



SPARK AND CANNON

TRANSCRIPT OF PROCEEDINGS

Telephone:

Adelaide	(08) 8110 8999
Brisbane	(07) 3211 5599
Canberra	(02) 6230 0888
Darwin	(08) 8911 0498
Hobart	(03) 6220 3000
Melbourne	(03) 9248 5678
Perth	(08) 6210 9999
Sydney	(02) 9217 0999

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 07/12/2012

Continued from 06/12/2012

..DAY 7

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 10.09 AM

1

COMMISSIONER: Good morning. Yes, Mr Woodford?

MR WOODFORD: Commissioner, I call Jan Marion French.

FRENCH, JAN MARION affirmed:

ASSOCIATE: For recording purposes, please state your full name and your occupation?---Jan Marion French and I work for the Australian Border and Protection Service.

10

MR WOODFORD: Firstly, I ask that exhibit 19, Mrs French's statement, be placed in front of her.

Mrs French, you have a document there. Would you just cast your eye over it and confirm for the commission that that is a statement that you signed on 13 September this year in relation to matters concerning the John Oxley Youth Centre? ---Yes, I can confirm that.

Thank you. I want to go through that statement with you and just highlight some matters and clarify some other matters. From paragraph 2 you commenced working as a youth worker at JOYC from the time it opened?---Yes.

20

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

And you finished up in about March 1990?---That's correct.

You had worked in youth work prior to being at JOYC, had you? You had been at Sir Leslie Wilson?---Yes; yes, I had.

You note in your statement at paragraph 3 that Mr Coyne was the manager when you arrived at JOYC?---Yes.

30

Now, is that the case or was there some other manager running JOYC before Mr Coyne?---There may have been someone before him. I just don't really recall.

Okay. In paragraphs 3 to 5 of your statement you provide some examples of your observations of the management style, if you like, of Mr Coyne. That's correct?---That's correct.

And you summarise those in paragraph 3 as indicating he was a fellow who would play mind games, if you like, and blow minor matters out of proportion. Is that correct?---Yes, that was my impression of him.

40

Now, at that time when you were at JOYC those observations, those views that you had of Mr Coyne - were they views shared by your colleagues or were they your own personal views only?---I believe other people shared the same views, yes.

7/12/12

FRENCH, J.M. XN

50

Just the extension of that, I note that you were at Sir Leslie Wilson before you came to JOYC. Was there any particular difficulty between the staff whom had come over from Sir Leslie Wilson with Mr Coyne?---I don't really understand what you're asking.

1

Sure; the views that you had about Mr Coyne's management style - - -?---Yes.

- - - were they views that seemed to be shared by all of your colleagues that came over from Sir Leslie Wilson? ---Well, I couldn't speak for all of them but basically in the group of people that I sort of socialised with, I suppose.

10

Okay. Just moving forward in your statement there to paragraph 8, you make some mention of an incident concerning one of the female detainees and some of the male detainees which took place on an outing. Do you see that? ---Yes, I do.

I want to clarify your knowledge of that. Firstly, you weren't present at that outing?---No, I wasn't.

20

In fact I think you were on days off. Is that correct? ---Yes, I was either rostered off or - but I don't recall being there the day that they went on the outing.

Right. Looking at paragraph 8 of your statement, it gives a flavour that you personally weren't involved in any conversations about what had taken place but that you overheard some conversations. Is that correct?---Yes, my memory is really quite vague how I've come by having that feeling that something happened that day. I'm thinking that there was probably some discussion between staff and I just sort of basically remember something happened while they were out because one of the girls was upset. I don't believe I was told any definite details because I don't recall any.

30

If you move through to paragraph 9 of your statement, in fact you seem to be indicating, are you, that it wasn't until some years later when you're hearing something on the television that one plus one equals two in your mind?---I did wonder if that was the incident. I did wonder that, yes.

Now, from what you had seen in the media it appeared to be a serious matter?---Yes, it did.

40

In your statement, the last sentence there on paragraph 8 you note, "From my recollection nothing seemed to come of it in the end." Now, such a significant issue like this - that's something that would have been handled by the manager. Is that correct?---I would - well, now I could say it should have been handled by the manager and the

7/12/12

FRENCH, J.M. XN

50

police really.

1

Yes, well, you yourself though - you don't know what the manager did about the incident?---No, I don't.

Is that correct?---That's correct.

Similarly, you don't know whether in fact the police were involved?---No, I couldn't confirm or deny that.

So you don't know about any of those sorts of matters - - -?

10

---No.

- - - of what the response by the management at JOYC was to this incident?---No; no, I couldn't say definitely.

Just moving forward in your statement at paragraph 11, you make mention there of a meeting taking place at the centre some time towards the end of your period there. Now, what's your recollection sitting here now of what that meeting was about?---I have a very, very vague recollection. I can't particularly remember any details. It's just one of those really hazy memories so I can't provide you any more information, sorry.

20

Can you recall who was heading this meeting, if you like? ---No; no.

Can you recall whether it was departmental people or outsiders from the department?---I seem to think it was someone from outside the department, and I don't know why I'm thinking that but - - -

We have already had some evidence here about a meeting on 28 September 1989 where the director-general Mr Pettigrew attended the centre. Does that assist at all with your recollection?---Not really, no.

30

And at that meeting, just looking at paragraph 11 of your statement, was something mentioned about an inquiry involving Peter Coyne? Is that correct?---Yes, that was because I - yes, I sort of recall because we were having - as staff having issues with him.

Is that the extent of your recollection though of what was said at the meeting?---That is the extent of it, yes.

40

And you can't recall who convened that meeting?---No, not at all, sorry.

Just moving forward in your statement to paragraph 13, you note that you have some recollection of something called a Heiner inquiry being conducted in relation to JOYC, but you yourself - you were never approached or requested to provide any information to that inquiry?---No, not that I

7/12/12

FRENCH, J.M. XN

50

recall, and I think I would remember if I was required to do that. 1

Similarly, were you ever asked to supply any statement or letter or other information to anyone in relation to this inquiry?---No, I don't believe I was.

Did you ever meet any gentleman that claimed to be a retired magistrate?---I couldn't say whether I did or not, sorry.

Thank you. That's the evidence-in-chief, commissioner. 10

COMMISSIONER: Thank you. Yes, Mr Bosscher?

MR BOSSCHER: Thank you, commissioner. I have no questions for this witness.

COMMISSIONER: Thank you. Mr Harris?

MR HARRIS: Thank you, commissioner, I have two questions.

20

30

40

Ms French, if you can go to paragraph 8 of your affidavit? 1
---Yes.

In that paragraph you say, "I remember these conversations were quite secretive." Could you elaborate on that for the commission as to what you mean by "quite secretive"?
---Well, they weren't openly discussed in the unit. There was sort of close-quartered people just sort of talking softly to each other and not talking much at all, just not giving out any information at all, basically, just short bits of information. 10

Is there any reason for that? Can you think of any reason for that?---Well, I could reflect on it now and think that - - -

What are your reflections?---Well, if something bad has happened when you've taken kids out, or when kids have been out, then obviously you're worried about it. You worry about the kids' point of view, you worry about - I suppose they would be worried about it themselves if they were responsible, and it's just a bad thing to happen, if something did happen. 20

Would there be any other reason why it was quite secretive, that people didn't want other people to know about it?

MR WOODFORD: Mr Commissioner, I object to that question. I just don't know that it will be helpful for the commission to have this witness speculate what may or may not have been in the minds of third parties having private conversations which she overheard.

COMMISSIONER: Yes, it's a bit speculative, Mr Harris.

MR HARRIS: I'll move on, commissioner. 30

You further say in that same paragraph, "I remember the staff being worried." Did you actually speak to any staff members who were worried that they would lose their jobs?
---I think more I was referring to other people saying if this did happen, if something happened to this girl while they're out, the people that took her could lose their jobs.

So we can take it that that was just a general conversation as to what - - -?---Yes, just a general - - - 40

Okay, no further questions.

COMMISSIONER: Thank you. Mr Hanger?

MR HANGER: No questions.

COMMISSIONER: Mr Woodford?

MR WOODFORD: No re-examination, thank you, Mr Commissioner. If the witness could be excused. 1

COMMISSIONER: Yes, Ms French, thank you very much for coming and providing your evidence?---Thank you.

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

WITNESS WITHDREW

MR WOODFORD: In terms of publication of her statement, could I direct your attention to paragraph 10? 10

COMMISSIONER: Sorry, which paragraph was it, Mr Woodford?

MR WOODFORD: 10.

COMMISSIONER: 10.

MR WOODFORD: There are a number of names, Christian and surnames there, whose names have previously been ordered not to be published in other statements.

COMMISSIONER: Yes. 20

MR WOODFORD: I seek orders in the same terms in relation to each of the names in paragraph 10.

COMMISSIONER: All right. I direct that exhibit 19 be published except to the extent of deleting the names mentioned in paragraph 10.

MR WOODFORD: I call Glen Scott Healing.

HEALING, GLEN SCOTT affirmed: 30

COMMISSIONER: Mr Healing, good morning. Yes, Mr Woodford?

MR WOODFORD: May Mr Healing see exhibit 23, please? Mr Healing, I've had placed in front of you a document which I understand to be a statement that you signed on 30 November this year. Could you just take your time to cast your eye over that document and confirm to the commission that that's so?---Yes, I can confirm that appears to be the document.

Okay. If you just sit back. Don't worry about speaking into the microphone. It will pick you up?---Thank you. 40

Now, I want to ask you some questions this morning about that statement, summarise some of it and clarify some parts of it. In terms of your position at the John Oxley Youth Centre, you started there in 1987. Is that correct? ---That's correct.

7/12/12

HEALING, G.S. XN

You were employed as a youth worker slash cook?---That's correct. 1

You occupied a number of positions in the years after that time. You left JOYC in 1993?---That's correct.

But you returned again in 1995?---Yes.

You remained for another year or so and left again in 96. Is that correct?---That's correct.

You worked under a number of managers, I understand, while you were at JOYC?---Yes. 10

One of those was a gentleman by the name of Mr Coyne? ---Yes.

Looking at paragraph 5 of your statement, you describe Mr Coyne as "a likeable man who freely made himself available to all staff". That was your - that continues to be your view of Mr Coyne and your experience with him at JOYC during that time he was there?---That's correct.

Similarly, in paragraph 6 you held a positive view of the centre management, in that they appeared to be a hardworking team here. Is that correct?---That's correct. 20

Now, looking at paragraph 7 of your statement, can I take from that that at that time there was a certain level of office politics, if you like, within JOYC that you could see. Is that correct?---Could you clarify "office politics", please?

I guess politics between staff and management, those sorts of matters?---I think because of the dynamic of the centre at the time there were organisational issues, staffing issues, that were going on that created certain dynamics, yes. 30

I'm just trying to clarify, you see, what you've noted in the second line of your statement there at paragraph 7 when you say that you "stayed out of any politics that arose"? ---That's right.

You were a young fellow at the time - - -?---I was.

- - - when you were starting out there, and from what I understand you wanted to keep away from those matters?---At that stage, as I said, I had moved up from the kitchen and chose to work in the residential care facility section, so I was moving through various learning curves and as such focused on learning and also being mentored by various staff and at the time felt that I didn't have any credibility, in the sense of adding to any decision-making or opinions made around the issues at the time. 40

Moving to another topic in paragraph 8 of your statement here, you have a recollection that there was something called a Heiner inquiry conducted while you were there at JOYC?---That's correct, yes.

1

Now, you note in your statement, and this is the third line of paragraph 8, that staff were either, "Approached or offered the opportunity to attend the inquiry." Do you see that passage there?---Yes.

What I'm interested in is whether involvement in the inquiry was a voluntary thing or whether there was any pressure placed upon staff to be involved. What's your - - -?---My recollection at the time is that there were paper memos sent out to staff from management informing them of the inquiry and also - I can't remember clearly whether there was an encouragement from management, but from my understanding there was - and why I use the word "offer" is that I felt that management supported staff to consider testifying at the inquiry.

10

From that do we take management weren't placing any road blocks, if you like, on staff who were wanting to go and assist?---No. Not to my knowledge, no.

20

That's certainly not the way you perceived it?---At that time I recall I was working in the kitchen and I was somewhat off to the left of the main cut and thrust of a lot of the dynamics. So we would get the memos through and things like that.

30

40

Okay. You ultimately did attend the Heiner inquiry?---I did.

1

Just go through that in a little detail just to get your experience before the commission. Firstly the location of it, we're more or less in paragraphs 8 and 9 of your statement here. Your recollection is that it took place at the Childrens Court, did it?---I don't know the actual name of the building. As I mentioned in the interview, the detectives helped jog my memory. My main memory is leaving the youth centre during the shift and driving to North Quay and parking just off of Wilton Road and walking to a building on the river.

10

The building that you went into, did it have the trappings of a court building, did it?---It did. It did.

Much like the building that you've come into today, but perhaps not as sophisticated?---Exactly.

You mention in paragraph 8 that you were sitting in what appeared to you to be a dock when you were appearing before the inquiry. That's correct?---That's my recollection.

20

And by that - you're sitting in one today - was it much the same sort of experience as today, was it?---My recollection of it, it was a much smaller room and the government offices at the time were a lot closer, so I think we were in a smaller room.

But did it have that level of formality about it, did it? ---Yes, it did.

You know when you came in to give your evidence today you were sworn in to give your evidence. Now, did that sort of thing happened when you saw - - -?---I'm sorry, I can't answer that. I can't remember.

30

Okay. Did it have enough formality about it that you were sitting in a formal position?---Yes. It was a very quick process, so I think therefore I can't sort of remember too much about it.

You did make mention in your statement of it being brief, this is at the end of paragraph 9. What are we talking there, minutes or hours?---I would say minutes.

Okay. When you came into the room - I'm interested in the different people that were in the room. Just extracting some detail from your statement, you indicate there was a court officer typing the proceedings. Was there?---That's correct.

40

Was that a man or a woman?---I think that was a woman.

You also indicate that your evidence was being was

7/12/12

HEALING, G.S. XN

50

recorded?---That's correct.

1

How would you aware of that? Did you see some apparatus?
---I think they assumed because that was the microphones.

Okay?---So that may be an assumption. However, I feel that
- I do feel that there were - or was some form of recording
device there. That was - my memory, as vague as it is,
feels - I do feel that there was some sort of apparatus
taking the statements.

Okay. We've got one person there, a lady, it seems, typing
things up?---Mm.

10

Presumably Mr Heiner was resigning at this hearing?---I
took the elderly gentlemen asking the questions as to be
Mr Heiner.

Did he get formally introduced to you, or did you come in
and off he went?---I can't remember, I'm sorry.

Okay. There was the elderly gentlemen there?---Mm'hm.

Was there anyone else in the room?---I would say there were
up to about six people in that room.

20

Okay?---I can't - that's not an accurate thing but there
were several people in the room.

Your recollection sitting there - sitting there now, of
course, looking back all those years ago - is that there
were a number of people beyond the person typing and Mr
Heiner presiding?---Mm'hm.

The people that were in the room, were any of your
colleagues from JOYC there at that time? No? In terms of
questioning that was going on, what you were being asked,
now, there are a couple of things I want to ask you about
this: firstly who was asking the questions of you?---I
think it was Mr Heiner.

30

Did anyone else in that room ask you any questions?---Look,
I don't have any memory of that.

You mention in your statement at paragraph 8 that the
questions appeared to be yes/no style of questions, if you
like. Is that your recollection?---That's right, yes.

40

Is it the case that Mr Heiner was asking you questions and
the response that he was looking for from you was either
agreeing or disagreeing with the proposition that he was
putting?---That's right. My recollection upon leaving was
that it was a fairly simple, short process and done - the
questions were fairly - they weren't open questions, they
were fairly short; short questions, yes.

7/12/12

HEALING, G.S. XN

50

So it certainly wasn't a matter of you being allowed to go on at large giving your reflections upon how things were at JOYC. Okay. Now, none of the questions from your statement, I understand, none of the questions that you were asked were about any form of sexual abuse at JOYC?
---No.

1

COMMISSIONER: How did you participate? Did you volunteer any information over and above the questions you ask?---No. No, I simply responded to what I was asked.

