she told me it didn't.

Yes?---Nothing happened, but the second time she said it did, I guess, after the boys had said something.

Right. So initially she said "didn't", then the boys said it did and then she changed her position and confirmed that something did, but you say in the statement that - she chose not to make a complaint, I think your words are. Is that how you describe it?---Were they? I've got a copy of that statement. Can I just have a look at it?

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Sure?---I've said here, "Annette told me that she had not had any sexual contact while on the outing."

Yes?---And then I had a further conversation with Annette on 27 May. This followed interviews with the boys who had been on the outing. During these interviews it was stated that two boys had intercourse with Annette while the other three watched. After Annette became aware that the boys had spoken of what had occurred, she stated that she had intercourse with two boys on the outing.

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I'm interested in the complaint, how it came not to be made. So can you just tell me how that evolved?---Well, I don't know. The comment I made earlier was that I had seen newspaper articles of proceedings, these proceedings, when the officer from the JAB commented that she had interviewed Annette but Annette didn't want to make a complaint.

Right?---I don't have a memory of that except what I've read recently.

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All right. So did you discuss with Annette whether she wanted to make a complaint? Was that a topic you and she discussed?---I haven't written that here so I don't - - -

No, I know?---Really I cannot remember.

No, okay.

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FOOTE, J.L. XXN

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MR HANGER: May I?

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COMMISSIONER: Yes.

MR HANGER: I suppose the point at that time so far as you were concerned is that this was totally consensual intercourse so that anything - it was unlawful carnal knowledge, if anything?---Well - - -

That's the state of your knowledge?---Yes, I didn't know. I mean, Annette said, no, she didn't, then she said, yes, she did.

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May I just ask one other thing?

COMMISSIONER: Yes.

MR HANGER: Sorry.

COMMISSIONER: Yes, sure.

MR HANGER: I understand that after these events occurred Annette was shifted to a different section of the establishment?---I'm not aware of that.

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You don't know?---I can't recall.

I'm sorry, Mr Coyne has told us that. Thank you.

COMMISSIONER: Mr Harris?

MR HARRIS: Thank you, Commissioner.

Ms Foote, can I just go through some dates with you so that we know what we're talking about?---Mm'hm.

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Now, the report exhibit 246A, the one that was given to you this morning, was made on 24 May 1988. That's the one where you have - the heading says "For Your Information" and then it goes through who was at the meeting, then it goes through six points and you sign it. Mr Woodford just spoke to you about that?---Yes.

Okay. Now, that's the 24th. Now, on that same day, the 24th, was the actual incident with Annette at the Lower Portals. Are you aware of that?---That it was on the 24th?

It was on the 24th?---It wasn't the 25th?

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No, it was on the 24th. I understand that 24/5/1988 and persons made a report on the 25th to Mr Coyne. That's the evidence that has come out here. Now, as I go through the names here, we have the names Karen Mersiades, Bob O'Hanley, Gordon Cooper, Jeff Manitzky, Sarah Moynihan. Now, they were all reported to be on that outing with

23/1/13

FOOTE, J.L. XXN

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Annette. So if I can draw this inference from it, that this report was done either on the morning of the 24th or on the afternoon of the 24th after the outing was over, would that be correct?---I can only go by what the date is on that. I have said the meeting was on the 24th. I don't remember - - -

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No, I just want to take you to number 1(e), "Knowledge of procedure to be followed if absconder occurs"?---Sorry?

It says, "Knowledge of procedure to be followed if absconder occurs." That's paragraph 1(e)?---Mm'hm.

10

Now, that tells me that this report was done possibly after they returned so it was done on the afternoon when they were returned to John Oxley. Would you agree with that? ---I don't know.

Okay?---Yes.

So it can be said that this report was actually done on the day of the incident with Annette.

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If you're to believe that that incident happened on the 24th of the 5th. Okay? All right. Now, I just want to move on to some other areas. In your report with - you say with Interview with Annette Harding - you say that you interviewed Annette on 25 May 1988. Right? So that's the day after the incident occurred. Was it your role at John Oxley to interview the girls there is some problem occurred?---I can't say that yes, that is always what happened. If it was a girl involved it may have been me who interviewed her and it could have been a male involved as well or they could have been two females who interviewed.

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It appears on the evidence before the commission that Annette wasn't interviewed on the 24th, that she was interviewed on the next day, the Wednesday. Would that be the normal procedure in these type of cases?---In what sort of - can you just be a bit more specific?

Well, when someone comes back, you've had the absconding; you've had, I believe, Mr Manitzky raised that some sort of sexual behaviour took place or something happened at The Portals. Would that be investigated immediately or would you just leave that to the next day?---Well, I would have thought it would be investigated immediately. I can only go on my statement that I interviewed Annette the next day. That doesn't mean that she wasn't interviewed on that day. All I can go by is that I interviewed her the next day.

20

As the deputy manager at the Centre there, the staff training, did that come under your portfolio or did it come under the general managers portfolio?---I was involved in presenting some training, along with the manager.

Were staff there taught what to do with respect to these type of incidents, or was that just a general knowledge aspect of the - - -?---Staff would have been trained.

30

How to deal with these particular incidences?---What sort of incidents do you mean?

Say the incident with the absconding?---Right.

Staff would have been trained what to do in those circumstances?---Well, my understanding would be that there would have been protocols to follow.

The same goes with incidents with respect to allegations of sexual misbehaviour by inmates out on camp or something like that, that would be reported immediately, wouldn't it, or been reported because of the protocols?---Yes.

40

All right. Now, you further go on to say that you then had a further conversation with Annette on 27 May. Now, that's the Friday of the incident. The incident happened on the

Tuesday, 24th, the Wednesday was the 25th, 26th was a Thursday, and the Friday was the 27th. Now, in that incident there you say there that the boys had been interviewed and that Annette made the - she told you that she had had intercourse with two of the boys on the outing. Now, I know you say that you don't recall - you say that it was - she said that - and you took it that it was consensual that - - -?---I didn't say that.

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Can I get to this point, Can you tell the commission what your thoughts were after reading this report, or what you can recall about this day on the 27th when Annette sat before you and said that she had intercourse with the two boys on that day?---As I said before, I remember Annette - I remember Annette at the centre; I don't remember this interview or the subsequent interview taking place. I accept I interviewed her because I've written the outcome of the interviews and my signature is there, but I have no memory of sitting in the room with Annette talking to her about this incident.

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All right. Can I put this: are you aware that on the 25th Annette and her mother had spoken about the incident and Annette wanted to file complaints of rape?---No, I'm not aware of that.

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All right. No further questions, Commissioner.

COMMISSIONER: Thank you. Mr Lindeberg.

MR LINDEBERG: Good morning, Ms Foote. Kevin Lindeberg is my name. Could I ask, could the witness be shown Exhibit 241, please?

COMMISSIONER: Certainly.

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MR LINDEBERG: Could I trouble you, Ms Foote, to go to page 2, please, basically the last paragraph. Could you read that paragraph out, please? I'll read it for you - you read it and I'll ask some questions about it?---Okay, starting, "A meeting was held?"

Yes, that's right?

---A meeting was held immediately between Peter Coyne, Sarah Moynihan, Karen Mersiades and myself at which we discussed the events of the day and my concerns and suspicions. A decision was made that the suspicions of sexual activities would be investigated as early as possible on 25 May.

40

I just bring that to your attention insofar as this particular document which has been tabled this morning relates, I suggest, to that meeting, which is dated the 24th, at which those people attended. And while I

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recognise that they're talking about interviewing the matters of sexual activity the following day, there's no mention of that within this memorandum, is there?--Sorry, no mention of - - -

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Sexual activity.

MR WOODFORD: I'm a little lost in the question myself, with respect, Mr Commissioner. Is Mr Lindeberg firstly asking whether this witness was present at that meeting that he's referring to at the bottom of the exhibit? Is that - I'm not losing the train.

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COMMISSIONER: Well, I think the document speaks for itself, doesn't it? There is no mention of sexual activity in the document.

MR WOODFORD: That's right.

COMMISSIONER: All right, let's take that as a given. So, next question.

MR WOODFORD: I'd say the question is in relation to this document being a reflection of the meeting that took place.

20

COMMISSIONER: Now, let's wait - - -

MR LINDEBERG: This is - - -

COMMISSIONER: I've got you.

MR LINDEBERG: Sorry, yes.

COMMISSIONER: You have to establish before she can comment on the accuracy of that document as a faithful record of the meeting, that she was at the meeting. That's the first thing you've got to establish.

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MR LINDEBERG: Look, I won't take that further, I just - - -

COMMISSIONER: Okay.

MR LINDEBERG: Commissioner, if you don't mind, there, please.

COMMISSIONER: All right.

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MR LINDEBERG: The next question, could I ask the witness to look at exhibit 242, please.

And can I trouble you to go to page 3 and the final paragraph and just read that you yourself, particularly where it's an interview that Mr Coyne had with Annette and what she had to say, what she wanted to do about the sexual

incident?---So, sorry, where did you - on page 3, did you say? **1**

The final paragraph?---The final paragraph.

It says, "Shortly after lunch I spoke with Annette Harding." this is Mr Coyne speaking?---So which day was this?

This is a document which was given to Mr George Nix on 27 May. **10**

COMMISSIONER: First of all can you have a look at the document and tell us whether you have any personal knowledge of the facts referred to in the document?---Okay.

Yes?---I don't have knowledge of that having occurred.

Look, all I do, Mrs Foote, I just point you to the fact that Mr Hanger made the comment about your interview with Annette in which she said she hadn't had sexual intercourse.

MR WOODFORD: I can feel an inadmissible comment from my friend coming on. He is clearly going to say something he's not entitled to say. **20**

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COMMISSIONER: In any event, Mr Lindeberg, the witness has said that she accepts that she wrote a document about an event, but has no current memory of the event. Unless you want to challenge that - - -

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MR LINDEBERG: No.

