

Date: 23.4.2013

Exhibit number: 358 AFFIDAVIT OF NOEL NEWNHAM


Noel Newnham, who resides at an address known to the Queensland Child Protection Commission of Inquiry ("the Commission"), states on oath :-

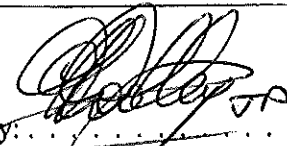
1. I appeared as a witness before the Commission on 24 and 25 January 2013 and crave leave to refer the evidence I gave on those days.

Exhibit 251

2. On 24 January 2013, I was being questioned by Mr. Copley SC, Counsel assisting the inquiry and was shown Exhibit 251 which I understand was a government media release dated 17 March 1989.
3. Having since looked at Exhibit 251 again and having read the transcript of my testimony, I am now of the view that the evidence I gave on 24 January 2013 was partly incorrect.
4. A statement was taken from me by Commission staff on 23 January 2013 and I was in attendance at the Commission from 10 am on 24 January 2013. At no occasion

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Signed: 
Deponent

Taken by: 
Solicitor/Barrister /Justice of the Peace/
Commissioner for Declarations

Affidavit of Noel Newnham

GR Cooper
CROWN SOLICITOR
11th Floor, State Law Building
50 Ann Street
Brisbane Qld 4000
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Facsimile 07 3239 2670

prior to me giving evidence under oath was I shown Exhibit 251, despite there being a number of opportunities for anyone to do so.

5. Mr. Copley put it to me that Exhibit 251 describes a Mr Sherrin talking about a rape of a 15 year old girl during an excursion, by three 14 year old male fellow- inmates. I agreed.

6. Mr Copley then asked me the following question:-

If you accept that that incident was the same incident that you believe Mr Grundy exposed, it would appear that it already would have been exposed in 1989, wouldn't it, if it was the subject of a Ministerial media release?

7. I replied "Yes".

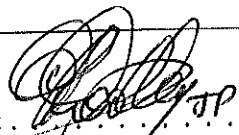
8. I am now of the view that Exhibit 251 probably does not relate to the incident Mr Grundy exposed, which was an incident I will call the 'Annette Harding case'

9. I have now compared Exhibit 251 with what I understand to be expurgated copies of a file from the Department of Family Services (DFS) (as it then was), from 24 May 1988 and other relevant material which deals with the Annette Harding case.

10. Attached to this affidavit and marked with the letter 'A' is a table which sets out various factors in Exhibit 251 and compares them to what I know of the Annette Harding case.

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Signed: . . .  . . .
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The Courier-Mail Article of 17 March 1989

11. I have also taken the opportunity to peruse what purports to be an extract from a Courier-Mail newspaper article, dated 17 March 1989. Attached to this affidavit and marked with the letter 'B' is a copy of that article. I am of the view that article is the one referred to in Exhibit 251. The following words appear in that extract:


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


Those are the only words in the article that appear to relate to the above-cited parts of Exhibit 251.

12. There are also a number of factors distinguishing the case referred to in the Courier-Mail article from the Annette Harding case. They are as follows:-

- (a) The newspaper article describes the occasion as "an art excursion".
- (b) There is no mention whatsoever of an art excursion in the DFS file;
- (c) I have seen the occasion on 24 May 1988 variously described as follows:
- a picnic outing;
 - an Educational Program;

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- an environmental bushwalk;
- a day outing;
- an outing to Lower Portals; and
- a walk to Lower Portals.

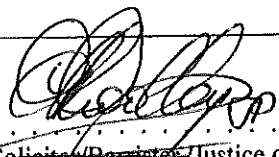
13. No where in the DFS file have I seen the Annette Harding case described as having occurred during an art excursion.
14. There is no mention in this article of the date on which the event occurred.
15. Having given the matters further consideration, I do not believe Exhibit 251 or the Courier-Mail article of 17 March 1989 exposed the Annette Harding case.

