



SPARK AND CANNON

TRANSCRIPT OF PROCEEDINGS

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THE HONOURABLE TIMOTHY FRANCIS CARMODY SC, Commissioner

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

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

BRISBANE

..DATE 10/12/2012

Continued from 07/12/2012

..DAY 8

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 10.10 AM

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COMMISSIONER: Good morning, gentlemen. Mr Copley?

MR COPLEY: Do you wish me to raise the sitting hours today?

COMMISSIONER: Yes, can you do that? Have you told - - -

MR COPLEY: I haven't. The position is, Mr Commissioner, that we will be adjourning at noon today in view of your unavailability this afternoon.

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COMMISSIONER: Okay, thanks. So that it is today, gentlemen, and we will resume again at 10 o'clock tomorrow.

MR COPLEY: Yes. Mr Commissioner, I call Janelle Podlich.

PODLICH, JANELLE MARIE sworn:

MR COPLEY: Could Mrs Podlich be shown exhibit 234?

COMMISSIONER: Yes.

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MR COPLEY: Would you have a look at that document, please, Mrs Podlich, just to confirm that that is the statement that you provided to the police on 15 November 2012?---Yes, that's correct.

Thank you. Now, you were formerly a member of the Queensland Police Force or Police Service?---Yes, I was.

And you left in December 1990?---I did.

Okay. Now, in May of 1988 you were in the officer in charge holding the rank of detective sergeant at the Ashgrove Juvenile Aid Bureau?---Yes, I was.

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You will just have to keep your voice up?---Sorry.

Just speak up more loudly, please. Is that correct? You held that office at that station?---Yes.

Okay, thank you; and on that Saturday morning, 28 May 1988, were you asked to go to the John Oxley Youth Centre?---Yes.

Do you recall who requested that you were to go there?---I do not.

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Do you recall whether the direction to go was an oral direction that came over the police radio or over the telephone?---I do not.

Okay. Were you working that day with a Plain-Clothes Constable Susan Tomsett?---Yes, I was.

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And did the two of you go together to the John Oxley Youth Centre?---Yes, we did. 1

Okay. Now, I'm just going to get you to look at this photocopy, please. What I'm interested in, first of all, is finding where your writing appears in the three pages of handwritten print that occurs after the front cover that just says "Queensland Police Department Official Diary"? ---On the final page.

On the final page, all right. So if we go to the last page which nobody else has yet, would you, please, just read out to us what you have written there in your handwriting? 10
---"28/5/1988, Saturday, 8.00 till 4.00; commenced duty office with Detective Tomsett; went to John Oxley Centre, Wacol where we spoke to Annette Harding re allegations; interviewee of sexual offence" - yes, "sexual offence with" - - -

Just pausing there for a second, we might just - so that we know exactly where this is, you're reading from the top half of the last page. Is that correct?---No, just down; yes. 20

Okay. So in the top half of the page - - -?---Sorry, yes. - - - the first paragraph that begins "28-5-88"?---That's true.

All right; and below that it says "Saturday, 8.00 till 4.00"?---Yes.

What did the "8.00 till 4.00" mean?---That was our shift, 8 am to 4 pm shift.

Okay. So the first line says "commenced duty office with Detective Tomsett; went to John Oxley Youth Centre, Wacol where we spoke to Annette Harding re allegations." Then the next line says, "Interviewee of sexual I/C". Do you see that? 30
---I do see that.

That's your writing, isn't it?---That is my writing.

What does "sexual" - what does the "I/C" mean?---I don't know what I - what I've written "I/C".

Well, could it be an abbreviation for something?---It is an abbreviation for something but I don't recall. 40

Can I posit the possibility that it might mean "intercourse"?---It could.

It could. Is there anything else that comes to your mind now after all these years?---No.

Anyway, "Interviewee of sexual I/C with" - is the next word "allegation"?---Allegation, yes. 1

Yes, then go on from there?---"Number of boys of sexual also from John Oxley."

All right. Just pausing there, below the word "sexual" again we see the abbreviation "I/C"?---"I/C" - what that is, is interviewee allegation of sexual intercourse.

Right?---In the margin and that's sexual intercourse with a number of boys also from John Oxley Centre. 10

Okay, then if you could read on from there?---"Harding did not wish to make a complaint. Withdrawal of complaint completed in Detective Tomsett's notebook," yes.

All right; and that note - the words "withdrawal of" appear on the page above the black line or the black marking? ---Yes.

And then on page 34 of the diary it says "complainant completed in Detective Tomsett's notebook"?---That's correct. 20

Okay. Does the next line have any relevance? It says "to" something "station"?---No, it does not.

Okay?---That was another job.

That was a different job, all right. So out of this four-page document that I have shown you only the last page bears your writing?---That's correct.

Okay; and I've said to you that that came from your diary, what you have just read out. Is that correct?---Yes. 30

It didn't come from your police notebook. It came from your diary?---No, from our diary, yes.

Okay. Just so that we know what came from where, I'll have Mr Blumke just remove the last page from that photocopy and I tender the photocopy from Detective Podlich's diary for Saturday, 28 May 1988.

COMMISSIONER: The diary note will be exhibit 252.

ADMITTED AND MARKED: "EXHIBIT 252" 40

MR COPLEY: Could I trouble your Honour's assistant to obtain six or seven photocopies of that for us now, if that's all right, so it can be given out or is that too difficult? It appears that I actually might have some photocopies for other people here.

Now, do you have any recollection of going to John Oxley

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Youth Centre on 28 May 1988 beyond what's recorded in any official police records?---Very little, yes. 1

You referred in your diary note to the complainant, Ms Harding, withdrawing her complaint?---Yes.

I'll just get you to have a look at this document, please. I'll just give you one page. I'll ask you if you signed anywhere on that page?---Yes, I have.

Okay. Does your signature appear at the bottom of the page?---It does, bottom left, yes. 10

What does that photocopy purport to be a copy of?---That's the withdrawal of complaint which Detective Tomsett wrote in her notebook.

Okay. Now, were you present when that was signed?---I was.

And who signed it?---Myself, Detective Tomsett, Ms Hayward, and then a male, Mr Pekelharing.

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Okay. Now, would you agree with me that at the top of the page there's a stamped mark that says, "Deleted material. Not relevant"?---Yes. 1

And on the left-hand side of the page there are the words stamped, "On Freedom of Information Act document has been released under the FOI Act by the Queensland Police Service FOI"?---Yes.

Okay. And would you agree with me that the document reads as follows, the material that's not been deleted says, "1035 hours, 28/5/88. On Saturday, 28 May 1988 I" - and then there's an obliteration?---Yes. 10

Do you see that?---Yes.

Then it reads, "Spoke with Detective Podlich and Detective S. Thompson from Ashgrove Juvenile Aid Bureau in the presence of Lorraine Haywood and adult Pikelharing at John Oxley Youth Centre in relation to a sexual-type incident which occurred on Tuesday, 24 May 1988 at Mount Barney. I do not wish to make an official complaint to the police and I am happy with police inquiries made in relation to this matter"?---Yes. 20

Then there's a gap where one of the lines in the police notebook has been obliterated?---Yes.

And then it says, "Witness, L.N. Hayward," and a signature?---Yes.

And it's also go the signature of Detective Senior Constable Podlich and plain-clothes Constable Thompson at the bottom?---That's correct.

Is that the document that Annette Harding signed purporting to withdraw a complaint?---Yes. 30

Okay. Was she the only child that you interviewed out at the John Oxley Youth Centre on 28 May 1988?---Yes, she was.

Okay. I tender the - now, I'll just ask you, do you know whose diary that came from?---From Detective Tomsett's.

Okay. So that entry in Detective Tomsett's diary, I tender.

COMMISSIONER: Page 1 of the diary dated 28 - the entry for 28 May 1988 will be exhibit 253. 40

ADMITTED AND MARKED: "EXHIBIT 253"

MR COPLEY: Now, obviously someone called L.N. Hayward was present when that was signed?---Yes.

Do you recall such a person being present when you spoke

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with Annette Harding?---I do.

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Okay. And was she an employee, to your understanding, at the John Oxley Youth Centre?---Yes.

You were the officer in charge at the Juvenile Aid Bureau at Ashgrove, weren't you?---I was.

