

Date: 23.4.2013

Exhibit number: 357

## Queensland Child Protection Commission of Inquiry Statement of Witness

I, Gregory Richard Cooper, Crown Solicitor, c/o 11<sup>th</sup> Floor, State Law Building, 50 Ann Street, Brisbane, in the State of Queensland, do solemnly and sincerely affirm and declare:

1. I commenced duties as Crown Solicitor on 1 November 2008.
2. As Crown Solicitor, I lead the organisational unit known as Crown Law, which is part of the Department of Justice and Attorney-General.
3. Crown Law provides legal services to Queensland Government departments and agencies.

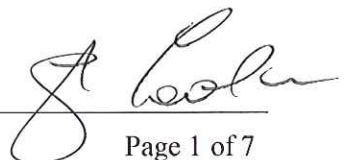
### *Heiner inquiry*

4. I am aware that, as part of its examination of Term of Reference 3(e), the Queensland Child Protection Commission of Inquiry has examined what is known as the 'Heiner affair'. I am also aware of the role this office played through Ken O'Shea, the Crown Solicitor at the time. The Crown Solicitor provided advice to the executive government concerning the destruction of the Heiner documents.
5. I understand that it has been suggested in the statement of George Nix and in his oral evidence to the Commission, that Crown Law provided advice to the then Department of Family Services concerning the establishment of the Heiner inquiry.
6. The searches undertaken by Crown Law at various points since the Heiner inquiry, the most recent of which have been undertaken with the establishment of this Commission of Inquiry, have not revealed any record of Crown Law advice relating to the establishment of the Heiner inquiry.
7. This statement outlines the recent searches that I have caused to be undertaken.

### *Searches undertaken*

8. Crown Law officers undertook numerous searches during 2012 in relation to Commission summons BB2016807. They also undertook further searches in February 2013, and saved the results of these searches in separate worksheets within an Excel document. Those worksheets are annexed and marked **GRC-001**.

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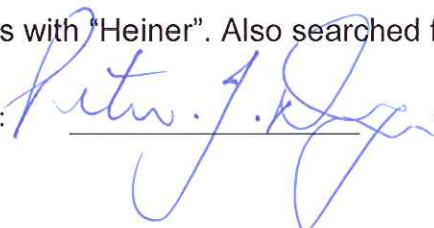
9. To the extent that it is relevant for the purposes of this statement, a brief history of document and record management in Crown Law is as follows:

- From 1977 until 1990, a manual card index system was in place.
- In approximately 1990, a basic software database called 'Q&A' was implemented.
- It is believed that:
  - any new matters were then entered into Q&A with a 6 digit number.
  - any active matter was also entered in this database
  - a large proportion of the legal matters from the manual card system were entered as a separate database in Q&A
- In 1991, Crown Law's first document management system Soft Solutions was implemented. Documents created prior to this date were not captured by the system.
- In July 1993, a practice management system called CLO was implemented. It should be noted that:
  - all Q&A matters were migrated to CLO
  - CLO has a lookup table for the manual card matter references and also for the Q&A 6 digit sequences
  - however, the separate database in Q&A was not migrated and this historical data now only exists in an Excel spreadsheet.

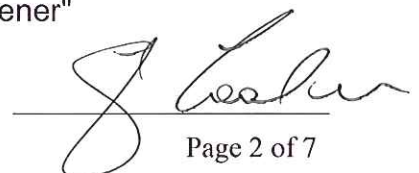
10. In undertaking searches for relevant material, Crown Law officers searched under the following terms:

- Matters with the word "Oxley". Result: no apparent relevant matters. Also searched "Olxey"
- CLO matters with "Petti" - short for Pettigrew.
- CLO matters with "Matchet" - short for Machett
- CLO matters with "Coyne"
- Matters with "Heiner". Also searched for "hein" & "Hiener"

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- CLO matters with "Lindberg"
- CLO matters with "Lindeberg"
- Selected matters with word "Inquiry" in matter description, focusing on "family services" accounts
- Selected matters with word "Review" in matter description, focusing on "family services" accounts

11. Crown Law officers also searched through the following items:

- other CLO matters that are held by the Crown Solicitor or the Crown Solicitor's office
- old system records which were not in CLO

12. A separate worksheet for each search is attached to this statement as part of **GRC-001**.

13. Examining the searches undertaken, Crown Law holds a total of 37 files that match the search criteria.

14. Any matters that have any potential relevance to the Heiner inquiry have been colour coded in these results.

15. From the searches undertaken, one matter in which Crown Law supplied advice to the Department of Family Services prior to the Heiner inquiry, and which may be of potential relevance, was located. This is the 1<sup>st</sup> matter on the 10<sup>th</sup> worksheet contained in the "historical" records database.