The Courier-Mail Article of 18 March 1989

16. I have also seen what purports to be an extract from The Courier-Mail newspaper dated 18 March 1989 which seems to mention the same case as that mentioned in the 17 March 1989 article, but with important differences. Attached to this affidavit and marked with the letter 'C' is a copy of that article.
17. In this latter article, the Minister is represented as having made important points distinguishing the case from what appears in the DFS file relating to the Annette Harding case. Those distinguishing points are as follows:

- (a) The girl was described as being 17 years of age, not 14; and

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Deponent

Taken by: 
~~Solicitor/Barrister~~ Justice of the Peace/
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(b) The girl in this case was said to have been encouraged to lay charges, but she and her mother did not wish to do so.

18. For these reasons, I am also of the view that the incident referred to in the 18 March 1989 article probably did not refer to the Annette Harding case.

Exhibits 234, 252, 253, 253A and the evidence of Ms Janelle Podlich

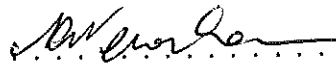
19. I also believe that I provided incorrect responses to questions asked of me during my evidence on 25 January 2013.

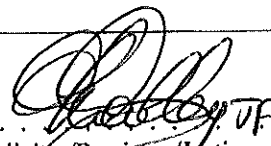
20. I recall being asked, inter alia, whether there were other investigative processes I undertook in order to obtain any further information.

21. I replied to that question indicating I had read a press release issued by the Criminal Justice Commission regarding the handling of the Annette Harding case.

22. This exchange can be seen from around line 20 on page 19 of the transcript from that day.

23. Later on in the course of my evidence on that same day, I was asked inter alia, whether I had available to me any documents from the police officers who spoke with Annette Harding recording their interpretation, understanding or any


Signed: . . .  . . .
Deponent

Taken by: . . .  . . .
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24. information at all about their interaction with Ms Harding, when forming my opinion that their investigation was deficient.
25. I replied, "I think not".
26. This exchange can be seen from around line 14 on page 29 of the transcript from that day.
27. However, upon reflection I now recall that prior to giving my evidence, I had previously read copies of Exhibits 234, 252, 253 and the transcript of the evidence of Ms Janelle Podlich before this Commission which in my view dealt with those issues. These documents had been sent to me by Mr. Kevin Lindeberg on 16 December 2012.
28. Also upon reflection, I now recall having seen Exhibits 252, 253 and 253A many years earlier when they were sent to me by Mr. Grundy as part of the documents that exposed the Annette Harding case.
29. At the time I gave my evidence, I did not remember having previously seen Exhibits 234, 252, 253 and 253A or the transcript of the evidence of Ms Podlich. If I had remembered, I would have advised the Commission accordingly during my evidence.

Sworn by Noel Newnham on ^{18th} April 2013
At ^{DIAMOND CREEK VIC.} in the presence of:


.....
Deponent


.....
Solicitor/Barrister/Justice of the Peace/
Commissioner for Declarations

COMMISSION OF INQUIRY
INTO CHILD PROTECTION

CERTIFICATE OF EXHIBITS

Bound and marked 'A', 'B', and 'C' are the exhibits to the affidavit of Noel Newnham
sworn on April 2013.