MR WOODFORD: Sitting here now can you recall the sorts of questions that you were asked, or the broad topics if you like?---I've tried to remember them but I can't. I think it is again, being - my recollection at the time was that I felt that I wanted to go there and testify, and I did, and felt that it was quite an brief process, I think, yes. I can't really recall. I have tried to remember but I can't.

10

A briefer process then you were expecting?---I thought, yes, exactly, yes.

Okay. Now, apart from going to see Mr Heiner this day in Brisbane, you never supplied any statement or any memorandum or anything like that to anyone in relation to JOYC and its operation?---No. The only thing I did, I think, was the standard notifying management that I was appearing.

20

From paragraph 12 of your statement you had no knowledge of any sexual abuse at all while you were at JOYC. Is that a correct statement?---That's correct.

The only thing that you've learnt about such an issue is what you've seen in the press. Is that correct?---That's correct.

30

That's the evidence in chief, thank you.

COMMISSIONER: Thank you. Mr Bosscher.

MR BOSSCHER: Thank you, Commissioner.

Sir, just going back to your statement and the last question that my friend asked you about, at the time that you were employed at JOYC you were aware of any allegations of sexual abuse and in fact it was only after you've left that place that you read about some suggestion that there may have been in the media?---That's correct.

40

So of course when you appeared before Mr Heiner in Brisbane you weren't in a position, even if you wanted to, to tell him about this type of information because you didn't have it?---No, if I had - - -

7/12/12

HEALING, G.S. XN
HEALING, G.S. XXN

50

Is that correct?---That's right.

1

You said Mr Heiner asked you a number of questions which were as closed questions, requiring a yes or no answer?
---Mm.

Is that correct?---That's correct.

Do you recall as to whether or not he ask you at all whether you were aware of sexual abuse at John Oxley Youth Detention Centre?---No. I have no recollection of that whatsoever.

10

COMMISSIONER: Can I just ask you to be more specific if you can, bearing in mind the difference between having a definite recollection that something did not happen and having no recollection one way or the other. So could you responded to the question bearing that distinction in mind?---Sorry.

Could you respond to the question bearing that distinction in mind. Let us know what you mean; do you mean you don't recall whether it was asked, or you do recall it wasn't asked?---No I don't recall whether it was asked.

20

MR BOSSCHER: Thank you, Commissioner. That's all the questions I have.

COMMISSIONER: Thank you.

MR HARRIS: No questions from me.

MR HANGER: Just on that last answer, in paragraph 8 of your statement there you say in the third-bottom line, "None of the questions asked of me by this gentleman involved any sort of allegation or issue surrounding any form of sexual abuse." So I'm not sure if you followed was to Carmody's question to you?---Yes, I'm sorry, I may have been a bit confused there. I am certain that I was not - I am certain that I was not asked any questions about sexual abuse.

30

40

50

Thank you.

1

COMMISSIONER: Yes, thank you.

Thank you, commissioner.

MR WOODFORD: Indeed, if you would have been asked such a question, it would have been quite a startling thing to you. Correct?---Correct.

COMMISSIONER: And in fact your answer would have been, "No," given the answer that you gave to Mr Bosscher?
---That's correct.

10

MR WOODFORD: I have no further questions, if Mr Healing could be excused.

COMMISSIONER: Yes, certainly.

Mr Healing, thank you very much for coming?---Thank you.

I appreciate the time taken and the inconvenience it would have put you to. You are formally released from your summons, thank you?---Thank you very much.

20

WITNESS WITHDREW

MR WOODFORD: Mr Commissioner, in terms of the tender or the publication, sorry, of exhibit 23 there is nothing contained in the statement that I can see that needs any orders. There is silence from my friends.

COMMISSIONER: All right. In that case I will order that exhibit 23 can be released to the public. Mr Copley?

MR COPLEY: Thank you, Mr Commissioner. Relevant to whether there was a cover-up in fact as opposed to perceived about the Annette Harding incident I propose to tender some material now.

30

COMMISSIONER: Right.

MR COPLEY: The first document that I will tender - and at the end of this process a copy will be distributed to all those with authority to appear and I will hand up with each exhibit a copy for you as I go.

COMMISSIONER: Thank you.

40

MR COPLEY: I tender a report made by Karen Mersiades to Mr Coyne concerning the outing to the Lower Portals on 24 May 1988.

COMMISSIONER: The Mersiades report will be exhibit 240.

ADMITTED AND MARKED: "EXHIBIT 240"

7/12/12

HEALING, G.S. REXN

50

07122012 04/CES(BRIS) (Carmody CMR)

MR COPLEY: I tender a report written by Mr Jeff Manitzky, psychologist, to Mr Coyne referring to the education outing, as he describes it, of 24 May 1988. 1

COMMISSIONER: The Manitzky report will be exhibit 241.

ADMITTED AND MARKED: "EXHIBIT 241"

MR COPLEY: I tender an interoffice memorandum addressed to Mr George Nix, the deputy director-general, dated 24 May 1988 signed by Mr Peter Coyne and it is headed "Report on Educational Program 24 May 1988". 10

COMMISSIONER: Thank you. Mr Coyne's report to Mr Nix dated 27 May 1988 will be exhibit 242.

ADMITTED AND MARKED: "EXHIBIT 242"

MR COPLEY: I tender a memorandum written by Jenny Foote, F-o-o-t-e, dated 27 May 1988 addressed to Mr Coyne concerning an interview with Annette Harding.

COMMISSIONER: Ms Foote's reported dated 27 May 1988 about the interview with Ms Harding will be exhibit 243. 20

ADMITTED AND MARKED: "EXHIBIT 243"

MR COPLEY: I tender a letter dated 28 May 1988 from Lorraine Hayward addressed to "Dear Peter".

COMMISSIONER: The Hayward letter to Peter dated 28 May 1988 will be exhibit 244.

ADMITTED AND MARKED: "EXHIBIT 244"

MR COPLEY: I tender a memorandum addressed to the manager signed by - I will just check on this - the late Mr R.C. Pekelharing, the subject being "Interview JAB officers Janelle Podlich and Sue Tomsett with Annette Harding. 30

COMMISSIONER: Mr Pekelharing's report will be exhibit 245.

ADMITTED AND MARKED: "EXHIBIT 245"

MR COPLEY: I tender a document headed "Interoffice Memo" from Mr George Nix dated May 30, 1988 addressed to the director-general headed "Re Annette Harding, John Oxley Youth Centre" and at the bottom of that document in handwriting is a notation "Seen by minister 31/5/88" and the signature would appear to be or the initials would appear to be Mr Pettigrew's. 40

COMMISSIONER: The next memo to the director-general of 30 May 1988 will be exhibit 246.

7/12/12

COPLEY SC, MR

ADMITTED AND MARKED: "EXHIBIT 246"

1

MR COPLEY: I tender a letter on departmental letterhead dated May 30, 1988 addressed to "The Hon, the Minister" signed by A.C. Pettigrew, director-general. It bears a stamp received date of 1 June 1988 and it contains a handwritten notation initialled, it seems, by Mr Pettigrew which states "Full report given to minister" and then below that is the word "noted" with a different initial 31/5/88 and the subject is "An apparent interference by four boys with one of the girls".

10

COMMISSIONER: The director-general's letter to the minister dated 30 May 1988 will be exhibit 247.

ADMITTED AND MARKED: "EXHIBIT 247"

MR COPLEY: I tender a report compiled by Mr Mark Fremantle, a youth worker, addressed to nobody in particular but the incident concerns a conversation with a boy and is signed by Mr Fremantle and it indeed refers to conversations with a number of boys starting on the morning of 25 May 1988 and it records to some extent admissions of sexual contact with Annette Harding by some one or more of these boys.

20

COMMISSIONER: They're not identified by name, are they?

MR COPLEY: They are.

COMMISSIONER: Is that a problem? Presumably they are men with lives now.

MR COPLEY: Well, the document was released years ago under FOI with the names obscured.

30

COMMISSIONER: Was it? Right.

MR COPLEY: But there is this belief, it seems, that this has been covered up and my submission is that it would be better to leave the names in there so that they're there for all the world to see so that people can see that at the time the people that wrote these memos provided particulars of who was involved, what they were alleged to have said, but it's obviously - it's an incident that occurred many, many years ago. No charges - - -

COMMISSIONER: I know, but our past - - -

40

MR COPLEY: The only concern, Mr Commissioner, I suppose, is that the matter was one where you will in the fullness of time hear evidence that at least two police officers from a juvenile aid bureau came to the centre and spoke with centre management and with the child and as a result of that no charge or charges were ever laid against these boys. So there's the issue, I suppose, of fairness to them, but when you read that document you will see that some of the boys are alleged to have made admissions about their own conduct.

1

COMMISSIONER: I wouldn't want to get into derivative issues about whether they agree that they said what they're said to have said.

10

MR COPLEY: Well, that would be a subsidiary peripheral issue if the response of government to allegations of historic sexual abuse - - -

COMMISSIONER: Well, that's right.

MR COPLEY: At the time, of course, this wasn't, except to the extent that it necessarily preceded an allegation, historic, because it was dealing with an incident that had occurred - - -

20

COMMISSIONER: Recently.

MR COPLEY: - - - basically in the week that all these memos were being sent around, including up to a minister of the Crown.

COMMISSIONER: I don't see any natural justice issue. It's more that their names - the relevance of their names is limited, in the sense that the term of reference requires us to look at the government response, as you point out.

30

MR COPLEY: Yes.

COMMISSIONER: Their names aren't relevant to that.

MR COPLEY: No.

COMMISSIONER: That is, who they were is not relevant to what the government did about them, and I don't know what their current position in life is or whether they've got family or not.

40

MR COPLEY: That's true.

COMMISSIONER: On the other hand - look, I'll tell you what I'll do. Why don't we take it on notice. I'll get you to confer with other counsel - - -

MR COPLEY: Well, what I was actually going to propose was

7/12/12

COPLEY SC, MR

50

when I finish tendering these series of exhibits that we have an adjournment so that they can be distributed to all those with authority to appear and everybody can perhaps peruse the documents and then submissions can be invited from those with authority to appear as to what they should be done regarding the names in the documents.

1

COMMISSIONER: Yes, look, and for what it's worth, I'm very mindful of the fact that there are people who hold strong views about there being a cover-up which the public needs to be informed about, whether it's reasonable or not to hold that view, and that the public should have all information that there is a public interest in having, but that doesn't include things that members of the public might be generally interested in. So I do think it is a balance. I'll leave it to you for the moment and I'll - - -

10

MR COPLEY: Well, you'll admit the document as an exhibit at this stage.

COMMISSIONER: I'll admit the document as an exhibit.

MR COPLEY: Yes.

20

COMMISSIONER: I'll give it number 248.

ADMITTED AND MARKED: "EXHIBIT 248"

MR COPLEY: Thank you.

COMMISSIONER: None of these have been ordered to be published yet, have they?

MR COPLEY: No, they haven't.

30

COMMISSIONER: All right.

MR COPLEY: The next document I tender is a letter addressed to Mr P. Coyne dated 2 June 1988 and it's signed T.J. Cox, senior youth worker. In the summary that I provided to your assistant I have said it came from Fred Deege.

COMMISSIONER: Yes.

MR COPLEY: That's incorrect, it came from Mr Cox.

40

COMMISSIONER: All right.

MR COPLEY: I made a mistake.

COMMISSIONER: Mr Cox's letter to Mr Coyne of 2 June 1988 will be exhibit 249.

ADMITTED AND MARKED: "EXHIBIT 249"

7/12/12

COPLEY SC, MR

50

MR COPLEY: The next document that I tender is a letter to Dr Harold Forbes from Dr Maree Crawford. Dr Harold Forbes would appear to have been a doctor at the John Oxley Youth Centre, judging by the address. Dr Maree Crawford, or Maree Crawford, was the paediatrician that Mrs West testified she conveyed Annette Harding to, and the report is re Annette Louise Harding and it concerns an examination Dr Crawford conducted on her on 27 May 1988 at the request of the Juvenile Aid Bureau and attached to the letter is the actual clinical notes made and signed by Dr Crawford regarding her examination.

1

COMMISSIONER: Thank you. The Crawford-Forbes letter of 9 June 1988 will be exhibit 250.

10

ADMITTED AND MARKED: "EXHIBIT 250"

MR COPLEY: Sorry, what number did you say, 250?

COMMISSIONER: I did, yes.

MR COPLEY: Thanks. The last document I tender for the present time is a media release which is dated March 17. It doesn't have another date on it, but there's a facsimile notation at the top that says 17, 1989 and the media release bears the name Hon. Craig Sherrin, MLA, Minister for Family Services and Member for Mansfield, and it's headed "Sherrin says no to dungeons, racks, thumbscrews and lies." The media release was four pages long but at this stage in the material that's been supplied to the commission we have page 1, page 3 and page 4.

20

The relevance of the document to these proceedings would appear to be confined to a passage on page 3 which I'll just read into the record. "Mr Sherrin said the most serious charge in the article was one of rape. It was alleged that a 15-year-old female inmate was raped during a" - the word is obscured because there's been a hole punched out - "excursion by three 14-year-old fellow inmates." "The reality is that there was a sexual incident involving two boys and a girl during an excursion when for a matter of minutes only they were not under the immediate supervision of staff. As a result of our concern, all staff and all the children on the excursion were questioned. The girl did not allege rape. The girl's mother was spoken to and encouraged by centre management to talk with her daughter and to consider whether charges were appropriate."

30

40

On page 4 it continues, "Neither the mother nor the girl believed charges were appropriate." It continues, "If intercourse took place the charge would necessarily, because of the age of the girl, have been statutory rape. No such charge was ever laid and therefore the allegation of such a serious crime is mischievous and dangerous." The relevance of this document is not so much the correctness

7/12/12

COPLEY SC, MR

50

07122012 05/RMO(BRIS) (Carmody CMR)

or otherwise of anything contained in it, but rather it demonstrates a response by government and an awareness by government of the incident.

1

COMMISSIONER: The media release will be exhibit 251.

ADMITTED AND MARKED: "EXHIBIT 251"

MR COPLEY: Would now be a convenient time to perhaps have a 15-minute adjournment to distribute these exhibits and for people to consider their attitude regarding particularly the report of Mr Fremantle?

10

COMMISSIONER: Yes, certainly.

THE COMMISSION ADJOURNED AT 10.57 AM

20

30

40

7/12/12

COPLEY SC, MR

50

THE COMMISSION RESUMED AT 11.13 AM

1

COMMISSIONER: How did you go, Mr Copley?

MR COPLEY: Mr Commissioner, exhibit 240 and exhibit 241 appear to have already had all their deletions made years ago by someone other than the commission.

COMMISSIONER: And you want to tender them as they are.

MR COPLEY: Yes. Document 242, which is Mr Coyne's report to Mr Nix, I note does contain the names of the boys involved in the outing.

10

COMMISSIONER: Yes.

MR COPLEY: So I suppose at least I should point out to you where they are.

COMMISSIONER: Yes.

MR COPLEY: The first paragraph, about halfway down, "The children selected to attend were," then it lists of names of a whole group of boys and Annette Harding.

20

COMMISSIONER: Yes.

MR COPLEY: Then in the third paragraph down, about halfway through the paragraph, it says that, "Four children, namely" - "have absconded." Then in the last paragraph, "Shortly after this phone call Mr O'Hanley and Mr Cooper returned to the centre with Annette Harding," - and the names of two boys there. Then in the second and third lines on the first paragraph on page 2 you will see the names of the four boys.

30

COMMISSIONER: Yes.

MR COPLEY: In the last paragraph on that page, two names of two boys appear, once each of the third-last line on the page.

COMMISSIONER: Yes.

MR COPLEY: Then on the next page in the first line, "I placed all four boys in their rooms," then for the remainder of that paragraph the boys names appear once, twice, three, four, five times. Then they appear again in the next paragraph five times; they appear twice in the third paragraph; three times in the fourth paragraph; and eight times in the fifth paragraph. Then in the last paragraph, the fifth line down, "I asked who they were and she indicated" - two names.

