



SPARK AND CANNON

TRANSCRIPT OF PROCEEDINGS

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THE HONOURABLE TIMOTHY FRANCIS CARMODY SC, Commissioner

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

BRISBANE

..DATE 24/01/2013

Continued from 23/01/2013

DAY 15

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.

COMMISSIONER: Good morning. Mr Lindeberg?

MR LINDEBERG: Mr Commissioner, I would seek the indulgence of the commission. I want to make an application in respect of special consideration for the first witness, and I think there's a point of clarification that I would like to have made by you from the bench, if it's possible, in regard to this witness.

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COMMISSIONER: Yes.

MR LINDEBERG: I don't want to - - -

COMMISSIONER: Just tell me who the witness is?

MR LINDEBERG: Sorry, his name is Mr Muhlenberg.

COMMISSIONER: Right.

MR LINDEBERG: I don't want to ring the bell and have it - you can't - - -

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COMMISSIONER: Try to unring it, yes.

MR LINDEBERG: Yes, and out of an abundance of caution - it may only take a few moments. I think it's of such a nature because of, I believe, new revelations, that I would wish you to make a ruling in here without people - - -

COMMISSIONER: Privately.

MR LINDEBERG: Privately, if that's possible, please. It should only take a few moments but I believe it's important.

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COMMISSIONER: Okay, but I would need to know why it should be in private and not public, if you can tell me that without defeating your purpose.

MR LINDEBERG: I think the nature of something that has been in the form - has advanced to another level in respect of a certain incident at the centre.

COMMISSIONER: Right.

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MR LINDEBERG: Which I want to - I don't want to jeopardise anything, but I think it goes to your term of reference 3(e) in relation to - - -

COMMISSIONER: Yes, right, but is it an incident of a nature that shouldn't be public?

24/1/13

LINDEBERG, MR

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24012013 01 /RMO(BRIS) (Carmody CMR)

MR LINDEBERG: Well - - -

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COMMISSIONER: Because I've got to balance, as you will appreciate - - -

MR LINDEBERG: I totally appreciate - - -

COMMISSIONER: - - - the openness requirement in the terms of reference and having regard to the allegations that 3(e) relates to and also the interests of everybody in the publicity but balancing individual privacy and reputational rights against that.

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MR LINDEBERG: I totally understand.

COMMISSIONER: I'll just hear from Mr Woodford on the point, thanks, Mr Lindeberg.

MR WOODFORD: Thank you, Mr Commissioner. It may be of some assistance to Mr Lindeberg if we just put his application on the back burner for just a few moments as Mr Harris also has an application for something this morning.

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COMMISSIONER: About the same witness?

MR WOODFORD: Look, it's about similar issues, and I do suspect that once Mr Lindeberg has heard that application and once we have a ruling from you, Mr Commissioner, that may assist with whether or not we need to deal with Mr Lindeberg's - - -

COMMISSIONER: Okay. In order to give me some context, should you open the witnesses that are proposed?

MR WOODFORD: No.

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COMMISSIONER: Right.

MR WOODFORD: It's not necessary.

COMMISSIONER: Should I do it in public or private?

MR WOODFORD: Mr Harris's application can be done in public.

COMMISSIONER: All right. Mr Lindeberg, we'll do the public application first. If it helps with your concerns well and good, otherwise I'll come back to you and we'll deal with them separately.

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MR LINDEBERG: Thank you, Mr Commissioner.

COMMISSIONER: Thank you. Yes, Mr Harris?

24/1/13

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MR HARRIS: Thank you, commissioner. Commissioner, I rise to make an application to the commission to have one of the witnesses who was to appear by phone to actually attend in person at this inquiry in the interests of justice, the reason being one of my clients wishes me to put to him serious allegations of the events - - - 1

COMMISSIONER: Criminality. Of criminality.

MR HARRIS: Of criminality, yes.

COMMISSIONER: Right. 10

MR HARRIS: I believe in the interests of justice that he should appear in person before this commission.

COMMISSIONER: To answer them.

MR HARRIS: Yes.

COMMISSIONER: Because his responses to those questions will go to credit and affect recommendations I might make, or findings I might make, in respect of 3(e). Is that the reason? 20

MR HARRIS: That's a possibility, and I am aware of section 3(e), your limitations in that too.

COMMISSIONER: Right.

MR HARRIS: I think it's got to be aired.

COMMISSIONER: Does Mr Woodford know the nature of the questions that you want to ask?

MR HARRIS: Not the exact nature of the questions, no. 30

COMMISSIONER: But the general nature.

MR HARRIS: In a term, general nature.

COMMISSIONER: All right, and the first threshold question, obviously, as you know, Mr Harris, is whether those sensitive questions or allegations are - sorry, I'll start again. The threshold question for me is whether any answer to any question or allegation you make is relevant to my discharge of the term 3(e) requirements, right. 40

MR HARRIS: Yes, that's correct.

COMMISSIONER: All right, so I need to determine that first. Now, Mr Woodford, from what you understand or what Mr Harris wants to ask this witness is the answer going to be relevant?

24/1/13

MR WOODFORD: No, it's not. Mr Harris is essentially applying to put allegations of criminal conduct to the witness, serious allegations, as he says. Now, we'll be objecting to any questions which are seeking to delve into the truth or otherwise of allegations that have been made as they're simply irrelevant. 1

COMMISSIONER: The allegation being?

MR WOODFORD: The allegation?

COMMISSIONER: Yes. Sorry, you're objecting to me investigating the truth or otherwise of what allegation? 10

MR WOODFORD: Rape, commissioner - well, sexual misconduct.

COMMISSIONER: Right. That is, the ones as referred to in the term of reference, not the allegations Mr Harris is going to put - or both?

MR WOODFORD: Well, what Mr Harris is going to put.

COMMISSIONER: Right. 20

MR WOODFORD: Term 3(e) does not require you to hark into the truth of allegations.

COMMISSIONER: Yes, and that's the allegations referred to in 3(e).

MR WOODFORD: Correct. What it requires you to do is to consider the adequacy and appropriateness of the response to those allegations, so harking - - -

COMMISSIONER: Right. That's the government response - - - 30

MR WOODFORD: Correct.

COMMISSIONER: - - - to the allegations, and you're saying that the truth or otherwise of the allegation itself doesn't bear upon the adequacy or appropriateness of the government response.

MR WOODFORD: Precisely. Now, that includes Mr Harris or other parties given leave to participate here putting allegations to witnesses. It's irrelevant, or it would be irrelevant. 40

COMMISSIONER: So to put it another way, it doesn't - I don't need to determine who actually did what to whom when or why in order to discharge the responsibilities of term of reference 3(e).

24012013 01 /RMO(BRIS) (Carmody CMR)

MR WOODFORD: That's correct. So we - - - 1

COMMISSIONER: All right, and whether that's of general allegations referred to in 3(e) or related allegations or details of allegations that counsel want to put on behalf of an interest.

MR WOODFORD: That's correct.

COMMISSIONER: Okay, I understand. Now, having heard that, Mr Harris, do you maintain your application? 10

MR HARRIS: No, I withdraw my application, commissioner.

COMMISSIONER: Right, thank you. Does anybody else want to say anything about the application, the argument by counsel assisting against the application?

MR SELFRIDGE: No, thank you, Mr Commissioner.

COMMISSIONER: Mr Lindeberg, do you want to pursue your application or do you want to think about it?

MR LINDEBERG: I'd like to be heard, yes, Mr Commissioner. 20

COMMISSIONER: Be heard.

MR LINDEBERG: I'd like to be heard, but it may not be necessary to do it in private. I mean, I'm abundantly aware of the need for public confidence in the commission, et cetera.

COMMISSIONER: But I'm also - yes, look, and so am I. I'm also keenly aware of the need not to create needless concern or mystery or intrigue in the public domain that is likely to be counterproductive and misleading. 30

MR LINDEBERG: I perfectly understand. I mean, I do appreciate that term 3(e) says, "Government response to historic child sexual abuse in youth detention centres." I think I've put the inadequacy - - -

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24/1/13

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COMMISSIONER: Yes, and whether that response itself involved any criminal activity? 1

MR LINDEBERG: That's true too. But the issue of child sexual abuse in terms of establishing whether it was child sexual abuse as opposed to child abuse is an issue in terms of why Annette Harding is a matter of - brings relevance to the - shall I say the Heiner affair, because it - - -

COMMISSIONER: Yes?

MR LINDEBERG: Okay. 10

COMMISSIONER: Because the allegation of criminal activity in respect of the response to Annette Harding or any other child sexual abuse would depend on it first being child sexual abuse.

MR LINDEBERG: Exactly, rather than child abuse.

COMMISSIONER: Yes.

MR LINDEBERG: Okay. Well, I think that's the point, but at that point of: do you need to have a suspicion or the level of satisfaction for your mind that we've reached that threshold is a question for you, perhaps not so much in Ms Harding's case because I think the facts are established that there was sexual intercourse with a child. 20

COMMISSIONER: Well, that's the point, see, and given her age would be - depending on the interpretation of the word abuse and how wide it is, but even if you - and assuming the criminal liability - - -

MR LINDEBERG: Yes.

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COMMISSIONER: - - - responsibility of the boys involved because of their age.

MR LINDEBERG: I understand.

COMMISSIONER: The allegation that is being made about Ms Harding, I think is sufficiently established to be within the definition intended to be embraced by term 3E as historic child sex abuse. Now, that's a tentative view. It's a view on expressing for debate if anyone wants to debate it, and if that's true then the allegation is of historic child sex abuse and my inquiry is into the adequacy and appropriateness of the government response to the allegation of child sexual abuse in the John Oxley Centre - and I'll related to the John Oxley Centre - involving Annette Harding. 40

MR LINDEBERG: Yes.

COMMISSIONER: Now, if I was to interpret my term of reference that way and if I was also to identify the state of the evidence to this point might that, what would you say about your application? Would it be necessary?

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MR LINDEBERG: I still think I'd like to progress it just a step further because as you said before we closed for Christmas, these things are Darwinian in character and the purpose of the commission of inquiry is essentially truth seeking, and you have had your police out gathering evidence most diligently and widely, and as statements have come in - - -

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COMMISSIONER: Nice to know you're keeping an eye on them, Mr Lindeberg.

MR LINDEBERG: Thank you. Mr Commissioner, can I just say I've used the word "bless you" yesterday; please, that's just thank you. I don't want it to be misinterpreted by anybody. Anyway, yes, thank you. Look, the point is that we came to this issue with a bundle of evidence for Ms Harding we could present. Now what - there has been a - I'm not sure whether you would say subtle or there has been a significant change in terms of evidence in respect of a particular person which I think advances the issue in terms of child - dare I say it, another potential incident which could be of relevance to the Heiner inquiry.

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COMMISSIONER: And could qualify in the term of reference as historic child sexual abuse.

MR LINDEBERG: That's what I'm saying.

COMMISSIONER: Other than the one involving - - -

MR LINDEBERG: Other than Ms Harding.

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COMMISSIONER: - - - Ms Harding and the other - - -

MR LINDEBERG: It goes then, Commissioner - - -

COMMISSIONER: Sorry, other than the ones whose interests are represented by Mr Harris.

MR LINDEBERG: Yes.

COMMISSIONER: All right.

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MR LINDEBERG: And therefore it goes to your, perhaps, definition or your discretion as to whether or not that particular incident may satisfy that, but then the other issue is whether or not that issue came before Mr Heiner, perhaps is another issue in terms of the shredding. I have just noticed in terms of what's happening in the commission that prior to this nothing has particular happened that

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this matter. That's as I perceive it. And I just think that there's been fresh evidence adduced that I wanted to get clarification because I don't want to be seen to be inappropriate.

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COMMISSIONER: Righto. No, I appreciate that. But I still need to know a little bit more detail about the additional matter that might be within the term of reference.

MR LINDEBERG: Commissioner, I suppose we have the advantage of being at the bar table of having seen the submission. It is not public, you know what I mean, in the sense - - -

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COMMISSIONER: Have you discussed with Mr Woodford and Mr Copley - - -

MR LINDEBERG: I try to this morning but they said talk to you.

COMMISSIONER: All right. I might return the favour. Mr Lindeberg is in a difficult position, isn't he?

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MR WOODFORD: He is, and I ask that he go on the backburner because I presume that the issues that he wanted to raise - - -

COMMISSIONER: Might be resolved.

MR WOODFORD: - - - concerned the witnesses that are being called today, but from what he said that's got nothing to do whatsoever with the witnesses that are being called, it's a completely separate issue, so apologise to him for that.

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COMMISSIONER: Well, I don't know. I think what he's saying is it's got nothing to do with Mr Harris's representation of the two interests of years but it might have something to do with a different episode on which either or both of the proposed witnesses may be relevant. Is that right, Mr Lindberg?

MR LINDEBERG: I'm trying to follow you. I think you're right, Commissioner.

COMMISSIONER: Your new thing you want to raise with one or other of the witnesses today?

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MR LINDEBERG: I would like to ask some questions, but I mean - - -

COMMISSIONER: But of them?

MR LINDEBERG: Sorry, no, of the first witness, that's all. I'm not - - -

24/1/13

LINDEBERG, MR

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COMMISSIONER: Of one of the witnesses today. 1

MR LINDEBERG: Yes, that's right.

COMMISSIONER: All right. So the matter he wants to raise, he does want to raise with the first proposed witness, but it doesn't relate to any of the issues affecting the interests represented by Mr Harris, it's a new one. So shouldn't somehow we find out what that one is and form an attitude and then you can help me make a decision?

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MR WOODFORD: If you could just excuse me for one moment. Well, perhaps the simplest way to proceed, given that we're all here, is for Mr Lindeberg to outline the nature of what he wants to put to witnesses today.

COMMISSIONER: Now, he wants to do that while it is streaming live, or not?

MR WOODFORD: Well, we don't - - -

COMMISSIONER: We're going blind, we don't know what he's going to say.

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MR WOODFORD: That's - - -

COMMISSIONER: That's why I think it's better that he tells you in private.

MR WOODFORD: Well, we think if we're pressed with those two options then the preferable course is for it not to be going live.

COMMISSIONER: Yes.

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MR WOODFORD: If we're pressed to that position.

COMMISSIONER: So not to do it privately, do it semi-publicly.

MR WOODFORD: Yes.

COMMISSIONER: Not live streaming, but within the public Gallery.

MR WOODFORD: And it does seem that Mr Lindeberg is intent on asking these questions today, so it just may be that it will save time in that a ruling may be required as to whether or not - - -

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COMMISSIONER: That's fair enough, but I'm a bit concerned about having to discriminate between two sections of the public; those who watch the TV and those who come in here in person. Why should people in person get to hear what the people on the TV don't?

24/1/13

WOODFORD, MR

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MR WOODFORD: They shouldn't. It should be closed if that's the course we take. 1

COMMISSIONER: So everybody out.

MR WOODFORD: Yes. As I say, if we oppressed to that position, it's one or the other, that's our preference.

COMMISSIONER: Okay.

MR LINDEBERG: Mr Commissioner, that's - and I thought about this in deep and that's what I - reached the conclusion, but, I mean - - - 10

COMMISSIONER: You agree with that course of action?