Deponent



Solicitor/Barrister/Justice of the Peace/
Commissioner for Declarations

A JUSTICE OF THE PEACE FOR VICTORIA
REG. No. 10686
COLLEEN ANN WOOLLEY
10 IRONBARK RD, DIAMOND CREEK 3089

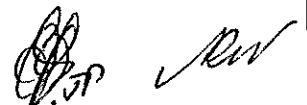
Certificate of exhibit

Filed on behalf of
Form 47 R. 435

Per Mark Zemek
GR3/PRE052/1653/ZEM

GR Cooper
CROWN SOLICITOR
11th Floor, State Law Building
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	<i>Exhibit 251</i>	<i>The Annette Harding case</i>
1.	It was alleged that a 15 year-old female inmate was raped during a (indecipherable) excursion by three 14 year-old fellow inmates.	The allegation was that a 14 year-old female inmate was raped by two male fellow inmates who were in the presence of three other male fellow inmates (making a group of five in all).
2.	All staff and all the children on the excursion were questioned.	The staff on the excursion in the Grundy case provided reports but do not appear to have been questioned, even though Mr. Coyne recorded his disagreement with a Mr Freemantle on an aspect of Freemantle's Report.
3.	The reality is that there was a sexual incident involving the boys and a girl during an excursion when, for a matter of minutes only, they were not under the immediate supervision of staff.	The group of six (five males and 1 female) were apart from staff, and reported to have been missing, for about 15 – 20 minutes.
4.	The girl did not allege rape.	The girl did allege rape.
5.	Neither the mother nor the girl believed charges were appropriate.	The girl said she did want the boys charged by the police, on 25 May 1988, and both indicated that they wanted a complaint made to police about the matter - apparently naming the males concerned.
6.	No mention of this.	After the girl had been seen by two police officers and signed a document saying she did not wish to make a formal complaint, her mother was initially upset that the girl had made this decision.
7.	No mention of this.	The girl's reasons for not wishing to make a formal complaint were that the court process would take from 6 to 12 months, and other inmates were teasing and threatening her.
8.	No mention of absconding.	Four of the males absconded from the party.
9.	If intercourse took place, the charge would necessarily, because of the age of the girl, have been statutory rape.	The police left without establishing whether intercourse took place or not and ceased inquiries before, for example, the result of the girl's medical examination was prepared and several potential witnesses spoken to, so no charge was ever possible regardless of whether intercourse took place or not.
10	No such charge was ever laid and therefore the allegation of such a serious crime is mischievous – and dangerous.	The logic seems flawed, but see above. In addition, though the fact of sexual intercourse seems to have been admitted by several of the males, the evidentiary value of those "admissions" was apparently nil. No attempt seems to have been made to obtain either admissible admissions or witness statements as to the fact.



FRIDAY, MARCH 17, 1989

Wacol centre 'paradise' for young crims

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

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

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

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

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

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

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

By PAUL WHITTAKER

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Police late as youths run riot at detention centre

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

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

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

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

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

Eight of the centre's inmates

By LINDY ROWETT and DAVID ROSS

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

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

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

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

Repression 'not way' to youth reform

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

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

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

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

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

"There may be a few staff members here who don't agree with my principles," he said. "But the majority are most supportive."

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

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

It is a State Government project aimed at changing the

youth-detention system for the better.

Mr Coyne said: "The facilities are extremely secure. In its two years there has been only one inmate who has broken out."

"We have a system here which encourages the inmates to lead non-offending lives. By teaching them arts and crafts, educating them and allowing them to work as a family group we are preparing them to cope in the world outside."

"We are building up their confidence and their respect for themselves and for others."

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

He said the centre, which took boys between 10 and 15 who had been committed and girls between 10 and 17, prided itself on its rehabilitation services.

Mr Sherrin said he was more than impressed with what was being achieved by the centre and shared Mr Coyne's belief that it should be for rehabilitation, not punishment.

"We do not want the John Oxley Centre to become penalised," Mr Sherrin said.



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

"It is an institution which aims to get young people's lives back on the rails. The idea is to keep these kids — some of whom are as young as 10 — out of places like Boggo Road."

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

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

"The girl involved had been

potentially suicidal and her family and the centre staff decided a dinner would buck her up."

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

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

As for the 15-year-old female inmate who was

claimed to have been raped, Mr Sherrin said the female had been 17 and that no charges had been laid.

"I have been informed that the girl's mother was consulted and that the girl was encouraged to lay charges," he said. "Both the mother and the girl said they preferred not to."

Mr Coyne said when inmates did something wrong they were sent to their rooms for 24 hours and, if the matter was serious, the police were contacted and the normal proceedings took place.

"If, for example, a kid assaults a staff member and that staff member wants to lay

charges it will be done," he said. "And if the staff assault inmates the same applies."

Mr Coyne said that he had asked Mr Sherrin not to overreact to Wednesday night's riot by allowing one incident to taint the centre's reputation, and that Mr Sherrin agreed.

The 14-year-old boy responsible has since been sent to Westbrook, on the Darling Downs, which handles more difficult cases. Mr Sherrin said he was annoyed that a couple of people's grievances could tarnish the positive work the staff at John Oxley put into its inmates.

Deliver *Red*