40

Then on the next page, second paragraph, third-last line

7/12/12

COPLEY SC, MR

50

you will see the four names. On the last paragraph on that page in the fourth-last line to the third-last line the names appear again. And that's all there. Exhibit 243 doesn't contain the names of any of the boys, neither does exhibit 244. 245, Mr Pekeharing's memo contains the name of what may be a juvenile girl who was verbally abusive in the fourth paragraph down; you'll see that there, initials B and B.

1

COMMISSIONER: Yes.

MR COPLEY: That should come out. Exhibit 246, the memo from Mr Nix to Mr Pettigrew doesn't mention any boys by name. 247, the letter to the minister, doesn't mention any children by name. Then we come back at exhibit 248 to Mr Fremantle's memorandum and of course the Christian names of different boys are mentioned frequently, beginning in the second paragraph, one boy's name is mentioned twice; the same boy's name is mentioned in the third paragraph twice; the fourth paragraph twice; the fifth paragraph twice; the sixth paragraph twice, together with the names of two other boys on the second-last line.

10

In the next paragraph, "Another to boys, namely" - names are given. In the third line of that paragraph, Christian names, Christian name again immediately below that; second last paragraph, "After this" - Christian name - "tells me" - Christian and surname - and so on through that paragraph. Similarly on the last paragraph. Then on page 2 there are two Christian names in the first paragraph; one quick Christian name in the second paragraph twice; two Christian names and a surname in the third paragraph; four Christian names in the fifth paragraph; then a paragraph beginning with a Christian name; and then fourth paragraph from the bottom, "Soon afterwards" - Christian name - "completed his chores satisfactorily."

20

30

They were the only ones that I saw. Of course, the heading to the document, on page 1 it says, "Conversation with" and it puts down the name of one of the boys. So that, if you were minded to obscure the names, would have to be obscured as well.

COMMISSIONER: Yes.

MR COPLEY: Exhibit 249 is Mr Cox's letter. It does not mention the name of any boy; neither does Dr Crawford's report and letter, which is exhibit 250; and neither of course does the press release of the minister, exhibit 251. So I think at least we've identified all of them now. And so I'll leave it to the others to state their attitude.

40

COMMISSIONER: Righto. Mr Hanger.

MR HANGER: My view is that these documents should be de-identified and that these people should be given names

7/12/12

COPLEY SC, MR

50

A, B, C, D, E, or something of that nature for the following reasons: that it has always been, either under this act or its predecessor, a policy of the legislation that people with juvenile histories should not carry that forward into their adult life. These people may have settled down, have wives and children, and this kind of thing would be extraordinarily embarrassing to them.

1

Considering your terms of reference, it is irrelevant as to whether their name is A or whether there is a real name. There can't be any suggestion of a cover-up, and particularly since my learned friends behind me here know the names anyway, so nothing is to be gained but something is to be lost by any publication of these names. And just so long as we - for the purpose of making sure we get the right people in each letter, if they could all be given a de-identifying symbol such as A, B, C, D, E, and that same letter be used in respect of each document, that satisfy the public.

10

COMMISSIONER: Thank you, Mr Hanger. Mr Bosscher.

MR BOSSCHER: Thank you, Commissioner. I have no position so far as the publication or otherwise of the identifiers in the document.

20

COMMISSIONER: Thank you. Mr Harris.

MR HARRIS: I have no position either. The names are known to us.

COMMISSIONER: Yes. Look, I think I will act on the basis of Mr Hanger's position, taking into account the genuine public interest balanced against the private interests of the individuals who are named who haven't been given the opportunity to be heard; and even if they had been, the damage that is likely to be done to at least some of them in 2012 compared to the benefit publication of their names is going to provide to me or the general public, I think the balance falls in favour of de-identifying each of the then juveniles in exhibits 242, 245 and 248 before publication.

30

How I propose to do it is I'm going to direct Mr Blumke to delete the names that I put on my copy in green, show them to counsel to satisfy everybody that all the names have been deleted, and they can be replaced with - we won't substitute anything for them. They will just be blank because it's difficult to do it apparently. There are practical difficulties. I can understand the value in one knowing that everything has been taken out that needs to be taken out, but replacing them with a symbol or a letter, while it might be preferable, is impractically difficult so we won't bother, thank you. Otherwise will I order the publication of the documents?

40

7/12/12

50

MR COPLEY: Yes.

1

COMMISSIONER: I order that exhibits 240 to 251 inclusive be published subject to the de-identification of exhibits 242, 245 and 248. Thank you. Yes, Mr Copley?

MR COPLEY: I call Lorraine McGregor.

McGREGOR, LORRAINE MARGARET affirmed:

ASSOCIATE: For recording purposes, please state your full name and your occupation?---Lorraine Margaret McGregor, currently retired.

10

MR COPLEY: Could Ms McGregor be shown exhibit 34?

Ms McGregor, have a look at that document and can you confirm by looking at the signatures at the bottom and at the end that that is the statement you gave to the police and signed on 6 November 2012?---Yes, it is.

Thank you. Ms McGregor, you began working at Sir Leslie Wilson Youth Centre in 1976 and eventually found your way to the John Oxley Youth Centre?---Yes.

20

Do you recall the year that you began at John Oxley?---A week after it opened.

Okay?---I think that was 87.

All right; and you remained there until February of 1996?---Yes.

Initially when you worked at John Oxley, the manager would have been someone other than Peter Coyne?---Terry McDermott.

30

Okay. Peter Coyne succeeded Mr McDermott?---Yes.

And were there any issues concerning the way the centre was run during Peter Coyne's time that caused you to visit any union officials?---Yes.

Okay. Did you visit the union officials on one occasion only or on more than one occasion?---I think it was only one occasion. I'm not certain of that at this stage.

All right; and would this be the occasion that's referred to at paragraphs 13 and 14 of your statement where you refer to you and a Michael Roch going in to town to complain to the union?---Yes.

40

Which union did you go and see?---I'm pretty sure it was Public Service.

Okay?---Whatever union covered most of the workers at John

7/12/12

McGREGOR, L.M. XN

50

Oxley at that time.

1

Could it have been the Queensland State Service Union?
---Probably.

What issue or issues or topics did you and Mr Roch raise with the union officials?---Basically the way Peter Coyne was treating the staff. It was very much an issue, "If you're not with me, you're against me," and some of the staff got harassed, I think - there's nothing else you could call it - by Peter Coyne, those that weren't actively working for him.

10

Well, you started there in 1987. Would this visit to the union occur in that year or in 1988 or in 1989?---I don't remember. It was definitely after Peter Coyne had been there for a while.

Okay. Do you recall a meeting of workers at John Oxley Youth Centre at which Mr Roch spoke and addressed the workers?---Vaguely.

Okay. If you have a vague recollection of that, does that assist in determining this question: whether the meeting with the occurred before or after that meeting that you have a vague recollection of?---I'm pretty sure the union meeting was before that because I think we went back and told the staff what we'd done.

20

All right. Well, in your statement you state that about three or four months after your visit with Mr Roch to speak with the union they started an inquiry at JOYC. I'm reading from paragraph 15 of your statement and what I want to know from you is whether that inquiry was the one conducted by Mr Heiner or a different one?---It was the Heiner inquiry.

30

Okay, thank you?---I'm not sure of the time gap between those - when we went to the union and when we heard about the Heiner inquiry.

Okay. So paragraph 15 - you don't necessarily stand by the assertion that only three to four months elapsed between the visit to the union and the inquiry?---No, I couldn't be certain of that time period at all.

Now, prior to the inquiry, did you write a document concerning management issues?---I don't remember.

40

All right. We will get you to have a look at exhibit 72E?
---That's definitely my writing.

Does it have your signature on it?---Yes.

It's got your name on the first page?---Yes.

7/12/12

McGREGOR, L.M. XN

50

It doesn't bear a date. Do you remember when you wrote that?---No, I don't, I'm sorry. 1

Do you remember the purpose for which you wrote it?---I've a feeling it might have been after the visit to the union. They wanted something in writing and I think this might have been what they wanted, what I - the reply I put to it.

Do you recall what you did with that document after you had finished writing it, who you gave it to or whether you mailed it somewhere or left it somewhere?---I have a feeling I gave it to Michael Roch to go with something that he'd written and he was going to forward it on. 10

Okay?---I'm not certain of that though.

Well, can you read out to the commission everything that's contained on those pages?

---I feel that I should make a statement to the effect that I am not happy with the style of personnel management practised at John Oxley since November 1987. Prior to that time the primary care staff - they had the support and backing of management. Since that time it has become obvious that the manager will support only those who are actively supporting him. Peter Coyne has often expressed the opinion that primary care staff should leave after two to three years as they lose their effectiveness after that time. If they did not leave voluntarily, he would encourage them to do so. 20

Many staff have left because of his encouragement. For example, B. Collins, T. Gazowsky, B. Gibbons, A. Van Villerman, C. Edwards, M. Roch, G. McAubrey, D. Hood, K. Mountenay and G. Gibbons. Peter Coyne says one thing and then does another. For example, he expressed concern about the older ex-Wilson staff and the newer staff not mixing. He felt that the older staff were not giving the new staff the support that he felt they needed, but in the team changes which took effect in September one team was all old staff and the other were two predominantly new staff. 30

Another example is the JONY awards. These were to be given to staff for exemplary service to the children. This promoted a feeling of competition between the staff. 40

Doesn't it say "this produced a feeling"?---Sorry,
"produced a feeling of competition between the staff":

1

At the same time Peter Coyne was running seminars on team building and remarking that the teams lacked a sense of unity. The individual harassment of staff, mainly ex-Wilson, had become an ongoing saga witnessed by many. An individual is singled out and pressure applied until the individual resigned or transferred out of JOYC. I felt that I might be coming into the line of fire last November when I was asked to write three statements about what I considered to be trivial matters, for example, why the rubbish bin had not been emptied one night, normally done twice daily.

10

At approximately the same time the redeployment unit personnel approached me about the possibility of a relieving position at the nursing service at Basil Stafford training centre after my recreation leave in January. After several discussions, always with Senior Youth Worker Draper present, I agreed to go for a period of 11 weeks to relieve while the sisters were on leave.

20

Returning to John Oxley at the end of that time it was made clear that this was what management wanted. There were difficulties at John Oxley when it was time to return here. On my return I was told to see Peter Coyne before I went on duty. During this meeting it was made very clear that he wished me to leave JOYC, the reason given being that I was overpaid for the work I was doing. I offered to transfer to either of the two vacant more appropriate positions, both of which I had had extensive experience than the one I had at present. The other reason being that the senior youth workers were objecting to having to supervise someone who was paid more than them.

30

I was often called upon to use my nursing experience for the benefit of the children when the sister was off duty. Although the harassment of myself had been very minor, I had been witness to many incidents of harassment and attempts to intimidate Michael Roch and Lex Clements. These incidents have caused Michael to transfer and Lex to seriously consider resigning.

40

One incident I was participating in, Lex Clements and myself arrived at our section at 3 pm, shift change time, Sabina Konicanin and David Smith preparing to give us a report on the morning activities. Sabina, Lex and myself moved into the office and Dave remained in the section with the children. Dave informed us he was going to leave the section for a short time. Lex moved to take his place in the corridor outside the office. By this time Peter Coyne had arrived. We continued with the changeover report, a particularly complex one.

1

10

After this, Peter Coyne sent Dave home and stated that he wanted a written report on why the children were left unsupervised, 3.15 pm. The children had been unsupervised. It was for a period of less than 15 to 20 seconds. When we handed our statements to Peter Coyne he demanded that we appropriate blame for this misconduct. He continued in this manner for approximately 15 minutes.

During this time, the fire alarm rang. It was ignored by Peter Coyne. When we refused to appropriate the blame he became more insistent. The fire alarm changed to the evacuation signal. At this time he reluctantly allowed us to collect a child and leave the building. Most of his comments, remarks and demands were directed at Lex in an intimidating manner, present during which this was -

20

"During much"?---Sorry -

...present during much of this was Anne Jutney and Vince Robson. Other staff members who are not so able to stand up for themselves have been dealt with in a similar manner. For example, Mariana Pearce had on October returned to the section -

30

"Has on occasions"?---Sorry -

...Mariana Pearce has on occasions returned to the section in tears after a visit to Peter Coyne. I feel that -

40

50

It just says "to him"?---Sorry -

1

I feel that a new member moving into a new field of work who does not take advantage of the experience of his long-serving, experienced staff is making an error in judgment, but to deliberately set out to alienate their staff is not at all wise.

All right, and you signed that L. McGregor RN?---Yes.

What did the RN mean?---Registered nurse.

10

Were you in fact a registered nurse?---Yes. At that time, yes.

All right, you can put that down now, thank you. Now, did you go and speak with Mr Heiner?---Yes.

20

30

40

7/12/12

McGREGOR, L.M. XN

50

Where did you see him?---The conference room at John Oxley. 1

In the morning or the afternoon?---I don't remember.

Was there anybody else in the room when you spoke with him?
---Yes, but I don't remember how many or who.

Do you remember whether they were male or female persons?
---I think there was at least one female, but I'm not certain of that.

Besides yourself and Mr Heiner speaking, did any of the other people in the room say anything?---I don't remember. 10

Do you recall if that letter that you've just read out was in Mr Heiner's possession so far as you could see during the meeting?---I think so.

Did you take a copy of it to the meeting with you?---No.

Did you refer to it during the meeting?---I didn't, but I don't remember whether Mr Heiner did or not.

Well, when you spoke with Mr Heiner did he simply invite you to tell him what you wanted to say or did he ask you questions?---I think it was both. 20

Both, okay. Do you recall the topics that he questioned you about?---Basically Peter Coyne and his management style.

Do you recall the information or the topics that you gave to him in reply?---Basically the same thing. I don't remember any other topic being brought up at all.

You state at paragraph 22 that you do not recall if you were asked by Mr Heiner about sexual abuse at John Oxley? ---No, I don't. I don't remember - the recollections I have are all of Peter Coyne and his management, but nothing else. 30

You go on in that paragraph to state, "I cannot recall if I was aware of any incidents of sexual abuse at John Oxley at the time that I could have raised with Mr Heiner"?---Not that I remember now.

No further questions, thank you.

COMMISSIONER: Thank you. Mr Bosscher? 40

MR BOSSCHER: Thank you, commissioner. I have no questions for this witness.

COMMISSIONER: Mr Harris?

MR HARRIS: I have no questions.

7/12/12

McGREGOR, L.M. XN

MR HANGER: No questions. 1

MR COPLEY: May the witness be excused?

COMMISSIONER: Yes. Ms McGregor, thank you very much for coming and sharing your evidence with us. You are formally excused and released from your summons.

WITNESS WITHDREW

MR COPLEY: Concerning the publication of exhibit 34 I direct your attention, Mr Commissioner, to paragraphs 10 and 11 where there are references to a juvenile detainee and to a youth worker, among the same group that you have caused to have erased from statements that have previously been published, and so I suggest that the same course be followed for those paragraphs. 10

COMMISSIONER: Yes, I'll direct the publication of Ms McGregor's statement, which is exhibit 34, after the name of the female and the male in paragraphs 10 and 11 are deleted.

MR COPLEY: There's also a reference which is not really clear in terms of what it's referring to in terms of an incident at paragraph 26. You will see the surname and Christian name of the youth worker there. 20

COMMISSIONER: That could lead people to - - -

MR COPLEY: Draw wrong inferences about that now.

30

40

50

COMMISSIONER: Yes, and - - - 1

MR COPLEY: So I'd suggest that - - -

COMMISSIONER: Joining dots that aren't there.

MR COPLEY: That's right. So I'd suggest that his name should be obliterated as well, paragraph 26.

COMMISSIONER: I'm inclined to agree. Anyone want to argue the toss on that one? I order that the Christian and surname of the centre worker in paragraph 26 be deleted before publication of exhibit 34. 10

MR COPLEY: I call Trevor James Cox.

COX, TREVOR JAMES sworn:

ASSOCIATE: For recording purposes please state your full name and your occupation?---Trevor James Cox, appointed deputy director Cleveland Youth Detention Centre, acting director.

COMMISSIONER: Good morning, Mr Cox. 20

MR COPLEY: Could Mr Cox be shown a copy of his statement, which is exhibit 14. Mr Cox, could you just have a look at that document, check the signatures at the foot of each page and at the end to confirm that you signed that statement and gave it to the police?---That's correct.