So you'll have a good knowledge of the following: was the suburb of Wacol within the area of responsibility for the Ashgrove Juvenile Aid Bureau?---No, it was not.

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Okay. Did you arrange for Annette Harding to be seen by a medical practitioner?---No, I did not.

Okay. Did you know prior to getting to the centre that she had been seen by a Dr Marie Crawford on 27 May 1988?---I did not.

After Ms Harding signed the document indicating that she wished to make a complaint, did you and Detective Tomsett leave the John Oxley Youth Centre?---We did.

And although you attended to another matter which was noted in your diary, was there a practice at that time to record anywhere apart from in your diary what the outcome of your investigation at the centre was?---Yes, at the end of each shift we would do what we called an occurrence sheet.

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Yes?---So that would be recording in brief what we had done through the day.

Okay. Do you recall now filling out an occurrence sheet regarding your visit to John Oxley?---I don't physically recall, but process - - -

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That was the process - - -?---That was the process - - -
- - - that you would ordinarily have followed?
--- - - - that we followed.

Okay. Where did the occurrence sheet go at the end of every day?---It went into head office, in to the Inspector.

Okay. And in 1988 where was the Inspector located that the occurrence sheets that you filled out would be sent to?
---The building is now knocked down.

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Was it a building in the city?---It was a building in the city.

Okay. And how were the occurrence sheets sent? Were they mailed in or sent - they probably weren't sent electronically in those days. Were they faxed in or mailed in?---No, they were usually taken in by the next shift.

Okay?---So if there was a 4-12 shift they would take that in. 1

Okay. All right. Did you speak with anyone besides L.M. Hayward and Annette Harding on your visit to John Oxley that day, do you remember?---I don't recall.

You don't recall speaking with the manager, Peter Coyne, for example?---No.

Okay?---No.

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Had you ever met Annette Harding prior to your visit there that Saturday, 28 May 1988?---No.

No further questions. Just in relation to that last exhibit, exhibit 253, copies will be made and provided to those with authority to appear later today.

COMMISSIONER: Thank you.

MR COPLEY: Thank you.

COMMISSIONER: Mr Bosscher.

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MR BOSSCHER: I may have questions, Commissioner, but it might be preferable if I follow Mr Harris in relation to this matter.

COMMISSIONER: Harris.

MR BOSSCHER: Save doubling up.

COMMISSIONER: Sure. Mr Harris.

MR HARRIS: Thank you, Commissioner.

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Ms Podlich, you were a - from your statement here - a Detective Sergeant in the Queensland Police Service?
---Yes.

At the time of the attending to John Oxley the notes in the exhibit with the notebook there, you're down as a DSC. Is that a Detective Senior Constable?---That's true.

So you were actually a Detective Senior Constable at that time?---I was relieving as a Detective Sergeant in charge - - -

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Okay, so you were reliving - - -?--- - - - of the station.

- - - in the position. All right. Now, prior to going out to John Oxley you would have had to had some sort of complaint sheet or some sort of notification that a complaint was being made, to have you go out there. My

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recollection is that in the Queensland Police Service there used to be a criminal offence report done when there were crimes. Did you ever see a criminal offence report done on this matter?---No. In some instances we would just receive a phone call and then - or over the radio and then have to do the job.

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So you left - if there was no criminal offence report we can either take it that you received a phone call, or alternatively had a radio call to attend to that area there - attend John Oxley at Wacol?---That's true.

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Okay. Wouldn't that area be covered by the South Brisbane District Juvenile Aid Bureau?---I'm not sure what area. I don't recall what area it would have been covered by then.

Okay. No problems. Now, you were at Ashgrove Juvenile Aid Bureau?---Mm'hm.

At Ashgrove station?---Yes.

Okay. Now, did you come under the command of the city JAB or the northern region JAB?---City JAB.

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So you were under the city JAB, so you reported directly to the Brisbane office here?---Yes. 1

The one in (indistinct) Street?---Yes.

Now, on arrival at John Oxley, from your statement here you said that Lorraine Hayward and Adolf Pekarharing told you something. What did they actually tell you? Can you take your memory back to see what they actually told you?---I don't recall back all those years.

Yes?---Only what is written in my statement. 10

So if they told you - and I'm reading from what is cited in your statement. Annette Harding had said to them that she had been raped by two males while they were on a bush walk at Mount Barney on Tuesday, 24 May 1988 and that she wished to make a complaint. She was examined by a doctor on Friday, 27 May 1988. As a police officer, what does that conjure up in your mind at that time when you were told that?---That an alleged offence had occurred and we had been called to investigate the offence and that's what we were doing. 20

Would you as a police officer then want to talk with Annette to take her complaint?---Yes.

Why didn't that happen?---That did happen.

I put it to you that you should have seen Annette by herself, so that she should have made a complaint to you at the John Oxley Centre?---No. When interviewing a child there was always needed to be some other person present, whether it was a complaint or an offence.

Isn't this child making a complaint?---Yes. 30

This child is not a person who is being questioned by the police, it's a child who is making a complaint?---But back then it was always required that we have another person present.

All right. Did you obtain any details from Annette at the John Oxley Centre? By details I mean her name, date of birth, her parents, any of that information?---I don't exactly recall the exact information that was obtained.

Doesn't the police department, and I believe it used to be called the policemen's manual, the general instructions require a police officer to make all those inquiries? ---Look, I don't have a clear recollection of the general instructions or anything now. 40

All right. If I put to you that as a police officer at John Oxley on a serious complaint of rape that you had a duty to investigate it would you agree with me? Yes or

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no?---I believe that was done.

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Can you tell this commission why no investigation took place on such a serious offence?---Because Annette did not wish to make a complaint.

All right. Can I just take you to your conversation with Ms Harding - sorry, excuse me, commissioner - Ms Hayward and Mr Pekelharing. Where did that conversation take place?---I don't recall.

Was Annette present during that initial interview?---What do you mean by initial interview?

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Was Annette in the same room?---I don't recall. We spoke to Ms Hayward and Mr Pekelharing prior to speaking to Annette.

What details from them were you given of the actual incident?

---I don't recall all that, all those details.

Were you given any details of the incident?---I don't recall what details we were given.

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Could I put it to you that Annette Harding never made a complaint to the police at that time. There was no complaint from Annette Harding prior to you seeing her? ---There was no complaint made to myself and Detective Tomsett at the time.

COMMISSIONER: I think the question was before. So it's a suggestion that you went out to see Ms Harding and whatever it was, it was not in response to a complaint she had made. Is that right?

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MR HARRIS: That's right, yes?---I don't know where the complaints had come from to come to us.

COMMISSIONER: So why did you go out there?---Because we had received some information from - either over the radio or to our office to go to John Oxley to interview a girl.

Were you directed to go there as a job?---Yes, that's correct.

MR HARRIS: All right. Now, you've gone out there, not at the behest of Annette but from someone from the Department of Child Services.

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MR COPLEY: Well, that's not her recollection. She doesn't know why they were sent there but they were asked to go there.

COMMISSIONER: Yes.

MR HARRIS: I'll rephrase it, commissioner.

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You've gone there to the centre and you've spoken with two officers from the John Oxley Centre and they have told you that Annette had said to them that she had been raped by two males while they were on a bush walk, okay. Now, would - - -

MR COPLEY: The witness needs to either agree or disagree with that proposition.

COMMISSIONER: Yes. Can you agree or disagree with the propositions as they're put to you so that we can record the answer, thanks?---Yes. Yes, that's correct, as my statement.

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MR HARRIS: Okay. Now, that would then, from Ms Hayward and Mr Pekelharing be a fresh complaint, wouldn't it?

MR COPLEY: I object to that question. It's calling for the witness to furnish an opinion concerning the law in 1988.

COMMISSIONER: Yes, and I'm not sure that - she would need to know the circumstances of the complaint before she could say that it was a fresh complaint, couldn't she? I mean, I don't want to put technical obstacles in the way of where you're going with it. If you want to suggest that, you know, whether it's strictly a fresh complaint or not, that she should have acted in a particular way, then by all means do that, but for her to be able to say, "Yes, it was a" - because it's got technical meaning to us lawyers she would need to know the circumstances in which it was made.

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MR HARRIS: I'll rephrase it another way.