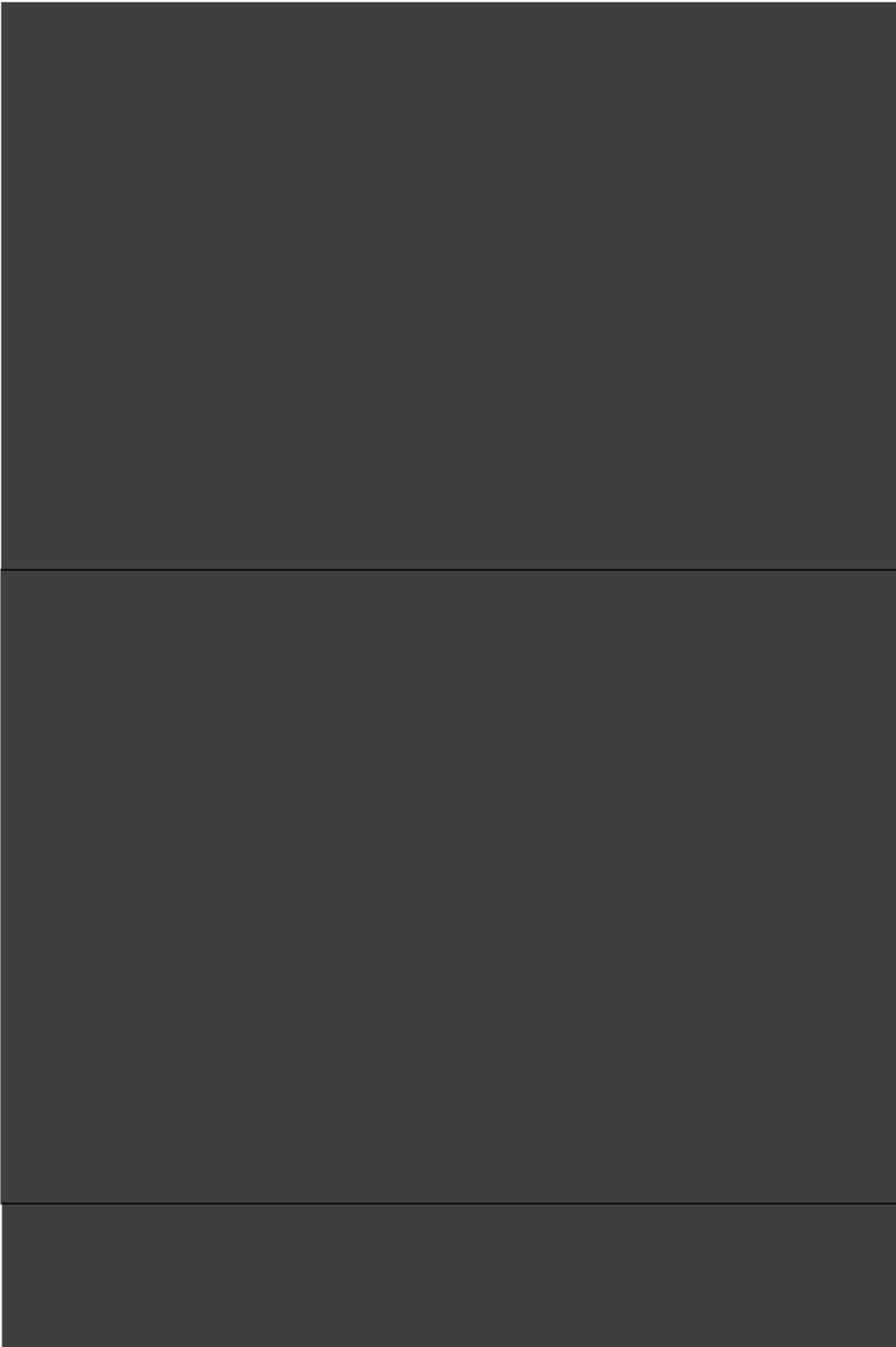
MR LINDEBERG: I think I do because this may not be as bad as what I think it is but I don't want to abuse - - -

COMMISSIONER: All right. I'm sorry, ladies and gentlemen, I don't know what's going to be raised and in the spirit of being overly cautious rather than sorry, I'm going to have to ask you to step outside for the moment and have the live streaming disconnected. 20

MR WOODFORD: Perhaps everyone save for commission staff.

COMMISSIONER: All right. Save for commission staff. Could the members of the public step outside, please, for the moment. I hope we won't be too long. Commission staff and anyone instructing interests who have leave to appear, obviously. Righto, Mr Lindeberg, yes, what is the new matter? 30

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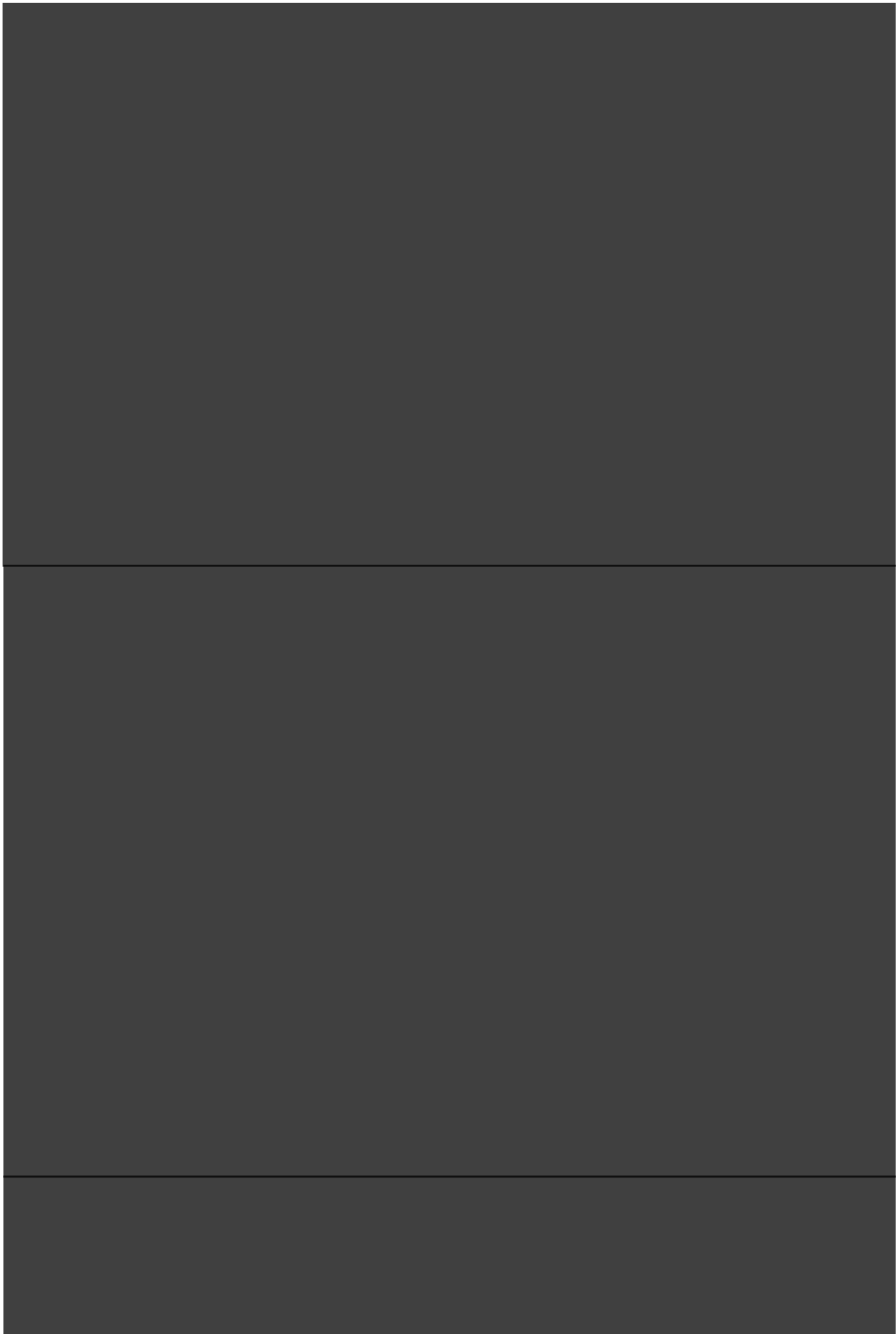
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LINDBERG, MR

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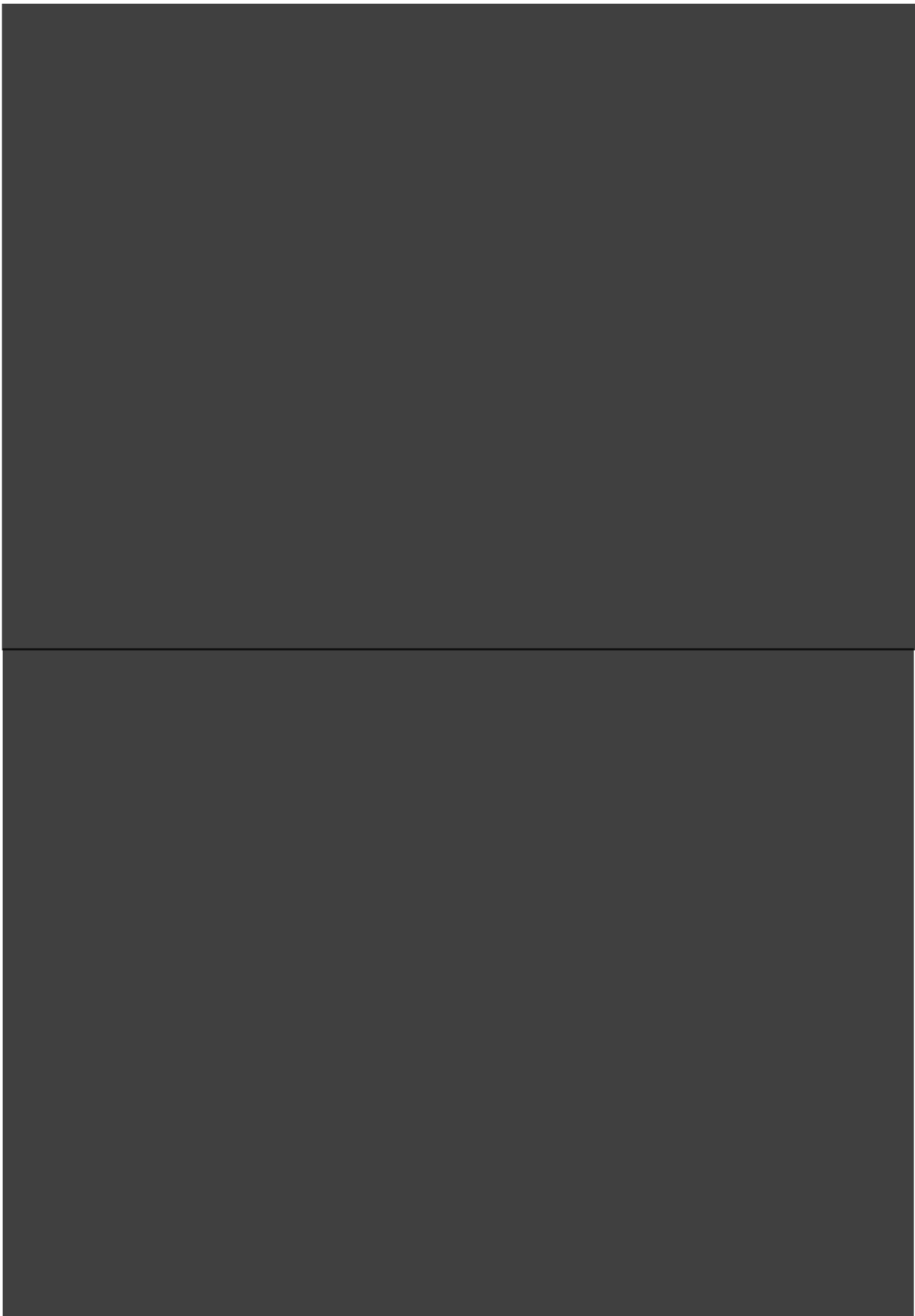
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LINDBERG, MR

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COMMISSIONER: [REDACTED]

[REDACTED]. Okay. We will get everyone back, thanks. Now, Mr Muelenberg will be in person?

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MR WOODFORD: Yes, Mr Commissioner.

COMMISSIONER: He will be in person.

MR WOODFORD: May I call him?

COMMISSIONER: What about paragraph 5 now that we are dealing with it? That is not going to be published, is it, obviously? I will do it the normal way. We will come back to it.

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MR WOODFORD: Just in the usual manner that has already been dealt with so far.

COMMISSIONER: Yes. You haven't tendered it yet, first, but actually before you go, Michael, just for the record because it was referred to in the course of argument, I am going to mark paragraph 5 of Alexander Adrian Muelenberg's statement dated 12 September 2012 as MFI 3. Paragraph 5 will be MFI 3.

ADMITTED AND MARKED: "MFI 3"

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MUELENBERG, ALEXANDER ADRIAN sworn:

ASSOCIATE: For recording purposes please state your full name and your occupation?---Alexander Adrian Muelenberg; I'm retired.

Please be seated?---Thank you.

COMMISSIONER: Good morning, Mr Muelenberg, welcome. Yes, Mr Woodford?

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MR WOODFORD: Thank you, Mr Commissioner. May Mr Muelenberg see the four-page statement that he supplied this Commission of Inquiry?

COMMISSIONER: Certainly.

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MR WOODFORD: Mr Muelenberg, I have had placed in front of you there a document. Could you cast your eye over that and confirm for us that that is the statement that you have supplied this Commission of Inquiry?---Yes, it is. 1

I have some questions for you this morning about the John Oxley Youth Centre. I understand from your statement that you started working there around June of 1987. Is that correct?---That's correct.

You remained working there through to February 1995?---At the time, yes. 10

You were working as a training officer?---Correct.

You were running classes, if you like, teaching the children practical skills such as automotive matters, welding, those sorts of things?---That's right.

In addition to that would you do some work in the more traditional youth worker sense at the centre?---Yes, I did.

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Your main function, though, was as the training officer. 1
Is that correct?---That's correct.

When you worked at the centre you worked for a number of
different managers?---Yes.

That included Mr Peter Coyne?---Yes.

And Mr Ian McIntyre?---Yes.

While you were there your supervisor was a gentleman by the
name of Mr Rudi Pekelharing?---That's correct. 10

I just want to take you to paragraph 4 of your statement?
---I'm missing a page, I'm sorry.

That's make it - - -?---On the back. Okay, yes.

Paragraph 4, do you have that, on the second page? Now,
you detail a certain event in there. Do you see that?
---Yes.

What I'm interested in is not the event but what you did
about that. Now, do I understand from that paragraph that 20
the information that you'd received, you reported it to the
manager?---Not at that particular time that the incident
occurred.

It was a couple of weeks later, was it?---About four days
later.

You'd received some information?---Yes.

That information came from one of the residents?---Yes.

As you detail in your statement, and then you passed that 30
information on to the manager, did you?---Yes.

The manager at the time, was that Mr Ian McIntyre, was it?
---Yes.

You discussed the matter with Mr McIntyre?---Yes.

Did you report to him what you had been told?---Yes, I did.

Now, from that point did you have any further involvement
yourself in the investigation of those matters that you
told Mr McIntyre about?---No, I did not. 40

Did you only speak to Mr McIntyre on the one occasion about
it?---It may have been more than once but the initial
discussion was one - was quite in depth with him and
basically I was asked to take a step back and it would be
taken over by the manager and whoever else was in charge at
the time.

So from that do I take it that Mr McIntyre said, "Right, we've got your information. I'm the manager now. I'll take over"?---Yes. 1

Then he went about doing whatever he did?---Yes.

He didn't invite you to be involved in that process?---No.

As the manager, he took it over?---Yes.

You were never asked to supply anything in writing in relation to it from Mr McIntyre?---No, only the evidence that I've already signed, and at the time, the report I was asked to fill in. 10

You're pointing to that document. Are you saying you filled in a report for Mr McIntyre at that time, did you? ---Yes, I believe it was one of these, or one of the pieces of paper that's already been processed.

Now, this is back at the time you had the conversation with Mr McIntyre all those years ago?---Yes.

You filled in a physical report and gave it to him?---Yes. 20

Okay, we'll leave that incident now. There was something we've heard about in some detail at the centre, an inquiry by a gentleman by the name of Heiner. Looking at paragraph 6 of your statement, do I understand that you had no involvement yourself in that inquiry?---That's correct.