Thank you. Mr Cox, you have been involved in the field of juvenile justice or juvenile detention or juvenile management since prior to the opening of the John Oxley Youth Centre, haven't you?---That's correct. 30

When did you start work in that field?---5 July 1985, it was.

And have you been involved in that continuously since then? ---In the detention centres, I worked at Wilson, John Oxley, Brisbane Youth Detention, head office was three and a half years.

Right?---I managed the outlook program - pre-release program - for a period. I was on the commissioning team for two centres. 40

Yes?---Then I went to Townsville coming up seven years in January.

Okay. And you are now the second in command at the Cleveland Youth Detention Centre in Townsville?---That's correct.

Okay. You might be well placed to comment on this

7/12/12

COX, T.J. XN

proposition: in a press release - I'm referring to exhibit 251 that was tabled this morning which you haven't seen - but in a press release dated, it would seem, in 1989, 17 March, a previous minister stated this at that time, "John Oxley is not a gaol and should not be compared with one"?---Mm'hm.

1

So in 1989 there was a Minister of the Crown stating that John Oxley Youth Centre wasn't a gaol. Did John Oxley Youth Centre in 1989 have a different approach, philosophy, structure or management compared to Sir Lesley Wilson? ---The structure was probably the same as far as hierarchy.

10

Yes?---No, it wasn't a gaol, it was the John Oxley Youth Centre, as opposed to a detention centre.

All right?---It wasn't as secure as we have our facilities these days and we were called youth workers, we didn't wear a uniform, we were on a first-name basis with the young people. And I guess to sum it up the letterhead for - when we opened John Oxley it was a box radiating out, which meant it was an opening to the future.

It was an omen?---An opening to the future - - -

20

An opening to the future?---We were going to work with young people in a different way.

Okay. We've heard evidence which hasn't been challenged, but we'll see if you can confirm it, that in 1988, 89 there were housed at John Oxley Youth Centre not just children who had been sentenced to a period of detention by a judge or a court, but also children who were housed there who were subject to what was called a care and control order. Is that true?---That's correct.

30

In those days what type of child would end or could end up at John Oxley Youth Centre who were subject to the regime simply of a care and control order; that is not one imposed by a judge?---No. Care and control I guess in those days meant - for girls, they'd run away from home. Obviously we could think of reasons why that might be the case.

Yes?---But they were likely to fall into a life of vice and crime, so they were put under a care and control order.

So it was effectively a protective order?---A protective order, and they'd come under the care and control of the then department.

40

So in those days in that centre the regime or the policy was that those who needed to be there for their own protection were also housed with those who were there serving effectively a punishment?---Yes. So you had people who had offended and were placed there by the court for that offence, but you could also have care and control;

7/12/12

COX, T.J. XN

50

hence why John Oxley worked the way it did.

1

Right. Okay. Now, it's been asserted by me that Mr Rudi Pekarharing is dead. Is that the case?---Yes.

Okay. Thank you. You state in your statement at page 4 - there aren't paragraph numbers so I'll just go by page numbers - in the third paragraph down that, "The relationship between staff and Mr Peter Coyne was fine for the first six months. However, after that it went downhill"?---That's correct.

10

And then you state, "I think that people have lost sight of that the Heiner inquiry was all about. It was about staff abuse"?---That's correct.

What do you mean by the expression "staff abuse"?---I think the - there were a whole range of incidents that had led to that. There was factionalism within the centre. And basically it came about really about people wanting promotions. They were being used to do the directions how they wanted to do it at that time, which was contrary to the way we had been working. And I guess you could say that the centre became divided with those who were supportive of Peter Coyne's style of management and those who weren't. And those who weren't supportive of that style of management paid the price for it.

20

All right. If I can just concentrate on this expression, though, abuse, "staff abuse", do you mean to say by that that the staff were being abused by management?---Yes.

Okay. Did you fall into any camp in that factionalised situation out there at that time?---I guess by default I did.

30

Why do you say that?---Because I didn't agree with some of the things that were being done. Some of that is mentioned in my statement. But it wasn't all bad. Like, there were some things that obviously were done well; there was lots of things that weren't. So you couldn't just generalise.

Okay. And the camp that you felt that you fell in by default, was that of the staff, was it?---Yes.

Okay?---To the point where I looked to go back into business and move out of the job.

40

Yes. But whether you did that or not - it appears as though you may not have?---No.

But because you state on page 4 that you remember speaking to Mr Heiner?---Yes, I do, yes.

Okay. You don't recall whether you had provided any document in writing to him or for him prior to speaking

7/12/12

COX, T.J. XN

50

with him?---I don't recall having done that, but I certainly recall having met with him. 1

Right. And you said that you spoke with him and Barbara Flynn?---That's correct.

Did you know Barbara Flynn prior to meeting Mr Heiner?---I knew that she'd worked in the Childrens Courts because at a period of time when I was at Wilson before we opened John Oxley I spent six weeks working in the Childrens Court as a supervisor and so I knew Barbara from there. 10

Okay?---Not well, but I knew of her.

All right. So she was at least to an extent a more familiar face than Mr Heiner?---Most definitely. I didn't know Mr Heiner.

And the meeting occurred between you and Mr Heiner and Barbara Flynn in the conference room at John Oxley? ---That's the best I recall, yes.

Do you recall whether it was in the morning or the afternoon?---No, I couldn't. 20

Can't assist there. And you thought that Barbara was taking the minutes?---I guess that was the assumption.

An assumption, right, rather than a recollection?---That's correct.

Do you know now whether or not the meeting was tape recorded at all?---As I said here, I don't recall if it was or not.

Okay. What did you speak to Mr Heiner about, to your recollection?---About my treatment at the hands of Peter Coyne and others. 30

Okay. Did you say your treatment?---Yes.

Right. Did you speak with him about anything to do with child sexual abuse?---As I said here, I don't recall that, but I wouldn't have thought so - - -

Okay?--- - - - because the Heiner inquiry as far as I was concerned was there as a result of the treatment we as staff were receiving. 40

Okay, thank you. You recall though one topic that you definitely did mention was an incident concerning some handcuffing?---That's correct. 1

Now, you had an involvement in handling the aftermath or the fallout from a visit to the Lower Portals, didn't you? ---That's correct, yes.

You did not go on the trip to the Lower Portals?---No; no, youth workers went on that. That was a school excursion.

Yes, so by a school excursion, do you mean that it was primarily one designed and carried out by the teachers attached to the centre?---That's correct. 10

Okay?---I think the art teacher might have gone as well.

Yes, well, we will find out in the fullness of time from it?---Okay.

I'll just get you now just to have a look at a couple of documents. I'll show you this document. I just want to know whether there's any writing on it which is yours? ---Yes, the comments of details of action taken. Those two lines there are my writing. 20

The two lines there?---And then my signature under it and date and time.

Do you recognise who wrote that document?---I recognised the name.

Tell us the name?---That would have been Erich Kaltner.

Erich Kaltner?---Mm'hm. 30

What date does the document bear?---Up the top 24/5/88.

Okay. Can you just read that through for yourself, but can you look out to tell me whether or not it contains any details concerning something to do with an assault, sexual or otherwise, touching, interference, anything of that nature?---No, it just talks about four returned absconders and their mood at the time.

Okay, thank you. We'll have that back. I'll get you to look at this document, please, and ask you are you the author of that document?---Yes, that's my writing. 40

Okay; the dates, please?---The date is 24/5/88.

The time?---6.30 pm to 9.30 pm.

Can you, please, read it in whatever degree of detail you need to, to let me know whether or not it contains any reference to a sexual assault, assault, touching,

7/12/12 COX, T.J. XN

interference, rape, molestation or anything like that?---I wish I'd done it in bigger print. 1

Yes, that's why I asked you to read it?---Yes. No, it just talks about the fact that they had returned after absconding and then the mood and threats by the young people in that period of time.

It deals with their - - -?---Their breaking out.

- - - refusal to go into their bedrooms or something, doesn't it?---That's correct, yes. From memory, that was down outside the medical centre and outside the admissions area. 10

All right. We will have that document back, thanks. I would like you to have a look at an exhibit that we tendered this morning. I will just get the number, exhibit 249, and I will ask you does that document bear your signature and contain your handwriting?---Yes, it does.

Okay; and it's dated 2 June 1988?---That's correct.

And addressed to Mr P. Coyne, John Oxley Youth Centre, Wacol?---That's correct. 20

And the heading is "Reference Annette Harding"?---That's correct.

All right. Can you read out to us exactly as it is written there your writing down to and including your signature at the bottom?---Okay:

Thursday evening, 26 May 1988, approximately 7 pm Mrs Harding phoned to speak with Annette. I was aware that Mr Peter Coyne, manager, had been trying to locate the Hardings, therefore I asked Mrs Harding if Mr Peter Coyne could phone her back in five minutes. I then phoned Mr Peter Coyne to relate my conversation with Mrs Harding and to give him her phone number. Approximately 8 pm Mrs Harding phoned back after having spoken to Mr Peter Coyne to speak with Annette. I had Annette take the call in my office (senior youth worker). Annette was visibly upset during her conversation with both Mr and Mrs Harding. 30

Friday evening at 7.15 pm Dr H. Forbes phoned in re Annette Harding. After ascertaining that I was aware of the situation regarding Annette he gave me a list of contraceptive pills that could be taken by Annette. Whilst checking the medical room for the pills two admissions arrived. These I processed. At 8.10 pm Dr H. Forbes rang back to ascertain if I had located any of the pills on the list. I advised him that I had located a packet of Sequela ED. 40

7/12/12

COX, T.J. XN

At 8.15 pm I phoned Mr Peter Coyne, manager, and advised him of Dr H. Forbes' phone calls. At 8.37 pm Mr Peter Coyne phoned back for Dr H. Forbes' phone number. At 8.45 pm Mr Peter Coyne phoned back re approval for the contraceptive pills to be given to be given to Annette as per Dr H. Forbes' prescription. Signed T.J. Cox, senior youth worker.

1

Thank you. All right, exhibit 249 can be returned. Having read that document, does that assist you in recalling what type of child Annette Harding was, that is to say, was she a child there pursuant to a sentence order of a court or was she a child who was in the centre pursuant to a control order?---To be quite honest with you, I don't.

10

You don't remember?---No.

Okay, thank you. No further questions, thank you.

COMMISSIONER: Thank you. Yes, Mr Harris?

MR HARRIS: Thank you, commissioner.

COMMISSIONER: Are you acting for your self at the moment, your client, or Mr Bosscher?

20

MR HARRIS: No, for my client.

COMMISSIONER: Right.

MR HARRIS: Mr Bosscher just went outside for something.

COMMISSIONER: Yes, but you're not Mr Bosscher's agent at the moment.

MR HARRIS: No, not at the moment; no. I can go ahead.

30

COMMISSIONER: Yes.

MR HARRIS: Thank you, commissioner.

COMMISSIONER: I just wanted to clear that up, that's all.

MR HARRIS: Yes, no problem.

Mr Cox, with respect to exhibit 249, the one you just read into the record, you say there that Annette - Dr Forbes gave approval for Annette to have the prescribed drugs. Do you know who administered those drugs to Annette?---I can't recall at this point. It may have been myself. I don't know.

40

What was the procedure at John Oxley for the administration of drugs?---Okay. At that time we had medical staff during the day. After hours or even during the day drugs, prescriptions, whatever you want to call them, were made up

7/12/12

COX, T.J. XXN

50

by the medical team and youth worker staff issued them. 1

Drugs like Sequela which I understand were drugs at that time on a restricted list - were those type of drugs put in a book or something like that that you had administered them?---I'm not sure, but I guess I would've covered myself of that letter.

Yes?---So a restricted drug - I can only talk from - - -

Yes, I understand?---Obviously they'd be - there's record-keeping around all those sort of things, I would presume Queensland Health, although our employees at the time would have similar ways of recording the issue of restricted drugs. 10

20

30

40

All right. Just to follow on from that there, do you have any knowledge that Dr Forbes examined Annette on that night - Ms Harding on that night?---Not from what I'm aware, because I think - didn't I say in there that he phoned?

1

Yes, he phoned. Yes, I was just wondering - - -?---Yes, I just - probably I would - - -

- - - whether he'd come and examined her that night and attended the centre?---Yes, and I have - I just don't have knowledge - - -

10

You've got no medical qualification?---None whatsoever.

And not qualified to administer drugs or anything like that. Do you know if you've got qualifications for that there or - - -?---Back in those days that was common practice.

It was common?---That we were able to - once they had been prescribed we could issue it. These days, of course, you can't.

The prescription that the doctor wrote, was there ever consent to the John Oxley?---Sorry?

20

The prescription that Dr Forbes wrote out, do you know if that record was received there - - -?---No.

- - - or was it just by telephone?---From my letter - if you'd asked me to recall it I wouldn't have even recalled that letter, but reading that letter it's obvious there that it's over the phone, so therefore he wouldn't have handed me a written prescription.

All right. No further questions, commissioner.

30

COMMISSIONER: Thanks, Mr Harris. Mr Bosscher?

MR BOSSCHER: Thank you, commissioner. I was just obtaining instructions - - -

COMMISSIONER: Yes. No, that's all right. I just wanted to make sure that there was no confusion, in my mind, anyway.

MR BOSSCHER: Thank you. Could I ask you, sir, to have a look just at page 5 of your statement, if you have that in front of you. The first complete paragraph there, which is just a little bit down that page, you state, "The information I gave to Heiner was a result of the handcuffing incident, the last straw," which has been fairly well documented. Why do you refer to that as the last straw?---I guess that's where I was totally in conflict with the way some of the decisions had been made at the centre and for me that was an incident that I wasn't

40

7/12/12

COX, T.J. XXN

50

comfortable with.

1

That was an incident involving how a particular resident was treated?---Well, it was not just one resident, there were a number.

A number of residents were treated?---Yes.

Which you didn't agree with?---That's correct.

For you that was the last straw, as I take it, in relation to your attitude towards Peter Coyne?---Yes.

10

If I can just ask you to turn the page, please, over to page 6, and I'm going to take you to the second complete paragraph. That's the incident referred to there believed to have occurred at the Lower Portals which you subsequently became involved in, at least on the periphery?---That's correct.

It was certainly something that occurred prior to you giving evidence to Mr Heiner?---I presume so by the dates, yes.

If I just take you to your statement, "That incident," and I've paraphrased the words, "was certainly known to me at the time of the Heiner inquiry"?---That's correct, because of the fact of Dr Forbes and obviously the admission of the absconders.

20

You were aware, as I take it, from other documents you've been shown, as to the detail of what that incident was about?---I'm not aware of actually what happened on the excursion, but I am aware of the incident.

You're aware of, sorry?---Of the incident.

30

But you're not aware of what is alleged to have occurred? ---That became known to me, but again, that was hearsay. I wasn't there.

Did it become known to you prior to you giving evidence to Mr Heiner?---If the dates line up then that would be correct.

The reason that I ask simply is because if I take you back to paragraph 5 - sorry, to page 5, the third complete paragraph of the page, you say there, "I am unsure if I spoke to Mr Heiner about any sexual abuse allegations at the time of the Heiner inquiry"?---That's correct, because my understanding was that when I spoke to Heiner it was about staff abuse.

40

But you clearly spoke to Mr Heiner, as I understand from your statement, and please correct me if I'm wrong, in relation to the incident involving the handcuffing? ---That's correct.

7/12/12

COX, T.J. XXN

50

Of a number of inmates, or residents?---Yes, by way of example of how we were directed to do things that we didn't agree with.

1

Now, you used the word in your statement there, "I am unsure." Particularly I'm focusing on that word. Is it your recollection now that you definitely did not tell Mr Heiner about any incident of child abuse - of sexual abuse?---23 years later and lots of incidents, to be honest with you, that's why I've said I don't recall. I wouldn't have believed so. I would have believed that I went there to speak about the way I was treated.

10

Is it therefore then possible from what you just said that you may have?---I guess you could draw that, but that wouldn't be my understanding.

Commissioner, thank you.