COMMISSIONER: - - - or unless you want to explore that a bit more as to whether or not she really has exhausted her actual recollection of the event. What Mr Hanger did or didn't say about what happened is not relevant to this witness for a couple of reasons: (1) witnesses don't comment on the accuracy or inaccuracy from their point of view of other witnesses. That's for me to determine. It's an area of opinion and interpretation, but not an area of expertise. If she says she can't recall and you don't want to rebut her on that, we accept that she can't recall, therefore, there is no point asking her about anything she can't recall, like the interview with Annette. Where are we now?

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MR LINDEBERG: Mr Commissioner, I won't press the point if it's said to be inadmissible.

20

Ms Foote, may I ask you to look at your statement please and could I trouble you to go to point 17. You say there that you were working at the Department of Families when an investigative unit came and spoke to you about this matter. The name of the gentleman was Mr Izzy?---Ken Izzy.

Ken Izzy?---Yes.

To your knowledge he was part of the Department of Families - it may be called something - Department of Families? ---That's right.

30

You're quite certain it wasn't from the CJC?---Yes, I'm quite sure of that. It was - - -

That was made clear to you when you were interviewed?---I beg your pardon?

That was made clear to you when you were being interviewed that he was from the Department of Families?---Yes.

Thank you?---His interview was subsequently referred to the CJC, but I know that he worked for the misconduct unit.

40

How do you know that?---Because I had a letter back from Ken Izzy saying it had been investigated by the CJC and - - -

Let me be clear what you're saying because I was led to believe that Mr Izzy conducted an investigation and that's why he came to speak to you. Is that right?---He did.

But if I recall - - -

1

COMMISSIONER: She doesn't know why he came to speak to her, unless he told her and it's true.

So you did speak to Mr Izzy?---I had a letter from the director-general Frank Peach on 5 November 2001 appointing Ken Izzy to interview. It was a result of Bruce Grundy having turned up on my doorstep asking me whether I knew anything of the incident. Then the article appeared in the Courier Mail the following Saturday and I reported that to Terry McDermont, who I was then working with in the city in another position and as a result of that, I had a letter from Frank Peach, who was the director-general, saying that he had appointed Ken Izzy to investigate what had been said in the Courier Mail article.

10

So there was an interdepartmental inquiry into whether or not what was reported in the Courier Mail was true and what the implications of that were?---Yes.

All right. Okay?---And then I had a letter back from Ken Izzy saying that it had been referred to the CJC and that the chair of the CJC Brendon (indistinct) advised the DG on 16 November 2001 that no reasonable basis to suspect any official misconduct by departmental officers during the outing or their duty to report the alleged rape.

20

MR LINDEBERG: I'm just a little confused. I'd appreciate it if you could help clear it up. You talk about the CJC. Is it your understanding that the CJC did a separate inquiry?---I have a letter here that - - -

COMMISSIONER: No. First of all, you don't have to prove anything. Mr Lindeberg is just asking about your understanding at the moment?---Could you ask me the question again please.

30

MR LINDEBERG: Is it your understanding that the CJC did a separate inquiry?---My understanding was that they did some investigating around that issue. Yes.

So what we come to there are two inquiries; one in Family Services and one in CJC?---All I know is that I got a letter back saying that the CJC had been involved and they found that - - -

Thank you. You weren't shown any final report or anything like that?---No, I received the letter to say that there would be nothing further.

40

Thank you. Ms Foote, could I trouble you please to look at exhibit 246?---Thank you.

Could I trouble you to turn particularly to the penultimate paragraph, please, where it starts, "Mr Coyne also advised

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me"? What's is that? That's Mr George Nix saying that to the director-general Mr Pettigrew. That's the paragraph I'm particularly interested in. Do you see that paragraph.

1

COMMISSIONER: Okay.

MR LINDEBERG: You have read the paragraph? Before I ask you specifically about it, you were Mr Coyne's deputy at the centre - - -?---Yes, I was.

- - - at the time?---This was - yes.

10

You had a good working relationship with him?---Yes.

He would have confided or spoken to you about the various people who worked at the centre in terms of how certain people were performing?---How what, sorry?

How certain staff were performing?---We would have discussed issues relating to staff, yes.

What I would like to ask you, the article refers to one particular staff member - - -

20

COMMISSIONER: Sorry, which article is that?

MR LINDEBERG: Sorry. The paragraph, forgive me. The paragraph where, "Mr Coyne also advised me that one particular staff member (that they had had a lot of trouble with) was saying that there had been a cover up and a whitewash." Do you see that?---Yes.

May I ask do you know who that particular staff member was?

COMMISSIONER: First of all, asking whether she knows who that particular staff member was assumes the truth of what that staff member is alleged to have said, you see. So, first of all, do you know anything about the subject matter that's attributed to that staff member?---No, I don't.

30

MR LINDEBERG: Well, look, if that's the case, thank you very much. I have no further questions, Mr Commissioner.

COMMISSIONER: Thanks, Mr Lindeberg. Yes, Mr Woodford?

MR WOODFORD: May Ms Foote be excused, Mr Commissioner?

COMMISSIONER: Yes, thank you.

40

Ms Foote, thanks for coming. I appreciate the time you have spent?---Thank you.

You are formally excused from your summons?---Thank you.

WITNESS WITHDREW

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MR WOODFORD: All those documents could be returned to the custody of the commission and I will tender Ms Foote's original statement. There is nothing contained in it that I can see that prevents it being published in its entirety. 1

COMMISSIONER: Ms Foote's statement will be exhibit 275 and it can be published as it is.

ADMITTED AND MARKED: "EXHIBIT 275"

MR WOODFORD: Thank you. Mr Copley has the next witness. 10

COMMISSIONER: Thank you, Mr Copley.

MR COPLEY: Commissioner, I call George Alexander McAulay.

McAULAY, GEORGE ALEXANDER affirmed:

ASSOCIATE: For recording purposes please state your full name and your occupation?---George Alexander McAulay; I'm an invalid pensioner.

MR COPLEY: Mr Commissioner, could Mr McAulay see a statement of witness that bears the name George Alexander McAulay on it? 20

Mr McAulay, could you just have a look at that document and confirm that that is a statement that you signed on 18 January 2013?---Yes, I can confirm that.

Thank you. Mr McAulay, do you wear glasses?---Yes, I do and I didn't bring them, sorry, but I can vaguely make this out.

All right. If you need me to read anything out to you or you need more time to read it, say so?---Thank you. 30

Mr McAulay, in paragraph 8 of that statement on the third page you state that although you were aware of the Heiner inquiry, you never gave any evidence to that inquiry or to any other inquiry concerning your time at John Oxley? ---That's correct.

Is that true?---Yes, that's true.

Okay, thank you. Now, you in the statement state that you knew a little bit about an incident concerning a girl called Annette Harding?---That's correct. 40

And you refer to her in the statement as "Annie Harding", "Annie" being short for Annette?---Yes, that was her name, Annie, to most of us collectively.

Yes, and you state that after the outing which you did not go on - - -?---That's correct.

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- - - Annie Harding was taken away for a period of five days?---That's right. 1

That's correct, is it?---Well, in the sense that she was still within the wing but the wing opened at 7 o'clock, kids were let out and round about 8.30 they were put to bed. Annette was taken out before 7.00 and returned after 8.30 for about those five days.

Right?---When I say "five days", I think it was, like, Monday through to, I think, I think, Friday. 10

Okay. So what day did the incident occur on?---I think, from memory, that was a Sunday night.

I see?---But I have to tell you I've had two strokes and I have lost a bit of memory for, say, the last 10 years but I seem to have a reasonable memory outside that period for this event.

This event occurred more than 10 years ago?---That's correct.

So your memory would be pretty good?---Yes. 20

So you thought that the incident occurred on a Sunday. Where was the outing to? Do you know?---It was to Slaughter Falls.

Slaughter Falls?---Yes.

Right; and where are Slaughter Falls?---I've been there but again I've forgotten that part. I know that it's near the city somewhere.

In or near which city?---Brisbane. 30

Okay?---When I say that, how I - what happened on the night was I came on shift at 11.00.

On the Sunday night?---I believe it was Sunday night and the wing was very quiet. I was in one wing, Blaxland wing, but it was the middle wing which I think Annette was in and I think it was a chap called Mark Freemantle - everybody was pretty white faced - who came and spoke to me as we came on and said he was finishing his shift and told me what had happened with Annie and that's how I knew Slaughter Falls where it had taken place. 40

So that's how you derived the understanding that it occurred at Slaughter Falls?---That's right.

Anyway, in the period of five days which you think was from a Monday to a Friday she was sequestered or kept away from other people. Is that the case?---That's correct.

And in that period she was not examined, according to your statement in paragraph 6, by a doctor and the police weren't contacted?---Well, that's correct. 1

That's correct?---When I say that - - -

That is correct, is it, that she was not examined - - -?
---To the best of my understanding, yes.

I see; so it might not be correct in fact but it might be your understanding. Is that what you're trying to say?
---My understanding, but also predicated on the fact that there were a lot of other people involved in the activities that went on in the centre and in that time, certainly by the Friday, a lot of us were getting a bit upset at what had happened. 10

COMMISSIONER: Mr McAulay, just tell us when you say it's your understanding, what's your understanding based on?
---Well, I worked in Blaxland wing which is the closest to the front and, of course, we account for each of our children and from Blaxland wing you can see down into the front area and each day Jenny Foote was taking young Annette out of the wing and - what activities they did I don't know but she took her away. 20

She took her out of your view?---That's right.

Right. So how does that help you conclude or understand whether there was an examination or not?---I guess you'd have to say that's hearsay.

Right?---Hearsay in the sense that there were probably about two dozen youth workers and all of us were concerned and we were made aware through other hearsay - - - 30

I'm sorry, I need to break this down here because when you say "I understand", that's a conclusion?---Yes.

What we need to work out is what it's based on and how trustworthy is it and when you say, "It's hearsay and then there were a lot of us who were concerned," again we need to break that down. When you say it was hearsay, what do you mean by that term and - first of all, what do you mean by the term?---What is definite was there was certainly no police involved the first day.