You didn't attend, you never supplied any statement or anything like that?---I was interviewed and a recording was taken of that and basically, yes, whatever was done with it. 30

Okay, well, they're two different things. You're aware there was an inquiry conducted by Mr Heiner?---Yes.

Are you saying that you met that fellow?---No.

Now, I'm specifically dealing with Mr Heiner when he's at the centre, end of 89, thereabouts. So you didn't meet the man?---No.

Did you supply a statement to him, did you?---Not to him directly. I was interviewed by someone else and a recording of my statement was taken and then it was typed out and I signed the statement. 40

Do you recall when that was?---It's a while ago, no.

What I'm asking is whether you're referring to a statement that you gave at the time Mr Heiner was there or whether - you refer in your statement in paragraph 14 to speaking

with the Criminal Justice Commission some years later in 1998 and supplying a statement there?---That may have been the case, yes.

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It may have been the case that you are confused as to when you gave it?---Yes.

It's up to you. I'm just trying to understand what you're saying?---No, I can't remember that time-frame.

Let's deal with it this way. How many statements did you supply? Excluding the one you've given for this Commission of Inquiry, how many times were you interviewed?
---Including Ian McIntyre?

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Yes, forget about Mr McIntyre, forget about us here today. Was it only the one statement that you supplied to the - - -?---No, I think there's more than - I think there's this one and the other one that I did as stated in paragraph 14.

Okay, so this one that you've given this commission and the one from paragraph 14. Now, apart from the matters that you've detailed in your statement, you were unaware of any other allegations or instances of sexual abuse at the John Oxley Youth Centre?---There were rumours, if I can - - -

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The rumours, are they things you're referring - are they about things you're referring to in your statement?---Yes. Possibly, yes, because there were other rumours that I'd heard about, but I don't know how true they were.

You never saw anything yourself?---No.

The best you can say is there were things you heard on the grapevine?---Yes.

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For you they were rumours, okay. Now, just dealing with your memory, Mr Muhlenberg; I understand you're sitting somewhere quite different to where you would normally sit on a day-to-day basis, do I understand that you had a double bypass operation?---Yes, I have.

Do you take some medication for that, do you?---Yes, I do.

Is it the case that that can have some impact upon your memory?---Yes.

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That's something you've experienced since you started taking the medication?---Yes.

Very good. I have no further questions, Mr Commissioner.

COMMISSIONER: Thank you. Mr Selfridge?

MR SELFRIDGE: No questions, thank you.

24/1/13

MUELENBERG, A.A. XN

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COMMISSIONER: Mr Harris?

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MR HARRIS: Just a couple of short questions, commissioner.

Mr Muhlenberg, you in paragraph 4 of your affidavit relate an incident that happened on an outing whilst at John Oxley Youth Centre. Do you or can you recall the name of the person that was involved in that incident?---Yes, I can. What was her name?---Armstrong.

It was Armstrong?---Barney.

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No; no, sorry, I mean the name of the girl?---Shelley Neil; Ms Shelley Neil.

Thank you. I have no further questions, commissioner.

COMMISSIONER: All right. Mr Lindeberg?

MR LINDEBERG: Commissioner, I have just got a couple of questions.

Good morning, Mr Muelenberg. Can I take you to points 14 and 15 of your statement, please? It's about your interview with the CJC. Do you recall why that came about?---I don't really. I was just asked to be interviewed regarding issues. I can't recall what the reason for that interview was at that time other than perhaps the Heiner report. I don't know.

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The Heiner report, but having read the document, you say, "The document appears to be a true account of events as described by me in 1998"?---Yes, that's correct. 1

You have just seen the document recently and you don't recall - it doesn't say how it came about, just that you were interviewed by the CJC. Is that correct?---That's correct; that's correct.

Are you aware of other staff who were interviewed by the CJC around that time?---I was aware that there was - people were being interviewed at that time. For what reason - I don't know what they were being interviewed for or by whom at that time, except the Heiner report. 10

With respect, if you have just read your report, you do know what it's about, don't you?---Yes.

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

What was it about?---Must have been the Heiner report because that's the only one that I can remember.

Were you interviewed by the Forde Inquiry?---By the who? 20

Around February 1999, were you contacted by the Forde Inquiry into abuse of children in Queensland institutions? ---I cannot recall that.

But you may have been because of your memory problems at the moment?

COMMISSIONER: Mr Lindeberg, I can understand why you want to ask that question but it's really not a meaningful answer because he says it's possible. 30

MR LINDEBERG: Okay.

COMMISSIONER: As we know, anything is possible.

MR LINDEBERG: Okay.

Thank you very much, Mr Muelenberg?---Thank you.

COMMISSIONER: Yes, Mr Woodford?

MR WOODFORD: May Mr Muelenberg be excused? 40

COMMISSIONER: Yes.

Mr Muelenberg, thank you for providing a statement and your oral evidence. It's appreciated. You are formally released from the obligations of your summons with out thanks?---Thank you.

WITNESS WITHDREW

24/1/13

MUELENBERG, A.A. XXN

MR WOODFORD: Mr Commissioner, I will tender Mr Muelenberg's statement. 1

COMMISSIONER: Yes.

MR WOODFORD: There are some matters that I draw your attention to in terms of publication.

COMMISSIONER: Yes.

MR WOODFORD: Consistent with previous orders that you have made, could I take you to paragraph 5? 10

COMMISSIONER: Yes.

MR WOODFORD: There is a name that appears at the end of the first sentence and continues to appear throughout that paragraph and then there is also a name that appears at the start of the fourth sentence and that name also continues to appear. My submission is that those matters would not be published.

COMMISSIONER: That's just the male's name? 20

MR WOODFORD: Sorry, just the male's name, yes. May I just have a moment?

COMMISSIONER: Because of the link, I just think - - -

MR WOODFORD: No, I'm sorry, Mr Commissioner, neither of those names have been published previously and they should not be further published.

COMMISSIONER: All right. The names of the male and female mentioned in paragraph 5 will be deleted before publication of Mr Muelenberg's statement. 30

MR WOODFORD: Thank you. Did you give it an exhibit number?

COMMISSIONER: Not yet. Mr Muelenberg's statement will be exhibit 283.

ADMITTED AND MARKED: "EXHIBIT 283"

MR WOODFORD: Thank you. They are the only matters.

COMMISSIONER: I will strike from the record the male mentioned by Mr Muelenberg in his unresponsive answer to Mr Harris's question. 40

MR WOODFORD: Thank you.

MR HARRIS: Thank you, commissioner.

MR WOODFORD: I do note that Mr Harris did say "female". 1

COMMISSIONER: He did, but the answer was unresponsive.
Yes, Mr Copley?

MR COPLEY: Mr Commissioner, I call Janine Walker.

WALKER, JANINE affirmed:

ASSOCIATE: For recording purposes please state your full name and your occupation?---Janine Mary Walker; I'm the director of the Office of Human Resource Management and an adjunct professor of Griffith University. 10

Please be seated.

COMMISSIONER: Good morning, Ms Walker?---Thank you.

Welcome?---Thank you, Mr Carmody.

MR COPLEY: Could the witness be shown her statement, please? Could you have a look at that document, please, to confirm that that's a statement that you signed on the 22nd day of January 2013?---Yes, it is; yes. 20

I tender that statement, Mr Commissioner.

COMMISSIONER: Ms Walker's statement will be exhibit 284.

ADMITTED AND MARKED: "EXHIBIT 284"

MR COPLEY: Ms Walker, in that statement you state in the second paragraph that in the period between 1989 and 1990 you were employed as a director in the Queensland State Service Union in the role of an industrial director which meant that you were the assistant secretary of the union? ---I was employed in that position for longer than that period. I was employed there till 1994, I think it was, but I guess what I meant to convey was in the relevant - period relevant to this inquiry. 30

All right?---Yes.

That clarifies that issue?---Yes; yes, I was there for some years.

But could I ask you to clarify this: when did you start any role with the Queensland State Service Union in a paid capacity?---Late 1988. 40

Now, you say although your role was the industrial director, you were effectively the assistant secretary of the union?---I was the second-most senior person in the union.

24/1/13

WALKER, J. XN

So that's what you're meaning to convey - - -?---Yes. 1

- - - by tell us that you were the second-most senior person?---Yes.

Who was the most senior person?---Mr Laurie Gillespie was the state secretary of the union.

Now, in your capacity as the industrial director you became aware of some issues that had arisen concerning or allegedly concerning members of your union who worked at the John Oxley Youth Centre?---Yes. 10

Yes, and, as a result of that, you had some involvement thereafter in discussions between the public service or the Department Family Services, on the one hand, and yourself and other unions, on the other, about matters of concern at John Oxley?---Not with other unions.

Not with other unions?---No, not particularly; I don't recall those particularly.

All right, but certainly with the department itself?---Yes. 20

All right?---It was a very routine piece of union business.

Well, we'll show you exhibit 64, please. Now, at the top of that, does that state in running writing "Memo J. Walker, Queensland Q" - something - "S"?---Yes.

Do you recognise the writing on it?---No.

If you turn to the second page, do you see a signature down the bottom?---A. Pettigrew, yes; Alan Pettigrew, yes, director-general. 30

No, to the right of that near the date?---Yes, I do.

Do you recognise that signature?---No, I don't.

Do you know a man called Brian Mann?---Yes; yes; no, is that Brian's signature?

I don't know?---Very untidy.

I'm asking you?---No, I don't know if it's his signature or not, but do I know Brian Mann - extremely well. 40

Okay?---He was one of my staff, yes.

All right. That document seems to be addressed to you? ---It would appear to be, yes.

Well, could you just peruse it in sufficient detail to be able to tell me whether or not prior to me showing it to you now you have any recollection of seeing it before? Reading the content of it may assist you or it may now? ---Shocking writing; yes; yes.

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Having read the content of it, does that assist you in remembering whether you have ever seen it before? ---I can't - sorry, I don't know your name - I can't remember having seen it before.

Okay?---I may have.

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Yes?---Its contents are entirely consistent with the events as I recall them that we're dealing with today. There's nothing surprising in this. It lends detail and maybe I did read it. It was a very busy job. 1

Okay. We might be able to ask somebody else about it?
---Yes, sure.

COMMISSIONER: I'm sorry. Mr Copley is the senior counsel assisting the commission?---Thank you, Commissioner.

Mr Copley, Ms Walker. 10

MR COPLEY: Thank you, Mr Commissioner?---Thank you Commissioner.

Now we'll get you to have a look at exhibit 65, please?
---Mm'hm.

Now, that is a letter on Queensland State Service Union letterhead, isn't it?---Yes, it is.

And on the second page it there is your signature?---Yes, it does. 20

Good. On the first page in the top left-hand corner you see where it says "ref" meaning reference?---Yes, Brian.

It says, "Mr Brian Mann?---Mm.

"BM/RKF". Does the fact Mr Mann's name appear on that document have any significance at all to you?---Yes. He would have drafted the document.

I see, okay. So he might have composed the contents of it and you signed it?---Mm. 30

Okay?---Most likely, yes.

Right. Now, in that document it conveys a concern about issues that have arisen at the John Oxley Youth Centre. It refers on the second page, doesn't it, to a meeting that had been held out there the previous November attended by numerous employees and Mr Ian Pearce?---Yes.

And it then asserts in the second-last paragraph that, "The union now considers that a meeting with you at this point would be desirable"?---That's right. 40

All right?---Yes.

And it refers to tentative arrangements having been made to meet on Thursday, 21 September?---Mm.

Do you remember reading and signing that letter? 1
---Mr Copley, I don't directly remember reading and signing that letter.

Okay?---It was a very busy job and as I said to you, this was a pretty straightforward piece of union business. But reading it, it is like the previous document, entirely consistent with my recollection of the train of events and I'm sure I would have read it because I don't sign things I don't rate.

Okay?---And yes, unremarkable, that's exactly what I expect that letter to say. 10

Okay?---I don't specifically recall it.

All right. Well, we will go through this exercise in relation to every document that looks as though you may have signed or read?---Yes.

Because ultimately we need to be sure - - -?---Yes.

- - - if we're going to say somebody wrote a document - - -?---It would be critical, yes. 20

- - - it's good to have direct evidence from that person that they did or didn't?---Yes. I signed that.

Yes?---I don't specifically - that document - recall reading, but as I read it and it's absolutely consistent with my recollection of events and I'm sure I read it and I'm sure I signed it and I have no difficulty saying to you the contents of that are completely consistent with my recollection of events.

Okay, thank you. All right, that's good. So we'll get back exhibit 65 but if you at the same time exhibit 66? 30
---Okay.

Now, I'd like you first of all - I'm not suggesting you wrote this document, you may have done, I don't know - but I'd like you to read it first?---Mm.

Okay. Now, first things first, have you seen that document before I showed it to you?---No. No, I haven't.

So you didn't type or have typed?---No. No, it looks like a departmental document. 40

That was my next question, whether or not it looked like a State Service Union document?---No.

All right?---That's a departmental document.

Okay?---You can tell by the tone, it's written by the department.

24/1/13

WALKER, J. XN

All right?---It would be their meeting notes.

1

Well, it might have been they're meeting but it might have been one that the State Service Union has sought?---It was, absolutely.

Yes. And it didn't occur on 21, but 14 September 1989, didn't it, according to that?---Well, that's the date on there, yes.

Yes?---I don't have my old diaries to refer to.

10

No. Do you recall going to a meeting - - -?---Yes.

- - - and meeting with Mr Pettigrew and Mr Nix?---Yes.

And do you recall raising issues of concern affecting members at John Oxley?---Yes.

Okay. And in paragraph 8 - or the paragraph numbered 8 - it asserts that your union sought an inquiry into management-staff relations at the centre?---Yes, although the word inquiry is one that I had some discussions with Mr Pettigrew about and there's a whole context about that. But that reflects the tenor of the meeting as I recall it some 24 years later.

20

Right. So when you say you had discussions with Mr Pettigrew about an inquiry, or the word inquiry, what do you mean by that?---Well, Mr Copley, this is an issue that is really at the heart of, I think, where so many of these things seem to have gone. I put to Mr Pettigrew - and I repeated to him several times - that the union was not interested in an inquisitorial approach to the complaints we had. I had, as it were, a handful of complaints and the sort of things that are referenced in the documents we've already looked at. And I said to him that there were a series of matters that are members were complaining about and some were in writing already to us and there were others that we would find that people have told us about. But it seemed to me that little purpose would be served in an inquisitorial or an inquiry-based approach of the (indistinct) incident; who said, he said, she said, who said, who was to blame, who wasn't to blame, et cetera, and to forensically deal with each one of those matters. That would take a vast amount of time and I didn't think that it would be conducive to the issue we were talking about, which was very poor staff-management relationships - conducive to improving those. In my view what was required and what the union wanted - what the union was prepared to advise its members to cooperate with - was a review of the administration of the centre, of the management of the centre.

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Okay?---And that is a different approach.

24/1/13

WALKER, J. XN

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All right?---And I felt that - I said to - I recall very distinctly saying to Alan Pettigrew, "If you take all of the complaints that we're hearing and that we're hearing in the pipeline, if taken as a whole there are recurrent things in those complaints, and if you - you know, that might be true, that might be wrong, that might be half true, that might be a quarter true, but the thing is recurrent. And if you accept that there are issues in relation to that the best approach is an administrative review-style approach rather than inquisitorial of forensic investigation of individuals."

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COMMISSIONER: That really was looking at the causes - - -?---Yes.

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- - - these problems were really the effects of a cause - - -?---Yes.

(indistinct)?---Yes, Mr Carmody. Our objective was to deal with what was a very poor working environment for our membership and which our membership - and it seemed to me complaints sustained this proposition - were coming from some very, very, very poor management practices in terms of dealing with staff. Today we would probably call it bullying and harassment; those would not words in more common currency in the late 80s. And I was very clear with Mr Pettigrew that the union wanted an approach to these issues of that sort and I suggested an appropriate person I thought he could carry out the review, et cetera.