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Did you when you received the complaint of rape from Ms Hayward and Mr Pekelharing obtain a statement from either of them with respect to the complaint that they had made on Annette's behalf?---No, because we went out to take a statement from Annette. She was the complainant so it was her complaint and because she did not make a complaint to us, then no further action was taken.

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So if I understand that correctly, because she withdrew her complaint that she hadn't made to you - - - 1

MR COPLEY: I object to that question. The witness's answer was she did not make a complaint to the police.

COMMISSIONER: I think that's right too, Mr Harris.

MR HARRIS: All right.

In the notebook written by Senior Constable Tomsett she says - and I'll just read this one paragraph - this one sentence, it should be, and it says - and it's right at the bottom, "I am happy with police inquiries made in relation to this matter." What inquiries did the police make in relation to the matter? 10

---We went out and we spoke to Annette and that was - that was the job detailed to us. We went out and spoke to her and then there was no further action to be taken because there was no complaint.

COMMISSIONER: So you were going out there to see if there was going to be a complaint and to take it if there was one?---That's correct. 20

MR HARRIS: By using the word "inquiries" there, what did you tell Annette what police inquiries you had made?---I don't recall what any conversation was at all.

Now, did you know Annette's age at that stage?---I don't recall.

So you made no inquiries with respect to any of her personal details?---I don't recall whether I did - anything about that. 30

All right. Are you aware that there are other offences other than rape that you could have investigated on that day?---Well, there was no complaint to investigate any offence.

So you're saying that because Annette didn't want to pursue the matter any further, you didn't wish to pursue the matter or to investigate the matter?---Well, there was no complaint to investigate.

Do police have a duty to investigate matters pertaining to criminal offences committed against children?---Yes, of course. 40

For instance, a child who is 14 years of age who has alleged that she has had sexual intercourse with males - would you investigate that as a Juvenile Aid Bureau officer?---If there was a complaint made to us, yes, we would.

If you became aware of it, would you investigate it?---I'm saying if there was a complaint made to us, that would be how we would become aware.

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So unless a specific complaint is made, you will not investigate it?---Well, in this instance if a complaint is made, we would investigate it.

All right. How long do you estimate that you were at the John Oxley Centre on that day?---I don't recall how long we were there.

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I have no further questions, commissioner.

COMMISSIONER: Thank you, Mr Harris. Mr Bosscher?

MR BOSSCHER: Thank you, commissioner, I do have some questions.

At the time you went to John Oxley on 28 May 1988 you were acting as a detective sergeant. Is that correct?---Yes.

Your actual rank was that of a senior constable but you were acting up?---That's true.

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So clearly you had been in the police force for a numbers by this stage?---I had.

And I take it this wasn't your first investigation of an allegation of rape?---That's true.

You had conducted other investigations of complaints of rape?
---I had.

Now, just to assist us, if a person makes a complaint to you of rape, one of the first things that you do is have that person medically examined. Is that correct?---That's correct.

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As soon as is practically possible?---That's correct.

Not three or four days later?---No.

Because it makes sense, doesn't it, that three or four days later any realistic forensic evidence you might gather from that investigation will have gone?---As a course of conduct, you endeavour to get your evidence as soon as possible.

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So that would be one of the very first things that you do?
---That's correct.

You said you got information about this matter by radio.

MR COPLEY: No, the witness didn't say that. She said she

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didn't remember how they got it.

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COMMISSIONER: I think that's right, Mr Bosscher.

MR BOSSCHER: I stand corrected.

You believe it may have been by radio or by some other means?---That's correct.

Until you were told to head out to John Oxley on that particular day you hadn't been briefed as to an incident that may have occurred out there some days earlier?---I had heard nothing, no.

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Did you regularly attend at John Oxley to investigate matters such as this?---No.

Had you ever been there previously?---I had been there previously but on totally unrelated issues or matters.

Do you recall what the age of consent was on 28 May 1988? ---I don't recall. I vaguely feel that it was 16 but I don't recall.

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You're aware of the offence of unlawful carnal knowledge as an experienced police officer?---Yes.

You were aware of that offence?---Yes.

To the best of your recollection, what were the relevant elements of that offence as an experienced police officer working in JAB?---This is going back 24 years or so. I don't recall the exact details.

If I were to suggest to you it's sex with a person under the age of 16 years, would you agree with that?

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MR COPLEY: Well, that proposition would be in fact and law misleading. Mr Bosscher needs to be more precise if he's going to put these propositions of law to a witness and have them comment upon them.

MR BOSSCHER: Are you aware that in 1988 it was unlawful for an adult, a person over the age of 18, to have sex with a person under the age of 16 years.

MR COPLEY: My learned friend should put the proposition precisely. The offence is unlawful carnal knowledge so I think what my learned friend would need to be putting would be the proposition that it might be unlawful to carnally know a child of a certain age. To put the word "sex" could encompass a multitude of sins, so to speak.

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COMMISSIONER: It's broad, yes. I think the word is broader than what the section is. So you haven't got a copy of the 88 provision.

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MR BOSSCHER: With me, no.

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COMMISSIONER: No, fair enough.

MR BOSSCHER: But it hasn't changed.

COMMISSIONER: So what Mr Bosscher is putting to you is: did you know back then that 18-year-old boys - it was illegal for 18-year-old boys to have sexual intercourse with a girl under the age of 16. Did you know that then? ---Yes, I - to be honest with you I'm not sure. I haven't had anything to do with the law since I resigned as a police officer and I just don't recollect that.

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I'm asking your knowledge as at May 1988. You would have known that that was an offence as put to you by the Commissioner at that time, clearly?---I can't say what I thought back in 1988.

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Okay. You gave evidence earlier that you didn't note anywhere the age of the person you had gone out to see?---I don't recall.

You don't recall writing that down anywhere?---No, I don't.

I suggest to you as a diligent police officer you would have quite clearly asked Ms Harding how old she was?---I was assisting. I wasn't the Detective doing the investigation. I was there.

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So plain clothes Constable Tomsett was doing the investigation?---That's correct.

And you're acting as a Detective Sergeant?---That's correct.

And you were there when plain clothes Constable spoke to Ms Harding?---That's correct.

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So whether or not you were doing the investigation, you were present?---Yes.

And you were by far and away the senior police officer present?---Yes.

And I suggest to you that the age of Ms Harding is something that either or both of you would have established at the time?---I don't have any record of that.

Ms Podlich - - -

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COMMISSIONER: Sorry to interrupt. You understand this is a commission of inquiry, not a court. And so the Rules of Evidence don't apply as they would normally in litigation. Your answers are yours. You give the answer you want to do, but there is some greater scope for being helpful to a questioner here than in a court. So for example when it's put to you that you would have done something like that, even if you can't remember it, but if your state of mind is, "Yes, I probably would have done that," you know, you can give that answer; whereas in a court that would be speculative and no-one would be thanking you for it. Do you know what I mean? We're just trying to find out what's likely to have happened from the people who were there. We make basic assumptions about people's behaviour, and that is that we're people of habit, if we generally do something in one particular way we probably did it 90 times out of 100. We remember the ones we didn't do. So you if you don't remember something unusual and out of order, then you probably did it the way you'd normally do it. But you can

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also act on that sort of reasoning as well if you want to in giving your answer. You don't have to. You give the answer that accords with your recollection and how much you're prepared to commit yourself to the answer. But, you know, if you also wanted to be a little more adventurous, you could be, that's all I'm saying. Okay. Yes, Mr Bosscher.

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MR BOSSCHER: Thank you, Commissioner.

I'd suggest to you that as a senior and experienced police officer at the time you would have asked Ms Harding how old she was?---It's very possible we asked her her age.

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It's the type of relevant information you would obtain from somebody when you were going out there to potentially take a complaint from them?---Yes.

Because you didn't go out there blind. As I read your statement you had been told - and I'm quoting your statement here, "Annette Harding had said to them that she had been raped by two males while they were on a bushwalk at Mount Barney on Tuesday, 24 May 1988 and that she wished to make a complaint"?---Yes.

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That's the information that you had in your possession when you spoke with Ms Harding?---That's correct.

And that had been conveyed to you by Ms Hayward and Mr Adolf Pekelharing?---Yes.

Did you speak to them prior to taking up with Annette?---Yes, we did.

They were both youth workers at the John Oxley Youth Detention Centre. Is that correct, or is that the best of your recollection?---Yes, that's to the best of my recollection.