No, no, no, again conclusion?---Yes. 40

I need to find out how you know these things, not what you think you know. Do you understand the difference?---Yes.

Okay. So what I'm trying to find out is: how did you develop the belief that there was no medical examination of Annette Harding, based on what information or observation?
---Based on information - and, of course, it's a long time

ago. Based on information that was between staff, staff that were involved and staff that also knew our major nurse worked downstairs as well.

1

So it was information from the staff. What information? ---Basically that she'd been taken out of the wing. We weren't made aware why she - at that stage why she was being taken out of the wing. We were aware that - - -

So what you were told by other staff is that Annette had been taken out of the wing?---Yes.

10

And once she was out of the wing, neither you nor these other staff would see what was happening or where she had been taken?---That's correct.

Or why?---That's right.

Right. So other staff told you that Annette had been taken out of the wing. That's one of the bases for your understanding that no medical examination had occurred. What was the next one?---The second point on that is that Peter Coyne held a meeting, a big staff meeting with everyone, at which he went on and detailed what was the procedure going to happen with Annie and certainly at that meeting no mention was made at all of police involvement, any other medical involvement at all, and that was a long discussed meeting.

20

How long after the event did that meeting occur?---I think, from memory, it would've probably been the second week.

Right. So when you say that there was no mention in the meeting, that means not only did Mr Coyne not raise it but no member of staff raised it with him?---Nobody was game to.

30

No, no, no?---What I mean is - - -

Don't jump to - did anybody raise it with him?---No.

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All right. You believe they didn't because they weren't going to. Is that right?---Pretty much. 1

What's the point of having a meeting then that went on for a long detail? You said these - - -?---These were regular meetings that we normally had; staff meetings.

Yes?---In this case, I think it was a regular staff meeting that it was brought up. I don't think it was a specially convened one.

But didn't you say it was a long detailed one?---Yes. 10

Didn't you say because it was long and detailed and no mention had been made of police investigations or medical investigations that led you to conclude that none had happened?---That's correct.

At this long detailed meeting are you telling me that people weren't going to raise questions about investigation and forensic examinations with Mr Coyne?---It was virtually one way traffic. It was - - -

One way traffic? He was telling you what was happening? ---That's right. 20

Is that the way all these meetings went?---He didn't always attend them, but, yes, pretty much.

Right. So Annette was taken somewhere where nobody knows, nobody knows what, why, nobody knows - with whom nobody knows. That's one factor. The other factor is two weeks after the event, Mr Coyne had a detailed meeting with staff in which he did not mention the fact or he did not mention that there had been a police investigation or a medical examination?---That's correct. 30

Which by process of your reasoning he would have done if they had happened?---That's correct.

What gives you the belief that he would have said something about those two factors if they had occurred to the staff who were not going to ask him questions?---Because he gave an outlay of what had happened, an outlay of why he had made certain decisions and explained all that to us and apart from mentioning that he had approached Annette's mother and it was what Annette's mother apparently wanted, that was the only information that was put forward. No other information was put forward regarding those aspects. 40

Okay. So it's lack of information that gives rise to the speculation that it didn't happen?---That's correct.

What if there was a policeman or a policewoman who interviewed Annette Harding about that fact at that time

who's given evidence and confirmed that that happened?
What would that do to your belief that it didn't happen?
---It would change my belief that that was true.

1

As long as what she was saying was true. Just because she says it doesn't, it wouldn't make you change her mind, would it?---I'm sorry? Could you repeat that?

You would have to be satisfied that what she was saying was true?---If a police officer had spoken and I'd found out about that, yes, of course, it would change my mind.

10

MR COPLEY: But it's your belief, isn't it, from that day to this that the girl was not medically examined and not spoken to by the police?---That's correct.

That's your belief?---Based also on the fact that other staff who are more closely involved than I am spoke to me and - I know that's hearsay, but they spoke to me and expressed their concerns.

And what you're - - -

COMMISSIONER: So it was a general belief?---Yes.

20

MR COPLEY: And what you're trying to convey in your statement here, I suggest, is that it was a very close environment and everybody knew what was going on. By that you meant that if this girl had been seen by a doctor or the police, we the staff, would come to know of it? ---Absolutely.

And absent any staff member knowing of that, it was safe to conclude that neither of those events had occurred? ---That's correct.

30

As a responsible adult is it the case that you personally at that time thought it was necessary that she be seen by a doctor and spoken to by the police?---No, because I didn't know enough about procedures. In latter days, I was aware of what should and shouldn't happen. Normally, if an action like that happens, a rape or attempted rape or whatever, there normally should be a period from what I understand where someone does need to be examined.

When did you, after the incident on that Sunday, come to that conclusion that it would be prudent for a person allegedly raped to be examined by a doctor and spoken to by police?---Not until other staff spoke to me, particularly female staff, and said, "This what should have happened."

40

Okay?---Up till then I wasn't aware of what should or shouldn't have happened.

How long after that Sunday did those female staff point those truths out to you?---Around about when we had that other meeting with Peter Coyne. It was about that time.

1

So it was around about a fortnight or so?---That's right.

Okay. From at least a fortnight after the incident you were firmly of the belief that neither police nor doctors had been involved but that they should have been?---That's right.

Let us move forward a little bit to an occasion when someone, who might have been someone called Colin Dillon spoke with you, which you say was around 2000, maybe 2001? ---That's right.

10

Do you remember that occasion?---Yes. I was working at the local government association as a project manager and - - -

I haven't asked you that?---Yes, I'm - - -

I'm not questioning your recollection in terms of whether it occurred. You don't need to rush to add detail to it to lend it - - -?---I'm sorry.

20

- - - more credence. I'm simply ask you do you remember that man talking to you?---I do.

Thank you. You state in your statement, "I told him about the Annie incident"?---That's correct.

Fair enough, "And that it occurred at Slaughter Falls"? ---That's correct.

Then after speaking with him, Mr Dillon, who you understood to be a retired police officer, you met with a journalist called Bruce Grundy?---That's correct.

30

Had you met this man Grundy before you had met Dillon? ---No.

Okay. Was Dillon with Grundy when you met Grundy?---I can't be sure, but Dillon started the procedure or the activity that eventually led to talking to Bruce Grundy.

So this retired police officer put you in contact with the journalist?---That's correct; or brought him to me. I can't quite remember.

40

The meeting occurred in the city somewhere, did it?---No, local Government House.

All right. You state in the statement at paragraph - - -

COMMISSIONER: Which was where you were working at the time?---That is correct.

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MR COPLEY: You state in the statement, "I spoke to them about the Annie incident and provided my sketchy details about it. I probably gave them about as much sketchy detail as I have provided in this statement"?---Yes.

1

Did you tell this man Grundy that this child hadn't been seen by a doctor and hadn't been spoken to by the police? ---I probably told him a little more than that.

A little more than that? But did you tell them that? ---That's correct.

10

So you told Grundy she wasn't seen by a doctor. She wasn't seen by the police and what else did you tell him?---That at the meeting with Peter Coyne - can I go into this part.

Yes, go on?---At the meeting with Peter Coyne when he spoke to us all, he said that because he had the power under the Children's Services Act for her care and custody, that he had made a decision that for him to punish the boys would be - I can't quite remember how he put it - him making a judgment on them.

Yes?---So to that end he decided to release everybody, including her, and that he had advised us that he'd spoken to Annette's mother and this was the course of action that Annette's mother wanted to happen.

20

All right. That's what you told Grundy?---That's correct.

If the girl had in fact been seen by a doctor and had in fact been spoken to by the police, if that had occurred in the days following that Sunday night, would you concede that you would have unwittingly misled this man Grundy? ---Not quite because it would be my opinion that had the police examined her and had medical people examined her then it would have been taken out of Peter's hands.

30

Yes, but what I'm saying to you is - - -?---And that's why I formed that opinion.

Yes. I know why you formed the opinion?---Yes.

But what I'm asking you is to consider this hypothetical possibility so far as you're concerned. If in fact unbeknownst to you the kid had been seen by a doctor and had been spoken to by the police - - -

40

COMMISSIONER: And yet still it remained in Mr Coyne's hands despite your expectation - - -?---Yes.

MR COPLEY: If those things had occurred, but you had told Grundy they hadn't occurred, would you agree with me that you would have unwittingly, that is to say unknowingly, not deliberately but nevertheless unwittingly misled Grundy? ---Yes.

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I have no further questions. Thank you.

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COMMISSIONER: Thank you.

I think you would have stated an opinion as if it were a fact?---That's correct. Yes. I wasn't able to give enough information to Bruce to say specific detail facts, but just an overview of my recollections.

So did you say to Grundy, "Look, I don't believe that there was an investigation or an examination - - -"?
---Effectively, yes.

10

- - - or did you say, "I know there wasn't because of these factors"?---What you said first pretty much.

So you told him it was your belief - - -?---That's correct.

- - - as distinct from knowledge because you really had no knowledge, did you?---No. Well, I was aware that she was taken out of the wings; to that extent, yes.

You knew she was taken out of the wing?---Yes.

20

But that would be the extent of your knowledge?---That's correct. There certainly on the very first morning which I happened to be working would've been at least a period, from my understanding, where there would've been activity with Annette that would've involved the police, that would've involved medical assistance, and I could see from looking through the wing that that wasn't happening.

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So what that means, sorry, decoded is that you saw activity that you interpreted as being inconsistent with your expectation that Annette would have been examined by a doctor and interviewed by police?---Yes, that's well put. **1**

So it's what you didn't see that led you to the belief that - - -?---That's correct.

- - - the examination or the investigation didn't occur on that first day. Is that right?---Yes.

Then subsequently you didn't see anything yourself that led you to change that initial perception?---That's correct. **10**

MR COPLEY: Can I just have one further opportunity to ask this question: do you recall what year you had the meeting with Grundy at the Local Government Association?---I think I started in 99. I'm fairly certain it was either - probably 2001.

Okay?---Perhaps heading to 2002, but in that period. I can't be more specific than that.