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MR COPLEY: Well, look, whether you - - -?---And that's what was in there.

Okay. You had in mind a review?---Yes.

If this is a departmental document, they were thinking in terms of an investigation?---Yes.

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But leaving that issue to one side, this is exhibit 66 will tend to suggest that - and you can confirm this or not - that at the end of that meeting or at some stage in the meeting the director general said, "Look, we will act on your" - the union's concern?---Mr Pettigrew seemed to have no difficulty with accepting that the union had a sufficient body of complaints that we should all be concerned about.

And what I'm wanting to ask you is did he convey at that meeting to you, as the minutes tend to suggest, that he was going to act on your concerns?---My recollection, Mr Copley, is that generally he did.

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Okay?---It was of the idea - he looked at me, "Yes, I get your point, I'll be back to you. We'll do something with this," yes.

24/1/13

WALKER, J. XN

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24012013 06 /ADH(BRIS) (Carmody CMR)

Okay?---I came away feeling that Mr Pettigrew understood what we were concerned about and that action would follow, yes.

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All right, thank you. Now, I'll have that taken back from you so we keep these all the right spot and I'll get you to look at exhibit 67, please.

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24/1/13

WALKER, J. XN

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Now, this is headed A Memo to the Act G-S?---Acting general secretary. That would have been me. 1

You will see the subject and then down the bottom there's a signature, do you see that, or initials?---Yes.

Do you recognise that?---No.

Okay?---Some of my staff had very bad handwriting, Mr Copley.

Well, the document is reasonably legible, isn't it?---Yes, it is. 10

We know it can't - well, we can assume it's not David Smith who wrote it because it refers to him?---No, that's right.

It's not Lex Clements or Peter McNeven or Mariana Pearce? ---No.

But it says in the third paragraph, doesn't it, that, "Names of various other officers are to be withheld at this stage. Mr Smith will make contact with these anonymous officers with a view to them forwarding signed statements"?---Yes. 20

Do you have a recollection from reading that of a wish on the part of the union or a strategy on the part of the union to obtain statements from workers?---Absolutely, Mr Copley.

Okay?---Do you want me to describe it for you, what the issues - what was going - - -

Well, maybe in a moment?---Okay. 30

Maybe in a moment. Now, getting back to the process of getting the statements, was there anything conveyed by the union to the people who were going to provide the statements as to what would be done with them?---Yes, I think so.

Do you remember?---There's a document around, a circular, I think, that I spoke with your interviewing officers - what happens in a situation like this, and I think one of the important - - -

Well, just a minute now?---Yes, okay. 40

I don't want to hear about what generally happens? ---All right.

I'd be much more assisted by if you have a specific recollection or a recollection of what happened in this

situation?---Yes. In this situation members spoke to us about their complaints and they did not wish to progress them themselves to either Mr Coyne, obviously, who was the subject of the complaints, or indeed to more senior officers for fear of retribution.

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Yes?---The union, the reason that meeting that was referred to in departmental notes earlier, in that meeting I would have said to Alan Pettigrew in some words or other, "I've got a clutch of complaints, Alan, but I'm not giving them to you until we agree with how you're going to deal with them because my members have concern about retribution. When the union is satisfied with the process by which you're going to deal with this I'll tell my members to put the complaints in." That's a very standard process.

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Did Mr Pettigrew when you said, "They're concerned about revealing their identity and we won't until we're satisfied with the process," did he say, "That's acceptable," "That's not acceptable"? Did he give any undertaking to you as to what might be done with any information supplied by the union?---I don't remember it being as formal as an undertaking, but he understood what I was saying and this was pretty standard operating procedure. One of the people at that meeting was Cole Thatcher who has got plenty of industrial relations experience. He was there. Mr Pettigrew wouldn't have found my approach to this at all unusual in that respect and I don't remember him saying, you know, "I accept that and give you an undertaking," or anything. That would have been just a standard way we would have done business. "Alan, you get a process set up. If we're happy with it we'll tell our members to put the complaints in," and nobody would have found that a very strange approach.

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COMMISSIONER: Well, he wouldn't have expected you to leave them exposed?---That's right, yes.

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You would want to see his bona fides before you took the risk of encouraging your members to come forward?---Yes, that's right. Yes, exactly, Mr Carmody, and nobody would have found that an unusual approach, either Mr Thatcher or

- - -

That would be standard, really, wouldn't it?---Yes, absolutely.

MR COPLEY: I'd like you now to have a look at exhibit 67A and 68, because these are letters that were addressed to you. I'd like you just to peruse each of them to see whether or not you have a recollection of having read them before?---I can't recall specifically seeing those letters, Mr Copley. I'm sure I probably would have. Again, and I'm not being clever when I say this, they're fairly

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unremarkable. In a matter like this that you deal with the union or, you know, in a role for an organisation commensurately, there will be these sorts of views. I mean, there's a bunch of union members who have got all these issues. The union is acting on their behalf. There's always - not always. It's a frequent occurrence when someone says, "Hey, I'm a member of the union too and I don't think you ought to do this and what about me having my say?" which is the sort of thing these letters are saying. I don't specifically recall them. I probably saw them.

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Okay?---I wouldn't have considered them particularly remarkable. It was 24 years ago.

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COMMISSIONER: It's like, "I'm a member of the union and I vote too"?---Yes, and it's like when you go to see the boss who says, "How dare you come and tell me this. I'm a member of the union too. What are you going to do for me?" You know, it's not an unusual interaction and I wouldn't be surprised by those letters and I probably saw them, yes.

MR COPLEY: All right. We'll get those back and we'll just give you exhibit 69. Now, this would not appear to be a document you wrote?---Absolutely not. That's not my writing.

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Okay, but so that it might help us know who did, was a person called Fabiana a person associated with your union in 1989?---The name does not - I don't recollect anybody by that name, no.

All right, and you don't recognise the signature or the initials?---No.

No, all right?---No, not at all.

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Well, just looking at the subject of it, it reports that Alan Pettigrew would be making a special trip to John Oxley, "This Thursday, the 27th of the 9th, to ask questions about Peter Coyne." Is that something that Alan Pettigrew conveyed to you at any point prior to the 27th of the 9th, that he was going to go out there and make a few inquiries of his own?---I don't think so, although some vague bell rings, but I don't recall, no, specifically.

Okay?---But I'm not surprised that he would.

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No, okay. I want you now to have a look at exhibit 72. That bears your signature, doesn't it?---Yes.

Just read that, would you, please, and when you're ready tell me and I'll ask you a question. In the meantime, Mr Blumke, you could perhaps just isolate out 72B through to 72J, I think it is?---Yes.

24/1/13

WALKER, J. XN

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Now, do you remember signing that one?---No, I don't particularly, but there's no question that's my signature and certainly the contents of it are consistent with my recollection of the processes that we were engaged in.

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May Brian Mann have been the actual drafter of the document, because his name appears in the top left?---Yes.

It's dated 10 October 1989?---Yes.

It's addressed to Mr Pettigrew?---Yes.

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It encloses statements for his perusal, doesn't it?---Mm.

But it says, "Certain of the enclosed statements contain serious allegations. For that reason they are supplied to you personally on the understanding that they will not be circulated widely"?---That's right.

"As discussed at our meeting, they are supplied for the purpose of substantiating our concerns in relation to the management of the centre." So there are a number of interpretations open on that paragraph. One of them is that they were simply provided as evidence to justify him establishing an inquiry?---They were supplied pursuant to the discussions I'd had with Alan Pettigrew where I said, "If you establish a process, we will provide information and encourage our members to provide information but we will need to do it in a way that they are protected from retribution."

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Yes?---One of the things that's missing in the documentation is the phone call - I wouldn't have any notes on it any more, although I do keep notes, of course - from Mr Pettigrew to me to talk to me about appointing Mr Heiner to - - -

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Well, we will come to that?---You will come to that.

We will come to that in a minute, all right?---Okay, yes; yes.

Yes, and you can tell me about that?---This was, "Well, here you are. Here are the complaints."

10

Okay?---Yes, that's what that was, Mr Copley.

I want to focus now on this phrase?---Yes, certainly.

"They are supplied to you personally on the understanding that they will not be circulated widely." By saying "not circulated widely" suggests that you contemplated that they might be circulated or shown to some extent?---Mm.

Was the extent to which they might be shown to some people or not others discussed between you and Mr Pettigrew?---Not at that level of detail.

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So it seems to be within your contemplation that although they were going to Pettigrew, they might not be confined to Mr Pettigrew's eyes?---Well, clearly they wouldn't. He was the director-general.

Yes?---Someone else was going to do the work.

That's right?---So clearly it would go past him.

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Was it within your contemplation that the statements that you were supplying might find their way to the reviewer or investigator or inquisitor, whatever you would like to call him?---Well, there wouldn't be much point unless they did get there, would there?

All right, thank you?---There wouldn't be much point to it.

Okay?---That's the person for whom they were to go, yes.

Thank you. Now, I'll get you to have a look at exhibits 72B through to 72J. Because there are nine letters there and exhibit 72 has got written at the top "Nine letters", does it assist you perhaps in commenting on this: the letters that you enclosed to Mr Pettigrew were indeed those letters 72B through to 72J? ---That's consistent with how this matter was managed in my recollection.

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Okay?---These look like the sort of things that would've gone with that letter. 1

Do you recall one of the signatories to a letter signing under the title "Very Concerned" rather than putting their name? You don't recall receiving a letter like that?
---Mr Copley, I don't. One of the things that - - -

Now, Ms Walker, you don't need to justify why you don't remember under I ask you?---No, okay; yes, all right.

Okay, because it happened 23 years ago?---And it happened at a very particular point in time in history. 10

Yes, okay?---A lot of other things happening at that point.

Yes, well, that sounds a bit ominous, but we might explore that with you shortly?---Yes, you can explore that later.

COMMISSIONER: I think the context is important?---Yes, it is important, Mr Carmody; yes.

MR COPLEY: All right. I will explore it now with the witness. 20

COMMISSIONER: Okay.

MR COPLEY: What particular point in history was this happening at, leaving aside presumably the fact you were very, very busy with union affairs?---Well, this is around September-October 1989. The government of Queensland was facing an election to come about very shortly at which - this is very resonant with our current times. There was a very strong expectation that there would be a change of government and a new government after 33 years. The government that was in place - - - 30

30 what?---33 years.

32, wasn't it?---Well, 32 perhaps, yes.

Yes?---The then Cooper government was - this is a personal view - pretty old and tired and competence was low. The union - - -

Did you say competence or confidence?---Competence.

Competence, okay, yes?---As happens with old tired governments. The union was engaged in extensive - - - 40

COMMISSIONER: I don't know that that's true of all persuasions?---No, Mr Carmody, but, you know, history - we learn from it and repeat it. The union was engaged in significant negotiations with the government on major reform of the salary systems for the public service which

the Cooper government wanted to conclude. The union was not - I was leading those negotiations for the union. We were not particularly wanting to conclude those negotiations with the Cooper government. We wanted to see what the outcome at election would be.

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MR COPLEY: Did you think that if an ALP government got elected, they would be more sympathetic to your members' requirements or demands?---Look, it's not that simple, Mr Copley, but we would rather have concluded a major new salary system with a fresh incoming government than an old exiting government that was looking for something to offer at election time to the public service. We were also - I was also personally and also on behalf of the union heavily involved in policy work and discussions with the office of the then leader of the opposition and I spent all of November out of the union working at the ALP's campaign headquarters.

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Okay?---It was a very, very, very busy time and a time full of very big issues.

Okay?---That's the context in which some of this was happening.

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COMMISSIONER: Yes, thank you.

MR COPLEY: We will have those exhibits back now and we will get you to look at a letter, exhibit 74. Now, this is a letter to the Hon B.A. Nelson MLA, Minister for Family Services from L.M.J. Gillespie?---Yes.

You will see that there are attachments that he says are relevant to the shortcomings that were evident at the John Oxley Centre. I know you didn't sign the letter. Did you draft it for Mr Gillespie?---I doubt it. Mr Gillespie had - and you can see it's his name at the top.

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Yes?---They're his initials.

Yes?---Mr Gillespie had a language style that was very, very distinctive and that looks to me like his drafting. It doesn't look like my language and I think it was probably written by him - by him, yes.

Did you have any part to play in the compilation of the attachments that refer to different issues regarding the alarms, the locks, the physical set-up of the John Oxley Centre?---No. I've never seen this, and do you know I think this is actually - this would be my view 24 years later. I think this is unrelated to the matters in relation to Mr Coyne. Mr Gillespie had - - -

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Look, it might be unrelated to Mr Coyne, but can we proceed on this basis: because Mr Gillespie sent it and because it

related to the John Oxley Centre, as far as the union was concerned there was more amiss at John Oxley than just Mr Coyne's management style. There were other issues there that warranted a look at?--Mr Gillespie made that submission.

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But isn't that what I have just posited to you consistent with what you said not so long ago to me that this was not meant to be an inquiry into this particular allegation as opposed to that particular allegation. It was to be an inquiry into what was causing the problems?--Which was about management practices and administrative4 practices. Mr Copley, that is - in my view, the matters in this document - and I've only had a few moments to look at it.

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Yes?--That is about the operational issues of the centre and I would've considered those to be issues separate from the administrative and management practices that were the subject of the complaints that I was dealing with and it's - personal view: I think where some of this went off the rails was these issues all got conflated.

Maybe I have misled you by summarising it by reference to alarms and things because I looked at the attachment, but looking at Mr Gillespie's letter, one of the things he lists there is adequacy of staff?--Yes, that's - - -

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Would that be regarded as a management issue?--Yes, but it's not - the issues that I took to Mr Pettigrew were about behavioural and management practices. Now, adequacy of staffing is a fundamental issue that you would argue about, but if you look at the concerns that we were - my recollection is that they were about behaviours and bullying and harassment, et cetera. Adequacy of staffing is in the context of a 24-7 custodial environment relevant both to management practices, yes, but also relevant to safety and operational concerns and those were issues that Mr Gillespie had some very strong views about, and not inappropriate views, and he's raised those. I don't think that that - I don't see this - and as I say, it's the first time I've seen it - I think this has been all put together separately from the correspondence that I was conducting with Mr Pettigrew.

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So there might have been concurrent channels of correspondence open - - -?---Yes. 1

- - - to the minister or director general about issues at JOYC?---Yes.

As they call it here?---Yes.

You might have been pursuing one particular issue and your - - -?---Yes.

- - - whatever he's called - superior - - -?---Yes. 10

- - - might have been pursuing other issues?---Yes.

COMMISSIONER: And that would make sense, wouldn't it? ---Yes.

If I wanted to pursue something that you were already pursuing I go through you?---Yes, that's right.

But if I wanted to do something different - - -?---That's right. 20

- - - and I didn't necessarily want you to know about it, I might take a direct cause?---And I was probably - and this would be an issue. Mr Gillespie looked after custodial officers for the union, often himself personally. This was an issue - issues around the juvenile centres of, I know were matters that he had very strong personal views about, and good for him. I would have been at that time, 18 October, flat to the boards with a number of other issues and he would have progressed it separately.

And your policy - you were policy level, really, weren't you?---No, I was operational. 30

Were you operational?---Yes.

Well, one of the things was - and other part of the context is that John Oxley was staffed by a mix of - - -?---That's right.

- - - the progressives, if you like, and the old guard from Wilson?---I wouldn't just put it that way, Mr Carmody but you - - -

You wouldn't put the old guard?--- - - - but you might put it that way. 40

Yes. And you only use "old" in relation to governments. All right. But that was the tension there?---Yes.

And so the institutional ideologies might have been in conflict?---Yes.