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So they were both persons in positions of authority at that particular centre?---Yes, they both worked at the centre.

Did you notice anything else about Annette when you took up with her, particularly in relation to her cultural background?---Not really, no.

You don't now recall as to whether or not she was an Aboriginal or Torres Strait Islander?---No.

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You don't now recall that?---Now I'm aware.

No, I'm asking your memory at the time. You don't recall that?---I don't recall that at the time.

Had you had some training as a member of the JAB in the way to potentially approach a person from different cultural

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backgrounds, particularly those that are Aboriginal or Torres Strait?---No. 1

No. Not at that time?---Not at that time.

You were asked some questions in relation to the issue of fresh complaint. I'm going to ask you some similar questions but in a different way. As at May 1998 you would have been aware of the term "fresh complaint" - sorry, apologies, May 1988 you would have been aware of what constituted a fresh complaint?---Yes. 10

That's part of what you were trained in as a police officer?---Yes.

And in relation to an allegation of rape, that can be particularly relevant. You'd agree with that?---Yes.

Equally in relation to an investigation for unlawful carnal knowledge, that could also be particularly relevant?---Yes.

Let me ask you this question: if Ms Harding had made a formal complaint to you then you would have looked at both Ms Hayward and Mr Pikelharing as being potentially sources of fresh complaint, would you not?---You would have to investigate who was the first person that she mentioned that to. 20

So you would have looked at both of those particular people as being sources potentially of fresh complaint? ---Potentially. There could have been others.

You had information that Ms Harding had told Hayward and Pikelharing that she had been raped by two males?---Yes.

Did you inquire of either Hayward or Pikelharing as to who those two males may have been?---I don't recall. 30

Is that the type of information you would seek to obtain when dealing with a matter such as this in the normal course of your duties?---Well, if there's a complaint made then you would obviously have to know who the alleged offenders were.

You keep going back to the issue of "if there's a complaint made". If police receive information that an underage child has been potentially sexually active with an adult, do you require a formal complaint before you can proceed? ---Yes, we did. 40

So you understand that that particular provision of law is designed to have two effects; one is to protect children from predatory adults?---Mm.

Would you agree with that?---Yes.

It's also designed to protect children from themselves, isn't it?---It may be so.

1

I would suggest to you that in your course - during the course of your police career that on more than one occasion you had cause to investigate an unlawful carnal knowledge charge where a child had not made a complaint but that someone else had?---I think we were required to interview the child.

Yes. So you had evidence or information from Hayward and Pikelharing that a child under their care had potentially been sexually active with other males, did you not?---Yes, that was the information they told us.

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But at no time did you follow up in any way in relation to the potential of an unlawful carnal knowledge charge? ---There was no complaint. Yes, Annette did not make any complaint to us so to us we had nothing work on.

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But in relation to that charge you could have had a complaint from either Hayward or Pekelharing, couldn't you, not specifically Annette for an unlawful carnal knowledge investigation?---Well, that's what we did at the time.

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You didn't follow up on that, did you?---Well, obviously if Annette didn't want to make any complaint to us, then we didn't follow through on any complaint.

Where was Annette's mother when you interviewed her that day?---I have no idea.

10

Did you make inquiries?---I don't recall.

You don't recall?---No, I don't recall.

Again in the normal course of events for a senior police officer potentially investigating a rape complaint by a 14-year-old child I would suggest to you that that is one of the first things that you would try and ascertain, "Where is this child's mother or father or both"?---Yes, I agree with you there. I don't recall whether the John Oxley had contacted the mother. I don't recall.

20

But you were there to take a formal complaint potentially from this child?---That's correct.

This child that you knew full well had told both Ms Hayward and Mr Pekelharing that she had been raped?---Yes.

You knew that to be the case. That's what she had told them?---Yes.

And then you interview her in the presence of another police officer and both of those persons from John Oxley Youth Centre and she says to you, "I don't want to make a complaint"?---That's correct.

30

And that was enough for you to sign off on this particular matter. No further action required?---That's correct.

You didn't suggest or offer to interview her in the absence of Pekelharing and Hayward?---No; no.

You didn't suggest to her, "Hang on a minute. How about we sit down. We try and find where your mum is and then we'll have another chat about it"?---No, because she was at the detention centre and so the people there - we would interview her with those people.

40

Well, is that something that was part of your operations procedure manual or whatever it was called at the time? Did you have to interview a potential rape complainant who was at John Oxley in the presence of two expert evidences of John Oxley?---No; no, but you needed some independent person there to interview.

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So I take it that doesn't - Susan Tomsett doesn't qualify as being an independent person. You need somebody else?
---That's correct.

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Now, if you're taking potentially a complaint from a 14-year-old child, wouldn't it be preferable, I'd suggest to you, that you have her mother present if possible?
---With someone who the child is comfortable with and she was comfortable with the two staff from John Oxley.

She was comfortable with them?---Well, in our conversations she was obviously comfortable with them.

10

You asked her about that in their absence?---In?

You asked Ms Harding in the absence of Hayward and Pekelharing if she was comfortable to sit down and discuss the matters with you - - -?---Not in anybody's absence, no.

No?---They would have been present.

So they were present - sorry, I apologise, I interrupted you. Please continue. I didn't hear the end of your answer?---When we would speak to her, there would've been some conversation about was she comfortable with those people present.

20

Do you recall that or are you just filling in some blanks?
---Well, in your words, filling in some blanks. You always made sure that a child or a complainant of any kind was comfortable with the people they were there with.

And you would also always try and make sure, if possible, that their parents were present?---Depending on the situation.

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COMMISSIONER: What you are saying is, is it, that, yes, you are filling in blanks but you're doing it with standard practice?---Yes.

MR BOSSCHER: How long did you interview Ms Harding for?
---I don't recall.

Do you have any independent recollection of how long you were at the centre or anything that might assist us?---I do not.

If I were to suggest to you from your notes - and you can disagree with this because I'm making a suggestion. From your notes it seems to be the case that it was a very brief attendance at the John Oxley Youth Detention Centre for this matter?---From my statement, yes.

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I'm referring to your notes at the time seem to indicate that it was only a short visit. Please feel free to disagree. Those exhibits were tendered a little bit

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earlier?---That was from my notebook - from my diary that we were out there. I don't recall any time in the diary. 1

I might rephrase it because I don't know if I've put it as well as could be put. It's my impression from looking at your diary - and you are perfectly entitled to disagree with what I'm putting to you, but it's my impression from looking at your diary that it was a very short visit to the John Oxley Youth Detention Centre.

COMMISSIONER: Mr Bosscher, maybe if you told her what gave rise to that impression after you looked at it, she might be able to help, that is, is it because there is not much written about it or because of the time suggested. Just tell her what suggests is to you. 10

MR BOSSCHER: Thank you, Mr Commissioner.

Because of the lack of information or the sparsity of information and notes in your official diary at the time, it suggests to me that you weren't there very long. Would you agree or disagree with that or can you not say from that information?---Yes, I have no idea how long we were there. 20

COMMISSIONER: But looking at it, knowing your general practice, how you wrote up your diary back in those days, would you agree with what Mr Bosscher says, that by the looks of it you weren't there long or looks can be deceiving?---We possibly weren't there very long.

Sorry?---We possibly weren't there very long.

Okay.

MR BOSSCHER: When somebody indicated to you, even a child, that they didn't wish to proceed or make a complaint in relation to a matter, was it your standard practice to write at the end of your interview the words that she signed off on, "I'm happy with the police inquiries made"? ---Yes. 30

And that occurs whether it is a child or an adult?---That's correct.

How long had you been in JAB at that particular time, if you recall?---Probably around nine or so years. 40

So you were experienced in dealing with children clearly? ---Yes.

Quite obviously over the course of that nine years you would have spoken with a number of different children whilst they were making complaints?---That's correct.

And even back then I anticipate you would have had some

training in how to coax that type of information out of children?---We had very basic, basic training. 1

It would be the case, wouldn't it, over the course of that nine years that you would have had children who were, to say the least, reluctant complainants?---Yes.

That didn't want to tell you what had happened?---That's true.

Just wanted it to go away?---Mm.

10

Do you agree with that?---Just reluctant complainant, yes.