COMMISSIONER: Thank you. Mr Cox, can you ever remember a time since 1988 of believing that you had spoken to Mr Heiner about child sexual abuse or some similar topic? ---No, I haven't. To be honest with you, every time it's been mentioned for the last 23 years it brings back bad memories of the way we were treated as opposed to what happened with the two incidents that I've mentioned in here.

20

So have you ever in your own mind connected Mr Heiner with investigating child sexual abuse at the John Oxley Centre? ---Not at all, and I think I say in my statement that people have forgotten what Heiner was all about. Heiner was about the staff abuse or mistreatment. That was our understanding of why the Heiner inquiry was there.

Why do you say people have forgotten what it's about?---I think over the years what I've seen is other things brought in about alleged abuse, sexual abuse, which to my understanding at the time was not part of that inquiry. That's not to say they shouldn't have been talked about or dealt with in another forum, but I don't believe that was part of Heiner.

30

Okay, thank you. Anything arising? Mr Copley?

MR COPLEY: No, thank you, Mr Commissioner.

COMMISSIONER: Mr Cox, you're free to go. You're released from your obligation. Thanks for coming down from Townsville. We appreciate it. You're excused, thank you?--All right, thank you.

40

WITNESS WITHDREW

MR COPLEY: Turning to exhibit 14, Mr Commissioner, if we go to page 5 of 9 in the second and last paragraphs -

7/12/12

COX, T.J. XXN

50

second-last and last paragraphs on that page there are references to an inmate and a youth worker, the same people whose names have repeatedly been obscured. I'd suggest that they need to be obscured again. Their names each appear on the first full paragraph on page 6 of 9.

1

COMMISSIONER: So they're on the penultimate and ultimate paragraph on page 5.

MR COPLEY: That's correct.

COMMISSIONER: And the first full paragraph on page 6.

10

MR COPLEY: Yes. Then if you go to page 7 of 9, the last paragraph, second-last line, Mr Cox refers to, "A youth worker by the name of (I think)" so again, in my submission that gentleman's name should be obliterated given the degree of uncertainty, if nothing else, there, that Mr Cox concedes that he had. They're the only matters I have.

COMMISSIONER: All right. I direct that exhibit 14 be published after the names in the second-last and last paragraph on page 5 and the first full paragraph on page 6 and the last paragraph on page 7 - yes.

20

MR COPLEY: Mr Commissioner, I call Frederick John Feige.

30

40

50

FEIGE, FREDERICK JOHN sworn:

1

ASSOCIATE: For recording purposes please state your full name and your occupation?--My name is Frederick John Feige, retired.

COMMISSIONER: Good morning, Mr Feige?---Good morning.

MR COPLEY: Could Mr Feige be shown Exhibit 17 please. Mr Feige, when you've got your glasses on could you look through that document to ascertain whether or not it is the statement that you signed and provided to the police on 21 October 2012?---Yes.

10

In paragraph 29 of that statement you said, "My understanding of what happened with this inquiry is that Mr Heiner prepared a report and this was briefed up to the director general and minister. I was under the impression that this report went to Cabinet. I don't know where I got this impression from." Is that still your impression? ---Yes.

Okay, thank you. Now, you first began working for the department in whatever form or name is had, in 1973? ---That's correct.

20

And you didn't leave until 2006?---That's correct.

Okay. And you worked at Sir Leslie Wilson?---Yes.

And then you transferred willingly or unwillingly, whatever the situation might have been, across to John Oxley Youth Centre?---Yes.

And then after working there for a while things progressed to a point when he wrote a letter to the director-general, didn't you?---That's correct.

30

All right. Could witness see exhibit 71, please. That's probably only a photocopy, but do you recognise the writing on that document and the signature?---That's mine.

Okay. Did you write that letter?---Yes.

Do you recall mailing it was sending it into the director general?---Not the specific act, but I'm sure that I did.

Okay. Well, so that we won't have any arguments down the track about what it says because it's all handwritten? ---Yes.

40

Could you read out to this commission exactly what it says from the beginning at the top?---"In response to the meeting on the 28th of - - -"

Okay, we just start at the very top, very top line,

7/12/12

FEIGE, F.J. XN

50

everything?---Oh.

1

Thank you?---"To Mr Pettigrew, director general. Dear Mr Pettigrew - - -"

The date, please?---"29/9/85" - 89, I'm sorry.

Yes?---"Fred Feige, youth worker, John Oxley Youth Centre."

Okay, thanks?

---In response to a meeting on 28 September 1989 at John Oxley Youth Centre. I understand from yourself and Mr Nix that there have been allegations made against the manager, Mr Coyne, of John Oxley Youth Centre. While I feel that I have been subjected to some differential treatment which has led to some anxiety or inequity in the manner in which I am perceived, I feel Mr Coyne is far too professional to resort to such means as victimisation; however, I feel he has been the victim of what is called flattery for advancement where those seeking advancement present information which is not overly honest, but perceived to please Mr Coyne.

10

20

This is causing discord between youth workers and management as it is Mr Coyne who is the person responsible. I am sure Mr Coyne is now fully aware of this but is placed in a Catch-22 situation where he has to act on the information, no matter how (indistinct) if required, I'm sure Mr Coyne and myself could present information to support this concept.

At this meeting I inquired if other subjects could be included in an inquiry which was held. The subjects were the safety of both young people and staff, as well as the use of handcuffs. In recent weeks we have been forced to use handcuffs to contain the behaviour of a number of young people. I was involved in most of the instances. While I did not like what was done, I felt there was no other option. We were forced into this situation as the facilities at John Oxley are not designed to control such behaviours from more than one young person.

30

40

I feel it is time we collectively sought answers to these problems. In discussion with Mr Coyne a range of options were investigated. However, there seems to be only one option, and this would most involve capital works; for example, the building of a facility for young people with special needs. If needed, I could express some thoughts on the subject. The safety of both young people and staff is of particular concern to me. I feel the building of the above facility would help, but is not the whole answer. The alarm system which was to be installed seems to be experiencing problems. It would go a long way in solving increased safety - - -

1

10

Would it say, "Would go a long way in providing increased safety"?---Yes, that's it.

Increasing staff levels would provide a real alternative. I know that Mr Coyne is addressing this subject but the constraints limit the effects or efforts to a juggling act. If we are to provide a productive and positive service, the above needs addressing. In conclusion, Mr Pettigrew, I wish to state that I have offered Mr Coyne my total support in providing a consistent and caring environment at John Oxley Youth Centre. Yours faithfully, Fred Feige.

20

All right. Now, Mr Feige, that begins by saying, "In response to the meeting on 28 September 1989 at John Oxley." Do you have a recollection of going to the meeting with Mr Pettigrew the day before you wrote that?---No, I wouldn't - how would you say - I mean, I've said that I did.

Yes?---And I've been too many, many, many meetings and it's so long ago, whether it was - what sort of meeting it would be might be a different matter, but yes, I attended a loss of meetings. That pretty much - yes, I did.

30

Okay. All right. Now, did Mr Pettigrew respond to you with a letter back as a result of that letter you wrote to him?---I don't recall.

Okay. Were you involved in union affairs at the centre?
---Yes.

Which union would be connected with?---I was the AWU.

40

Okay, so which unions had members that worked at the centre besides the AWU?---The then Public Service Union.

Yes?---And the Professional Officers Association.

Okay. And did you have much to do with the Professional Officers people - the union, I mean?---Mr Kevin Lindeberg.

7/12/12

FEIGE, F.J. XN

50

Yes?---And another - I can't think of this person's name,
but the Public Services Union. We used to attend meetings
in the city.

1

Okay. I'll get you now to look at exhibit 84. I'm not
suggesting that you wrote this document at all, but it
purports to be minutes or a record of a meeting between the
Department of Family Services, Professional Officers
Association, State Service Union, and Australian Workers
Union on 17 November 1989. Do you see that?---Yes.

And then it says Family Services Union and then it lists
the people that were present at your name appears there?
---Yes.

10

20

30

40

50

Do you recall attending that meeting?---I was there, yes. 1

All right; and was it a meeting that was confined to issues relating to John Oxley or was it a meeting that dealt with other issues of concern to the unions?---These meetings were global.

Yes?---We covered every person employed by the department at that particular time.

Who was a member of your union or these other unions? ---Yes. 10

Okay?---So the child care officer at Kalamurra may have had an issue with accommodation or something there. That would be raised at these meetings and discussed.

All right. Now, under the heading "State Service Union Items", would you understand that to be an issue that the State Service Union raised at the meeting?---Yes.

Okay; and it briefly records that the State Service Union hadn't received a copy of any terms of reference for the John Oxley involvement?---Yes. 20

Okay; and then there was an item on the next page "Australian Workers' Union Items". Do you see that?---Yes.

Were you the only AWU representative there, according to the names on the front?---Wayne Mills was the organiser for the AWU.

I see; so it could have been either him or you who raised the item under the heading "Australian Workers' Union Item"?---Yes. 30

And the issue there for the AWU was disappointment at the department's response to the AWU proposal to reduce numbers at the centre at John Oxley to 24?---Yes.

They had declined to do that, had they?---Yes.

Okay; and then there were two items raised by the Professional Officers Association?---Yes.

One was about resident numbers and the other was about the security working party?---Yes. 40

What does that mean? Do you know or do you remember?---It doesn't ring a bell at all to me.

Okay, that's all right. We will have exhibit 84 returned. Now, eventually you became aware that a Mr Heiner had been appointed to conduct an involvement out there at John Oxley, didn't you?---Yes.

And in fact you prepared a statement to give to him, didn't you?---I did.

1

I will get you to have a look at exhibit 90. Do you see it says "To Mr Heiner"?---yes.

And there's a date?---That's correct.

Is that 30/11/89?---Yes.

Okay. The first question is: did you give that handwritten statement to Mr Heiner?---Yes, I did.

10

Did you give it to him on the day that it was written or can't you say?---I did.

You did. So was 30 November 1989 the day that you saw Mr Heiner?---Yes.

Okay. Where did you see him?---I seen him in the conference room at John Oxley Detention - Youth Centre at the time, yes.

20

Did your meeting occur with him in the morning or the afternoon?---I can't recall.

Was there anyone else present when you met with Mr Heiner?---Yes.

Who?---There was Jan Cosgrove taking notes and Barbara Flynn assisting Mr Heiner.

Okay. Did you know either of those ladies prior to that meeting?---Yes.

30

Which one or both, did you know?---Both.

Both, okay. Who asked the questions at the meeting?---Basically it was Barbara Flynn with Mr Heiner basically confirming what I'd said.

Okay?---Okay, yes.

All right. Well, now, did you hand this document to someone at the meeting?---I certainly did, yes.

Do you remember who you handed it to?---I can't remember exactly who but, yes, Mr Heiner did read it.

40

Well, attached to it, stapled to it, is a typewritten document?---Yes, that's correct.

Headed "Submission to Mr N. Heiner, Inquiry John Oxley Youth Centre 1989 Compiled by F.J. Feige"?---Yes.

7/12/12

FEIGE, F.J. XN

50

Did you type out that document?---I certainly did. 1

And did that get given to Mr Heiner on the same day with the handwritten document?---It went - from what I recall, it went in earlier so I would have given it to either - I think Jan Cosgrove.

Do you recall how much earlier?---A day.

Okay?---Not much.

Not much earlier?---Yes. 10

All right. Well, because it's in handwriting, could you, please, read out to us everything from "Dear sir" onwards on the handwritten document?---Yes.

Thank you?---I was going to say my eyes are not working properly.

Well, just read the handwritten document first, please?

---Some time ago two youth workers had been found asleep, dozed off, by Mr Coyne. This is all documented. However, on coming on duty the next night myself and the two youth workers were escorted to our respective offices by Mr Ray Bentley and Ms Lyn Draper and Mr Coyne. Other youth workers were kept back to cover our absence. We were instructed not to talk to or even say hello to our fellow workers. 20

We were then told to write out our reports with either one of the above standing guard at the door to ensure that we did not talk to anyone. I know I felt like I was being treated as a child who was being paraded before his classmates. I still feel this way, unethical and unprofessional and in breach of the code of conduct 2.2 in that employees of the department should be treat other employees with respect and dignity. Yours faithfully, Fred Feige. 30

Okay. Now, what I want to ask you is this: according to the terms of the letter, that incident occurred some time ago?---Yes.

Which might suggest that it occurred some time prior to the compilation of the typewritten letter or the typewritten submission?---It could have been, yes. 40

Why did you include that seemingly trivial incident? Why did you take the trouble of writing that out to give to Mr Heiner?---Well, the Heiner inquiry, right, was about the management of staff, treatment of staff, and if you can imagine if I took you in front of all your colleagues in such a manner as escorting you like a police officer and then making it very well known that you are under duress,

7/12/12

FEIGE, F.J. XN

if you like, or under punishment, it was sort of like to say to all fellow workers, "Look, I can do this. This is in my power. I can make you do what I want," and to have us sit openly and write our reports but not allowed to talk to anyone - I mean, I was walking in. People were greeting me saying, "How you going, Fred? G'day, mate, how's things?" and I wasn't allowed to talk back to them. If that's not treating a person with dignity - without dignity, I don't know what is and that was - the focus of me really wanting to talk to Heiner is the way that you were treated and it wasn't just me. I mean, there were three other people who were paraded before their workmates as - really as a punishment.

1

10

Okay. Now, the submission that you prepared for Mr Heiner we can probably all read for ourselves, but is there anything in that submission concerning the sexual abuse of children?---I don't even need to read it. No, there's nothing.

There isn't, okay. In compiling that submission, did you have access to the terms of reference?---I honestly don't recall.

20

By that I mean the terms of reference governing Mr Heiner? ---Yes; no, I know what you mean.

Good?---Yes, I don't recall ever sort of, as you say, when compiling it had that in my mind, but certainly at meetings that we had had prior to the appointment of Mr Heiner I understood what the inquiry was about and the parameters set around the evidence that I would present.

30

40

50

I don't know about other people.

1

Yes?---I confined all, if you like, my comments around the management of staff and the inequities of bastardisation, if you like, to put it that way.

In your statement that you gave to the police recently, at paragraph 46 you said - sorry, at paragraph 50 you said, "At no stage during the meeting with Mr Heiner were sexual abuse allegations raised by Mr Heiner or Barbara Flynn"? ---That's correct.

10

Is that correct?---Yes.

And you say, "At no stage did I raise allegations of sexual abuse at the meeting with Mr Heiner?---That's correct.

You also say in paragraph 48 that you asked Mr Heiner what was going to happen with the evidence and Mr Heiner said words to the effect of, "Information given would be protected by cabinet"?---That's correct.

Are you sure he said that?---I am pretty sure that that's what was said.

20

Okay?---We were protected - all evidence given was protected by basically the - as you said, like, cabinet. The government had put in place measures to protect staff from further litigation.

Was that an important thing for you to know in the process of giving - did he say that to you at the start of the meeting or was it at the end when you asked? Was that - - -?---No, it was when I asked.

When you asked?---Yes.

30

Was that of concern to you?---Yes.

Why was it of concern to you?---Because of several incidents that had occurred prior to the inquiry.

What are you referring to there?---There was a lady who worked in the storeroom who I - she came to me as the union rep. She came to me. She was crying and very upset, saying that she was being forced to go to the Heiner inquiry and to say certain things. Now, I didn't take too much notice of what certain things were, but I assured her that whatever evidence she gave would be confidential.

40

Why did you give her that assurance, because, with respect, it wasn't your place to give such an assurance, was it? ---It was to help her cope with what she was dealing with. So as I said, it was basically to say, "Well, okay, when you go to the Heiner inquiry you can talk freely."

Yes?---Right, and, yes, it wasn't my place, because I had no official capacity to do that, it was just a friend talking to a friend, if you like. 1

Okay, so that's one incident. What was the other incident that you mentioned - you had in mind when you said before there were a couple?---I think it was the treatment that I had received at the hands of Mr Coyne and others in the management team.

Yes?---That things that I had said or done, if you like, had been construed quite differently to the events. So in other words, I couldn't actually trust that something wouldn't happen, like a civil liability action or, you know, being sued. 10

Had you been threatened with such a thing on a prior occasion?---Yes.

Who had threatened you?---Mr Colin Bray.