And Mr Gillespie might have had an interest in that from the correctional point of view?---Indeed, indeed. However, I held the view then - and that was evidenced by the conversations I had with Alan Pettigrew, it's a view that hasn't changed in 24 years - that a large part of the problems that - the reason we are talking 24 years later is that what began as what should have been a process about bullying and harassment, bad management practices and staff-management relationships, got conflated with a whole lot of other issues and the inability of the inquisitor and the department, et cetera, to keep these threads separate and to understand how they related to each other but were separate lines of inquiry has led to a lot of confusion.

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So what you started out with as a straightforward - - -?
---Absolutely.

- - - quick fix - - -?---Not quick fix.

Well, not quick fix but fairly quick systemic approach, changed?---A set of issues that I believe, while they were related to practices in the centre and these matters that Mr Gillespie raises - these were matters of how the place was managed. And I come back to this point that 24-7 - particularly custodial institutions, but any 24-7 institution - has a set of cultures and behaviours that are particularly theirs, and if you - you know, that things go - rostering, for example, is a major means of bullying staff. Controlling rosters, you know, if you want to settle scores with people you give them the sort of rosters that, you know, they don't want; those sorts of issues.

20

And you've got a 24 hour-7 day a week roster to annoy them if you want to?---Yes, absolutely. Mr Coyne seemed to be doing some of that. Those issues, it seemed to me, they were what I went to Allan Pettigrew about. That was why I cautioned him about not adopting an inquisitorial approach to this but treating it as an administrative review, which is a thing that we would understand the difference. And then it got conflated with other things.

30

MR COPLEY: Can we talk about now the discussions that you alluded to before - - -?---Yes.

- - - wherein you seemed to be saying that the prospect of appointing Mr Heiner or someone like him was a matter you raised or you talked to Allan Pettigrew about. Now, is that true - - -?---Yes.

40

- - - that you did have discussions with him about - - -?
---Yes.

- - - who'd do the review - inquisition inquiry?---Yes, I did, Mr Copley.

Okay. Was Mr Heiner's the first and only name - - -? 1
---No.

- - - he suggested to you?---No. It was the only name he suggested to me.

Right, well - - -?---When we had the - - -

Let's talk about how you reacted when he made the suggestion, but first of all tell us what month or what date, if you remember, he made the suggestion to you?---I don't remember the date. 10

Okay, you don't remember the date. Was it a face-to-face meeting or a telephone call?---Okay. There were two conversations between Allan Pettigrew and I about the sort of person who should do this.

Yes?---And it was related to me saying to him very clearly, "Do not adopt approach which seeks to apportion blame - - -"

Yes?---"- - - to each and every incident. That will take us nowhere. This is about culture, behaviours and a style of management which is inappropriate," et cetera. And I said to him, "For example, I think the sort of person who would do a very good job doing this would be David Hayden. David - - -" 20

Now, who's he?---Okay. David Hayden was - he's passed from this earth now. He was a great man - he was then the general manager of the Wacol correctional centre. He had been a special advisor to the Kennedy commission of inquiry into prisons. David Hayden was a man who had spent his career in the correctional service. He'd come up from a correctional officer - - - 30

All right, that's probably enough to give us an idea about him?---And he was a man from - well, the reason I cited him as an example is he was a man familiar with the cultures and behaviours of 24-7 institutions, particularly custodial ones.

How did Allan Pettigrew react to that suggestion?---Yes. He reacted very pleased. He said, "Yeah, yeah, that's the sort of - yeah, absolutely. Good idea."

Right?---And the other thing was David Hayden has also been a member of the executive of the State Service Union and a vice president of the union; very acceptable to the union. 40

Yes, okay?---Acceptable to all sides.

So it would have been good from the union's point of view to have a person acceptable to the union do the inquiry?
---Yes.

24/1/13

WALKER, J. XN

Right?---And he had credibility all around the place. 1

Okay?---Allan rang me and said - some time later, a couple of weeks later - he said, "Janine, I've spoken to Keith Hamberger at corrections. They won't release Dave Hayden." And of course JOYC was just next door to Wacol. You know, Dave was just up the road. He said, "They're sick and tired of everyone wanting Dave to go and do this job and that job and he's general manager of a big centre, he's" - you know, can't release him. I said, "That's a big pity, Allan, but we need someone like that." Now, I can't recall - it wouldn't have been in that phone call - maybe it was. 10
I don't recall whether this was two separate phone calls. Again, remember, Mr Copley, this was a pretty tumultuous time.

Well, look, you don't - it would be faster if you just gave me an answer - - -?---Well, if you want an answer - - -

We're not engaging on a personal level here?---No.

I'm just asking you questions and getting an answer?---And I'm giving you the information Mr Copley. If you don't like how I'm giving it perhaps we're not going anywhere. 20
Anyway, Allan Pettigrew - - -

You're here to answer - look, ma'am, with respect, you're here just to answer the questions, okay?---Allan Pettigrew said to me - he rang - maybe this was a separate phone call - he said, "I've got just the person." He was a very friendly bloke. He said, "I've got just the person." He said, "A good mate of mine, he's just retiring as a magistrate, he's been" - you know, in the Magistrates Court, wherever. He said, "I reckon he'd do a great job; Noel Heiner." And I recall absolutely clearly, I said to him, "Allan, I don't believe" - with respect to all you assembled - "I do not believe a lawyer is the way to progress." 30

Now, did you know the man, Noel Heiner?---No, I didn't.

Okay?---I was talking about the sort of approach - - -

Yes, I understand?--- - - - and I find it unlikely that a retiring magistrate is going to have the skills and the insights and the knowledge to appreciate the issues that were around and is very likely to pursue what will come naturally to a person who's worked in a forensic environment - - - 40

Well, how did Allan Pettigrew relate - - -?--- - - - an inquisitorial approach.

- - - to your lack of enthusiasm for him?---"Oh, Janine, yes." No, he said, "Look, I can't find anyone. This is all very difficult." And this is where I sort of think about it, I think I said, "Oh well, if that's what you're going to do, Allan, that's what you're going to do." But he said, "Look, I've told him what your concerns are. He understands that. He's not going to do an inquisitorial thing." He gave me lots of reassurances - - -

1

Yes?--- - - -and he went ahead and it was kind of - and that's the basis on which I wrote and said, "Here's the complaints, and off you go." But I was also very preoccupied with a lot of other matters, Mr Copley.

10

All right. Did Mr Pettigrew consult with you concerning the terms of reference for Mr Heiner's review or investigation?---No.

No? Not at all?---No.

Okay, thank you.

COMMISSIONER: Did anyone think about what powers Mr Heiner should have?---Mr Carmody, how I wish I had. No. And that's why - notwithstanding Mr Copley's boredom with this - the context of the time matters. We were really - this was a pretty small matter in the union office compared with other things that were happening. And yes, in hindsight a lot more attention should have been paid to that.

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MR COPLEY: Now, could you have a look at exhibit 85, please. It doesn't bear your signature but it bears a signature of P.S. Ashton, apparently acting general secretary?---He was my deputy.

30

Okay. So was that person performing your functions at around this time?---I was at the ALP.

All right. Okay, we'll have that taken back now.

COMMISSIONER: Sorry, can I just interrupt, please, Mr Copley?

MR COPLEY: Yes.

COMMISSIONER: Ms Walker, or does anyone else need or want a break at this stage? No? All right, we'll proceed.

40

MR COPLEY: Thank you. Just excuse me, Mr Commissioner, for a moment.

COMMISSIONER: Sure.

MR COPLEY: I'd like you to look at exhibit 125, please. I'll let you peruse it first?---Yes. 1

It says that you were present at that meeting?---Yes.

Do you remember the meeting?---Yes, sort of.

Mrs Ball was a person known to you?---Yes.

It appears as though Mrs Ball compiled this memorandum or summation of the contents of the meeting?---She was one of my staff, yes. 10

After she made up this document did she ever give it to you to read to see if it was an accurate reflection of the discussions?---I'm not sure, Mr Copley. Very possibly she did, but certainly the document is unremarkable and consistent with my recollection of events, yes.

Do you do have a recollection of the subjects discussed in this meeting?---Yes. It wasn't the first conversation I'd had with Ruth Matchett about this.

No. Well, certainly by 19 January it seems that you were told that there was as belief in the department that there had been no power to appoint Mr Heiner and that it was Ms Matchett's view that the inquiry being not legally constituted should therefore be ended as soon as possible? ---She had told me that previously informally. 20

You make reference in your statement to attending a barbecue in early 1990?---Yes, some time then.

First of all, can you say whether it was before or after the meeting on 19 January?---It was before that meeting. 30

Do you remember the date of the barbecue?---No, I don't.

Where did the barbecue occur?---It occurred at the home of a mutual friend of ours.

Who was?---Ms Caroline Mason and her husband.

Were there a lot of people there or just a handful of you? ---Look, it was not a lot of people. It wasn't a large event. It was, you know, a group of friends, probably a Sunday afternoon, you know, usual stuff. 40

In your statement you say at paragraph 15, and you can open it up if you want, that when you were at the barbecue at Ms Mason's you were approached by Ms Matchett and a conversation followed. First of all, do you recall whether anybody else was present for the conversation?---No, I don't think so, Mr Copley. No, I don't.

Okay?---No, I think it was one of those, you know, in the kitchen getting a drink conversations. 1

Do the contents of paragraph 15 represent your best recollection now of the conversation?---Yes. Yes, it does. My words might have been a bit more colourful than that but it was along those lines, yes.

Well, your response was effectively to say it wasn't your problem?---I don't own this problem, yes.

I know you don't own it, but is that what you would have said to her?---Yes, absolutely. 10

Those words or something to that effect?---Yes, and I said it to numerous people numerous times over the years later. "Don't look at me."

Okay, and - - -?---"If you weren't competent enough to set this thing up properly - - -"

Sorry, what?---"If you weren't competent enough to set this thing up properly don't look at me." 20

Well, that's just a remark generally, is it?---Yes, that's right.

Yes, okay. In the - - -

COMMISSIONER: That's reflective of your attitude to it all?---Well, my attitude - I'm not flippant, Mr Carmody.

No?---This is a serious matter and I do reflect from time to time that if October and November of 1989 had not been the times they were we would have perhaps objected to Mr Heiner more strongly and tried to head off an inquisitorial approach that I think got us into strife. We would have reviewed terms of - I would have personally engaged on terms of reference more strongly. You know, you look back and there were so many things on my desk at that time of public service wide concerns and moments - and then in November I was completely out of the union and deliberately and appropriately separate from the activities of the union, because the union was not affiliated to the Australian Labor Party. I took recreation leave from the union for four weeks to work on the ALP campaign and that was a personal activity which I was conscious to keep separate. So I did no union business in that time, which is why Peter Ashton was signing correspondence. So, you know, in hindsight, could some of those things have been looked at better and I think about that, yes, they could have, but when these things started to unfold, Mr Copley, in January, and Ruth Matchett's concerns, et cetera, I said - look, this was very incompetently done by the old government, very incompetent, but, you know, "Don't come saying to me I've caused you a problem." 30 40

24/1/13

WALKER, J. XN

MR COPLEY: Thinking back now - and we have to ask people like you this question because Mr Pettigrew is dead?---Yes, he is. 1

When Mr Pettigrew was engaged in the process of devising his inquiry or review or whatever one would like to call it, did he say anything to you at any time about whether he had sought advice from lawyers about how it might be constituted?---No, he did not, Mr Copley.

All right, thank you. Now, getting back to paragraph 15 - - -?---I assumed Mr Pettigrew knew how to do that sort of thing. 10

Okay, but, see, that - look, I'm not asking you to justify why he didn't say it?---Yes. No, all right.

I'm just asking you a question?---That's all right.

Okay, so once the - - -

COMMISSIONER: But what about the union itself?

MR COPLEY: If you answer the question you will get out of there faster?---You invited me to the party, Mr Copley. 20

COMMISSIONER: Sorry, what about the union itself? Did it take legal advice as to how to best achieve its objective in getting this administrative inquiry off the ground and to protect the members that you were careful to protect, which is why with Pettigrew you said, "You set it up. I'll tell you if we'll come to that party." He set it up, you came to the party?---Yes.

Did you check with your own lawyers to see, before you went to the party, that it was worth going to and it was going to protect your members as you intended?---No, Mr Carmody, we didn't, because the sort of review - and I prefer that term, because that was what I was asking for. 30

Yes, a review, not an investigation?---Yes, and that was the point I kept making to Mr Pettigrew, we wanted a review, not an investigation, and that is a pretty mainstream process within a large apparatus like a public service. In the days when the Public Service Board existed and Cole Thatcher, who was in the department there at the time - he's mentioned in one of those meeting notes. He was the deputy director-general. He was a former senior official of the Public Service Board. When they existed that body had people called public service inspectors. A routine piece of business for them would be to come in and do a review like that. That was what they did. To do that sort of review, Mr Carmody, it wouldn't have occurred to me that I needed legal advice about that. That's everyday business in a body like that. People like Cole Thatcher knew how to do that sort of work. 40

24/1/13

WALKER, J. XN

But what about - okay, I sort of understand the departmental review and the internal reviews?---Yes. 1

They happen all the time?---Yes, that's right.

Nobody thinks about protecting themselves against defamation or this sort of stuff, however in the setting of a correctional facility for children - well, no, that's not correct - of the John Oxley Youth Centre, and the nature of the allegations that were being made and the fact that we know that there were rival groups within the workforce there and there was a manager whose approach was either loved or hated, the chances of one or other of those groups, you know, firing off shots in anger and making personal attacks against each other was pretty high, wasn't it?---Yes. 10

So wasn't your routine review - even if you wanted to keep it as that, the chances were it was never going to be like the routine departmental internal review of proceedings and practices and processes, was it?---Well, the answer to that, Mr Carmody, is yes and no. Would it have been a review at the high end of intensity in terms of personal interactions, yes, it would, but had we had reviews like that in the past - and remember, we were a union that represented correctional facilities, et cetera. We'd experienced that before and those things get managed effectively. In hindsight, you know, this one - you know, I mean, I won't bore you with my views about why I think it all got off the rails because of a conflation of things that shouldn't have been joined together, but, yes, you're right. Was this going to get intense and people were going to sling accusations across the fence, but we'd been through this before? We'd managed disputes in Boggo Road Prison. We managed the closure of Boggo Road Prison and the privatisation of correctional facilities where, you know, things - feelings ran very high between management and staff and between staff and staff and, you know, experienced union officials and experienced bureaucrats can usually manage their way through that. 20 30

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How did you manage a situation like that when I wanted to know what you were saying about me to someone else?---I would say to you that - say, you were a member of mine and we were managing a bundle of complaints about you and you said to me, "Right. Well, I'm a member of the union too. I want to know what's going on."

1

Yes?---We would have a separate officer of the union represent your interests. The union's job is not to - is to argue the case and present the information, not to form its own personal view mostly about the rights and wrongs of some of that.

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So you would have had separate representation of conflicting interests?---Yes, but Mr Coyne was a member of another union, but if Mr Coyne had been our member, I would've probably asked someone like Peter Ashton to look after his interests.

And he would have got told who was saying what about him as a result of that?---Yes; yes; yes, we would've said to him, "No" - I would've said to him, "No, I'm not telling you what's in that, Peter. We'll arrange for you to be represented appropriately by another union officer," and unions do manage Chinese walls and surprisingly at times pretty effectively.

20

But the government had a process for information exchange as well as part of its departmental manual?---Yes; yes; yes.

And, as you say, Mr Coyne had his own representative? ---Yes.

That was the Professional Officers Association?---That's right, yes.

30

MR COPLEY: How did the Queensland State Service Union and the POA get on around that time?---They got on pretty well. I mean, I was previously an official of the POA some decade before I worked at the State Service Union. I knew the people there and in not terribly long, a few years after that, the two unions amalgamated.

So tell me this: when did they - - -?---Amalgamate?

When did the POA get formed?---The POA of which Peter Coyne's father was a former general secretary - the POA went back to - goodness, look, offhand I didn't bring the manual, Mr Copley, but it's a very old organisation.