Yes, and part of your skills that you developed over the course of time at JAB would have been to spend some time to give those reluctant complainants some comfort in being able to talk to you?---Yes.

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It would also be your experience, I'm sure, over the course of your time at JAB dealing with children that that often took a considerable period of time to build up that trust? ---Each case was very different. 1

Some cases took a lot more time and effort than others? ---Absolutely.

Some complainants took a lot more time and effort than others?---Well, yes.

For whatever reason, their reluctance differed from child to child. Do you agree with that?---Yes, from human being to human being. 10

But as I read your statement, the chronology of what happened in relation to this particular matter is that you were told by two employees of the John Oxley Youth Detention Centre that one of their children had complained of being raped by two men - or two males. Yes?---Yes.

You went out there and that you sat down with that person who had made the complaint with another police officer as well as the two employees of John Oxley Youth Detention Centre. That's correct?---That's correct. 20

The person who had made the complaint to the two employees at John Oxley told you she didn't wish to make a complaint? ---That's correct.

You wrote some very brief notes in your notebook which you asked her to sign?---Detective Tomsett did, yes.

They were signed?---Yes.

By this 14-year-old Aboriginal girl in your presence? ---Yes. 30

And you and Constable Tomsett got in your car and left? ---In a nutshell, that's what happened.

Thank you, commissioner.

COMMISSIONER: Thank you. Mr Hanger?

MR HANGER: Just one question.

If you have a look at exhibit 252 which is the document with your writing on it - have you got that in front of you or not?---No, I don't. 40

No?---Thank you.

I'm just trying to clarify something. You said that you went to this job as a result of either a phone call or a radio call, but I'm just looking at the lines above the 28

May entry. There's reference there - at the end of your previous shift it says, "Received job from Inspector Jeffries. Ceased duty 4 pm." Inspector Jeffries, that's David Jeffries who was head of Juvenile Aid. Is that right?---That's correct, yes.

1

Could it be the case that at the end of your shift you got the job and that's what you started on the next morning? ---I don't recall, no.

Okay, thank you. I have nothing further.

10

COMMISSIONER: Thank you. Mr Copley?

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

COMMISSIONER: Yes. Thank you very much, Ms Podlich, for coming. We appreciate your coming and giving your evidence. It's much appreciated. You are formally released from the obligations of your summons. Good morning.

WITNESS WITHDREW

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MR COPLEY: Just in connection with exhibit 234, Ms Podlich's statement, in my submission there's nothing in there that would cause you to have any concern about publishing it as it is. In connection with exhibit 252, which is Ms Podlich's diary, there is an entry in connection with an unrelated matter concerning the administration of a caution to a child where the child's Christian name, surname, age and address are provided in the last four or five lines on exhibit 252.

COMMISSIONER: Yes, all right. I might - anyone want to be heard on that?

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MR HANGER: No, commissioner.

MR BOSSCHER: No, thank you.

COMMISSIONER: I will direct that exhibit 234 be published and that exhibit 252 be published after the last six lines on the exhibit are removed, so that the exhibit will end after the word "notebook" on the second line of that page. Thank you. Yes, Mr Copley?

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MR COPLEY: May I have permission to excuse myself for a little while now to attend to some matters with other witnesses? Mr Woodford will be handling some other witnesses to be called now.

COMMISSIONER: Certainly. Thank you, Mr Copley.

MR COPLEY: Thank you.

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PODLICH, J.M. XXN

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COMMISSIONER: Mr Woodford?

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MR WOODFORD: Mr Commissioner, I call Garry Thomas Haviland.

HAVILAND, GARRY THOMAS sworn:

ASSOCIATE: For recording purposes please state your full name and your occupation?---Garry Thomas Haviland, and I'm a CNT machine programmer.

Please be seated.

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COMMISSIONER: Mr Woodford?

MR WOODFORD: Thank you, Mr Commissioner. Mr Haviland - sorry, exhibit 22, may the witness see that, please, Mr Commissioner?

Mr Haviland, I've had placed before you there exhibit 22 which I understand is a copy of a - or is the statement you supplied the commission in relation to certain matters at the John Oxley Youth Centre. It's a two-page document, is it?---Yes.

20

Does that bear your signature on the second page, being executed on 6 November 2012?---It does.

I've got some brief questions for you this morning just to highlight and clarify some of the matters there. You were employed at the John Oxley Youth Centre in late 1989, were you?---I believe so, yes.

Was that in relation to monitoring some alarms, was it? ---It was.

30

You were only there for a couple of months?---That's correct.

You did a number of shifts on some weekends over that two-month or so period?---Yes.

We will hear from another witness in this commission, a Mr Coyne. You know Mr Coyne?---I do.

He's your brother-in-law, is he?---That's correct.

Your work out at the John Oxley Youth Centre over those couple of months, was that something that you became aware of through your discussions with Mr Coyne?---Yes.

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Looking at paragraph 6 of your statement, you have some recollection of there being an inquiry at the John Oxley Youth Centre, do you?---Yes, I do.

That was after the time that you worked there, was it?

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HAVILAND, G.T. XN

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---Yes.

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You yourself, you didn't have any involvement in the inquiry?---Not at all, no.

You weren't asked to participate at all?---No.

You haven't given any statements in relation to the centre at all save for the one we've just referred to earlier today?---No, only this one.

While you were working at the John Oxley Youth Centre you note in paragraph 7 that you had never been aware of any sexual abuse or allegations thereof. Is that correct?
---That's correct.

10

Mr Haviland is available for cross-examination.

COMMISSIONER: Mr Harris?

MR HARRIS: I have no questions, commissioner.

COMMISSIONER: Mr Hanger?

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MR HANGER: No.

COMMISSIONER: Did Mr Bosscher want anything?

MR WOODFORD: No, Mr Commissioner, he did indicate that he was stepping out and had no questions for Mr Haviland. He indicated that prior to leaving.

COMMISSIONER: Thank you. In that case, Mr Haviland, thank you for attending and providing your evidence. You're free to go. You're released from the obligations of your summons, thank you.

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WITNESS WITHDREW

MR WOODFORD: Mr Commissioner, the statement, being exhibit 22, there is nothing contained in that document, as I read it, that prevents it being published in full.

COMMISSIONER: No disagreement?

MR WOODFORD: There's no disagreement.

COMMISSIONER: I'll direct that Mr Haviland's statement, exhibit 22, be published in full.

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MR WOODFORD: Thank you. Mr Commissioner, I call Marion Ann Thompson.

THOMPSON, MARION ANN sworn:

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ASSOCIATE: For recording purposes please state your full name and your occupation?---Marion Ann Thompson, 6/5/1964, social worker.

Thank you?---Yes, thank you.

COMMISSIONER: Thank you. Good morning.

MR WOODFORD: Thank you, Mr Commissioner. May the witness see exhibit 51, please?

10

Ms Thompson, you indicated your current position. Are you still working as a social worker, are you?---No, not these times. I retired about five years ago.

Yes, and I understand you don't mind me raising this, but your retirement was following some - - -?---A neurological condition.

Yes, thank you?---Yes.

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THOMPSON, M.A. XN

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Now, I have had placed in front of you exhibit 51 which is a three-page statement that you gave in relation to this inquiry. Is that correct?---That's correct. 1

And your signature is contained on the third page of that document, is it?---Yes, it is.

It was executed on 17 October this year. Is that right? ---Is it 17 October or the 11th of the 10th?

We say it was dated the 11th of the 10th and then next to your signature is 17 October?---Yes, okay. 10

Okay. I just have some questions for you to day just to clarify some of the matters in your statement. You did work at the John Oxley Youth Centre for about three years. Is that correct?---That's correct, yes.

You finished in about May 1990. Does that seem about right?---I believe so because of my disability, and I didn't really have the dates right. I know I was expecting my son when I left John Oxley so, yes.

Okay. So mid-1990 is about the best we can do at the moment?---I'd say so, yes, that's the best we can do. 20

That's fine. You started at John Oxley following achieving your bachelor of social work at the University of Queensland?

---I'd originally gone to the Ipswich Child Safety for three years and then to John Oxley.

I see. While you were at Ipswich you came to know a gentleman by the name of Peter Coyne. Is that correct? ---Can you ask again, sorry? 30

Sure. While you were at the Ipswich office - - -?---The Ipswich office, yes.