Mr Colin Bray?---That's who I recall. Peter Coyne had made inference to it. I mean, both of them made an inference to it, in that I had no doubt in my mind that there was a possibility. 20

Now, you didn't go on an expedition or a trip to the Lower Portals, did you?---I have taken kids to the Lower Portals, yes.

Okay, well, I'll rephrase the question. Did you go on a trip on 24 May 1988?---No.

Okay, but after that trip had ended were you required to collect a Mrs Harding from somewhere?---Yes. 30

Did you understand her to be Annette Harding's mother?---Yes.

Who directed you to go and get Mrs Harding?---Rudi Pekarharing asked me pick up Mrs Harding because I knew where Mrs Harding and Annette lived.

Right?---As a matter of fact I lived about a kilometre away.

So what town or suburb did Mrs Harding live in?---She lived in Eagleby. 40

Did you go and get Mrs Harding?---I did.

Did you convey her to the John Oxley Centre?---I did.

This trip that you took her back to the centre on, did that occur in the daytime, the evening or the night-time? ---Daytime.

7/12/12

FEIGE, F.J. XN

Do you recall the date?---No.

1

Was it the same day that they returned from the Lower Portals or another day?---Another day, I think.

Was it after the Lower Portals trip?---Yes.

How soon after?---It might have been - I mean, I can't even remember when the Portals trip happened, but - - -

We've heard evidence - or we've got evidence that it happened on 24 May 1988?---So it would have been the day after, I would say.

10

Okay, and did you and Mrs Harding talk about what might have occurred to Annette?---I didn't actually know what had happened.

Yes?---We confined our conversation to the flea markets where Mrs Harding - well, I'd met Mrs Harding selling stuff with her husband, just general sort of chit-chat.

Yes?---At that point I didn't know what had happened.

20

Do you recall whether Mrs Harding said anything that might have indicated that she had some knowledge of what might have happened?---She may have made mention of something, but - - -

Okay, well, just - - -?---But not basically directed to the subject. I can't actually recall.

Mr Commissioner, I just propose to put this to the witness, and the purpose of doing so is simply for the purpose of a submission that will ultimately be made by me probably some months down the track that at the time that Mr Feige was taking Mrs Harding to the centre Mrs Harding, it could be inferred from the comment I'm going to put, if he accepts it, had some knowledge about the incident that her daughter had been involved in. That's the point of putting this. It's not to embarrass anybody, such as Ms Harding or her mother.

30

Mr Feige, at paragraph 13 of the statement you state, "I then drove to Annette's mother's house at Beenleigh and picked up her mother and started to drive her back to JOYC. I said little as I did not know much about the matter. I recall the mother telling me this had happened before with Annette in Ballina"?---Yes.

40

"I would describe the mother as not being too phased about what had happened"?---Yes.

Do you remember that now?---Yes.

Apart from what you put in there in the statement to the

7/12/12

FEIGE, F.J. XN

50

police can you elaborate further on any of that?---It was - 1
I mean, all right, I suppose the thing - I've just got to
mentally turn back the clock so far. You asked the
question did she know - - -

No, well, really the question I'm asking you now is beside
the recollection that you've reproduced in that paragraph
can you elaborate further, or is that the sum total of what
you remember?---That's very much of what I remember.

Okay?---It was just - it was a comment that came out of 10
nothing.

You went on to say that Peter Coyne put a memo out to staff
not to mention the Annette Harding incident to anyone?
---That's correct.

Now, it's possible, isn't it, that a manager might put out
such a memo for the purposes of protecting the child
concerned from comments or questioning from other people?
---Yes, that's correct.

Another possibility that might motivate the author of such 20
a memo would be to try to cover it up or sweep it under the
carpet, wouldn't it?---That could be another option, yes.

You wouldn't know as you're not the author of such a memo
what was motivating the manager when he put such a memo
out, would you?---No.

30

40

50

No further questions, thank you.

1

COMMISSIONER: Okay. Yes, Mr Bosscher.

MR BOSSCHER: Thank you, Commissioner.

I just want to ask you some questions about some of the things you say in your statement and I'll try and work through it chronologically. Can I take you first, please, sir, to paragraph 27 of your statement. You refer in there to a meeting that occurred with Mrs Warner. At the time you indicated she was an ALP candidate. Was she in fact the shadow Families Minister at that time, do you recall ---I really don't.

10

Do you recall what was discussed at that particular meeting?---It was about the treatment of staff and the general safety of the centre through mismanagement.

So it was about the management generally of the staff?
---Yes.

And other issues that were going on at the centre at the time, presumably?---Mainly it was about the way staff were being treated and there was concerns by quite a number of people about the actual safety of persons within the centre, both young people and staff.

20

Do you recall when that meeting took place?---No, I don't.

Was it before the creation of the Heiner inquiry?---No, I'm not sure. It may have been before, yes.

Can you be sure - I'll ask you this question: do you recall whether or not the incident my friend was asking you about involving Annette Harding was discussed at that meeting?---No, it was not discussed.

30

Do you have a specific recollection of that?---I can't remember going to a meeting where that was ever discussed.

Any meeting at all?---Not that I can remember.

Could I ask you to look at paragraph 32?---Yes, yes. And that's - - -

Does that jog your memory a little?---Yes, yes it does.

40

So clearly, sir, there's one meeting at least where the Annette Harding incident has been discussed?---Yes, the Public Service Union had raised the issue.

Could I go back and just ask you to confirm in relation to the meeting where Mrs Warner was present, can you say one way or the other as to whether or not the Annette Harding issue was discussed there?---I'm sure it wasn't.

7/12/12

FEIGE, F.J. XXN

50

The meeting I just referred you to at paragraph 32, that was a union meeting, as I understand it?---Yes. 1

And at that meeting the issue of Annette Harding was indeed discussed, as you say in your statement?---Yes.

And you indicate that this meeting took place approximately a month before the Heiner inquiry started?---And that's just an approximate thing of 20-odd years ago, trying to put up a time frame on something.

I take it then we are clear that it was before the Heiner inquiry?---Yes. 10

But whether it was three weeks or six weeks - - -?---That's correct

- - - no one's going to hold you to that now?---Yes.

But definitely beforehand?---Yes.

In the next paragraph you also refer to a meeting, "I remember at one of these industrial meetings discussion was conducted in relation to the dysfunction at JOYC." Do you see that sentence?---Yes. 20

You then go on to recount a comment, "I remember Ted Clark from HR said words to the effect, 'We need to investigate this to get to the bottom of the issues'"?---Yes.

You then go on to say in that paragraph, "There was no discussion on who would do this investigation and it was unknown how this investigation would occur." Now, you also say that this was a month or two before Heiner?---Yes.

Had a decision been made, at least at the time of the meeting you're talking about there, for a formal investigation to be conducted?---I honestly don't know, that's - - - 30

You don't recall?---It's not in my realm of responsibility at all.

Is it possible that the meeting you refer to at paragraph 33 was the same meeting you were referring to in paragraph 32, or were they separate and discrete - - -?---Separate issues. 40

Are you certain about that?---Yes.

Just going back, if I can, to paragraph 32, that was the union meeting when the Annette Harding incident was discussed?---Yes.

The issue seems to have been the fact that - to use your words - "no-one was held accountable for it", being the

Annette Harding incident?---That was the impression or perception I had at the time, yes. 1

That was the concern, I would take it?---Yes.

Can I ask you now to look, sir, at paragraph 39. Talking about the Heiner inquiry, you indicate there that your understanding of inquiry was that it was about the kids' treatment, staff and management issues that were occurring within the centre?---Yes.

So was it your understanding that the Heiner inquiry was to cover both of those areas, the treatment of children and the management issues that were occurring within the centre?---The two are intertwined; if there's poor management of staff then you have poor services to the young people and their safety is compromised by that poor service. 10

So when you say the two areas are intertwined, you mean they're not mutually exclusive; hard to deal with one without touching on the other and vice versa?---That's correct. 20

A good example being one that we've heard about, an incident involving the handcuffing of children?---Yes.

And the decision by management to do that is a management issue or a management concern?---That's correct.

And of course the handcuffing of children is an issue of child safety and appropriate dealings with kids?---That's correct.

So your understanding of Heiner, initially at least, was that it was - it couldn't deal with one without dealing with the other?---I can't see how any inquiry into the management of staff in such an institution could not be intertwined with the services provided by that institution to its clients. 30

So their welfare, protection and safety is what you mean by that?---Yes.

Can I take you to the next paragraph. The only area I want to take you to is on page 8. You gave some information earlier that you confined your submissions to Heiner to areas involving your relationship, effectively, with Peter Coyne, as I understood your evidence?---Yes. 40

But the indication that you gave to staff was, reading from the top of page 8, "I would tell staff that, 'This is your chance to raise your personal issue or tell your story'"? ---Yes.

Did you mean by that that whatever was concerning them so

far as the management of John Oxley or things that had occurred at John Oxley that concerned them, but they should feel free to raise those at that time?---That's correct.

1

You go on to say that staff had a number of different issues?---That's correct.

You also go on to say, particularly paragraph 41, that "I remember some of the staff were upset about the Annette Harding incident as to the way it was handled"?---That's correct.

10

So at the time just prior to Heiner that was still very much a burning issue with some staff in the centre?---Yes, it certainly was.

20

30

40

50

And in fact you discussed that with some staff in the centre?---Yes, it certainly was. 1

In fact you discussed that with Terry Owens shortly prior to the inquiry?---What had happened is - and this is just shortly after the incident that involved Annette - I walked into the foyer of John Oxley where I met Terry Owens who is now deceased who was quite irate at what was happening and basically said to me that, "If that was you or me, Fred, we'd be sacked."

And that's in relation to a perception that he had that the reports in relation to the Harding incident were being - and these are my words so disagree, were being cooked effectively?---I think that was the impression and that's the impression he gave me, yes. 10

So he had a concern that there was a cover-up in relation to the Harding incident being undertaken by potentially Peter Coyne or others?---What he conveyed to me was basically simply that he thought that the staff who had taken the young people out on the outing were being treated differently than youth workers because they were not youth workers. 20

COMMISSIONER: Is that responsive to your question, Mr Bosscher?

MR BOSSCHER: It certainly wasn't deliberately unresponsive. I'm just going to take him to another paragraph now which may address what I believe is in your mind, commissioner.

Could I ask you to go to paragraph 13 of your statement? I will withdraw my earlier comment that I would deal with this chronologically. 30

Could you just read that paragraph through just in your mind for the time being, paragraph 13?---Yes.

Now, the conversation that you recount there between yourself and Terry Owens we can put to being the day after the incident at the Portals because you go on in that paragraph to say that's the day you went to pick up Mrs Harding?---That's my best recollection.

Yes?---It was the same day, yes. 40

And you recall to the best of memory now that you picked up Mrs Harding the day after the incident?---I think it was the day after, yes.

You state in that paragraph that in discussions with Terry Owens he was of the view that Peter Coyne was orchestrating the content of the reports to be provided by other staff members in relation to Annette Harding?---That's what Terry

said to me, yes.

1

Yes, and that's as I read your paragraph and that's the best of your recollection?---Yes.

If I take you back now to paragraph 41, shortly prior to the time of the Heiner inquiry that was still very much an issue for Mr Owens?---Yes.

To the extent that he told you that he was going to raise that matter directly with Mr Heiner?---Yes.

10

Because, as you said earlier in your statement, different staff had different issues that they wished to ventilate with Heiner?---That's correct.

Did you speak to Mr Owens after he gave evidence to Heiner? ---I spoke to Terry many times; not specifically about his evidence, no.

I should have asked you this question first: I take it you're aware - sorry, are you aware that Mr Owens gave evidence to Mr Heiner?---As far as I know, yes.

20

Did you ever discuss with him whether or not he told Heiner about the issue that he told you he was going to tell Heiner about?---I never discussed the issue at all.

So you never discussed the evidence that he actually gave? ---That's correct.

But you do have a very clear recollection that that was his burning issue to raise with Mr Heiner?---That was one of the issues and it was about the trip, the way - the difference - the way staff were being - like, youth worker staff were treated as to those people who were professional officers, if you like to call them that.

30

And the issues I took you back to earlier in your statement about Peter Coyne orchestrating the contents of the report? ---That's a perception that I got from Terry as well.

Well, just have a look, sir, if you would, at the last sentence - the last two sentences of paragraph 41. I will read them to you, "Terry told me he was going to tell Heiner what he observed with regards to the collaboration of statements regarding the Annette Harding matter," and then, "Terry Owens is now deceased"?---Yes.

40

That's your best memory when you gave this statement? ---Yes.

Could I ask you to look, sir, at paragraph 52 now? As I understand your evidence, the majority of questions you were asked before the inquiry were asked you by Mrs Flynn. Is that right?---Pardon? I didn't hear you.

7/12/12

FEIGE, F.J. XXN

50

Apologies; as I recall your earlier evidence, the majority of questions you were asked when you appeared before Mr Heiner were asked to you by Mrs Flynn?---That's correct.

1

I don't recall your answer now, but did you know her prior to that time?---Yes.

You indicate here in this paragraph as follows: "I recall that any time during the meeting when I went to speak about anything outside management style, I was just 'fobbed off'"?---Yes.

10

What specific things can you recall that you tried to raise with Mr Heiner but were effectively fobbed off?---It was basically again the safety of young people, the way that they - the management style of Mr Coyne and the management team affected our dealing with young people and then, in my opinion, that affected the safety of the young people within the centre.

Could you indicate what you mean by the term, firstly, "fobbed off"? How did that occur?---I was just redirected to a different sort of question.

20

And was it Mrs Flynn that was, in effect, fobbing you off or Mr Heiner?---I - - -

If you don't recall - - -?---Yes, I just remember that's the feeling that I had when I walked out.

So it was Mrs Flynn that was asking you the majority of the questions but you don't recall who it was that caused you to be fobbed off when you tried to raise other issues?---No.

At paragraph 57, sir, you indicate that you actually kept a count of the number of staff that were attending the inquiry?---Yes.

30

How did you do that? Did you keep a list of people?---What basically happened was that I - how do you say it - Peter came to me and would tell me that they'd been to see Mr Heiner and I would - just basically kept a number.

40

Kept a running number going. Now, to your knowledge were any meetings with Mr Heiner conducted outside of the detention centre?---Not to my knowledge.

1

So the 35 you're referring to there in paragraph 57 are 35 people who gave evidence to Mr Heiner at John Oxley? ---Yes, that's my belief.

Sir, at paragraph 60 you indicate that some of the - "I was told some of the evidence was explosive and Peter Coyne was threatening to sue"?---Yes.

10

The term "explosive", is that the terms that you used or was that the term used to you?---That was a term used to me.

Did you ask Mr Christensen what he meant by that?---I looked at Warren and I said, "Well, what do you mean?" and he said, "I can't divulge that," and I said, "That's okay."

Did you gain the impression from talking to him that it was more than simply quarrels between public servants?---No, it was just simple personality clash type stuff, possibly relationships outside of the centre between staff.

20

You also indicate that you gave evidence at the Forde inquiry?---That is correct.

Prior to giving that evidence you provided a statement, as I understand it, to a Mr Moss?---Geoffrey Moss, yes.

So that was done before you gave evidence to the Forde inquiry?---Long before the Forde inquiry, yes.

Long before the Forde inquiry?---Yes, quite - - -

30

So the two aren't connected then?---Yes, they are.

Mr Moss wasn't employed by the Forde inquiry?---No.

He was a private individual?---He represented himself as a particular company who had been put in contact with me by Mr Kevin Lindgard and Paul Grundy and some other person. I can't remember his name, but he I think he was an ex police commissioner.

Could I suggest to you firstly it may have been Kevin Lindeberg?---Yes.

40

And a Bruce Grundy?---Yes.

Shortly before the Forde inquiry you met, you say, there with a Bob Greenaway QC?---I think that was his name, yes.

Can I suggest to you it might be Bob Greenwood QC?---Could be.

7/12/12

FEIGE, F.J. XXN

50

Did he appear to represent you at the inquiry?---No. 1

No, so he was simply there to discuss with you - or give you some legal advice prior to your appearance?---No.