40

Are you sure about that, his father being the former general secretary?---I think so.

Was there a man named Pat Coyne who was head of the POA? ---Yes; yes; yes.

24/1/13

WALKER, J. XN

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Pat Coyne?---Yes.

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Does that ring a bell?---Yes.

Now, do you know whether Mr Coyne's father was in father Patrick Coyne?---I'm not certain. That was an assumption. I think someone told me that once.

That's why I just - - -?---It didn't matter much to me but - - -

Well, it might matter to us?---Yes, okay.

10

That's why I just wanted to clarify?---I don't know for a matter of fact, Mr Copley.

Okay, thank you?---It was a generally held understanding.

COMMISSIONER: Do you know, Mr Copley?

MR COPLEY: I might, but I can't give evidence?---Well, there you go, Mr Copley. Send me a note later and let me know. It was a common - there was common - - -

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COMMISSIONER: That was a common perception?---Yes; yes; yes, didn't matter.

I get blamed for other people's parents as well?---That's right; that's right. Who knows whether it was true or not. It didn't matter.

MR COPLEY: All right. Now, you went on some leave from the union to help on the ALP election thing?---Yes.

But you must - - -?---It wasn't an election thing. It was an election campaign.

30

You must have been back by 23 January 1990?---I was back on 4 December. I was back as soon as the government was elected.

All right. I will just get you to look at exhibit 127 because it looks as though you may have signed it. We will just see if you can confirm that. That's your signature, isn't it?---Yes.

And it's a letter to Ms Matchett?---To Ruth, yes.

40

Concerning issues at John Oxley about what was something other than the Heiner matter, namely, staffing levels?
---Mm.

Okay?---Again that's clearly written by Sharon Ball.

Yes, well, her name is at the top left?---Yes.

24/1/13

WALKER, J. XN

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Yes?---That looks to me to be unrelated to the Heiner matter. 1

Now, were you aware of Mrs Ball going to a meeting with Brian Mann that occurred with Mrs Matchett that involved only officials of the State Service Union?---With that level of detail, no, but would such meetings take place? Yes.

Okay?---With the director-general there'd usually be a more senior officer there. 10

All right. Could you look at exhibit 137, please? That is a memo that you signed, isn't it?---Yes.

Thank you. That can be returned. Now, the last thing I want to show you is exhibit 204 - sorry, it's not an exhibit yet, Mr Commissioner. It might be soon.

I will show you this document, please. It seems to be addressed to Janine?---Mm.

Do you recognise any signature or initials at the bottom? ---No. 20

Okay. Can you read it to yourself?---Yes.

It seems to be dealing with the return to the union of documents the union had given to the government?---Mm'hm.

Do you recall receiving and reading that memo years ago? ---I don't specifically recall, but I do remember that we followed that process of returning documents, yes, but that specific handwritten memo which I think has been written by Laurie Gillespie I don't specifically recall. 30

So you think that he was the author of it?---The language looks like his. You can usually pick Laurie's material.

Is there a signature at the bottom?---I think that might be his.

All right?---It's been a long time since - - -

We might just have that back now, thank you?---Yes, a long time since, but I think that's Laurie Gillespie.

All right. I have no further questions of the witness, Mr Commissioner. 40

COMMISSIONER: Thanks, Mr Copley. Are you ready to ask any questions that you want, Mr Selfridge?

MR SELFRIDGE: No questions for this witness, Mr Commissioner.

COMMISSIONER: Mr Harris has left the room. Mr Lindeberg, do you have questions here that you want to ask? 1

MR LINDEBERG: Yes, commissioner, I do have quite a series of questions.

COMMISSIONER: Right.

MR LINDEBERG: May I ask if that last item of evidence that was shown to Mrs Walker - is that going to be made an exhibit? 10

MR COPLEY: It may be in the fullness of time, depending on satisfactory identification of it.

COMMISSIONER: Right. Do you want to mark it for identification? Do you want to use it, Mr Lindeberg?

MR LINDEBERG: I may, Mr Commissioner.

COMMISSIONER: Have you seen it?

MR LINDEBERG: No. To my knowledge, I think it hasn't been tendered. 20

MR COPLEY: It hasn't been tendered.

COMMISSIONER: No, all right. Just show Mr Lindeberg in case he wants to ask Ms Walker some questions about it.

MR COPLEY: All right. Will I hand it up to be marked first for identification?

COMMISSIONER: I will mark it for identification.

MR COPLEY: All right. 30

COMMISSIONER: It will be MFI 4.

ADMITTED AND MARKED: "MFI 4"

COMMISSIONER: Would you show it to Mr Lindeberg now, thanks? 40

MR LINDEBERG: Can I just, Mr Commissioner, look at it for a moment before I have to start - - - 1

COMMISSIONER: Yes, that's what I say, I'll let you have a look. How about you, Ms Walker, do you want a break yet, or not?---No, I'm fine.

MR LINDEBERG: I may want to use this but it will be near the end.

COMMISSIONER: All right. 10

MR LINDEBERG: Good morning, Ms Walker?---Mr Lindeberg.

COMMISSIONER: I assume you two know each other?---We do.

MR LINDEBERG: With respect, I don't know whether that's - depends what - I don't know Ms Walker that well.

COMMISSIONER: Okay.

MR LINDEBERG: Because I think I've met her twice, three times in my industrial life - - - 20

COMMISSIONER: Okay, but you are previously known to each other.

MR LINDEBERG: Yes, even - - -

COMMISSIONER: It's not the first time you met.

MR LINDEBERG: No. If it please you.

COMMISSIONER: Excellent.

MR LINDEBERG: Mrs Walker, can I ask you in respect of - you introduced yourself as a director of human resource management Griffith University and an adjunct professor in the university's business school. What does that actually entail, please? 30

MR COPLEY: Well, my submission is it's irrelevant.

COMMISSIONER: I think it might - - -

MR COPLEY: - - - put to the witness that she's not what she says she is, it's just irrelevant. 40

MR LINDEBERG: I just make the point that Mrs Walker has considerable experience in human resources and management of people and - - -

COMMISSIONER: All right.

MR LINDEBERG: - - - how paperwork should be handled and that type of - that is essentially - - -

24/1/13

WALKER, J. XXN

COMMISSIONER: Can we take that as being true? 1

MR LINDEBERG: I'll put that question to you?---40-odd years of it, Mr Carmody.

COMMISSIONER: I'll take notice of that. I'll assume that.

MR LINDEBERG: I just want you to take note that - - -

COMMISSIONER: Yes, I accept it. 10

MR LINDEBERG: - - - that's the point I'm trying to get to.

COMMISSIONER: It's an uncontroversial fact.

MR LINDEBERG: Mrs Walker, I also want to just go to point 17. You said, "I spent" - we've heard many times this morning it was a very busy time of year, a very busy time in Queensland history. You say, "I spent most of November of 1989 in ALP headquarters at Peel Street." What are we to take from that? Does that mean that you were an ALP member? 20
---Absolutely.

MR COPLEY: Well, the question - she said December.

COMMISSIONER: Yes.

MR LINDEBERG: Well, sorry?---Yes.

You were ALP - - -?---That would be a matter of public record, Mr Lindeberg. I was a candidate for the Labor Party twice. 30

I just wanted it on the - so it is on - yes - - -?---Yes, absolutely.

COMMISSIONER: Just while we're contextualising people and their relationships, for the members of the public who may not be aware, when you had your position with the Public Service Union, Ms Walker, you, Mr Lindeberg, had a similar role in the Professional Officers Association. Is that right?

MR LINDEBERG: That's true. I was an organiser and - that's true, so - - - 40

COMMISSIONER: So differing ends representing different members and interests and normally - usually, traditionally did so without much tension between the two.

MR LINDEBERG: I wouldn't agree with that.

COMMISSIONER: You wouldn't agree with that. Okay?---I would. 1

Yes, all right. Well, I don't want to create unnecessary dispute - - -

MR LINDEBERG: Only insofar - - -

COMMISSIONER: - - - or debate, but we'll just leave it at the fact that you were an organiser in a different union to Ms Walker and you represented sometimes people who worked in the same institution such as the John Oxley Centre in 1989. 10

MR LINDEBERG: One, just, little rider, Commissioner, and that is that the POA was limited in its calling; the State Service Union could have certain members, if professional person wanted to join the POA, they could; we couldn't take certain members that weren't - - -

COMMISSIONER: Righto. So to be a member of your union you had to be a professional, which was defined as what as compared with what? 20

MR LINDEBERG: I suppose essentially somebody with a degree, you might say, to put it in simplistic terms?---No, that's not right.

COMMISSIONER: Ms Walker disagrees with that definition.

MR LINDEBERG: I'm happy for her - - -

COMMISSIONER: I'm going to let it - I'm going to find out?---The cause of the Professional Officers Association extended across professional and technical members of the public service and Crown employees and employees of - under certain state government acts, so the POA had many technical staff, people whose qualifications were diplomas, associate diplomas, et cetera, right through, it wasn't necessarily a degree, there were many people - - - 30

So a higher qualification?---Well, they had some form of professional or technical qualification. It was governed by a list of callings. The State Service Union's membership was anyone employed in the public services, so you could be a member of the State Service Union if you were employed in the public servers but you couldn't be a member of the POA unless you were employed in certain organisations and felt within a registered list of callings. 40

And normally those callings were professional, which were - - -?---Professional and technical.

Yes?---They were big technical memberships.

Okay. But what characterised and distinguished those was normally you needed a qualification or a piece of paper - - -?---Yes. 1

- - - to get into that calling?---Yes.

Okay. Are we happy with that?

MR LINDEBERG: I thought that's what I said, but I readily accept that.

COMMISSIONER: Right. 10

MR LINDEBERG: Now, can I go to point 10 of your statement just to reiterate again at the bottom line, the bottom final sentence you say:

I was informed by Mr Pettigrew that he had a retiring magistrate who was a mate who would be available to do the job.

Mr Pettigrew was the one who said that he was a mate? ---Yes, he said he was a mate of his, a friend of his. 20

But you didn't know that before he made that the commission?

---No, I didn't know who Mr Heiner was. I didn't know anything about this time.

That's okay, thank you very much.

COMMISSIONER: "Admission" is a bit pejorative, Mr Lindeberg. "Admission" sounds like it's something wrong. Is there anything wrong? Are you suggesting anything is wrong with it? 30

MR LINDEBERG: Well, I don't want to advise it at this point in time.

MR COPLEY: Well, if he is he can't make the suggestion to this witness to comment on, presumably.

COMMISSIONER: No. Yes.

MR COPLEY: The gentleman he could make the suggestion to his dead, as is the other gentleman, so - - -

COMMISSIONER: All right, we'll leave it at that. 40

MR COPLEY: - - - it's really a matter that - be difficult to see how he could progress it at the moment with this witness.

MR LINDEBERG: Yes, sir. I just wanted to establish that.

COMMISSIONER: Yes, all right. But anyway, let me just understand, that your use of the word admission was advised. You chose that were deliberately. 1

MR LINDEBERG: That is that it was Mr Pettigrew told - - -

COMMISSIONER: Who admitted - - -

MR LINDEBERG: That Ms Walker did not understand it from other sources - - -

COMMISSIONER: Sources. 10

MR LINDEBERG: - - - that they were made. That's the point I'm just trying to make.

COMMISSIONER: Until is the Pettigrew admitted it.

MR LINDEBERG: That's right.

COMMISSIONER: And you chose to use the word "admitted" over another word deliberately.

MR LINDEBERG: If I did, I apologise. 20

COMMISSIONER: No, I'm not - it's not a matter of having to be sorry for it, I just want to know if you meant admission as opposed to some other more neutral term.

MR LINDEBERG: I see.

COMMISSIONER: Less provocative term.

MR LINDEBERG: Well, sorry, it may have been a bit strong in the sense that in part of the conversation he said, "I know - - -"?---He offered the comment by way of shoring may he was a good guy and do a great job. 30

COMMISSIONER: Okay.

MR LINDEBERG: At point 12 of your submission you say you gathered the letters of complaint, you read them, and that it was the usual stuff that went on at the centre. Is that correct?---Yes, it was consistent with the issues that had been first raised with me by our members.

Okay. And then at point 19 you say that, "The claim material about child sexual abuse was sent to Heiner." You're saying that - if I'm reading correctly here, I don't want any - - - 40

MR COPLEY: You'd better read the sentence correctly.

MR LINDEBERG: Just bear with me a moment. Let me be clear, I'm just trying to - just give me a pause, Mr Commissioner, I just want to get the point. Point 19, you say:

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I am aware of media reporting later that claim material about child sexual abuse was sent to Heiner and I can say that I definitely did not see anything of this nature in the statements and submissions that came through our union.

Is that correct?---Yes.

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In what media was that said?---I can't recall over 20 years-odd exactly where I read or heard that. It seems to have been part of the public commentary about the Heiner inquiry.

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In more recent times?---Mr Lindeberg, of recent times I read nothing in the press about the Heiner inquiry.

I beg your - I couldn't hear you, Mrs Walker. Would you repeat that?---I don't read the press about the Heiner inquiry, Mr Lindeberg. I don't read The Courier Mail very often.

10

May I allow the witness to have a look at an article from The Australian dated 13 October to read - - -

COMMISSIONER: Well, I don't know. You will have to tell me your purpose.

MR LINDEBERG: Inasmuch as she refers to the media and she has made comment in the media about certain matters that went to the Heiner affair.

COMMISSIONER: All right.

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MR LINDEBERG: That's what I'm trying to - - -

COMMISSIONER: So what you do is instead of showing Ms Walker the bit of paper you just say, "Did you say this in The Australian?" and put - - -

MR LINDEBERG: I'll put it to you then. There is an article in The Australian - - -

COMMISSIONER: No, don't tell her the source, just say - - -

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MR LINDEBERG: Did you say this, "There was some very unhappy staff. I never saw a word about child abuse. I never heard it mentioned. It never came up." Do you recall saying those words?---I don't recall it specifically because I don't know when or where, but would I have said that, absolutely. Do I continue to hold that view, yes, I do.

Let me be clear with what you said. "I never saw a word about child abuse"?---Correct.

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Not child sexual abuse, child abuse?---Correct.

COMMISSIONER: You're suggesting that that was said when, Mr Lindeberg?

MR LINDEBERG: It's a - - -

COMMISSIONER: Reported when? 1

MR LINDEBERG: It's a quote from The Australian on 13 October 2007.

COMMISSIONER: Does that help with the - - -?
---Mr Carmody, I can't remember being contacted by The Australian about this matter. Every now and again someone rings my phone or something about the Heiner matter. That is my view. I would have expressed it then, I would express it now.

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So the view reported to be held by you around that time is consistent with the view you actually held?---Yes.

Thank you.

MR LINDEBERG: May the witness look at an exhibit in respect of the letters that were tendered to Mr Heiner, please?

MR COPLEY: You need to tell us the number.

MR LINDEBERG: I ask you to - well, excuse me, when you say "number" I don't know - I'm not sure whether it's tendered, although I thought I just saw it. 20

MR COPLEY: Mr Lindeberg might be looking for exhibit 88.

COMMISSIONER: Would you show Mr Lindeberg exhibit 88, please?

MR LINDEBERG: Thank you very much, commissioner. Yes, it is exhibit 88. Could the witness see exhibit 88, please? Would the witness take particular note of the one that is unsigned and read what is said there, please?---Yes.
"Reports of use of handcuffs as a restraint, chains used to attach a child to a bed, handcuffed to permanent fixtures, medication to subdue violent behaviour, resident child attached to swimming pool fence for a whole night or inappropriate management."

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You said before you looked at the complaints before you handed them over?---I looked at them. I didn't particularly note that, but they're - well, that's dated 29 November 1989, Mr Lindeberg. I wouldn't have seen that because I wasn't in the union at the time. 29 November, I wasn't there. I was (indistinct).