Old ID/ Officer	Matter Details	Instructions Dated
C08775 C09	CHILDRENS SERVICES ACT - O.I.C. - JOHN OXLEY YOUTH CENTRE, ADVICE, Childrens Services	15/7/1986

16. The date of the client instructions for this matter is shown as 15/7/1986, which would appear to be far too early for the alleged timeline. John Oxley Youth

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Centre was established by an Order in Council and pursuant to a provision of the *Children's Services Act 1965-1982*, on 18th December 1986. It is likely that this file relates to the establishment of John Oxley Youth Centre under the *Children's Services Act 1965-1982*, with the annotation "O.I.C" denoting Order in Council. However, I cannot speak with certainty to this file's contents as the file was destroyed in 1996.

***Material already provided under summons***

17. A number of summonses have been issued by the Commission relating to the John Oxley Youth Centre, former Magistrate Heiner, the Heiner inquiry and the former Director-General (Allan Pettigrew) and Deputy Director-General of the then Department of Families (George Nix). These summonses were directed to the Department of Justice and Attorney-General, which is the Department now responsible for Youth Justice and Youth Detention Centres, as well as to the Department of the Premier and Cabinet and State Archives.

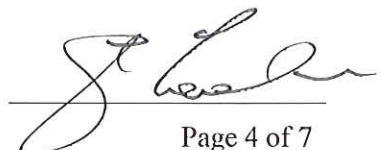
**Summons MC2058981**

18. This summons was dated 27 November 2012 and directed to Mr Terry Ryan, Acting Director General, Department of Justice and Attorney-General.
19. It was a summons to provide:
1. *Any correspondence sent to A Pettigrew or Mr G Nix between 1 June 1989 and 31 December 1989 in which advice was sought from any person or entity concerning the means by which an inquiry could be constituted to investigate issues which had arisen at the John Oxley Youth Centre or any other youth centre;*
  2. *Any correspondence or memoranda generated in response to the above-mentioned correspondence and or any correspondence or memoranda generated in response to any oral request for advice of the nature referred to the above.*
20. A response was provided to the Commission on 14 December 2012.
21. To the best of my knowledge and belief, there is no evidence contained within this summons material to show that Crown Law advised on the establishment of the Heiner inquiry.

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## Summons BB2016807

22. This summons was dated 3 October 2012 and directed to Mr T Ryan, A/Director-General, Department of Justice and Attorney-General. It was a summons in the following terms:

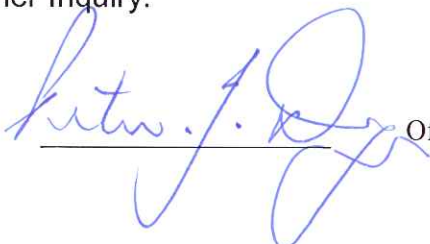
*You are to produce any and all books, documents, writings and records, including any electronic records, held by the Department of Justice and Attorney-General connected in any way with the establishment of and the conduct of and the results of an investigation into the John Oxley Youth Centre conducted by Mr Noel Heiner; any and all books, documents, writings and records, including any electronic records, connected in any way with the determination that the investigation conducted by Mr Heiner should be ended; any and all books, documents, writings and records, including any electronic records, connected in any way with the determination that the material gathered during the investigation conducted by Mr Heiner should be destroyed; and, any and all books, documents, writings and records, including any electronic records, connected in any way with the process followed to destroy the material gathered during the investigation conducted by Mr Heiner.*

23. Documents were delivered in stages to the Commission as various forms of privilege needed to be waived. No privilege was claimed in any document – all that were relevant were released to the Commission.
24. The response was collated within the Department of Justice and Attorney-General and then further sorted by a team of lawyers at Crown Law.
25. To the best of my knowledge and belief, there is no evidence contained within this summons material to show that Crown Law advised on the establishment of the Heiner Inquiry.

