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DISPOSAL OF RECORDS - JOHN OXLEY YOUTH CENTRE

On 23 February 1990 I received a letter from the Secretary to Cabinet regarding the disposal of records of an enquiry into certain matters relating to the John Oxley Youth Centre. This enquiry was carried out by Mr N. J. Heiner, a retired Stipendiary Magistrate engaged by the Department of Family Services, in late 1989 and early 1990. The Cabinet Secretary's letter read in part:

"During the course of the investigation, questions were raised concerning the possibility of legal action against Mr Heiner and informants to the investigation because of the potentially defamatory nature of the material gathered. Because of the limited value of its continuation, the Department of Family Services has decided to terminate the investigation.

Subsequently, the material was handed to the Department of Family Services by Mr Heiner and forwarded to the Cabinet Secretariat for safe-keeping pending a submission seeking Cabinet's view on what should be done with the material.

As Mr Heiner has handed the material to the Crown, the Crown Solicitor has advised that the Government would be entitled to claim possession of the documents and other material gathered by Mr Heiner in the course of his inquiry. The material is therefore considered to be "public records" within the meaning of Section 55 (2) of the Libraries and Archives Act 1988.

I am also advised that the material could not be fairly described as "Cabinet documents" unless they were created for the purpose of submission to Cabinet. This appears not to be the case and any claim by the Crown for "Crown Privilege" would, therefore, have little chance of success in order to maintain the confidentiality of the material.

~~The Government is of the view that the material which I understand includes tape recordings, computer discs and hand-written notes, is no longer required or pertinent to the public record.~~

The question of the destruction of the material therefore falls within the responsibility of the State Archivist under Section 55 of the Libraries and Archives Act 1988 and your urgent advice is sought as to the appropriate action to be taken in this regard."

I examined the records. They consisted mainly of tapes and transcripts of interviews with staff of the John Oxley Youth Centre plus a small quantity of related notes and correspondence. In general the interviewees complained of various aspects of the

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I examined the records. They consisted mainly of tapes and transcripts of interviews with staff of the John Oxley Youth Centre plus a small quantity of related notes and correspondence. In general the interviewees complained of various aspects of the style of management in operation at the Centre. I did not feel that the records were of permanent value and accordingly authorized their destruction. The records were shredded.

On 11 April 1990, the Minister for Family Services, Ms Anne Warner, made a public statement indicating that the enquiry had been terminated and the records destroyed.

On 17 May 1990 I was contacted by phone by Mr Peter Coyne, who had been manager of the John Oxley Youth Centre at the time of the enquiry, asking for confirmation that the records had been destroyed. Acting on advice from Mr Trevor Walsh, a senior officer of the Department of Family Services and Aboriginal and Islander Affairs, I declined to make any comment to Mr Coyne beyond suggesting that his lawyer should deal directly with the Department or with the Crown Solicitor's Office.

L. McGregor

Ms L. McGregor
State Archivist.

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