You can't give me a possible month?---I'm sorry. **20**

All right?---As it turned out, one of the guys working in the next room had the telephone number of Colin Dillon because we had Aboriginal networks - well, people that we kind of work around.

Yes?---And he was the one that gave me the number. I'd never even thought of calling Colin and it was from that that I set the ball rolling and then when I spoke to Colin, Colin brought in Bruce.

I see, okay?---I never expected it to be an investigation or anything. **30**

No, no - well, it wasn't really, was it?---Only to the extent of what Bruce did, finding these names and things like that. I didn't even remember Annette's name.

No. Can I just get you to have a look at exhibit 250? You don't have it. It's getting fetched for you. Can you see that it's on Mater Misericordiae Children's Hospital letterhead?---I can see that, yes.

Yes, and you will see on the left-hand side there's a date of June 1988. Do you see that?---Yes, I can, but I can't see the actual - 15th. **40**

Right; and then it's addressed to Dr Harold Forbes at John Oxley Youth Centre. Do you see that?---Yes.

And it says, "Dear Dr Forbes; re Annette Louise Harding, date of birth 12/2/71." Does that sound like Annie Harding?---Yes. 1

Do you see the first paragraph says, "I was asked to examine Annette on 27 May 1988 on the request of the Juvenile Aid Bureau"? Do you see that?---Yes, I can.

And do you see down the bottom it's signed Dr Maree Crawford, paediatrician?---Yes.

Would you now concede that you unwittingly misled Grundy about the absence of a medical examination?---If this - yes. 10

If that's true, of course?---Yes.

Is there some doubt in your mind that that may not be a true document?---No, this is all new stuff to me.

Yes?---This person it's addressed to, Harold - sorry, I can't read that.

Forbes?---Forbes - I don't know who that person was. I don't remember anyone working in the institution of that name, that's all. 20

Don't you?---No.

Right. Well, his identify hasn't been questioned hitherto, but it would appear to be, according to the letter, that he's a doctor at the John Oxley Youth Centre, but more importantly perhaps from your point of view is that this lady Maree Crawford who claims she's a paediatrician says that she examined Annette on that date at the request of the Juvenile Aid Bureau. Do you know what a juvenile aid bureau is?---I certainly do, yes. 30

They're police, aren't they?---Yes.

COMMISSIONER: So if you saw Dr Forbes on that day, you wouldn't have recognised him?---I've never even seen him in the centre.

And you wouldn't have connected him with being a medical officer?---That's correct.

Or with being a medical officer who examined Annette Harding?---That's correct. 40

MR COPLEY: Do you concede now that - - -?---Yes, I do.

- - - you have misled that fellow Grundy if what's in those - - -?---In those facts, yes.

No further questions, thank you.

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COMMISSIONER: Mr Hanger? 1

MR HANGER: No questions.

COMMISSIONER: Mr Harris?

MR HARRIS: No questions, commissioner.

COMMISSIONER: Mr Lindeberg?

MR LINDEBERG: Mr McAulay, I have just got a couple of questions. Can I just declare to the commission that in fact I have met you once? You may not recall. 10

MR COPLEY: Well, again - - -

MR LINDEBERG: I think it's important, commissioner.

MR COPLEY: - - - he's giving evidence.

MR LINDEBERG: I'm sorry.

COMMISSIONER: Just move on, Mr Lindeberg. 20

MR LINDEBERG: Okay.

COMMISSIONER: I understand what you - - -

MR LINDEBERG: Yes, I just wanted to be clear.

COMMISSIONER: Yes.

MR LINDEBERG: Mr McAulay, in terms of your concern about Ms Harding over her treatment, can I ask you: was there another concern that staff had out there in relation to the treatment of the staff who took her on the trip in terms of how they were treated afterwards in respect of this incident occurring?---Yes. When incidents occurred within the centre, including one which ended up in someone going to court, they were taken very, very seriously. For the people that were involved there were no sanctions. It was business as usual basically which was surprising considering how Peter Coyne used to react generally to anything that happened within the centre. 30

So in relation to the staff who supervised this outing when Annette was assaulted, there was a concern that those staff were not disciplined?---Well, if that's the correct word, "discipline", or any way affected, that's correct. 40

COMMISSIONER: When you say there was a concern, was that one of yours?---No, because it was a general concern at that meeting because we were given no information and nothing changed.

This is the meeting - - -?---That Peter Coyne held.

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- - - that nobody was willing to express concerns to Mr Coyne about?---That's correct. 1

So it was a concern within the meeting but unvoiced?
---That's very correct, yes.

Who did you share the concern with?---I can't remember, but we all talked to each other.

Yes. So you thought there should have been some consequences for the boys?---For the boys? 10

For the staff, I beg your pardon?---Not necessarily consequences in the sense of punishments or anything like that, but just something that was showing an investigation or a follow-through procedure of what might happen in those situations.

So then your concern that there had been no consequences for the staff depended on there not having been an investigation of the adequacy of their supervision?
---That's correct.

And you were concerned that they hadn't had an appropriate consequence because you thought until today that there had been no investigation?---Not quite; I don't tie the two together, but I can understand where you're coming from. It was just separate thing. Even if something hadn't happened to the girl in terms of how serious it was, there would still be some follow through by management as to at least an evaluation of what happened and what steps need to be taken in future sort of thing to - - - 20

If nothing had happened, why would you evaluate what didn't happen?---We knew an incident had happened because Peter Coyne told us. 30

Yes, and your concern was - - -?---That's right, and I was aware that Sarah, for example, from the arts room - nothing had happened to her; hadn't even really been spoken to. It was just business as usual for her.

That's what you thought?---That's my thoughts.

You had the same basis of belief about that as you did about whether there had been a medical examination or a police investigation?---That's right. 40

Now, assuming that there was a police investigation and a medical examination that you were unaware of but that actually took place, that would mean that you had no basis for believing that there was no investigation or examination?---Except for the fact that when he spoke to us he said he'd made that decision cannot pass any judgement, and for him to make that decision to not pass any judgement means there has to be something substantial for him to make that decision on. Now, if the Juvenile Aid Bureau had become involved, if a medical practitioner had become involved, then either it's black and white, nothing happened or something happened; if something had happened then Peter was in the situation of say: I'm releasing everyone because I'm not making a judgement on them.

1

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And if nothing had happened that did require any follow-up by him?---Then the kids would still be inside, they wouldn't have been released.

So was it releasing the kids of involvement in this incident that gave rise to some concern?---Absolutely.

And what concerned did that give rise do?---Well, the concerns were that obviously a serious incident had happened, whether I'm right or wrong with the doctor and the JAB. Because it had happened, and working in the area there had been incidents. One chap was heavily picked on by Peter was something that had happened and taken to court.

20

Okay, just - - -?---In this situation, which we viewed as far more serious than that, there was no follow-up at all and Peter was saying to us that the situation was such that he felt - I don't know, uncomfortable or - I can't put words into his mouth but he was not going to be in a position to - - -

30

But follow-up is different to there being some action taken, that is releasing the boys - - -?---And - - -

(indistinct)?---Yes. All right, yes.

And that you didn't think was an appropriate - - -?---At that time, no. That would in my opinion, yes.

And why didn't you think it was appropriate?---Because at least one of the boys was in for some very, very serious crimes.

40

Right, okay. Did you ever find out why he was released despite - - -?---Yes, because Peter told us he was being released because Peter didn't want to make a judgement so he was releasing everybody that was involved. The boy came back a few weeks later for other incidents.

Where was he released to?---To the community.

1

And Mr Coyne have that level of authority back then despite - - -?---He did, yes.

Or a care or control order?---Yes, but there was none of these boys were on care and control, all on care - sorry, none on care and production - - -

They were all on care and control?---That's correct.

So Mr Coyne's administrative decision could override a judicial decision?---That's correct. And describing that further, if a Magistrates Court had sentenced a kid - well, they didn't send them, make recommendations the child might be six months.

10

Yes?---But as manager of the centre he has the choice to rescind that or keep it in place. They usually kept it in place.

Because it is a supervisory order by nature?---That's correct, yes.

20

All right.

MR LINDEBERG: Mr Commissioner.

I think the Commissioner took you down a different track that I was going to go down. Let me approach it this way: an assault happened to a young girl while she was on an outing into the bush. Do you accept that?---That's correct.

She was being supervised by school teachers, psychologist? ---And a fine arts teacher.

30

Yes. You know that?---Yes, Sarah Moynihan, her name is.

The evidence is that the children got out of the sight of those supervising people and during that occasion Annette was sexually assaulted?---As it was given back to me, that's correct.

Right. Arguably if they were in the sight of the staff for the entire time that would not have happened.

MR COPLEY: Well, I object to that because that's asking the witness to form a hypothetical opinion. It's a matter for submission to you ultimately - by Mr Bosscher, perhaps?---Our procedures - - -

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COMMISSIONER: Just a second.

MR LINDEBERG: Can I put it another way?

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COMMISSIONER: Sorry? 1

MR LINDEBERG: Can I put the question another way?

COMMISSIONER: Yes, sure. See how that goes.

MR LINDEBERG: In terms of the responsibility - you were a youth worker?---Yes.

In terms of the responsibility of watching over children it was important that their safety was paramount, that their entire body, their - - -?---Safety and security from our perspective. 10

So if a child went on an outing being supervised by staff who were obliged to supervise them and an incident took place, would that be in accord with your understanding of proper protection of children?

MR COPLEY: Well, I object to that question because it's meaningless.

MR LINDEBERG: Except insofar as Mr McAulay was a youth worker, he understood his responsibilities?---It wouldn't be following our procedures on how we're expected to work with kids - - - 20

So in fact - - -?---It would be breaking rules.

So in that sense if you break rules which saw a child being sexually assaulted, that would be serious?---Very serious.

COMMISSIONER: And could result in some disciplinary consequence?---Definitely, that's true.

Depending on what level of fault an investigation into the event suggested that - - -?---Yes, that's correct. 30

MR LINDEBERG: Now, to the fact that to your knowledge nothing occurred to these people in respect of this serious breach, was that a concern to you?---It was, and I'd go a little bit further. After that - - -

Can I just - - -?---Sorry.