- - - for the department, did you have some - did you come to know by the name of Peter Coyne?---Not working at - he wasn't working at Ipswich, but, yes, I got in contact with him; yes.

Was he at Inala, was he?---Inala he was from, yes, previously.

Okay; and did Mr Coyne, to your knowledge, go on to move to be the manager of the John Oxley Youth Centre, did he? ---That's correct. 40

And did Mr Coyne contact you to see if you would be interested in coming to work there?---That's correct.

And you did go on, of course, to work at the centre as a youth worker for a number of years?---Not as a youth worker. I'm not sure of my title but I was more, you know, a social worker there, not a youth person. 1

I see. Leading up just before you complete your work and left the centre you were - - -?---Yes.

You'd achieved at least in an acting sense working as a deputy manager for a number of weeks?---Just for a brief period of time, that's right. 10

In paragraph 5 of your statement you note that Mr Coyne as a personality was a little eccentric. That's how you would describe him?---I did mention that. I wasn't that happy with the understatement. I reread it because I'd made a couple of changes right toward the end just over the net.

Yes?---So, yes, whilst I'd say he's eccentric, that wasn't where I was coming from at first saying, "I was very happy with his work and Anne's work," but, yes, he was a little eccentric was my - - -

In paragraph 9 of your statement you certainly make the position, don't you, that you were quite impressed with Mr Coyne's work and that of his second-in-charge, if you like, Ms Dutney?---That's correct, yes. 20

You mention - and we should clear this up because it's been made an exhibit - that there were some matters in your statement that you were not that happy with, did you say? Is there anything in particular in there that you would like to clarify for us?---Sure. Probably just only those - you know, just the order; like, I didn't think I wanted to stay - say that Peter - sorry, Peter first up. I probably would have left it toward the end. 30

I see?---Yes, it was just the way it was put together.

I understand?---Yes.

At paragraph 5 it says, "He was a little eccentric," and then we get to paragraph 9 and you note your personal view of him?---I wouldn't have put it in that order, yes.

Yes, you might have kept it all together?---That's right.

Okay?---There was another little issue but it's gone from my head so - - - 40

Look, we will come full circle?---Sure.

And then I will invite you at the end if that other issue pops back into your mind?---No problem.

Now, from paragraph 8 of your statement, do I understand

that there were some staffing difficulties at the centre in the sense you note, "There were staff fighting amongst themselves"?---Mm. 1

That's how you perceived it?---Mm'hm.

Was it broader than that in the sense of a staff and management issue or was it the staff per se?---I wouldn't say it was broader than that. It's just an observation that I'd occasionally hear a bit of, you know, disagreement but, as I said, I wasn't really involved in that. 10

Yes, you make the point in paragraph 8 that you yourself weren't embroiled in any of those sorts of matters? ---That's right, yes.

Right. Just moving to a fellow called Heiner, in paragraph 9 of your statement here you're aware that there was a gentleman called Mr Heiner, a retired magistrate, that was conducting some - let's call it inquiries or investigations at the centre?---I do remember that.

Now, in your statement you indicate that you don't have a terrific memory of those matters. Is that correct? 20 ---That's correct, yes.

Okay. Is it the case that you did at some stage speak with Mr Heiner?---I believe I did and, as I said, I thought it was just himself and myself, no-one else, in the room for a brief period of time.

Now, that room - was that out at the John Oxley Youth Centre?---It was there, yes.

Okay; and the meeting that you had with Mr Heiner - was that a mandatory thing or did you have an option as to whether or not you went to see Mr Heiner?---I didn't see it was an option. I thought I was to attend, yes, and I was happy enough to attend. 30

Do you recall - I know you won't now recall each question and answer but, broadly speaking, the topics that were involved - do you recall what the discussions were about? ---Yes, I think it was - you know, with the police officer that I, you know, was with we were discussing what my recollection was and I thought it was about safety issues, staff behaviour. That sort of thing is what I vaguely remember being discussed. 40

When you say "safety issues", what do you mean by that?---I would mean if he were to ask was I concerned about John Oxley and the staff and the environment - was I concerned about it?

Okay. To your recollection, looking at your - sorry, I withdraw that. In paragraph 8 of your statement you note

that while you were at the centre you were never aware of anything inappropriate happening never aware of anything of a sexual nature or rumours thereof. Is that correct?---No, it's not correct. That was the other one that I wasn't really happy with the statement.

1

Okay?---Yes.

You better clarify that for us?---I will, sorry, because I was required to reread it but I didn't realise that, you know, the way it was put together was saying nothing had happened.

10

Okay?---Yes.

Right. So in terms of while you were at the John Oxley Youth Centre, did you have an awareness of anything of that nature?---An awareness of, you know, interaction, sexual activities during the riot - awareness. I didn't witness it. I didn't see it. I don't know who did what, but I became aware that there was a likely during the riot interaction with the youth people, the young people.

Okay. During the riot you yourself didn't see any sexual activity between the detainees?---No.

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Is the best that you can say that you'd heard that it was likely. Is that what you said?---That I'd heard it was like that they had - they'd been going on during the riot. 1

Okay?---But that's all I know.

But even that, that was the highest that that was put?
---Mm'hm.

Was as a likelihood?---Yes.

And why I say that, as opposed to Mr Smith saying, "Listen, this is what I saw"?---Mm. 10

It didn't get that high?---No.

It was there was a likelihood?---That's right.

Okay?---That's accurate.

Right. Now, that was the incident that you wanted to clarify?---Mm'hm.

Now, apart from that there was nothing else?---No. 20

Right. When you were speaking with Mr Heiner is it the case that you had no awareness at that stage of anything of a potentially sexual nature having taken place?---I don't recall that at all, so yes.

You indicated that during your meeting with Mr Heiner no-one else was present. Is that how it was that you recall?---That's my recollection. It may not be accurate, but - - -

Okay?--- - - - I'm just telling you what I can vaguely recall. 30

That's all any of us can do 20-odd years later, I think?
---Yes, thank you.

Do you know if it was being recorded at all, your conversation with Mr Heiner?---I don't recall it being recorded, no.

In terms of the length of the meeting, do you know how long that was?---Quite brief. You know, my recollection would have been, you know, 20 minutes. Like, that's about it. 40

Okay. Not the sort of length of time that you and I have been speaking this morning?---Mm, similar time, isn't it? 20 minutes, maybe.

You're not quite finished yet?---That's right.

But those are the questions I have.

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HAVILAND, G.T. XN

101202012 09/ADH (BRIS) (Carmody CMR)

COMMISSIONER: Thank you. Mr Bosscher? 1

MR BOSSCHER: Nothing for this witness, thank you, Commissioner.

COMMISSIONER: Mr Harris.

MR HARRIS: I have nothing for the witness.

COMMISSIONER: Mr Hanger.

MR HANGER: No, thank you, your Honour. 10

COMMISSIONER: Mr Woodford.

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

COMMISSIONER: Yes. Thanks very much for coming, Ms Thompson. I appreciate the time that you've taken to give your evidence and provide your statement. You're formally excused from your summons?---Thank you very much.

WITNESS WITHDREW 20

MR WOODFORD: Mr Commissioner, in terms of publication, can I take you to paragraph 11 of her statement.

COMMISSIONER: Here we are.

MR WOODFORD: Consistent with the previous rulings that have been made in terms of non-publication, there are two names contained in paragraph 11. My submission is that you would order that those names not be published in the statement.

COMMISSIONER: I direct that exhibit 51 be published without reference to the names in paragraph 11. 30

MR WOODFORD: I can't see any other matters. My friends are silent on that issue. Mr Commissioner, we do have two further witnesses today. Mr Copley is speaking with them at the moment individually. It's 11.25. Would it be convenient to have a break this morning and we can let you know, perhaps through Mr Blumke, when we're ready to proceed?

COMMISSIONER: Yes, sure. I'll stand down and wait to be told. 40

THE COMMISSION ADJOURNED AT 11.33 AM

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101202012 09/ADH (BRIS) (Carmody CMR)

THE COMMISSION RESUMED AT 11.38 AM

1

COMMISSIONER: Yes, Mr Copley.

MR COPLEY: Mr Commissioner, I call Anne Dutney.

DUTNEY, ANNE sworn:

ASSOCIATE: For recording purposes please state your full name and your occupation?---My name is Anne Dutney and I am retired.