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But the complaints were handed over before that?---Well, that document is - - -

You sent the letter with the complaints?---That document is dated 29 November.

24/1/13

WALKER, J. XXN

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I appreciate that, but that's - well - - -?---I don't know that all the complaints were all handed over at the same time and only once.

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Having seen that complaint does that alter your view in respect to what you said publicly?---Yes, but I've never seen that document.

Sorry, would you say that again, please? Does it alter your view?---Now that I see it, but this is the first time I've seen it and the date would indicate why I haven't seen it.

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Thank you.

COMMISSIONER: So just to clarify that, if you had seen that document before you made the comment in the newspaper that we just referred to you would have chosen different words?---I probably would, but - yes.

Back at that time, whenever the date of that article was, had you seen the reference in that exhibit?---No. No, not in the documents I ever saw at the State Service Union, but I had become aware over the years that those sort of allegations were part and parcel of this discussion about Heiner. But had I seen that in documents at the State Service Union, no, I had not, and the date on that would tell you why I had not.

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What is the date, for my benefit?---29 November 1989.

So it was after the - - -?---Just before the election, the week before the election.

I see, so - right?---I wasn't in that building and I was, for very appropriate reasons, not conducting any union business.

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So in any event, the article in the newspaper in which you said it wasn't about child abuse was something you genuinely - a view you held?---Yes.

Genuinely, at that stage, based on the information you had? ---Yes.

All right, and it's since changed over time?---Well, I've heard people discuss this. This is the first time I've seen this document.

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MR LINDEBERG: Ms Walker, can I then take you to your statement at point 22 when you say this. You briefed - I'll read it. "I recall that I would also have briefed the senior executive of the union on what was alleged to be happening at John Oxley and what action I had taken on

behalf of members of the union." You go on, "I recall there was some information around handcuffing of children." Now, you were briefing the union executive. This is before you went off to the ALP. You were telling them about handcuffing of children?---Look, Mr Lindeberg, I don't - let me be clear about this. The union executive met once a week, every week. I attended those meetings every week and there would be an agenda item for reports on current activity and I would have kept the executive updated about these matters. There's some vague recollection that there was something about the handcuffing of children. We were focused on the management treatment of our staff and that was - those were the matters that we were taking action on. Those were the matters on which we were seeking an inquiry. There's some vague recollection in relation to that matter. It wasn't within my purview. I was not thinking about it, focused on it. I was focused on the industrial issues that were affecting my members.

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Well, perhaps I'll come to that. Okay, I'll move on. Ms Walker, as an experienced industrial practitioner would you accept as a general principle that government should obey the law and not act in arbitrary ways?

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MR COPLEY: The witness is being asked for an opinion. Her opinion is irrelevant.

COMMISSIONER: Yes, and I don't think - - -?---Many people have found that, Mr Copley.

I don't think recognised experience qualifies her to express the opinion you're after, but can we take it as read that most people would accept that proposition?

MR LINDEBERG: Thank you very much.

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Ms Walker, did you ever contemplate, or did you ever think at the time that you handed over these private records, the documents of complaints, to Mr Heiner, did you ever think that that changed their status in relation - changing them to be public records?

MR COPLEY: Well, again, he's asking the witness to perhaps draw a legal conclusion.

COMMISSIONER: Yes, but I think he's asking for her opinion about it, and I think what she thought as to whether it changed the status - now, what does it matter what Ms Walker thought at the time? If she didn't think what you suggest she says, well, so what?

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MR LINDEBERG: The claim is that these documents should not be widely circulated.

COMMISSIONER: Right.

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MR LINDEBERG: I think it's been admitted that they would go to Mr Heiner or the person - otherwise, what's the point? 1

COMMISSIONER: So did you think that - so you want to ask did Mrs Walker think by giving over the documents that they then became more widely available than her members wanted because they had become public somehow.

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MR COPLEY: The question is premised on something to do with the Libraries and Archives Act. 1

COMMISSIONER: Yes, I know.

MR COPLEY: It's not public in the general adjectival sense.

COMMISSIONER: Is that right?

MR LINDEBERG: I'm sorry, yes, I am talking about section 5(1) of the Libraries and Archives Act. 10

COMMISSIONER: Did you think about 5(1) of the Archives Act?

---No.

No, there we go.

MR LINDEBERG: Just to clarify, as an industrial officer, you dealt with the public service. Are you suggesting that the thought never came to you that when you're dealing with public servants, the documents that they handle have a legal status about them?---Mr Lindeberg, what I was doing was trying to get a job done competently for my members, for the people who employ me to represent their interests, and we were doing business in the way in which business has been done between unions and public service employers on many occasions leading to very satisfactory outcomes for both staff and management. I was dealing with experienced public servants in particularly the presence of Col Thatcher in that department who was a former public service - senior member of the Public Service Board. I did not turn my mind to issues like that. I turned my mind to how competently the matters that were causing significant distress to my members would be approached and resolved. I was focused on doing business as we had done business many times before. 20 30

But you were dealing with government?---Yes, dealing with government. I've dealt with governments of every political persuasion.

I understand that; I understand that?---Successfully.

But governments act under the restraints of the law, don't they?---Yes, absolutely, and so did we as unions. 40

And they act under the restraint of the Libraries and Archives Act, don't they?---Indeed they do.

COMMISSIONER: Now, Mr Lindeberg, we're going into legal expertise areas here. Let's accept that government statutes govern governments as well as people?---As does my own - the organisation I currently work for.

MR LINDEBERG: Indeed, I appreciate that.

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COMMISSIONER: So there is no need to establish self-evident facts.

MR LINDEBERG: Did the thought ever come to your mind that the documents might be open to a claim under the Public Service Management and Employment Act under certain regulation when you handed over the documents?---I don't recall turning my mind to that question. I was focused on the resolution of the problems.

10

But you're an experienced industrial officer?---I've been in this game a long time, Mr Lindeberg.

I'm sorry, I can't hear you?---I've been in this game a very long time.

That's the point?---Mm.

That's the point. You've been in it a long time and you didn't turn your mind to that?---I'm fully aware that from time to time there are risks and matters to be managed, but, no, I did not turn my mind to that particular; no.

20

All right, thank you. Are you aware of the Public Service Management and Employment Act and regulation 65?---Not right at the moment; not top of mind, no.

Do you recall the Public Service Management and Employment Act and regulations?---Absolutely, yes.

Thank you. Would you look at exhibit 135, please? Could the witness have a look at exhibit 135?

COMMISSIONER: Sure?---Yes, thank you.

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MR LINDEBERG: Now, I know that you weren't there, but I think it has been - I think you have accepted that you would have read that letter?---I don't recall reading it. The contents of it are matters of which I was generally aware. 6 February 1990 I would've been doing some other things probably.

Can you read the first paragraph where it says "Ms Matchett indicated that she - - -"?---"Still didn't want us to tell our members that the inquiry - - -"

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No, that's not what I'm saying?---Which one?

The very first paragraph?---She called us - being POA's, we stood on different ground, yes.

Did you understand what the different grounds were?---Yes.

Can you explain?---The Queensland Professional Officers Association were representing their member Mr Coyne. 1

Is that it?---Well, the two unions had different interests. Their members had different interests, Mr Lindeberg, and Ms Matchett met with people separately. I don't find that remarkable.

But isn't the issue in relation to what they are going to do with the Heiner inquiry documents?---Yes.

So the different grounds were that on one side - it might be thought one side was wanting to get rid of the documents, but certainly one side, the POA's, wanted to hold the documents. 10

MR COPLEY: The witness can't, with respect, answer that question because, for a start, she didn't author this document and, secondly, she didn't attend the meeting so she didn't hear what Mrs Matchett said and there has been no evidence established that she has any understanding about Mrs Matchett's attitude towards the QSSU, on the one hand, and the POA, on the other. 20

COMMISSIONER: Yes, that's right, Mr Lindeberg.

MR LINDEBERG: Could the witness, please, have a look at document 125, please?

Sorry, you have that?---Yes; yes, I have it, yes.

Sorry, I thought you were - do you recall that meeting?---I couldn't tell you what I was wearing that day, but would that meeting have taken place? Yes, I generally recall a meeting like that. 30

I'm sorry, I can't hear you?---I recall there was such a meeting. I don't have any great specific recall of it, but, yes, was there such a meeting? Yes, as I explained to Mr Carmody, I'd already had an informal discussion with Ms Matchett. That's my recollection.

Can I ask you to read the final paragraph, please?

---Ms Matchett replied she appreciated our concerns, remained supportive of resolving the staff issues at JOYC. However, pending further legal advice it was her intention to abandon the inquiry. It was further requested that this discussion be kept confidential until further legal advice was obtained. 40

Do you recall that meeting being - what do you understand by the word "confidential"?---Well, in our dealings - in a union's dealings with employers there are from time to time conversations that one doesn't immediately share with

membership. One enters into those sort of confidential arrangements with great caution. It's not a good place to be and it's usually on the basis that that information is going to be publicly available pretty quickly. You don't have private discussions with the boss that you're never going to share with the members. You get in trouble with that.

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COMMISSIONER: You apply the Courier-Mail test, do you?
---Well, you do, Mr Commissioner; you do.

MR LINDBERG: It's my recollection - I don't know whether you share my recollection - that is was an off-the-record meeting.

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MR COPLEY: Well, Mr Lindeberg can put to her, "Ms Walker, I put to you it was an off-the-record meeting," rather than constantly trying to give evidence.

MR LINDBERG: I put it to you that it was an off-the-record meeting?---Well, it may have been characterised that way, Mr Lindeberg, yes.

COMMISSIONER: Just for a hint, I guess, it's not the question that I work on. I don't take into account the question. I work on the basis of the answer. So if you ask a question that's rejected or accepted or clarified or qualified by a witness, I work on the qualification or the rejection. I don't work on the question as originally asked so it doesn't help if you add a bit of colour or flesh in your question. It doesn't get into evidence unless it is accepted fully by the witness which is why Mr Copley is saying your recollection doesn't matter. It is up to you to say, "Well, this is the situation, isn't it?" and where you get the information from I don't really care as long as it's a sufficient logical basis to make the suggestion to a witness.

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MR LINDBERG: Ms Walker, could you look at exhibit 151, please? Do you have that document?---Yes, I do.

Thank you. Can you see the title?---Yes.

What does it say, please?---"Restricted Cabinet Minute".

No, sorry, forgive me, further down it says "Provision of indemnity"?---Yes.

40

"The costs of legal action which may ensue the involvement of the investigation at the John Oxley Youth Centre"?
---Yes.

Now, can I go further onto that? It talks about consultation. Now, do you recall the incidence of consultation that took place with your union in respect of this matter before that date?---Of indemnifying Mr Heiner?

24/1/13

WALKER, J. XXN

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Yes?---No.

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You don't?---No.

Thank you?---Not with me anyway. Mr Gillespie perhaps, but not me.

I refer you to that earlier document, the one I think you will find - the one that you weren't attending. Notwithstanding you didn't write the cabinet document, there was that meeting, wasn't there, where the POA was excluded from it? Do you recall that?---Yes. Was I consulted? Was I as a representative - - -

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No, I'm not saying you personally, but your union?---Well, I have no knowledge of any conversation. The only other person that would've been consulted and thought by the government to speak on behalf of the union in relation to this matter would've been Mr Gillespie. I do not know if Mr Gillespie had such a conversation about indemnity for Mr Heiner. I did not have such a conversation on behalf of the union in relation to indemnity for Mr Heiner. Is that clear?

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That's okay, thank you very much. Mr Commissioner, I was going to make an assertion but I don't know whether it's proper for me to do so in the sense of saying from the POA perspective about consultation.

MR COPLEY: It's not proper to do so at all because the witness wasn't a member or a representative of the POA.

MR LINDEBERG: No, I wasn't putting it that way, but I will leave it go because I think it would be - - -

COMMISSIONER: It might be something for a submission rather than a question.

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MR LINDEBERG: Thank you. That's right. Thank you very much.

Now, under there you see the results of the consultation. What does it say, please?---"No specific objections have been raised to the proposed course of action."

As a result of a consultation with the Crown Solicitor and, according to this, consultation with State Service Union and the Queensland Professional Officers Association? ---That's what it says.

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Thank you. Could I ask you now to look at exhibit 141, please? What is that document?

MR COPLEY: I object to this. What the document is is to be garnered from the face of it. This witness didn't write it. He can ask her if she received it or has seen it. Until then nothing.

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MR LINDEBERG: Ms Walker, you will see that that is a document from Rosemary - - -

COMMISSIONER: No, just a second. Mrs Walker can read it and then the next question - you can't identify it unless she has got some connection with it.

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MR LINDEBERG: I see.

COMMISSIONER: What your next question ordinarily would be is, "Did you write, receive that document?" and then we will wait for the answer to determine where we go next.

MR LINDEBERG: Thank you.

Well, did you write, receive or - - -

COMMISSIONER: Write or receive that document.

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MR LINDEBERG: Did you write or receive that document?
---No.

COMMISSIONER: Now that document is surplus to requirements so that can be handed back. She has got no connection with the document unless you want to suggest otherwise. If you want to say she did write it or she did receive it, that's different, but she said, "No."

MR LINDEBERG: I'll put the question this way: at the time of early February you had no knowledge of any claim on those documents pursuant to regulation 65?---No.

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Thank you.

COMMISSIONER: Mr Lindeberg, if you have got a document or something that contradicts that, then you can use the document at that point, but if you haven't, that's the end.

MR LINDEBERG: No, I'm not taking it beyond that point, Mr Commissioner.

I'll put the question this way as a hypothetical:
Ms Walker, if you were to put a claim on public records pursuant to a regulation where you were seeking access to them, would you expect those documents to be held while that legal claim was finalised?

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MR COPLEY: I object to the question?---I have no idea. I would ring my solicitor.

It's been answered.

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COMMISSIONER: You are also surplus to requirements for that purpose, Mr Copley. The question has been asked and the answer has been given.

MR LINDEBERG: So you would ring a solicitor?---I'd take legal advice. I'm very experienced at this game, Mr Lindeberg. I know when to call lawyers and when not to bother. Most times I get it right.

I beg your pardon?---Most times I get that judgment right. I don't know the answer to that question. I would phone my lawyer.

10

Are you saying, Mrs Walker, that every time you read the Public Service Management and Employment Act you need to phone a lawyer?---No, I said - you pointed out earlier that I'm very experienced in this area and my point was I mostly know when I need to call a lawyer and when I don't and by and large mostly I get that judgment right. In relation to the matter you just raised, I would call my lawyer.

Let me put the question to - I think I'll repeat the question. I hope I'm doing it correctly. As an experienced industrial officer, if you were to have written a letter to the government seeking access to documents pursuant to a regulation, would you expect the government to not then shred the document?

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COMMISSIONER: No; no; no.

MR COPLEY: I object.

COMMISSIONER: Don't answer the question.

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MR LINDEBERG: Would you have expected them to reserve the documents.

COMMISSIONER: No, Mr Lindeberg, Ms Walker is a witness. What she would expect a government to do or not to do is irrelevant. The question for me is, "What did the government do?" and then, "Was that an appropriate, adequate response to historic child sexual abuse?"

MR LINDEBERG: Okay.

COMMISSIONER: I don't get any assistance from witnesses with that question.

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MR LINDEBERG: Okay.

COMMISSIONER: That, for better or worse, is entirely my own.

MR LINDEBERG: I take your point, Commissioner. Thank you very much. 1

It is true, is it not, Ms Walker, that you had significant numbers of youth workers at the John Oxley Youth Centre as members?---Yes, we did.

Do you recall the name of David Smith as a union delegate? ---No, I don't particularly.

I know it's a long time ago?---No; genuinely, Mr Lindeberg, no, I don't remember names. 10

Do you recall a gentleman by the name of Michael Roch who has been known in this or is an Englishman who had a commercial licence as a member?

COMMISSIONER: A commercial pilot's licence.