Was it a concern to other youth workers?---It became a concern. 40

To, say - may I say a youth worker, insofar as he told you, Terry Owens?---Terry?

Terry Owens. Did you know Terry Owens?---The gardener, I think.

Yes, but he became a youth worker?---Right, yes.

COMMISSIONER: Yes, you know him?---I just remembered him. 1

Okay. Did Terry Owens share your concern?---It's too far back for me to - he probably did, actually, but I can't say that for definite.

MR LINDEBERG: Did - - -

COMMISSIONER: This is where - can I just say something about giving evidence and asking questions. I've got to work out what's likely to have happened in some areas, okay? I'm helped in that process by a relevant question relevantly answered, all right, and responsibly answered? ---I'm sorry. 10

So the level of trust I put in your answers will depend on how much direct knowledge you have. But as soon as you say - you were asked a question, "Did Owens share that with you?" You didn't even know him and then you remember him. And then I asked you, "Well, did he share that with you?" Because that's what Mr Lindeberg wanted to know in the first place. You said, "No, it's too far back to remember," and then you said, "He probably did." Now, why would you say that?---Because with the strokes I've had I couldn't even remember people's names that were involved. That information has come back to me. As we were talking just now I remembered that it was probably only just about that time that Terry became a youth worker from where he was the gardener. It would have been very little. So he wouldn't have been one of the general youth workers that were the group that managed all the wings. And Terry was a person that was concerned with the kids, had their welfare in place and was very close to the kids, and I make the mistake of thinking and saying "he probably would have", so I apologise for that. 20

That's okay, but you've got to tell me why you think it was probable, and you think it was probable because?---Because I had a recollection of a conversation but then I thought, "Am I correct in having that recollection of actually having a conversation with him?", because it's so long ago. 30

All right?---And I don't want to mislead.

So it's possible that you can't remember now whether he did or he didn't?---Not enough to be certain.

You can't include it, you can't exclude it?---That's correct. I'm sorry about that. 40

So you're fairly neutral on the point?---That's right.

MR LINDEBERG: Do you recall the youth worker called David Smith?---Yes.

Did he speak to you and share that same concern?---I can't remember. 1

You don't remember. You never gave any evidence to the Heiner inquiry?---That's correct.

Did you speak to anyone subsequently who you knew who said that they gave evidence to the Heiner inquiry?---No. I'd fallen out of contact with a lot of people.

Okay. Thank you very much. I've no further questions. 10

COMMISSIONER: Thanks, Mr Lindeberg. Mr Copley?

MR COPLEY: No more questions. May the witness be excused?

COMMISSIONER: Yes, Mr Copley.

Thank you very much for coming. I really appreciate the evidence that you have given. I'm sorry to interrupt your day. You're formally excused.

MR COPLEY: I'll just get a statement. 20

WITNESS WITHDREW

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MR COPLEY: I don't think I have tendered it yet. I tender the statement of Mr McAulay. 1

COMMISSIONER: Mr McAulay's statement will be exhibit 276.

ADMITTED AND MARKED: "EXHIBIT 276"

COMMISSIONER: Can it be published?

MR COPLEY: It can be, but first of all I direct your attention to paragraph 5 on page 2, about halfway down Mr McAulay names some of the children on the excursion. The male persons mentioned there need to be obscured. 10

COMMISSIONER: The names of the two male children mentioned in paragraph 5 will be excluded before publication of Mr McAulay's statement.

MR COPLEY: Their names appear again in paragraph 6 on that page in four different places.

COMMISSIONER: I'll make the same direction in respect of that paragraph. 20

MR COPLEY: That's all as far as I can see.

COMMISSIONER: Thank you.

MR COPLEY: I call David Reginald Smith.

SMITH, DAVID REGINALD sworn:

ASSOCIATE: For recording purposes, please state your full name and your occupation?---David Reginald Smith. I'm a section supervisor at the Brisbane Youth Detention Centre. 30

Please be seated.

COMMISSIONER: Good morning, Mr Smith. Welcome.

MR COPLEY: Could Mr Smith be shown that document.

Would you look at that document, Mr Smith. Can you confirm that that's a statement that you signed on 17 January 2012? ---Yes, it is.

Thank you. You worked at the John Oxley Centre prior to the advent of the Heiner investigation, didn't you? ---Correct. 40

It's the case, isn't it, that you actually wrote a letter to Mr Alan Pettigrew prior to Mr Heiner coming to the centre, didn't you?---Correct.

You were keen or anxious to give evidence to Mr Heiner?---I gave evidence.

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You did? According to your statement the process of giving evidence to Mr Heiner occurred in a conference room at the John Oxley Youth Centre?---That's right. 1

There's no room for doubt in your mind that's where it occurred?---No room, no doubt.

You spoke with Mr Heiner?---Yes.

And there was a lady present taking notes?---Yes.

There's no room for doubt in your mind that she was present?---No. 10

Do you remember her name?---No, I don't.

Do you know the name Barbara Flynn?---I know the name, yes, but I can't connect the two, no.

You can't connect the two? Where did you know Barbara Flynn from or know the name Barbara Flynn from?---I've been with the department for 28 years so I just would have heard the name somewhere in some context, but she may have been there. I don't know. 20

You state at paragraph 11, "I cannot recall if I gave any evidence about sexual abuse to Mr Heiner. I expect I did"? ---Yes.

Right, "If I was aware of any incidents of sexual abuse, I think I would have raised these issues with Mr Heiner because I would have had the venue and the opportunity to raise these concerns"?---That's what it says.

Yes. You then state, "I know there was the Annette Harding," or Hardy, "incident"?---Yes. 30

"Whether that was before or after this, I would have raised it to Mr Heiner"?---Correct.

You couldn't have raised it with him if it didn't occur until after Mr Heiner had been there?---And that was my out in the statement.

What do you mean by your out in the statement?---Because I'm throwing doubt on to whether I would raise that at that point in time. 40

I see?---So I'm not claiming that that's happened at that point in time.

So you're not asserting you did raise evidence of sexual abuse with Mr Heiner?---Yes, yes, as per the statement.

Okay. All right?---I'm saying I don't know.

Certainly there's no evidence of that or there's nothing in the letter that you wrote to Mr Pettigrew about sexual abuse, is there?---No. 1

I'll just get you to have a look at what we call exhibit 72C. Is that the letter that you wrote to Mr Pettigrew?---Yes, it is.

What were the circumstances in which you came to write that in the sense of was it something you wrote on your own initiative or was did somebody ask you to type it out?---I was the delegate, the union delegate, at that point in time for the State Service Union. 10

Yes?---It was in that capacity that I wrote this, but what encouragement I had, I'm not aware of.

You're not aware of?---But I was concerned about the treatment of the staff at John Oxley and it was under that issue of the concern for the staff and my role as a delegate that I wrote this.

You only had one meeting with Mr Heiner?---Only one that I recall. Yes. 20

All right, thank you. Exhibit 72C can be returned. There are no further questions.

COMMISSIONER: Thank you. Mr Hanger?

MR HANGER: No questions.

COMMISSIONER: Mr Harris?

MR HARRIS: No questions. 30

COMMISSIONER: Mr Lindeberg?

MR LINDEBERG: Good morning, Mr Smith. Kevin Lindeberg is my name?---Yes.

I just have a number of questions for you if you don't mind please. Do you recall the actual date when you became the union delegate at the centre?---No, I don't.

You don't? But would you agree that you were one of the main advocates for having the management of the centre reviewed?---Yes. 40

Mr Feige, would he be also part of that, of the AWU?---Very much so.

Were you aware of a gentleman called Mr Michael Roch?
---Yes.

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XXN

He was a member of the State Service Union, to your recollection?---I don't recall either way whether it was State Service or AWU.

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I put this: in terms of the way in which the - I'll just go back. Your union, you were representing the youth workers?---Yes.

Is that fair? I raise that because the administrative staff would also have been members of the State Service Union. Is that correct?---Indeed. Indeed.

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COMMISSIONER: Mr Lindeberg, the relevance of who was a member of the union and who wasn't or who would have been?

MR LINDEBERG: I believe it is relevant.

COMMISSIONER: In what way?

MR LINDEBERG: In terms of the fact that there were three unions out there, including the POA, I'm just trying to establish that there was a divide in some respects in terms of the POA as opposed to the State Service Union and the AWU.

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COMMISSIONER: Would this witness know about that division?

MR LINDEBERG: I was moving towards that.

COMMISSIONER: Couldn't you move to it now?

MR LINDEBERG: Are you aware of the divisions in terms of the various unions at the centre? For instance, did you understand who the POA represented?---The Professional Officers?

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Yes. Do you know who they represented at the centre?---My understanding was mainly administrative people, in the administrative branch of it, but I understand that Peter Coyne was actually in my union, the State Service.

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That's the relevance, Mr Commissioner. 1

Are you aware that Mr Coyne was a member of the POA?---No.

Are you aware that Ms Dutney was a member of the POA?---No.

Are you aware that they were the only two members of
the - - -

COMMISSIONER: Sorry, he is not aware whether either of
them were so he couldn't be aware that they were the only
ones who were. 10

MR LINDEBERG: All right, thank you.

COMMISSIONER: I don't know why it matters whether he
knows they were or not to me. What does it matter to me
whether he knew - - -

MR LINDEBERG: Well, it matters to the extent that as a
union delegate, if he thought they were members of the
State Service Union, for instance, Mr Smith was a
delegate - - -?---Yes. 20

- - - and, you know, you represent your members rather than
a certain part of the membership, if you know what I mean.

COMMISSIONER: So the question would be then: Mr Smith,
did you represent either Ms Dutney or Mr Coyne?---No.

MR LINDEBERG: Thank you.

Was your concern that certain staff were getting more
favourable treatment than others in terms of the way the
management was being conducted?---No. 30

No?---No.

In regard to the Harding incident, you have some knowledge
of the Harding incident?---I have some knowledge, yes.