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MR COPLEY: Shall I pronounce your name Dutney or Dutney? ---Whichever. Dutney is good.

Dutney, okay. Ms Dutney, you were for a time the deputy manager at the John Oxley Youth Centre. Correct?---That's correct.

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DUTNEY, A. XN

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Do you recall what year you were appointed to undertake that office?---Look, I don't recall the date of my appointment. I know I left there in about mid 1990 but I can't recall - I'm assuming late 88, maybe.

1

Okay, and when you were appointed deputy manager who was the manager?---Peter Coyne.

We've received some evidence that he was appointed the manager on or about 24 March, or at least by 24 March 1988?---I don't know, but it sounds correct.

10

But you came certainly after he was there as the manager? ---Yes.

Moving forward, are you familiar with the name Noel Heiner? ---I am.

Did you ever meet Mr Heiner?---I did.

Where you did meet him?---I met him at the John Oxley Youth Centre.

Do you recall when you first met him? Do you recall your first meeting with him?---My first meeting with him would have been the date that I attended interviews as part of the Heiner inquiry, but I don't recall the specific date.

20

So did you make the appointment to see Mr Heiner or did he or someone acting on his behalf seek you out for a meeting?---I believe I was sought out for a meeting.

Did you feel, or was it your understanding, that you were obliged to appear before Mr Heiner, or was it a matter that you were free to accept or reject?---I can't say I accurately recall if - I felt there was certainly more than an expectation that I would attend, but I can't say to you what I actually felt or recalled at that point in time.

30

Where did your meeting with Mr Heiner occur?---John Oxley Youth Centre.

Do you recall if it was in the morning or the afternoon? ---No, I can't recall accurately.

When you went did you go alone?---I did.

Was there anybody else in the room besides Mr Heiner? ---There was.

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Who was that?---I know one was Barbara Flynn and there was another woman who I now understand was Jan Cosgrove, but I would not have been able to recall that name for you.

Was Barbara Flynn a person you had met prior to this day when you saw Mr Heiner?---Yes.

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The other lady you had not met before?---I don't think so, 1
no.

During the time you were in the room with Mr Heiner and at
least Ms Flynn who asked the questions?---Predominantly
Mr Heiner.

Did Ms Flynn ask any questions?---I can't recall.

What did Mr Heiner ask you about, in whatever detail you
can now recall?---Most of the questions related to Peter
Coyne and certain actions taken by Peter Coyne. 10

Did you have knowledge of some of the things that Mr Heiner
was putting to you concerning Peter Coyne?---Yes, I would
have had knowledge of issues that were being raised through
that process and questions that he asked about, yes.

Did he put, that is, Mr Heiner, any allegation to you that
you personally had done a certain thing or not done a
certain thing?---No.

Did Ms Flynn put any such allegation to you of that nature?
---No. 20

In your responses to Mr Heiner - if it is possible to
generalise I'd like you to, but if it's not possible to
generalise, don't, but in your responses to Mr Heiner were
you generally critical of Mr Coyne or were you generally
supportive or defensive of Mr Coyne?---Generally
supportive.

Did Mr Heiner ask you any questions about the sexual abuse
of children in the centre?---Not that I can recall.

Did you provide him with any information about anything to
do with the sexual abuse of children in the centre?---No. 30

Does the name Annette Harding mean anything to you?---I
know the name and it's predominantly as a result of media
exposure to that name.

Do you recall the incident where some children were taken
to the Lower Portals at Mount Barney and four boys
absconded?---I'm not aware and I don't believe I was
present at the centre at that point in time.

Did you have any involvement in the aftermath, that is to
say, the gathering of - the writing of reports or the
gathering of reports concerning the visit to the Lower
Portals?---No, and again, as I don't believe I was there at
the time. 40

When you say you don't believe you were there, you don't
believe you were actually employed at the centre at that
time?---Correct.

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Who was your predecessor?---A woman called Jenny Foote. 1

For the record, Mr Commissioner, and for those here, exhibit 243 is a memorandum dated 27 May 1988 signed, "Jenny Foote, deputy manager, John Oxley Youth Centre."

Was there only one deputy manager at any one time?---Yes.

Now, I want you to have a look at exhibit 109A, please. Does your signature appear at the foot of that document? ---It does. 10

You may or may not remember typing that out, but just have a read of it first. Now, bearing in mind that it's dated 16 January 1990 and bearing in mind its content, are you able to say whether you had appeared before Mr Heiner at the time you wrote that or not?---No, I don't know.

You don't know. All right. Well, you will recall that before you said to me that Mr Heiner put no allegations to you about you?---Correct.

In this memo you say, "It has recently come to my attention that I am subject to complaints currently being investigated by Mr Heiner"?---Yes. 20

Do you know what you were referring to there?---When the terms of - when I became aware of the terms of reference and in discussions in relation to this inquiry the reference that was made was predominantly to matters pertaining to the management of John Oxley Youth Centre. As my position title was deputy manager I believe it was a reasonable assumption that matters pertaining to the management of the centre would pertain to my position as well. 30

In that memo you went on to say that pursuant to regulation 65 of the Public Service Management and Employment Regulations you requested a copy of records held about you in respect of those investigations. Correct? ---Yes.

You said that as the investigations are to be completed by Wednesday, 17 January 1990 you would appreciate the provision of the information prior to 5 pm on that date so that you might have an opportunity to respond to the complaints prior to Mr Heiner preparing his report. Where did you get the knowledge that the investigation was to be completed by Wednesday, 17 January 1990, from?---I can't recall. 40

The next document that I want to show you is exhibit 113. Now, this is not a document you wrote. You will see that the front page of it is just a facsimile transmission sheet?---Yes.

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So you can perhaps forget about that for the moment, but if you turn to the next page, it's on the letterhead of Rose Berry Jensen Solicitors?---Yes.

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It's dated 17 January 1990?---Yes.

At the end of it it's signed by a gentleman called Ian Berry?---Yes.

Thank you. You will see it's addressed to the director-genera of the department, "Dear Madam," and the subject concerns the inquiry by Mr Heiner Esquire of the John Oxley Youth Centre. The writer says, "We act for Mr Peter Coyne and Mrs Anne Jutney, employees of your department?---Yes.

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Had you seen Mr Berry in person prior to this letter being written?---I believe I had.

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Okay. How did you come to see or fix upon Mr Berry as your solicitor?---It was a firm of solicitors that I was aware of where I lived at that point in time. 1

Right?---One of the partners was a relative as well.

But not Mr Berry?---Not Mr Berry.

Okay. And when you saw Mr Berry did you go with Mr Coyne to see him?---I believe I did.

Okay. And was your trip to Mr Berry for the interview with him before or after the last exhibit that I showed you, which was that memo to the director general dated 16 January 1990 where you requested records on yourself?---I can't recall. 10

Okay?---No, I can't recall.

Okay. Are you able to at least assist us with this: did you see Mr Berry before or after New Year?---No, sorry, I can't recall.

Okay. Do you remember whether you gave - or appeared before Mr Heiner before or after New Year?---No, I don't, I'm sorry. 20

Okay. Now, in this letter it is asserted in the second paragraph that in late 1989 taped evidence was given by Mrs Dutney. Do you see that?---Which paragraph, sorry?

The second paragraph on the page. This is on exhibit 113, which I think is the only one you've got. Yes. Are on page - the first page of the letter, "Dear Madam"?---Yes, sorry. Yes, I'm with you. 30

Okay, you've got that?---Yes.

So the solicitor said, "In late 1989 taped evidence was given by Mrs Dutney"?---Yes.

Where would he have got that information from?---It would have been from me.

Okay. So a document generated back in those days suggests you might have appeared before him in 1989?---That looks logical, yes. 40

All right. And it's asserted that the evidence was taped? ---Yes.

Does that accord with your recollection now?---Yes, it does.

Okay. The next paragraph concerns Mr Coyne and his requests for information. And then the next paragraph

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says, "Mrs Dutney was not supplied with any list" - meaning list of grievances - "and it was represented to her that no allegation had been made concerning her"?---Mine has a piece of paper over it. Are you happy for me to remove that? 1

I'll have Mr Blumke get rid of the piece of paper. I'm looking at the third-last paragraph from the bottom, "Mrs Dutney was not"?---Yes.