Could you explain why you met with Mr Greenwood?
---Mr Lindgard had arranged for me to meet him and he was talking about some stuff that - I thought it was - you know, it was about the handcuffing and that sort of stuff. I understand from further investigation on my part that a lot of the conversation or a lot of the - well, not the evidence, but our conversation was used in and submitted to senate inquiries, and until recently I didn't even know that that had occurred. 10

Do you recall the general topics that you discussed when you appeared before the Forde inquiry?---Yes.

Could you indicate what they were?---It was about the handcuffing of young people to a fence and to a young boy to a grate and the ramifications of that and the appropriateness of that.

The Annette Harding incident, was that part of your evidence to the inquiry?---No. 20

Sorry, sir?---No.

You also indicate some time back then in the nineties you were interviewed by the Criminal Justice Commission?
---That's correct.

Do you recall (a) why that occurred?---It was about my meetings with Mr Moss, Mr Lindgard, QC Greenwood, that sort of thing, yes, and - yes. 30

COMMISSIONER: Was the former police commissioner's name Noel Newnham?---That's correct, sir.

Mr Lindgard, is he in this room, the person who referred you - - -?---Yes, right over the back there.

All right. Let the record show that Mr Lindeberg was identified by the witness as being the person he has referred to as Mr Lindgard.

MR BOSSCHER: I corrected that initially?---Yes. 40

But I didn't see the point of doing it every time.

COMMISSIONER: No, well, I wanted to - - -

MR COPLEY: Well, in my submission it is an important point to correct, because there are two people with the same Christian name called Kevin. One is Lindgard and is Lindeberg.

7/12/12

FEIGE, F.J. XXN

COMMISSIONER: And Lindgard was a member of the government. 1

MR COPLEY: A government, yes, that's correct. It is important.

MR BOSSCHER: The person you've been referring to as Mr Lindgard, if I suggest to you his name is Mr Lindeberg and is the person you've just identified - - -?---Right, sorry.

Throughout the course of your evidence that's the person you meant, isn't it?---Yes. 10

The interview with the CJC you said was in relation to your meetings with Mr Greenwood, Mr Moss and Mr Lindeberg? ---Basically, yes.

Was it in relation to the content of your meetings, ie the things that you discussed with them?---Yes.

So the CJC were interested in gaining further information about the handcuffing, et cetera?---I suspect so, yes. I don't know the motivation. 20

I have no further questions, thank you, commissioner.

COMMISSIONER: Thank you. Mr Harris?

MR HARRIS: I have some questions, commissioner, but I'm conscious of the time.

COMMISSIONER: Well, the time doesn't concern me, but if it concerns others and you want to break for lunch now I'm content to do that. I'm also content for - - - 30

MR HARRIS: Finish the evidence.

COMMISSIONER: That we'll finish the evidence and - - -

MR HARRIS: Very well, commissioner.

COMMISSIONER: - - - let Mr Feige go. Is everyone else content with that?

MR COPLEY: I'm content to continue.

MR HARRIS: Mr Feige, can I take you to paragraph 13 of your statement, please? 40

Now, in your statement there in paragraph 13 about a third of the way down you say, "Terry said the words to the effect, 'Fred, have a look at this.' He then directed me to where the staff involved were completing statements." Now, could you tell the commission, were they completing statements on typewriters or completing statements by handwriting?---At that particular time they would have been doing it by hand, my recollection of that thing.

1

So they were sitting down, handwriting?---That's how it appeared to me, yes.

10

Thank you. Now, you further go on to say in that, you say - and this is relating to Peter Coyne?---Yes.

I gather this is what you're saying, "He seemed to be dictating things to them to put in their reports." Could you - - -?---Elaborate on that.

Elaborate on that for the commission?---Okay. Terry had directed me to a particular part of the centre, which was just down the hallway. I walked down the hallway, came out of the hallway, Peter was standing up the end of the room, other people were sitting down at the desks and they appear to be writing, and I thought to myself: what have I walked into here? And quickly did an about-turn. I remembered - I don't know whether Peter was addressing me or someone else, he said, "You can't" - basically something like, "You can't do that." And I just walked away.

20

Do you think it was addressing you all the people sitting down?---I really don't know.

All right. I want to go to paragraph 15. You say, "I remember Peter Coyne had a memo put out." Do you know what was in that memo?---I couldn't recall verbatim at all. I mean, it basically said that we shouldn't discuss what we knew or hearsay or whatever you like about the incident.

30

Was it restricting the staff from talking amongst themselves?---I think it was more about protecting the young people.

More about protecting Annette?---Yes.

All right. You said you approached Mr Coyne over that memo and you said to him, "How do we pick up the pieces?" Referring to Annette?---Yes.

40

Can you elaborate on that further for the commission? ---Right. It's very simple, I mean, any event - and at this stage I got to understand a little bit more about what had allegedly occurred - and how do you deal with a young person who had been through some sort of event like that? How do you then have staff treat her appropriately? How do you deal with such sensitive things? Up until that point

7/12/12

FEIGE, F.J. XXN

50

no one at the centre had been trained in, say, counselling or debriefing young people. 1

Can I just told you there, what did you understand that point had happened to Annette?---At that point all I had understood, that she had been on an outing and that she had been involved with a number of other young people and that the incident was of a sexual nature.

Do you know whether or not it was consensual by her or not consensual by her?---I wasn't there. 10

No, but I mean from your understanding of approaching Peter, "How do we pick up the pieces of Annette"?---The simple answer to that is that basically I - not being there, I didn't know and I didn't at the time know the full circumstances around the event. In a sense, that was none of my business.

I just want to move on to paragraph 16 now. You say you have a memory of a detainee and you name him there?---Yes.

You say that he was sweet on Annette?---Yes. 20

And he told you about the incident at the Lower Portals? ---That's correct.

Did you report what he told you to management?---I actually can't remember. It was - the reality is I suppose I was interested in dealing with the young person who was in front of me. Whether what he had told me was true or not, I've no idea.

Can you tell the commission what the demeanour of Annette was at that time - at this time that was so concerned for you?---Well, I was more concerned with [REDACTED]. 30

You were more concerned with [REDACTED] with that?---Yes.

Okay?---Because it was sometime later.

So this was sometime after?---Yes.

What was [REDACTED] demeanour at that stage?---He was quite upset.

Why?---Because he liked Annette. 40

MR COPLEY: My submission is that Mr Harris can ask him, "Did the boy say why she was upset?" He can't actually - - -

MR HARRIS: Did the boy tell you why he was upset?---Yes, it's in that - in the paragraph 16 that he had been told by someone else what had allegedly happened or occurred. There was no evidence to support any of the stuff that's in there. As I said, it may have been a malicious attempt from another young person to upset (name suppressed)

1

COMMISSIONER: We're not using the boy's names?---Sorry.

That's all right. You weren't to know.

MR HARRIS: Do you know whether or not (name suppressed) was on the Lower Portals - sorry, my apologies.

10

COMMISSIONER: I think the horse has bolted anyway, but if we can try to avoid naming - - -

MR HARRIS: Do you know whether or not the young person that you spoke to was on the Lower Portals?---No, he wasn't.

He wasn't?---That's correct.

I have no further questions.

20

COMMISSIONER: Thanks, Mr Harris. Mr Hanger?

MR HANGER: You said your principal concern was for the young man that's just been referred to?---Yes.

I take it you were also concerned for the young lady involved - - -?---Yes.

- - - because you were concerned about all of the children there?---That's correct.

30

I am concerned about understanding the matters in paragraph 13. The concern that you and Terry had was, as I understand it, this: that something had gone wrong on the Portals trip and that youth workers should have been supervising so that this kind of thing didn't happen? ---Pretty much so, yes.

Yes, obviously the kids got away from the people who should have been looking after them?---That's correct.

And then the concern that Terry raised with you was along the lines of if you're in one camp, you would have been treated in this way by the manager and because you're in another camp, you would be treated in a different way? ---That's correct.

40

Over your negligence in letting the children get away? ---That's correct.

That was the matter of concern?---That was of prime

7/12/12

FEIGE, F.J. XXN

50

importance for everyone.

1

Yes. Now, as for this suggestion made by Terry, in effect, orchestrating statements that were made, you have told us a phrase used was, "You can't do that," and you're not sure whether that was directed to you or to somebody else in the room at the time?---That's correct.

And you being, I suspect, responsible did not see fit to mention that to Mr Heiner because you had no confidence that it was necessarily happening or not happening?
---That's absolutely correct.

10

Because if you were sure that there was doctoring of statements organised by Mr Coyne, you obviously would have told Mr Heiner because that's a management issue?---I would have certainly raised the issue at the time through the due process within the department because - - -

Yes, of course?---I mean, the significance of tampering with evidence or to an alleged offence, if you like, I take that very, very seriously.

Yes, thank you.

20

COMMISSIONER: What was sort of under discussion between you and Terry that - your joint view was that Mr Coyne gave preferential treatment to the group of employees you were not a member of?---That's correct, yes, commissioner.

And that group was the group in charge of the kids who absconded?---Yes, commissioner.

I see. Yes, Mr Hanger?

MR HANGER: So just to clarify, did Mr Coyne, in your perceptive, treat the teachers more respectfully than he treated the youth workers?---Most certainly.

30

COMMISSIONER: Even within the youth workers, was there a division?---Yes, there was, commissioner.

And how would you describe that division? Were there two camps within the youth workers?---I would say that there would be more than just two camps. There were some sort of little individual groups. By default, me being an AWU rep, I kind of fell in the middle of all the groups and the fact that I had many years of service within the department people came to me with many, many, many problems.

40

So you personally were unaligned?---I was aligned with myself, I think.

Yes, but there were alliances within - - -?---There were alliances within the centre, yes.

7/12/12

FEIGE, F.J. XXN

50

All right, thank you. Yes?

1

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

COMMISSIONER: Yes.

Mr Feige, thank you very much for coming. We appreciate the time you have spent here. You're formally released from your summons?---Thank you.

WITNESS WITHDREW

10

MR COPLEY: Mr Commissioner, turning to exhibit 17, the paragraphs are pretty obvious which ones will need some obliteration. Paragraph 16 mentions two young men or juvenile detainees. Then we go forward to paragraphs 65 and 66 where he speaks of suspicions about people and hearing from Terry Owens about another incident allegedly involving somebody and detainee.

COMMISSIONER: Yes.

MR COPLEY: I think they're the only matters.

20

COMMISSIONER: All right. Subject to the deletion of all the names mentioned in paragraph 16 except Annette Harding, the last name mentioned in paragraph 65 and the name of the male and female mentioned on the second and third lines of paragraph 66 I order publication of that exhibit.

MR COPLEY: Can we now adjourn until 2.30?

COMMISSIONER: We may, and after lunch we have everybody by phone. Is that right?

30

MR COPLEY: That is so, yes. We must start apparently with one witness Jane Thirnbeck.

COMMISSIONER: At 2.30.

MR COPLEY: Yes.

COMMISSIONER: All right. We will adjourn till then.

THE COMMISSION ADJOURNED AT 1.25 PM UNTIL 2.30 PM

40

THE COMMISSION RESUMED AT 2.34 PM

1

MR COPLEY: Mr Commissioner, I call Jane Elizabeth Thirnbeck.

COMMISSIONER: Thank you.

THIRNBECK, JANE ELIZABETH affirmed:

COMMISSIONER: Yes, Mr Copley.

10

MR COPLEY: Ms Thirnbeck, my name is Copley and I'm a barrister who is going to ask you some questions now. Can you hear me all right?---I can.

Thank you. Do you have with you there a statement that is six pages long that you provided to the police on 22 October 2012?---I do.

You commenced work at the Sir Leslie Wilson Youth Centre in June 1986. Correct?---Yes, that's right.

Some time later you were transferred across to the John Oxley Youth Centre?---That's right.

20

You worked there for a time but left in November 1987 and went overseas. Correct?---That's correct.

Then you returned to John Oxley in June or July of 1988? ---That is correct.

You worked there until 22 October 1989?---It would be around that period of time, yes.

Okay, on or around that time?---Yes.

30

Now, I have here a document which for the record, Mr Commissioner, has been admitted as exhibit 72H.

COMMISSIONER: Yes.

MR COPLEY: I have a document here, Ms Thirnbeck, and I understand you may have a copy of it, dated 3 October 1989? ---That's correct.

We've made that exhibit 72H but you don't need necessarily need to be concerned about that. That's a handwritten document, isn't it?---That's right.

40

It's signed, "'Yours sincerely, "Very concerned"'?---Yes.

Who wrote that document?---I believe I wrote that document.

Well, when you say you "believe", is the writing on it yours?---It's a document that's now 22 years old so my

7/12/12

THIRNBECK, J.E. XXN

50

writing has changed over time, but when I look at it and I read the contents of what's in it I believe that I wrote it.

1

Do you have a recollection of having written a letter to someone?---I do. I do.

Okay, and do you have a recollection of having written a letter to someone where you weren't prepared to write your proper name at the bottom?---That's right.

To whom did - this letter doesn't have an addressee on it? ---No. The letter was written at the time, and I can't recall the exact details, but we were in a position where we could submit - and I don't know how we made that submission, but we could submit if we had concerns at the centre at that time.

10

Who did you understand the letter was going to end up with? ---I believe that when I was there that there was an inquiry, there was an investigation. I'm not sure at that time whether it had been formalised but I now know this was the Heiner inquiry.

20

Did you give evidence to or appear and speak - did you come and speak with Mr Heiner?---No, I did not.

Did you speak with a lady called Barbara Flynn at all? ---No, I did not.

Or Jan Cosgrove?---No, I did not.

Can you read out the letter that's dated 3 October 1989? ---Okay.

Read it aloud to us?---Yes. "3 October 1989. I do not support the use of handcuffs as a form of restraint for a resident young person. I also do not support the action of handcuffing residents to chains attached to the bench in some bedrooms. Similarly, I do not support handcuffing residents to permanent fixtures in the secure yard. I was also shocked when I learnt that one resident had spent one whole night attached to the fence of the swimming pool. Recently one resident has been medicated to subdue her violent behaviour. I do not believe JOYC is in a suitable environment to medicate young persons and that youth workers are not qualified to deal with people that are medicated. Concluding, I do not believe these incidents are appropriate management of young residents. Yours sincerely, 'Very concerned'."

30

40

Now, why did you sign the letter "Very concerned" rather than with your name?---At the time that I was writing that letter; it's in my statement, I had applied for and had successfully been given a position in Bundaberg and I had the fear of retribution if I spoke to Heiner and I was

7/12/12

THIRNBECK, J.E. XXN

50

concerned about whether there would be any interference in my succession to that position. 1

Was there anyone in particular that you were fearful of in terms of retribution?---Yes, there was. It was Mr Peter Coyne. When I - I was advised, I think, in June of the position in Bundaberg but it took four months for that to be ratified, and when I was given a phone call to advise that I was successful in the job I spoke to Mr Coyne that evening when he rang into the centre, because I wanted him to know not from hearsay that I was, you know, leaving at some time in the future. On the following day he called me into his office and berated me, told me I wasn't capable of that type of work. He didn't think I would be able to cope with that type of work, and made references to some comments that I had said in regard to management that I was unaware that I'd said. So it was quite a - a meeting out of the blue that was in response, I believe, to me saying I was leaving, and very inappropriate. I left that meeting very disturbed and I wasn't able to work in my normal capacity for quite some time that day. From that time on I just was concerned that he might interfere with my process of leaving the centre if he was aware that I'd spoken to or made - given information to the Heiner inquiry. 10 20

But in fairness you're not suggesting he did in fact interfere in your transition from that centre to Bundaberg, are you?---I don't - no, I'm saying that because of the atmosphere I was fearful that he may give me a reference that was bad, so I was concerned that - you know, there was a fear factor.

Yes, but I'm just putting to you that in fairness to him you can't assert that he actually interfered, can you? ---I'm not sure, no. 30

Well, you got the job. You ended up getting the job you wanted, didn't you?---Yes, I did.

No further questions.

COMMISSIONER: Thank you. Mr Bosscher?

MR BOSSCHER: Thank you, commissioner. I have no questions for this witness.

COMMISSIONER: Thank you. Mr Harris? 40

MR HARRIS: I have no questions, commissioner.

COMMISSIONER: Mr Hanger?

MR HANGER: No questions.