Were you aware of monthly meetings of the industrial unions
in the Department Family Services at which the State
Service Union, the AWU and the POA attended?---I don't
recall.

Well, can I can you, please, then to look at exhibit
number 17, please, Mr Smith, and go to point 32? Look,
before you do that, may I just ask you just a couple of
extra questions, please? Are you aware of gentleman by the
name of Brian Mann of the State Service Union?---I don't
recall that name. 40

You're not aware that he was a union official of your
union?---No.

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It doesn't ring a bell?---No; no, sorry.

1

Have you heard of the name Sue Ball who was an official of your union?---I actually think I do but I won't make claim to it. I think I recall the name. It's been a while.

I understand that, but you don't - going back, you don't recall the name of Brian Mann?---No.

Do you know the name of Janine Walker?---Yes.

In what capacity did you know Janine Walker?---I think she was the head of the union for a period of time and she may have been in the department at some point of time.

10

To assist, the record shows that Ms Janine Walker was the State Service Union industrial director?---Yes.

Are you aware that Ms Walker attended some meetings on your union's behalf in establishing the Heiner inquiry?---I'm not - I can't recall the mechanism that that occurred. I do recall that Fred Feige and I did end up at the minister's office in town. We would not have been alone in that process, but that was just to get things moving towards a Heiner inquiry.

20

Now, just to be clear, to the best of your knowledge, you never attended any of these monthly industrial meetings inside the Family Services Department?---Yes, look, I just don't recall it. I mean, something could prompt my memory, but I don't recall it offhand, no.

Now, could I ask you, please, to look at point 32 and could I ask you to read where it starts "I remember I was present", as in "I" is Mr Feige?---Yes, I remember I was present at head office when the Annette Harding incident in the Lower Portals was raised. It was raised by the QPSU union official. This was raised about a month before the Heiner inquiry started. Okay. Basically it was discussed that no-one was held accountable for it. The chair at this meeting was someone from the industrial section of the department. Okay.

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That comes as a surprise to you?---It just puts it into context.

COMMISSIONER: Sorry, why does it matter whether it surprises him or not?

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MR LINDEBERG: Okay.

But you do not recall - - -

MR COPLEY: The witness has said repeatedly he has no recollection of attending any such meeting. 1

MR LINDEBERG: All right.

COMMISSIONER: Even if he did, Mr Lindeberg, why does it matter to me and how does it help me with doing my job to know whether he was surprised about it or not.

MR LINDEBERG: I'm sorry, Mr Commissioner; I apologise.

Were you at the centre during the riot - - -?---Yes. 10

- - - of March 1989?---We had had a couple of riotous behaviours and I was there for both of them.

When you say "a couple", do you remember the times when they were?---One of them was - and I'm not sure which one it was, okay. One of them was in the evening. I had - and I'd left my motorbike at work. I was picking it up. There was a riot going on so I joined in. Another one was when Peter Coyne was there and it started - Peter Coyne arrived. I got into - I was looking after the top part while the riot was occurring so we were just guarding young people and putting them in rooms and so on. So I'm not sure which date that was. 20

You're not sure?---No.

Well, the record shows that there was a riot at the centre in March of 1989?---Yes.

You're saying there was another one, but might I ask you to look at - if it helps to refresh your memory, I'd like you to look at the Courier-Mail articles, please, Mr Smith, and I particularly would like you to look at the parts that are marked in blue, please. I know it's very difficult to read?---Is there something you particularly want me to focus on? 30

No, you've noted it?---Okay.

It's referring - - -?---It's that particular one.

It's referring to an incident of a child, isn't it, having been raped? Mr Commissioner, I would like to ask the witness to see these two - - - 40

MR COPLEY: Now, just a second. The witness has been asked to refresh his memory from the Courier-Mail about something.

COMMISSIONER: All right. We will deal with that first.

MR COPLEY: There was no question that followed from that
so that begs the question: what is the point of showing
the witness an article from the Courier-Mail?

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COMMISSIONER: I don't know.

MR LINDEBERG: Well, I'll put it.

Do you notice the discrepancy between the age that one -
the first newspaper says the girl was 15 and the second
time the minister says the girl is 17.

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COMMISSIONER: Okay, that's out now that there is a discrepancy, so he can't help but notice that discrepancy now because you've told him. What's it matter whether he notices it or not or that it exists at all?

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MR LINDEBERG: Well, it follows up with the next item of evidence, Mr Commissioner, that I wanted to tender to clarify the points.

COMMISSIONER: Well, what is the point? Just tell me what the point is.

10

MR LINDEBERG: The point is that the girl was not 17.

MR COPLEY: Well, we're not interested here in clarifying issues from the Courier Mail Mr Commissioner.

COMMISSIONER: No.

MR COPLEY: So it is unfathomable why somebody wants to refer to articles in a newspaper the purposes of clarifying articles in newspapers.

COMMISSIONER: Yes.

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MR COPLEY: It's irrelevant. It's wasting your time.

COMMISSIONER: Yes. Mr Lindeberg, let's assume that she wasn't 17.

MR LINDEBERG: Okay.

COMMISSIONER: Let's assume that she was one of the other ages that was mentioned in the Courier Mail. Why does the existence of the discrepancy matter? The misreporting of her age, whichever one is accurate, doesn't matter really which, for the purposes of the debate. Why does it matter to me to resolve the discrepancy?

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MR LINDEBERG: Conscious that I'm speaking to Mr Smith as a witness - - -

COMMISSIONER: (indistinct).

MR LINDEBERG: The point that - the relevance is, Mr Commissioner, that a minister has said the girl is 17.

COMMISSIONER: Right.

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MR LINDEBERG: When - - -

COMMISSIONER: The evidence might show that she was younger than that.

MR LINDEBERG: Well, you used the words "might show".

COMMISSIONER: All right. The evidence shows she was under 17. 1

MR LINDEBERG: Okay, if that shows well then I shall leave it at that point, Mr Commissioner, because I was wanting to tender these, but if - - -

MR COPLEY: But there is no point. There is no point with this witness. That is a question, if it is to be asked at all, is to be asked of a minister who allegedly said it.

COMMISSIONER: Yes. See, that is the point. See, the fact that the Courier Mail has made two inconsistent statements, well, it hasn't even done that, you see, in one of the reports it made a statement as if it was a fact, of an age; in the other it reports a minister saying a different age. Right? Now, both from the Courier Mail's point of view could be right; that is the age and the first article could be correct; it could also be correct that the minister said that the child was 17 when in fact she was younger. So all we have there is a discrepancy. The significance of that discrepancy would depend if there was some reason for someone to mistake the age. And the only person who can help us with that is the person who stated that age. 10 20

MR LINDEBERG: Mr Commissioner, I won't develop this any further with this particular witness. I hear what you're saying and I appreciate it.

Now, Mr Smith, could you go to point 11, please, in your statement where you talk about - regarding your recollection about whether or not you told Mr Heiner about child sexual abuse. And you go on and say, "I expect I did." But then - and you said that because, "I would have had the venue and opportunity to raise these concerns." Now, at that time you undoubtedly knew about the Harding incident. Is that correct?---Reading from, I think it was from Fred Feige's statement that it happened a month beforehand, yes. 30

Now, it has been established that that occurred before the Heiner inquiry - - - ?---Yes.

- - - so that was one that you may have mentioned to Mr Heiner?---That's correct.

Now, you go on further at point - sorry, just bear with me, it's in your statement - at point 13, and you talk about an incident which occurred in a canoe on another occasion. Do you see that on point 13?---Yes. 40

Now, this - but you don't state the date so you're not clear whether that occurred before or afterwards. You don't know?---No, I don't.

MR COPLEY: Before or after, the question needs to clarify his question "before or after" was before or after what? 1

MR LINDEBERG: Well, before or after the Heiner inquiry. Do you know when the Heiner inquiry took place?---I don't know the date.

I put it to you it was - - -

COMMISSIONER: Don't even worry about that, just put it to him. 10

MR LINDEBERG: All right.

COMMISSIONER: Was it before or after and you add the date.

MR LINDEBERG: Before - sorry.

COMMISSIONER: If you want to ask him whether it was before or after the Heiner inquiry and you know - - -

MR LINDEBERG: Well, but he doesn't know - - - 20

COMMISSIONER: I know, but you do.

MR LINDEBERG: The Heiner inquiry - - -

COMMISSIONER: No, don't tell them, just say it. Was it before or after December 1989?

MR LINDEBERG: Okay.

Was it before or after December 1989?---I don't recall.

I beg your pardon?---I don't recall the date. 30

Well, I believe that - now, let me put it this way, you talk about a canoe but you don't say where this particular incident took place?---No.

When you say canoe, do you connote water with that? Do you associate water with the canoe when you talk about that particular incident?---Yes.

Would it be fair to say that you might be thinking about a dam, an outing to a dam?---I may be, yes, but a canoe on water, yes, a dam, yes. 40

The point being that there is an incident here but it took place in April 1991. So in other words when you mention that, I say to you that given that that incident took place in 1991 - - -?---Yes.

- - - it cannot be considered in terms of what you may have told Heiner. 1

MR COPLEY: Well, that simply - the witness can't answer that because the witness hasn't agreed that the canoe incident occurred at any time.

COMMISSIONER: No (indistinct).

MR COPLEY: He just cannot answer it.

COMMISSIONER: Mr Lindeberg, I know it's frustrating for you and I know you've got a theory and I know you'd rather be a witness than a questioner, but the way it works is this: you want to establish when the canoe of the dam incident took place, don't you? 10

MR LINDEBERG: Yes, I do.

COMMISSIONER: Yes. And do you have what you believe to be the date in your mind?

MR LINDEBERG: Yes, I do. 20

COMMISSIONER: Right, so why don't you just put it to him.

MR LINDEBERG: Mr Smith, I put it to you that the incident you're referring to occurred in April 1991?---I'm happy with that, that's fine.