## Summons JM2008316

26. This summons was issued on 21 September 2012. It was a re-issued and re-worded version of Requirement BB1992018. The summons was directed to the Executive Director State Archives, Janet Prowse. It requested an extensive range of documents relating to the Heiner inquiry.
27. The material was delivered to the Commission in various stages as various forms of privilege needed to be waived in the documents. No privilege was claimed in any document – all that were relevant were released to the Commission.
28. To the best of my knowledge and belief, there is no evidence contained within this summons material to show that Crown Law advised on the establishment of the Heiner Inquiry.

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## Summons AT2045181

29. This summons was issued on 9 November 2012 and directed to Mr Jon Grayson, Director-General, Department of the Premier and Cabinet.

30. The summons requested:

*You are to produce any and all books, documents, writings and records, including any electronic records, held by the Department of the Premier and Cabinet connected in any way with the establishment of and the conduct of and the results of an investigation into the John Oxley Youth Centre conducted by Mr Noel Heiner; any and all books, documents, writings and records, including any electronic records, connected in any way with the determination that the investigation conducted by Mr Heiner should be ended; any and all books, documents, writings and records, including any electronic records, connected in any way with the determination that the material gathered during the investigation conducted by Mr Heiner should be destroyed; and, any and all books, documents, writings and records, including any electronic records, connected in any way with the process followed to destroy the material gathered during the investigation conducted by Mr Heiner.*

*Without limiting the ambit of paragraph 1, you are also to produce all correspondence which passed between the Minister for Family Services and the Premier of Queensland and between the Minister for Family Services and the Director-General of the Department of the Premier and Cabinet and between the office of the Premier and the office of the Director-General of the Department of the Premier and Cabinet, in each case between 2 December 1989 and 30 May 1990, connected in any way with the establishment of and the conduct of and the results of an investigation into the John Oxley Youth Centre conducted by Mr Noel Heiner; any and all books, documents, writings and records, including any electronic records, connected in any way with the determination that the investigation conducted by Mr Heiner should be ended; any and all books, documents, writings and records, including any electronic records, connected in any way with the determination that the material gathered during the investigation conducted by Mr Heiner should be destroyed; and, any and all books, documents, writings and records, including any electronic records, connected in any way with the process followed to destroy the material gathered during the investigation conducted by Mr Heiner.*

31. The material in response to this summons was delivered to the Commission in various stages as various forms of privilege needed to be waived in the documents. No privilege was claimed in any document – all that were relevant were released to the Commission.

32. To the best of my knowledge and belief, there is no evidence contained within this summons material to show that Crown Law advised on the establishment of the Heiner Inquiry.

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**Relevant material in summons documents**

33. The following material supplied under summons JM2008316 (to the State Archivist) is relevant:

(a) Letter from Ruth Matchett (signed by Don Smith) to Ken O'Shea, dated 29 March 1993, providing results of a review of Departmental records in response to a request to search;

(b) Memorandum from Ken O'Shea to The Honourable the Minister for Justice, Attorney-General and Minister for the Arts, dated 5 April 1993.

34. I attach those documents, marked **GRC-002** and **GRC-003**.

35. Copies of those documents were also supplied to the Commission under summons BB2016807. They were part of Crown Law files.

36. The following material supplied under summons BB2016807 is relevant:

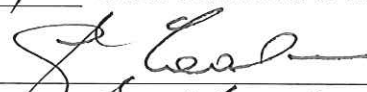
(a) one page handwritten filenotes of Ken O'Shea, dated 29/03/93, referring to phone calls with Ruth Matchett and Don Smith, confirming no advice exists on Department of Family Services records about the setting up of the Heiner Inquiry.

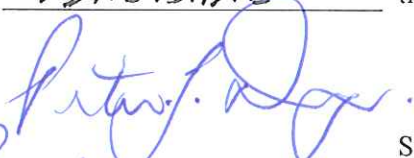
37. I attach that document, marked **GRC-004**.


38. Given the above information, to the best of my knowledge and belief, there is no document to show that Crown Law advised on the establishment of the Heiner inquiry.

**Declaration**

This written statement by me dated 19 APRIL 2013 and contained in the pages numbered 1 to 7 is true and correct to the best of my knowledge and belief.

Signed at Brisbane this 19th day of APRIL 2013  
Signature 

Witnessed:   
Name PETER JOHN DWYER Signature \_\_\_\_\_

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Officer signature:   
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