Have you got that?---I have. 10

Okay. So, "Mrs Dutney wasn't given any list of grievances and it was represented to her that no allegation had been made concerning her"?---Yes.

Do you recall who represented to you or told you that there was no allegation against you?---No, I don't.

Do you recall who you were referring to when you told that to the solicitor for him to put it in the letter?---No, I don't.

Okay. It goes on to say that, "It was upon that basis that she assisted the inquiry by giving evidence"?---Yes. 20

Okay. So was your attitude that you would go before the inquiry to help or to assist Mr Heiner in understanding the issues about management?---That was my intention at that point in time, yes.

Okay. All right. And just getting perhaps back to your interview with Mr Heiner for a moment, are you able to tell us his attitude or his disposition towards what you had to say to him about management issues?---Given that I had read the terms of reference and I assumed it was established to look at a range of issues relating to the operation of the centre, including management, staff relations, et cetera, I believed it was important to attend the inquiry in an attempt to provide a broad context in which some of the issues had arisen. It became abundantly clear to me early during the interview with Mr Heiner that there was absolutely no interest in understanding that; that the only purpose of the interview was in relation to questions about negative elements of Peter Coyne. I felt completely disregarded. I felt that there was no intention to look at the broad aspects of the operation of the centre at that point in time. And for me it felt like an arrogant disregard for any information that I had to put to the inquiry. 30
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Okay. Now, did you tell Mr Peter Coyne about your experience and your perception of how your interview with Mr Heiner went?---I can't recall. I probably did.

Okay?---Yes.

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Anyway, in page 2 of the letter in the first paragraph, if you turn it over, Mr Berry says that his clients - meaning you and Mr Coyne - "were most concerned that they had been denied natural justice in defending themselves from allegations from persons unknown to them," and that, "They particularised their concern that natural justice has been denied to them," and he set out five different matters that you complained about. Do you see those set out there?
---Yes.

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Do you recall those being matters that you raised with Mr Berry as being areas that you were unhappy about in terms of the process?---I do.

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Okay. The letter goes on in the next paragraph after the sentence beginning at 5, "Our clients have instructed us that the inquiry has not concluded." That was the position, I take it, at the time you saw Mr Berry, that the inquiry was still ongoing?---Yes.

Okay. And the solicitor then made some suggestions in paragraphs (a) through to (d) about how the director general could instruct Mr Heiner conduct the inquiry. Do you see those?---I do.

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Right. And have you had a chance just to scan through those?---Yes.

Thank you. And then over on the next page, page 3, the solicitor opined that the principles of natural justice were well founded and that it was their firm opinion - or, "Our firm opinion that we will be able to persuade a court to intervene on a writ of prohibition to injunct Mr Heiner from proceeding further with the inquiry until full observance of the applicable principles, a précis of which we have stated herein." And then the letter says, "However, that procedure is costly and unnecessary if you recognise the correctness of the natural justice principles"?---Yes.

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So can I ascertain from you now, having read what the solicitors assert in there, what it was that you were hoping to achieve by having this letter sent to Ms Matchett?---I believe what I was hoping to achieve was to look at the allegations and have a fair process by which I was given similar opportunities to others before the inquiry to respond to such allegations.

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So it wasn't your hope or purpose in having this letter written by the solicitor to have the inquiry ended or shut down?---Absolutely not.

You were content for it to proceed so long as you received what you regarded to be a fair hearing?---That's correct.

And did you regard the details set out at paragraphs (a) to

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(d) on page 2 of the document as being the sort of procedural considerations that you felt were necessary to ensure that you were fairly heard?---That's correct.

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Okay, thank you. There was a time limit perhaps suggested or imposed on the director general in the second-last paragraph. A response was requested by 2 pm on 18 January. And prior to that in the letter in the sentence it says that his clients must act quickly. Are you able to recall now why there was a need for expedition; and secondly why the time limit of 2 pm on 18 January was purported to be imposed on the chief executive?---No, I'm sorry, I can't recall why.

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Okay, thank you. Now, I will just get you to have a look at exhibit 136, please. To refresh your memory, Mr Commissioner, this is the letter signed by Ms Matchett to Mr Heiner on 7 February 1990.

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Did you receive a copy of that letter from Ms Matchett?
---Not to my knowledge.

Okay. Well, you see that date. It's 7 February 1990, and in the third paragraph she writes three lines down that she had made the decision "to request of you", Mr Heiner, that he not continue the inquiry any further and "therefore relieve you of any necessity of supplying a report"?---Yes.

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I take it Ms Matchett didn't confide in you that she decided to terminate Mr Heiner's inquiry?---I have no recollection of it, no.

Okay; and then in the next paragraph she writes that the material that Mr Heiner collected in the form of interviews would remain confidential?---Yes.

Was that something you were aware of was her intention?---I really don't - I can't recall.

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Okay. I'll get you now to look at exhibit 137 which is a letter from the Queensland - circular memorandum to Queensland State Service Union members dated 7 February 1990, signed by J.M. Walker, recording in the second paragraph that over the preceding forward the union had had two meetings with Ms Matchett and, as a result of the most recent meeting, she was intending to visit the John Oxley Youth Centre earlier the following week to address staff concerning the department's position concerning security and staffing issues at the centre?---Yes.

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Did you attend that meeting the following week with Ms Matchett?---I don't believe I did.

Okay. Now, I just want you to have a look at one more exhibit, 141. It's 141. This is also another letter that Mr Berry sent on your behalf, you will see, and you will see in that letter that he was requesting copies of two forms of document which are set out at subparagraph (1) in paragraph (b) on that page?---Yes.

Why did you want those documents?---I think there's a number of reasons that I wanted the documents. One was the original reason, being that if allegations were made, wanting to look at what the allegations were and to have the ability at that point in time to also record for myself any response that I might have to that. I think certain allegations of a very personal nature were raised and I had never had the opportunity to respond to.

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Were they raised with you though?---No, they were not

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raised with me.

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Were they raised with somebody else?---They were.

Was the fact that they were raised with somebody else communicated to you?---That's correct.

And did that upset you?---Yes.

The allegation itself upset you?---Two issues: firstly, that there was an allegation put to somebody else in relation to me. There were three reasons. The first one would be that there was an allegation relating to me put to someone else, secondly, I had been advised that there were no allegations that related to me and, thirdly, the nature of the allegation.

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All right.

COMMISSIONER: Did you want to have an opportunity to address it or were you just - - -?---Absolutely.

So your preference was that it wasn't raised?---Correct.

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But given that it had been, you wanted the chance to answer I think?---Absolutely. If I might add, I also attempted to answer that allegation to the director-general at the time who was quite dismissive.

MR COPLEY: When you say "at the time", what are you referring to there?---Once I became aware of certain allegations, I in fact contacted the director-general.

Yes, and without going into detail of the allegation, it had nothing to do with the sexual abuse of children, did it?---Absolutely nothing.

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Thank you. Was it your understanding at the time that this letter was written on 8 February 1990 that Mr Heiner was still going to be required to furnish a report?---Difficult for me to recall with any accuracy. I'm not sure. I assume so, as I was not told otherwise.

Okay. No further questions.

COMMISSIONER: Thank you. Mr Bosscher?

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

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COMMISSIONER: Mr Harris?

MR HARRIS: I have no questions, commissioner.

COMMISSIONER: Mr Hanger?

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MR HANGER: I have no questions. 1

COMMISSIONER: Mr Copley?

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

COMMISSIONER: Yes, certainly.

Thanks very much for coming. I appreciate your time, Ms Dutney. You are formally released from your summons obligations?---Thank you. 10

WITNESS WITHDREW

COMMISSIONER: Yes, Mr Copley?

MR COPLEY: I think the time is getting very close to midday, isn't it?

COMMISSIONER: It is. I could sit on for - - -

MR COPLEY: The next witness will be a fair while. 20

COMMISSIONER: All right. There is no point starting just to finish so we will adjourn till tomorrow at 10.00 and start with a fresh witness then.

MR COPLEY: Thank you. It will be the witness I have in mind for today, but yes.

COMMISSIONER: Yes, excellent. I'm sorry about this but some things are unexpected. Thank you.

THE COMMISSION ADJOURNED AT 12.06 PM UNTIL TUESDAY, 11 DECEMBER 2012 30

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