COMMISSIONER: Okay. Now, that is a fairly certain response. Now, it doesn't matter, you don't need to continue (indistinct) that it couldn't have been mentioned in Heiner because of that because - - -

MR LINDEBERG: No, I won't go on with that. Thank you. I'm trying to get to - - - 30

COMMISSIONER: I know, we're all trying to get the same place and were going to go by different routes, but I'm the conductor.

MR LINDEBERG: I totally respect that, Commissioner.

Then you talk about another incident in regard to - you name a particular person and you name another person being involved in a particular relationship?---Yes. 40

Now, the particular relationship, given that it has been mentioned in statements without it going perhaps - developed as the Harding incident has. Sorry, Mr Commissioner, I'm not sure when it's been established before this commission of inquiry that the particular person, when they were in the centre, but I do know - - -

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MR COPLEY: It hasn't. It hasn't been established so don't give evidence about it. 1

COMMISSIONER: It hasn't been established - - -

MR LINDEBERG: No, I understand that.

COMMISSIONER: But you can still say: did this happen on this date? And if he doesn't know - - -

MR LINDEBERG: Put it this way, Mr Smith, that particular incident, were you aware of that incident before December 1989?---I don't recall. 10

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SMITH, D.R. XXN

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So, basically, the incident which you do know occurred before 1989 was the Harding incident? 1

COMMISSIONER: No. You can suggest to him that that is.

MR LINDEBERG: I suggest to you that the one incident that you do know which occurred before the Heiner inquiry was set up in late 1989 was the Harding incident because that occurred in May of 1988?---Looking at Fred Feige's statement I agree. I must have known about. I thought I did, but I couldn't - I wasn't definitive about it so I - - - 10

To the extent that you knew about it and in relation to what you said you would have told Mr Heiner - - -?---Yes.

- - - you could not exclude that from being told to Mr Heiner?---No, no. I'm not excluding it. No.

Look, I have no further questions. Thank you.

COMMISSIONER: Did you have some questions, Mr Copley?

MR COPLEY: No, I didn't. 20

COMMISSIONER: Can I just follow up that last question. Is what you're telling me this that you knew about the Annette Harding incident before December 1989 or August 1989?---Having regard the statement from Fred Feige - I assume it was him that I read - saying that it happened then a month before the Heiner inquiry. I know it was the talking point. I mean, all the staff were talking about this. Okay. Fred and I would have been talking about this and I certainly know about it. I was aware of it. Yes.

So there was a coincidence between your knowledge of it and Mr Heiner's inquiry?---No. No, I don't think they were linked. 30

No?---No, no. This was about - the question was about the general management of the centre - - -

Yes?--- - - - not about the sexual - or the management of the sexual incident. That would have taken a while to have come through. No, it wasn't connected.

Right. I see. Even though you knew about it - - -?---Yes. 40

- - - it wasn't connected to Heiner?---No, no, it wasn't the trigger or anything.

Did you discuss it with Mr Heiner?---My summons says had I known about it, I would have taken that opportunity, but my concern there was about the management of the centre and I think I would have taken that opportunity.

If you knew about it?---Yes. Okay. So I'm assuming I would. 1

Having read Mr Feige's statement, you think you knew about it?---Oh, certainly.

You think you would have taken the opportunity to mention it to Mr Heiner - - -?---Yes.

- - - as an example of mismanagement?---Yes, because of - what I do know is that we don't put the processes out in public. We don't put the processes out in public. We don't put heads on spikes to show people what happens. I know a lot of things happen behind the scenes. Okay. There will be investigations on people if they have been accused of something. So rather than putting it all out there and telling people how it all happens, some things are kept behind closed doors. 10

Even though that gives rise to concerns or suspicions that nothing has happened - - -?---Yes.

- - - because you can't see behind the door?---That still happens because you're protecting other people as well. 20

But do you have any definite recollection of what you discussed with Mr Heiner?---No.

Yes?

MR COPLEY: No further questions.

COMMISSIONER: All right.

Thank you very much, Mr Smith. Your evidence is finished. We appreciate you coming and you're formally excused? ---Sorry? 30

You're formally excused.

WITNESS WITHDREW

MR COPLEY: I tender Mr Smith's statement.

COMMISSIONER: That will be exhibit 277.

ADMITTED AND MARKED: "EXHIBIT 277" 40

MR COPLEY: I ask that the names mentioned in paragraph 13 of the female person and the male person be, consistent with previous practice, obscured from publication.

COMMISSIONER: Those names referred to by Mr Copley will be deleted before publication.

MR COPLEY: Mr Commissioner, I call Richard Danen. 1

DANEN, RICHARD ALEXANDER sworn:

ASSOCIATE: For recording purposes, please state your full name and your occupation?---Richard Alexander Danen, D-a-n-e-n and I'm a public service - - -

Please be seated.

MR COPLEY: Mr Danen, where in the public service do you work?---The Department of Justice, attorney-general. 10

What do you do there?---Senior legal officer.

Are you a lawyer, are you?---Yes, I am; a barrister.

A barrister?---Yes.

When were you admitted?---In 2001.

Have you been asked by police officers to provide a statement in relation to this inquiry?---I did have some communications with a police officer about that. Yes. 20

Did you provide them with a statement?---No.

Why was that?---I didn't get around to it. There were some communications back and forth about providing the statement and what they wanted to know about it and I had some queries and questions. I wanted to get an idea of the contents, what they wanted, and they wouldn't provide that to me.

Wouldn't they?---No. They wanted to formally interview me and then from there formally I had to - - - 30

What was the difficulty with being interviewed?---I was unsure of the scope of the inquiry. Yes.

Did you have a look at the terms of reference?---No.

You didn't think to have a look at those - - -?---No.

- - - as a lawyer?---No.

Okay. You have got no concerns about giving evidence today, have you?---No, none at all. 40

Because you're here pursuant to a summons, aren't you? ---That's correct. Yes.

You have looked at the Commissions of Inquiry Act, haven't you - - -?---Yes, I have.

- - - to see what the effect of a witness answering questions pursuant to a summons is?---Certainly. Yes. 1

What is your understanding?---I'm obliged to answer questions.

But what else?---That's the limit of my recollection.

Do you understand that nothing that you say is admissible in any civil or criminal proceeding against you?---Yes, yes. 10

In fact, that was one of your concerns, wasn't it, about providing a statement?---Possibly, yes.

Yes. You wanted an indemnity of some description?---I don't know if I'd use the term "indemnity", but I was concerned about where it may go.

All right. Okay. We don't know too much about you so we'll start from the beginning?---All right. Yes.

When were you born?---1967. 20

When did you obtain your law degree?---It was 1980 - I beg your pardon. It was in 1999-2000. I'm thinking of my first degree. Sorry.

All right. So you couldn't have been practising as a lawyer prior to 2000?---That's correct.

Where did you work prior to 2000? In what occupation?---I worked for a short period at the John Oxley Youth Detention Centre and then subsequent to that in the Department of Family Services as a family services officer for a period of six years. 30

When did you work in the John Oxley Youth Detention Centre? ---Early 1989, from February, March, April. Three months.

Three months there?---Yes.

In what capacity were you employed in that three-month period?---As a youth worker.

Who was the manager then?---I understand it was Peter Coyne. 40

Did you ever meet him?---I did, yes, in passing in the corridor.

You would have been a fairly junior member of staff then? ---That's the case. I believe I was probably on a casual basis. I worked on a casual basis.

So, what, you would have been aged about 22 or three? 1
---Something like that, yes.

After leaving John Oxley, did you go straight to another part of the Department of Family Services?---To the Pine Rivers area office, child protection, juvenile justice branch of Family Services. Yes.

All right. Were you working there in December 1989?---Yes, I was. Yes.

January 1990?---Yes, I would have been. 10

So at that time were you aware of a matter called the Heiner Investigation or the Heiner Inquiry?---No, not at that time.

Were you aware of an investigation into activities at the John Oxley Youth Centre at that time?---No, no, not to my recollection.

All right. After leaving John Oxley, did you ever go back there to be interviewed by anybody about anything to do with the centre?---No, not at all not in relation to the conduct or management of the centre. 20

In relation to the conduct or in relation to anything at all, did you go back there to be interviewed?---Not interviewed. Professionally, I would go back and see some of the young people I looked after in the area office and case management roles and things like that. I did visit for those reasons.

In late 1989 and 1990, did you ever meet with any man called Noel Oscar Heiner?---No. 30

What about a lady called Barbara Flynn?---No. No, I wouldn't have met with her.

Do you know her, though?---I do know her in my subsequent roles in Family Services. She occupied positions in the court services division of Family Services. She was a senior practitioner there.

Can you recall when you first met her?---No, no.

Do you recall where you were working when you first met her?---Probably in the Pine Rivers office. That initial contact may have been by phone in relation to case consultations. 40

Were you ever interviewed by Ms Flynn or questioned by Ms Flynn about activities, events, people, incidents at the John Oxley Youth Centre?---No.

What about a lady called Jan Cosgrove? Do you know that name?---I have heard of her. I can't recall the context, but no interviews by Jan, no. 1

When did you hear her name?---Probably just in the context of daily work in Family Services.

Okay?---I couldn't tell you exact dates. I'm sorry.

Have you ever been interviewed by Jan Cosgrove in connection with any incidents, events, occurrences or people connected with the John Oxley Youth Centre?---Not to my recollection. No. 10

All right. No further questions.

COMMISSIONER: Thank you. Mr Hanger?

MR HANGER: No questions.

COMMISSIONER: Mr Harris?

MR HARRIS: No questions, commissioner. 20

COMMISSIONER: Mr Lindeberg?

MR LINDEBERG: No questions.

COMMISSIONER: Thank you. Mr Copley?

MR COPLEY: May Mr Danen be excused and released from his obligations under the summons?

COMMISSIONER: Yes.

Mr Danen, thank you for coming. You're formally released from your obligations to attend?---Thank you. 30

WITNESS WITHDREW

MR COPLEY: Would that be a convenient time?

COMMISSIONER: Yes, it would, Mr Copley. What is on this afternoon?