COMMISSIONER: Mr Copley?

7/12/12

THIRNBECK, J.E. XXN

MR COPLEY: No re-examination. May the witness be excused? 1

COMMISSIONER: Yes. Ms Thirnbeck, thank you for taking the time to appear by phone?---Thank you.

You are formally excused.

WITNESS WITHDREW

MR COPLEY: Just in connection with exhibit 50, Mr Commissioner, I direct your attention to paragraphs 12, 13 and 14, all of which refer to in one place each on those paragraphs a child detainee and ask that that be obliterated. Her name also appears at paragraph 25 of Ms Thirnbeck's statement and I ask that that be obliterated from there too. 10

COMMISSIONER: I direct that exhibit 50 be published after the name of the child detainee mentioned in paragraphs 12, 13, 14 and 25 are deleted. Yes, Mr Woodford?

MR WOODFORD: Mr Commissioner, I call Vincent Robert Robertson. 20

30

40

7/12/12

50

ROBERTSON, VINCENT ROBERT affirmed:

1

ASSOCIATE: For recording purposes please state your full name and your occupation?---Vincent Robert Robertson, and I'm unemployed.

COMMISSIONER: Yes, Mr Woodford.

MR WOODFORD: Thank you, Commissioner.

Mr Robertson, can you hear me?---I can.

10

My name is Woodford. I'm one of the counsel assisting the inquiry and I have some questions for you. Firstly do you have with you a copy of a statement that you made?---Yes, I do, yes.

Is that a three-page document?---It is a three-page document, yes.

And at the declaration part of it on the last page does it note it was made 23 October this year and - - -?---That's correct.

20

- - - and executed 5 November?---5 November, yes.

Okay. I have some questions for you about the statement, just some matters to clarify?---Yes.

We're dealing really with your involvement with the John Oxley Youth Centre. Now, is it the case that you spent two separate periods at JOYC?---I would have spent more than two. I was employed by Department of Family Services and I did a few times of relieving there as an admin officer and once as a principal youth worker.

30

Okay?---That would have been about three or four times that I did actually work there.

Right. You've detailed two particular occasions in your statement?---Yes.

One of those occasions, was it as an admin officer to go and set some systems up at JOYC?---Yes, that one's at the very start, just after the buildings have been completed, and there was only two staff there, myself as the admin officer, and the prospective manager at that stage. We were setting up the administration computers and inventory control, that sort of stuff.

40

So I take it at that stage none of the children had arrived?---No, there were no residents. No-one else there at all.

Just moving forward in time, did you spend a period of six to nine months at JOYC relieving a fellow by the name of

7/12/12

ROBERTSON, V.R. XN

50

Rudi Pekelharing?---I did relieve Rudi Pekelharing on a couple of occasions, I think. He was ill at the time and was taking extended sick leave and recreation leave.

1

Right. When you were relieving at JOYC you came into contact with a manager by the name of Peter Coyne?---I did, yes.

Was it always Mr Coyne who was there running the centre when you were there?---(indistinct) setting-up stage, but I cannot recall the name of the person who was there at the setting up stage.

10

Right. Just dealing with that time when you were at JOYC when the centre was operational under Mr Coyne, there were some concerns, were there, about the way that the centre was being managed by Mr Coyne?---I found out later after I'd finished that relieving period. I had gone back to my original centre of employment, which was the Outlook at Boonah and I was called back on - just a particular day to speak to representatives from the department regarding Peter Coyne.

Okay. Well, prior to being called back to the centre - we'll come to that meeting in a minute?---Yes.

20

But prior to being called back there did you have any awareness of any management issues at JOYC?---No, I was unaware of anything going on there.

Okay. So when you went back to Boonah everything at JOYC just seemed fine from what you'd seen?---I'm uncertain if it was just coasting along at that stage, yes.

Right. I want to specifically deal with this meeting. This is detailed in paragraph 10 of your statement?---Yes.

30

Now, you note there that you were asked to go back to the John Oxley Centre. Who was it that asked you to come back there that day?---There was a contact made to my manager at the time at Boonah from someone in the department - I don't know who it was in the department - and my manager at the time, who was Terry Flanagan, just informed me that I was to go down to John Oxley the following day, that they wanted to interview me, basically, about my time at John Oxley and my interaction with Peter Coyne.

Righto. So it was - from what you understood, people from the department were requesting you to come to the centre? ---That's correct, yes.

40

That, as opposed to, say, Mr Coyne requesting you to come to the centre?---That's correct, yes.

Okay. When you attended you had a meeting?---There was a meeting. I actually - I'm not sure whether I met with

7/12/12

ROBERTSON, V.R. XN

50

Peter Coyne prior to going into the meeting, but I was told that the meeting would be held in the manager's office, which was Peter Coyne's office, yes. 1

Just go back one step. When you were told about going to the John Oxley Centre for this meeting, did you have a choice as to whether you went, or were you directed to go? ---I was just told to present myself there the next day, so I really didn't read too much into it as being a direction or a request, it was just - - -

You were asked to go along so you went along?---I was asked to go and I just complied, yes. 10

Right. Now, the meeting took place in the manager's office, did you say?---That's correct, yes.

You indicate in your statement that there were three people there. Were there?---Yes, I believe they were three people from the head office of the Department of Family Services.

Now, the three people, were they men or women?---They were male - three males. 20

And you're firm on that?---I couldn't be 100 per cent certain and say all three were, but the majority of the questioning was - all the questions that were asked of me were asked by a male, put it that way, yes.

Right. Just stick with that questioning for the moment. You've heard the name Heiner?---Only in the statement that - yes, that the police presented to me, yes.

Okay. When you presented for this meeting did any of the three people there identify themselves to you, that you can remember their names?---They would have (indistinct) but I honestly cannot remember their names, no, sorry. 30

Okay. The questioning that was going on, was it - were more than one of the three people asking questions, or was it just one of the people?---One was asking main questions, and then from my recollection if they wanted a clarification or if any of the others wanted clarification they would ask me a further question.

I see. It appeared to be that one person really was driving the conversation?---Yes, that's correct. 40

Was it being recorded, to your knowledge?---Not to my knowledge. I wasn't informed that it was being recorded, no.

Were any notes being taken to your knowledge?---They were taking - jotting down notes as I was speaking, but there wasn't a stenographer as such taking notes.

Okay. You indicate in paragraph 10 that your understanding was that it was going to be an informal chat. That was the appreciation you had before you came down to the centre? 1
---Yes, that's the way it was presented to me by my manager, yes, and that's why I didn't take it as being a directive or whatever, it was just an informal chat that I believed I was walking into.

Yes, but what you walked into was something perhaps a little more formal?---It was more formal. It was certainly not as formal as this, but it was - yes, it was set up as me on one side, three people on the other side, and, yes, structured questions being presented to me. 10

Okay. Your recollection is that all three of the people involved were from the department?---That was my understanding, yes.

Okay. But beyond that you can't assist us at all with who those individuals were. That's fair?---Yes, that's a fair statement. I cannot recollect.

20

30

40

50

Okay, but beyond that you can't assist us at all with who those individuals were. That's fair?---Yes, that's a fair statement. I cannot recollect.

1

Now, the focus of the meeting - and I'm referring to paragraph 11 of your statement here. It was about your opinion or your opinion was being sought about Mr Coyne as a manager?---That is correct.

And his interaction with the staff. Is that correct?
---That's correct, yes.

10

Was anything raised with you at all during that meeting about allegations of sexual abuse?---No, there were no allegations raised with me whatsoever. It was basically questions asking my opinion on Peter Coyne's style of management and my understanding of how he was interacting with staff members.

Just on the issue of allegations of sexual abuse - and I'm referring to paragraph 14 of your statement. At that point in time you were not aware of any such allegations at all, were you?---No, none whatsoever.

20

Right. I have no further questions for you, Mr Robertson, but some other people may.

Okay, thank you.

COMMISSIONER: Mr Bosscher?

MR BOSSCHER: Thank you, commissioner, no questions for this witness.

MR HARRIS: No questions, commissioner.

30

COMMISSIONER: Mr Hanger?

MR HANGER: No questions.

MR WOODFORD: May Mr Robertson be excused?

COMMISSIONER: Yes.

Mr Robertson, thanks for appearing by phone. It's appreciated. You are formally excused?---Thank you.

WITNESS WITHDREW

40

MR WOODFORD: Mr Commissioner, in terms of publication I can't see anything in Mr Robertson's statement that raises any concern.

COMMISSIONER: Does anyone else?

MR WOODFORD: My friends appear to be silent.

7/12/12

ROBERTSON, V.R. XN

50

COMMISSIONER: It will be published in full then. 1

MR WOODFORD: Thank you. I call Rosemary Elizabeth Cox. She's via telephone as well.

COX, ROSEMARY ELIZABETH sworn:

ASSOCIATE: For recording purposes, please state your full name and your occupation?--My name Rosemary Elizabeth Cox and I'm a coordinator of a family day care centre.

COMMISSIONER: Yes, Mr Woodford? 10

MR WOODFORD: Mrs Cox, can you hear me?--Yes, I can.

My name is Woodford. I am one of the counsel assisting this inquiry?--Mm'hm.

I have some brief questions for you this afternoon. Firstly, did you supply a two-page statement in relation to matters at the John Oxley Youth Centre?--I did.

Do you have a copy of that document there with you?--Yes, I do. 20

It's two pages with nine paragraphs?--That's right.

Your work at the centre - in total you were employed for four or five shifts in alarm monitoring?--Yes, that's right.

And that was in the late eighties or the early nineties? --Yes.

Your husband Mr Trevor Cox was a senior youth worker at the time?--That's right. 30

Just going to paragraphs 7 and 8 of your statement, by those paragraphs are you indicating that you have no awareness or knowledge of any sexual abuse taking place when you worked at the centre?--I do not have any knowledge of it when I was working at the centre.

While we're still with paragraph 8, you had no involvement in any previous inquiry that's been conducted in relation to the centre?--No, I haven't.

You never supplied previously any statement, letter or other information to any person or organisation about the centre?--No, I haven't. 40

Thank you, Mrs Cox. I don't have any further questions but some of the other people may.

COMMISSIONER: Mr Bosscher?

7/12/12

COX, R.E. XN

MR BOSSCHER: No questions, thank you, commissioner.

1

COMMISSIONER: Mr Harris?

MR HARRIS: No questions, commissioner.

COMMISSIONER: Mr Hanger?

MR HANGER: No.

COMMISSIONER: Mr Woodford?

10

MR WOODFORD: May Mrs Cox be excused, commissioner?

COMMISSIONER: Yes.

Mrs Cox, thanks for appearing by phone. We appreciate you taking the time out of your day. You are formally excused and we will disconnect the call now?---Thank you.

WITNESS WITHDREW

MR WOODFORD: Mr Commissioner, there's nothing contained in Mrs Cox's statement that would prevent it being published in its entirety.

20

COMMISSIONER: I direct that Mrs Cox's statement which is exhibit 13 be published. I also direct that the edited versions of exhibits 245, 248 and 242 be published.

MR COPLEY: Mr Commissioner, there are no more witnesses to be called this afternoon but there will be witnesses to be called on Monday. Among those who will be called will be Mr Peter Coyne and Ms Anne Dutney.

30

COMMISSIONER: Yes.

MR COPLEY: I put that on the record now so that everybody knows. People might say, "Well, we don't have a statement or a proof of evidence from them." Neither do I, but they're going to be called on Monday. The other witnesses who will be called on Monday will be witnesses who have already provided statements but the actual list is yet to be settled. When it is, those with authority to appear will be provided with a list.

COMMISSIONER: Thanks, Mr Copley. Yes, Mr Bosscher?

40

MR BOSSCHER: Commissioner, I raised a matter with you or with the commission on the first day that I appeared this week and then subsequently I put on notice yesterday that I may have an application to bring. On 12 October in response to a written application that I sent to the commission on behalf of Mr Lindeberg dated 27 September 2012 you, commissioner, granted leave or authority for me

7/12/12

50

to appear on behalf of Mr Lindeberg in the terms contained in the authority document that was forwarded to myself.

1

I indicated to you that there is an issue so far as funding is concerned and that I now have formal notice from the attorney-general that he will not be providing funding for Mr Lindeberg to be represented. I'm not seeking to withdraw from the matter and I indicate that as and when I am available I will continue to appear on behalf of Mr Lindeberg, but that is not going to be on every occasion that this commission sits in relation to this term of reference.

10

In those circumstances I now make application on behalf of Mr Lindeberg for authority for him to appear personally to represent his interests in relation to this particular matter. Those interests are those contained in the written application made for me to appear on his behalf. I can take you through those if you wish me to do so, but I would submit, with respect, that the question of whether or not he should have authority to appear at this stage through a third party, as you granted, has already been determined.

20

30

40

In the absence of that third party I would submit to you, commissioner, with respect, that those reasons that he sought authority to appear are still valid and if I or somebody else is unable to appear on his behalf that leave should then extend to him.

1

COMMISSIONER: Well, I've probably given him a reasonable expectation that he would be given leave by giving you leave and some of the authorities would suggest that reasonable expectation is a sufficient enough interest to sound in natural justice. My concern is - I want to hear from Mr Copley and the others firstly - as to whether or not you are really - you're really asking me to give sort of tag team leave, aren't you?

10

MR BOSSCHER: That's one - I suppose a way to phrase it.

COMMISSIONER: Yes, and I - - -

MR BOSSCHER: Really what I'm saying is that in the absence of funding I can't commit to being here on every occasion that I may be required.

COMMISSIONER: Yes.

20

MR BOSSCHER: In those circumstances he should be able to appear for himself.

COMMISSIONER: What are we sort of talking about here? Do you have any idea of, you know, what proportion of the future time you won't be available?

MR BOSSCHER: No. As, commissioner, you would be aware, in the field that I specialise in I may have nothing on tomorrow and at midnight tonight I can be in court all day.

30

COMMISSIONER: Yes.

MR BOSSCHER: What I can say is that I've already identified through the material that has been tendered to the commission those witnesses that I regard as being crucial and will make every endeavour, subject to their availability, to come here and cross-examine them at that time.

COMMISSIONER: That was my next question. For example, Mr Coyne and Ms Jutney on Monday, are they on your crucial list?

40

MR BOSSCHER: Yes, they are, and I will be here Monday.

COMMISSIONER: Right.

MR BOSSCHER: I will be here Monday because I have other people available if someone goes a bit nutty and gets arrested on Sunday night.

7/12/12

BOSSCHER, MR

50

07122012 23/RMO(BRIS) (Carmody CMR)

COMMISSIONER: All right. Well, I'm not unsympathetic, Mr Bosscher, but I would like to hear any argument to the contrary.

1

MR BOSSCHER: Thank you, commissioner.

COMMISSIONER: Mr Copley?

MR COPLEY: Well, Mr Commissioner, in view of Mr Bosscher's assurance that he will be here on Monday - - -

10

COMMISSIONER: You want to defer it until then.

MR COPLEY: This matter can be deferred until Monday afternoon when Mr Bosscher will know whether he will be here Tuesday, or - - -

COMMISSIONER: Yes. What do you think about that, Mr Bosscher, that we treat it on a day-by-day basis?

MR BOSSCHER: I have no issue with that so far as dealing with it on Monday is concerned. What I would like to be in a position to do is obviously if other work becomes available then I'm able to take it. Now, I've given a commitment I'll be here Monday and we could deal with this at the conclusion of Monday.

20

COMMISSIONER: Yes, I think we might. I'll give it some thought over the weekend myself and if others can firm up on their own position that would be good, but as I say, my preliminary view is that by giving you leave I have probably created a legitimate expectation in Mr Lindeberg that he would get leave if he asked it as well, and I'm thinking of what the majority of the High Court said in Annetts v McCann. So you might want to have a look at that over the weekend.

30

MR BOSSCHER: Thank you, commissioner.

COMMISSIONER: Thank you. Although we may not have to deal with it until Monday afternoon anyway.

MR BOSSCHER: Yes.

COMMISSIONER: All right. Okay, thank you. Have a good weekend. See you Monday.

40

THE COMMISSION ADJOURNED AT 3.08 PM UNTIL MONDAY, 10 DECEMBER 2012

7/12/12

50