MR COPLEY: There are two witnesses left to be called today, one of whom is not available until 2.30. The other of whom has to be telephoned to give evidence by phone. He's an Anglican clergyman resident in rural South Australia now. 40

COMMISSIONER: Right.

MR COPLEY: That's one witness and the other one, I understand it, will be here at 2.30.

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DANEN, R.A. XN

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COMMISSIONER: At 2.30?

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MR COPLEY: Yes.

COMMISSIONER: I will adjourn until 2.30.

MR COPLEY: 2.30 please.

THE COMMISSION ADJOURNED AT 12.58 PM UNTIL 2.30 PM

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COPLEY, MR

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THE COMMISSION RESUMED AT 2.35 PM

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MR WOODFORD: Mr Commissioner, I call Peter Wayne Palmer by telephone.

COMMISSIONER: Yes, Mr Woodford.

PALMER, PETER WAYNE sworn:

ASSOCIATE: For recording purposes please state your full name and your occupation?---Peter Wayne Palmer and I'm a priest with the Anglican Church of Australia.

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Thank you.

COMMISSIONER: Thanks, Mr Woodford.

MR WOODFORD: Mr Palmer, can you hear me okay?---I can now, yes, sir.

Terrific. My name is Woodford. I'm one of the counsel assisting this inquiry. I have some questions for you this afternoon in relation to a statement that you have supplied us?---Yes.

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Do you have a copy of that statement with you?---I do.

Right. Is it a three-page document?---Stand by; I've got it on my computer screen.

That's all right?---One, two and three, yes.

Are you still there?---Yes; yes.

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Terrific. Does your signature appear on the third page of that statement with the date 11 January 2013?---Yes, correct.

I have some questions for you about the John Oxley Youth Centre. From your statement, do I understand that you started working there from the day the centre opened?---That's correct.

You left in December 88?---That would be right, yes.

You were working as a youth worker?---Yes.

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While you were there you worked under two different managers, a Mr McDermott and then later Mr Coyne?---That's correct.

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PALMER, P.W. XN

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From the last page of your statement, is it correct that there was a lot of tension that you saw at the centre under the management of Mr Coyne?---Yes, there was.

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From your experience, did you see staff pass on through the centre as a result of those tensions?---I believe that to be the case, yes. That was the reason I left.

Yes, okay, very good. There was an inquiry conducted that we have heard about referred to as the Heiner inquiry. Do I understand that you played no part in that at all?---Not as far as I can recollect. I can't remember anything about it, no.

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You can't recollect providing any statement to that inquiry or appearing at any hearing?---No, I definitely haven't appeared at any hearing into John Oxley.

Turning to paragraph 13 of your statement, it's correct to say that you yourself didn't witness any incidents of sexual abuse at the centre during your employment?---No, I didn't.

I don't have any further questions for you, reverend, but some other people may. Would you hold on?---Yes.

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MR HANGER: No questions.

COMMISSIONER: Mr Harris?

MR HARRIS: No questions, commissioner.

MR LINDEBERG: No questions, commissioner.

COMMISSIONER: Mr Woodford?

MR WOODFORD: May the witness be excused, Mr Commissioner?

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COMMISSIONER: Yes, certainly.

Mr Palmer, I'm sorry, thanks very much for appearing by phone. We know it would have interrupted your day. We appreciate and we will disconnect you now, thank you?
---Okay, thank you very much.

WITNESS WITHDREW

MR WOODFORD: I tender Mr Palmer's statement of 11 January this year. There's nothing that I can see in that statement that requires your attention, Mr Commissioner.

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COMMISSIONER: That will be exhibit 278.

ADMITTED AND MARKED: "EXHIBIT 278"

MR WOODFORD: Thank you. I call Gary Alexander Thompson.

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PALMER, P.W. XN

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THOMPSON, GARY ALEXANDER sworn:

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ASSOCIATE: For recording purposes please state your full name and your occupation?---Gary Alexander Thompson, court officer with Department of Justice and Attorney-General.

Please be seated.

COMMISSIONER: Good afternoon, Mr Thompson. Thanks for coming?---Good afternoon, commissioner.

MR WOODFORD: Mr Commissioner, may Mr Thompson see the statement he supplied this Commission of Inquiry, please?

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Mr Thompson, I have had placed in front of you a document there. Could you just cast your eye over it and confirm for the commission that that is the statement that you have supplied?---Yes, that is the statement I supplied.

I have some questions for you this afternoon about the John Oxley Youth Centre?---Yes.

You started employment there, did you from the say it opened?---That's correct.

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Now, were you there long enough that you worked under Mr Coyne for a few months?---I believe so, possibly three. It may have been longer than that.

That sort of ballpark figure?---Yes.

A number of months as opposed to - - -?---I've got a recollection Mr McDermott may have left in late June or July of that first year and Mr Coyne took over after that.

Very well. During your employment there - I'm looking at paragraph 5 of your statement - you yourself didn't experience any tensions between management and staff? ---There certainly appeared to be some beginnings.

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Okay?---As I say later in my statement, Mr Coyne's style of management was somewhat more confrontative than Mr McDermott's.

Yes, I understand from your statement that you have had some discussions with your wife about those matters, but when you - - -?---Not recently.

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No?---No. We do have discussions but not about this.

Don't we all? Going back to the time just before you left when Mr Coyne was there, you indicated that you could see the beginnings of some tension when Mr Coyne joined. Is that what you're saying?---Yes, and it was more of a sense of Mr Coyne seemed to have an intent on finding issues to

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THOMPSON, G.A. XN

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deal with as opposed to Mr McDermott would wait until they
arose and deal with them then. 1

So it was a significant change in management style?---Yes,
it was a culture thing, I think.

COMMISSIONER: Culture shock.

MR WOODFORD: Culture shock?---I may not go as far as to
say that, commissioner.

We have heard evidence about something called a Heiner
inquiry being conducted in relation to the centre. Do I
understand from your statement that you yourself were not
involved whatsoever in that?---No, this is the first time
I've been approached in relation to - any issues in
relation to John Oxley. 10

At paragraph 8 of your statement, is it correct to say that
you yourself have never observed, nor made aware of any
instances or allegations of sexual abuse during the time at
the John Oxley Youth Centre?---That's correct.

I don't have any further questions for Mr Thompson,
Mr Commissioner. 20

COMMISSIONER: Thank you.

MR HANGER: I have no questions.

MR HARRIS: No questions, commissioner.

MR LINDEBERG: I have no questions, Mr Commissioner.

COMMISSIONER: Thanks. Mr Woodford? 30

MR WOODFORD: May Mr Thompson be excused?

COMMISSIONER: Yes.

Mr Thompson, thanks very much for coming. We appreciate
it. You are formally excused?---Thank you, commissioner.

WITNESS WITHDREW

MR WOODFORD: I tender Mr Thompson's statement and it may
e published in its present form, Mr Commissioner. 40

COMMISSIONER: Mr Thompson's statement will be exhibit 279
and I direct it be published.

ADMITTED AND MARKED: "EXHIBIT 279"

MR WOODFORD: Those are all of the witnesses for today.
Mr Copley has some matters to raise.

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COMMISSIONER: Mr Copley?

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MR COPLEY: Mr Commissioner, I tender an extract from the Government Gazette dated 31 August 1989 and hand up a copy for you.

COMMISSIONER: Thank you. The Gazette will be exhibit 280.

ADMITTED AND MARKED: "EXHIBIT 280"

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COPLEY, MR

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23012013 16 /ADH(BRIS) (Carmody CMR)

MR COPLEY: You will see on the second page of it that on 31 August 1989 his Excellency the Governor appointed, amongst others, the honourable Craig Arden Sherrin to be Minister for Family Services and Corrective Services of Queensland effective from 31 August 1989.

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COMMISSIONER: Yes, I do see that.

MR COPLEY: I tender an extract from the government gazette from 25 September 1989 and provide a copy for you, Mr Commissioner.

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COMMISSIONER: Thank you, yes, Mr Copley.

MR COPLEY: You'll see that on the second page of that document that on 25 September 1989 his Excellency the Governor appointed to the ministry, amongst others, Beryce Anne Nelson to be Minister for Family Services of Queensland.

COMMISSIONER: Yes, I do. So the Queensland government gazette number 41 will be exhibit 281.

ADMITTED AND MARKED: "EXHIBIT 281"

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MR COPLEY: And finally I tender a copy of an extract from the Queensland government gazette from 7 December 1989 and direct your attention to the second page of the exhibit which records that his Excellency the Governor appointed a new ministry on 7 December 1989 and Anne Marie Warner was appointed Minister for Family Services and Aboriginal and Islander Affairs of Queensland.

COMMISSIONER: The Queensland government gazette number 117 dated 7 December 1989 will be exhibit 282.

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ADMITTED AND MARKED: "EXHIBIT 282"

MR COPLEY: That is as far as matters can be progressed today, but more witnesses will be available at 10 o'clock tomorrow.

COMMISSIONER: Excellent. All right, thank you. Yes, Mr Lindeberg.

MR LINDEBERG: Mr Commissioner, just a bit of housekeeping for my benefit with Mr Bosscher.

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COMMISSIONER: Yes.

MR LINDEBERG: As I understood it next week you were to be away for Thursday and Friday.

COMMISSIONER: I was.

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LINDEBERG, MR

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23012013 16 /ADH(BRIS) (Carmody CMR)

MR LINDEBERG: Because I note that we have Mr Peers to appear again on Friday. So does that mean that - have things changed that you - - - **1**

COMMISSIONER: They have.

MR LINDEBERG: Are you with us now on Friday?

COMMISSIONER: I'm now available and keen to continue.

MR LINDEBERG: If it please you. But are we talking about Thursday and Friday? **10**

COMMISSIONER: Yes, I think so. Mr Copley? Yes, we have business on Thursday and Friday.

MR LINDEBERG: That's all. Thank you very much.

COMMISSIONER: Thank you. All right, we'll adjourn till tomorrow morning at 10.

THE COMMISSION ADJOURNED AT 2.48 PM UNTIL THURSDAY, 24 JANUARY 2013 **20**

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LINDEBERG, MR

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