MR LINDEBERG: A commercial pilot's licence as a member? ---The only Michael Roche I knew at that time was the private secretary to the treasurer, now the head of the Mines Council, but I - no, not that Michael Roch; no. 20

You were previously an industrial officer with the AWU, weren't you?---Yes.

When was that?---I was with the Australian Workers' Union from 1984 to 1988.

When you were industrial officer with the AWU, did you have any dealings with the John Oxley Youth Centre?---Probably; I don't specifically recall, Mr Lindeberg, but my portfolio there included public sector - was involved in public-sector employment; probably, yes; yes. 30

Do you recall a gentleman by the name of Fred Feige?---No.

You don't?---You're going back 30 years, Mr Lindeberg.

I appreciate that. I'm just asking the question. Ms Walker, were you aware of the incident at the Lower - before you went on holidays or worked on the ALP campaign, were you aware of an incident at the Lower Portals involving a young Aboriginal girl?---No.

Can I ask you to look at exhibit 17, please?---Yes. 40

Can I ask you to go to point 32 and read it out, please?

MR COPLEY: We don't, with respect, want to waste time having this witness read out somebody else's statement when it was tendered over a month ago and we have all read it.

24012013 14-15 /CES(BRIS) (Carmody CMR)

COMMISSIONER: Yes. Did you want to refer Mrs Walker to something in the statement? 1

MR LINDEBERG: Yes, I would appreciate it if she could it out, Mr Commissioner.

COMMISSIONER: No, I'm not going to let her read it out, but she can read it to herself. If you're going to direct her to a particular part of it, ask her to read that part of it to herself and then ask a question, but again it's not necessary for you to do that. If you can articulate a question based on a particular paragraph of the statement, then Ms Walker doesn't need to be referred to the primary document. You can just ask the question that you want. 10

MR LINDEBERG: Can I say, commissioner, that I don't have access to a computer, otherwise I would be deluged with paper and I was hoping that that would be read to refresh my memory this morning? If I could see that document, then I can just go on further.

COMMISSIONER: Yes, you can have a look at the document yourself. 20

MR LINDEBERG: Thank you. I just want to see it, please? ---Mr Commissioner, may I have a five-minute comfort break?

COMMISSIONER: Yes, absolutely.

WITNESS WITHDREW

MR COPLEY: Whilst that's being done, Mr Blumke could give Mr Lindeberg exhibit 17.

COMMISSIONER: Yes, that's a good idea. 30

THE COMMISSION ADJOURNED AT 12.40 PM UNTIL 12.44 PM

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24/1/13

WALKER, J. XXN

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WALKER, JANINE:

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COMMISSIONER: Yes, thank you, Mr Lindeberg.

MR LINDEBERG: Thank you very much, commissioner. Ms Walker, before we go to that can I ask you, as the industrial director of the State Service Union were you aware of the monthly meetings that used to take place with family services at which the State Service Union, the POA, the AWU, attended to meet with the industrial officers for the family services as a type of clearing house?---I was aware that meetings of that sort took place, Mr Lindeberg. They were routine with a number of departments and organisations.

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Yes, I understand that?---Yes.

Thank you. Do you recall whether or not minutes were kept of those meetings?---No, I don't. I assume notes would have been taken by my staff.

Before those meetings took place would it have been routine for the staff to let you know what the issues may have been and what your wisdom was about how they might be handled at those meetings?---Not always, Mr Lindeberg. They were often very routine matters that would take place. That's a practice, you know, most places - to this day in my own organisation we have the monthly meeting. They would usually come and talk to me about matters that they thought were contentious or where we needed a position, but I wouldn't expect routinely to be consulted before each meeting about every item that was on the agenda, no.

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But if an issue involving an incident of child sexual abuse at the John Oxley Youth Centre was to be part of your submission at those meetings do you think you would have been told?---I would have expected so. I never heard of any such matter and I expect - - -

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That's not what I asked?---No. I expect, yes, I would have been. Yes, I would expect I would have been.

Could I ask you then to go to point 32, please, and read that in exhibit number 17, please?---That's the one you've got. Yes, I've read that paragraph.

Do you see it talks about a matter that was taken to that industrial meeting a month before the Heiner inquiry? ---Yes, it does mention that.

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What is - - -?---It was raised by the QPSU. I don't know who - - -

24/1/13

WALKER, J. XXN

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Which is, for the benefit - just to clarify, that does mean the State Service Union?---Does it? Yes, okay. Well, I don't know when that meeting was. That wasn't raised with me. 1

You have no knowledge then that the Harding - if that's correct, that the Harding incident was taken to this meeting by your representatives?---Well, I don't know what my representatives thought the Harding incident was. I don't know who my representative there was. I don't know when this meeting took place. None of that is very specific. If you're asking me did I know about a matter of child sex abuse raised by my union with the department the answer to that question, Mr Lindeberg, is no. 10

Might I put it to you it depends in what context it was raised. As a straightforward issue of child sex abuse, I can understand that, but if - - -?---If it was raised in terms of that matter that everybody knows about that happened at the Lower Portals, perhaps the representative from our union didn't categorise that as child sex abuse. I don't know. You're calling for a lot of speculation, Mr Lindeberg, beyond - - - 20

No, well, I'll clarify - may I clarify it then? If it were to relate to the disciplinary processes that applied in relation to that incident with the staff out there can you understand why it would have come to your union?---If there was a formal disciplinary process instigated and the person was a member of the union it would be reasonable to expect that the union was probably engaged in that matter.

But what if it were that your members saw or believed that the staff who were involved in that outing were not disciplined when they were being disciplined for other minor matters? 30

---Mr Lindeberg, you're asking me to speculate about matters that I've already said - - -

No, what I'm - - -?--- - - - to you I didn't know about 24 years ago.

No, that's not what I'm saying at all. What I'm saying to you is the context of that going via your union to the head office is not so much about the incident of the child sexual abuse incident, it is the industrial matters that flow from it in relation to disciplinary processes, which was a matter of concern for your union out there. Is that not correct?---That seems to be what whoever made this statement is saying. I don't even know this person. 40

No, but I'm just saying, it is reasonable to say how it could have got there via your union if your union members were upset about that type of thing?---It may have, but it may not have, Mr Lindeberg.

But according to that - - -?---What is and is not reasonable about a meeting that I did not attend about a matter I didn't know about I can't speculate on, Mr Lindeberg. I can't - - -

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I know that, but you were at that - it's said there it was a month before the Heiner inquiry was set up and there had been trouble at the centre for a long time, hadn't there? Is that correct?---Every 24-7 custodial institution is permanent trouble industrially.

I'm talking about the John Oxley Youth Centre?---That along with other prisons and other institutions where we have members, those institutions are industrially difficult places for us.

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Yes, but if the issue turned on that certain staff were being disciplined and others not you can understand it being reasonable - - -?---That the union would know about it.

- - - that the union would take the matter up?---Yes. Yes, I agree.

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So in that sense industrial relations issues can get mixed up with issues of child sexual abuse?---Indeed they can.

Thank you very much?---If indeed the industrial matter - - -

Can I now - - -?--- - - - was known to be about that.

Sorry, I've - sorry, thank you, I don't want you - can I ask you - - -?---I don't really mind what you want or not, Mr Lindeberg. Move on.

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I just want you to answer my questions, thank you?---And I did.

Can I ask you now to go to point 27, please, of the exhibit that you're looking at?---Yes.

Did you have anything to do with organising those meetings? ---No.

Let me go a bit further. Was your union - I mean, when I say "you" can I go - was your union aware that your members were having after hours meetings at which the shadow minister for family services, Anne Warner, is alleged to have been present?---No, I have no knowledge of that at all.

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Thank you. Ms Walker, could I trouble you, please, to look at this document? It's a Crown Law advice document, 18 April 1990.

24/1/13

WALKER, J. XXN

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MR COPLEY: Is it an exhibit? 1

MR LINDEBERG: I don't think it is, otherwise I would have read it to you.

MR COPLEY: The document as described to me by Mr Lindeberg may well be - or it may not be - exhibit 191, but that is a piece of Crown law advice dated 18 April 1990 directed to Ms Matchett, if that's what Mr Lindeberg is after.

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24012013 17 /ADH(BRIS) (Carmody CMR)

MR LINDEBERG: Just bear with me. 1

COMMISSIONER: Thank you. Is that the one, Mr Lindeberg?

MR LINDEBERG: Well, Mr Commissioner, it is the same document but it's a different version of the document and in that sense I would wish to tender it.

COMMISSIONER: Better show Mr - - -

MR COPLEY: Well, perhaps if I can look at it. 10

COMMISSIONER: Yes.

MR COPLEY: The only difference between Exhibit 191 and the document that witness has been asked to look at is that it's photocopied differently; it's got "FOI Release" stamped on both pages; it's signed by Mr O'Shea, whereas the one tended just bears an initial under Mr O'Shea's title, this one actually bears the words "K.M. O'Shea" in running writing; and there's a photocopy of a post-it note on it which bears the name "Don Smith 23/5/1990".

COMMISSIONER: The content is the same. 20

MR COPLEY: I'm not inclined to tender it at the moment. It bears a date of what time it was received in the Department of Family Services but I'm not inclined to tender it until we know why we should tender it; and what contribution the witness could make to that debate at the moment escapes me.

COMMISSIONER: All right.

MR COPLEY: So it may be a debate we can have later, in her absence. 30

COMMISSIONER: Mr Lindeberg, do you want particularly to tender that for a particular reason?

MR LINDEBERG: Well - - -

COMMISSIONER: I know there are different, but does the difference matter?

MR LINDEBERG: It's fortuitous, Mr Commissioner, in one sense, that I have noticed the difference between the two, because I think the difference is a significant factor. 40

COMMISSIONER: You think the difference itself is significant?

MR LINDEBERG: But can I say I was going to ask the witness has she seen that document, and if she hasn't, well then that was it.

24/1/13

WALKER, J. XXN

24012013 17 /ADH(BRIS) (Carmody CMR)

COMMISSIONER: Yes. 1

MR LINDBERG: But it is significant in terms of the whole scope of the issues that you're looking at, I believe.

COMMISSIONER: You think the difference itself is significant? But, you know, Mick and Mike are different but there's really no difference.

MR LINDBERG: No, well - - -

COMMISSIONER: They don't make any difference. 10

MR COPLEY: Well look, initially, Mr Commissioner, I'm sorry, my copy of exhibit 191 actually includes the second page that bears the signature K.M. O'Shea and bears the handwritten post-it note signed Don Smith.

MR LINDBERG: Well, if it does - - -

MR COPLEY: The only difference is the words "FOI release" aren't on it.

COMMISSIONER: Right. Which means that they were released - - - 20

MR COPLEY: Exhibit 191 - - -

COMMISSIONER: - - - under FOI.

MR COPLEY: Exhibit 191 would appear to include every aspect of Mr Lindeberg's copy of it that Mr Lindeberg would be desirous of us having.

COMMISSIONER: Okay. 30

MR COPLEY: It's already in evidence.

COMMISSIONER: And it's a pre-FOI release.

MR COPLEY: The one I've got is, yes. So that's the only difference.

COMMISSIONER: Okay, (indistinct).

MR LINDBERG: If that's the case, Mr Commissioner, I - - - 40

COMMISSIONER: Accept that?

MR LINDBERG: I accept it.

COMMISSIONER: Okay.

MR LINDBERG: Thank you.

24/1/13

WALKER, J. XXN

COMMISSIONER: Now, we've sorted that out. Did you want to ask Ms Walker if she'd seen that document?

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MR LINDEBERG: Had you seen that document before?---No.

COMMISSIONER: No, okay.

MR LINDEBERG: Thank you. May the witness - again, I apologise, Mr Commissioner it's just that I don't - - -

MR COPLEY: Just tell us the date.

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MR LINDEBERG: It's 14 February. Can the witness have a look at exhibit 159, please, and read it.

Have you seen that document before?---No.

Thank you?---There's no reason why I would have.

I have another document I'd like you to look at, please. And again, I've taken photocopies.

COMMISSIONER: I think what we might do is we might break for lunch now so that we can sort out the documents. Mr Lindeberg, if you want help from the inquiry in having documents ready I'm sure we can help over the lunch break with that; save time after lunch. How much longer do you think you'll be with Ms Walker?

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MR LINDEBERG: I expect about 20 minutes.

COMMISSIONER: 20 minutes, okay. Well, if that's a fairly accurate assessment, I'm in your hands. I can sit on, Ms Walker, gentlemen; or we can have our break and resume at quarter past 2.

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MR COPLEY: I don't mind sitting on to finish the witness.

MR SELFRIDGE: I don't mind sitting on either, Mr Commissioner.

COMMISSIONER: Mrs Walker, would you prefer to - - -?
---I'm fine.

- - - sit on and go through?---I'm fine.

Mr Harris?

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MR HARRIS: I have a previous appointment but I can get that adjourned shortly if I can just have two seconds outside - - -

COMMISSIONER: Just go, Mr Harris.

MR HARRIS: Thank you.

24/1/13

WALKER, J. XXN

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COMMISSIONER: We'll miss you, of course, but don't - - - 1

MR LINDEBERG: Ms Walker, in your comments responding to the counsel assisting you talked about works basically in respect of the Heiner inquiry wasn't set up and it was Ms Matchett's problem, you know, get on with it, type thing, incompetence of an old government, words to that effect, in regard to the establishment of the Heiner inquiry. Would that be fair?---Yes - - -

And the concern seemed to be that the way it was set up, witnesses were vulnerable for legal action?---I didn't have a view about that, Mr Lindeberg. That's a complex legal question, one on which if I'd been asked to specifically engage on that question I would have again talked to the union's legal advisors. My interaction with Ms Matchett that I described to you was not an in-depth discussion of the matters. 10

I appreciate that?---Quite frankly it was a mess and I wanted to keep (indistinct) as far away as possible.

The point is that you were saying it was a mess. That might be a debatable point?---Well - - - 20

MR COPLEY: Well, that's a comment. What she said is a comment, what he said is a comment. You need to - - -

MR LINDEBERG: Okay. I'm sorry, I didn't mean to put it like that. But the assertion on you is that it was a mess?---It's pretty hard to argue with that.

And one of the assertions is that the inquiry was set up incompetently, people were vulnerable to litigation?---You say that. 30

I'm sorry, are you saying that's new?

COMMISSIONER: But let's just - - -

MR COPLEY: Has she said that is the question, perhaps? ---No, I haven't.

Has she said that? If she hasn't said that, that's that? ---That's right.

COMMISSIONER: But it's - - - 40

MR LINDEBERG: All right.

COMMISSIONER: - - - also does it matter (indistinct)? ---Yes.

MR LINDEBERG: I relation to child sexual abuse. I wanted to advance this, Ms Walker, with you: in the course of a public servant's duty would you accept that it is suggested that public servants should always tell the truth? 1

MR COPLEY: Well, I object to that question.

COMMISSIONER: Yes, that's self-evident, Mr - - -

MR LINDEBERG: Self-evident?

COMMISSIONER: Yes. 10

MR COPLEY: Now, Mr Lindeberg will draw an inference from what you just said, Mr Commissioner - - -

MR LINDEBERG: I'm sorry. I'm sorry.

MR COPLEY: - - - so I'll state in detail my objection and get you to rule on it carefully.

COMMISSIONER: All right.

MR COPLEY: The question is objectionable because it's calling for an opinion on a matter which is not the subject of expert testimony from the witness. 20

COMMISSIONER: Right.

MR COPLEY: Now, this tribunal is not bound by the strict Rules of Evidence, but it is bound by whatever procedures it considers appropriate.

COMMISSIONER: Yes.

MR COPLEY: And my submission is that a procedure that you would consider appropriate is this, that the only questions you want to hear asked are ones designed to elicit an answer that will assist you in making the findings of fact that you need to make to write the report on paragraph 3E. 30

COMMISSIONER: Yes.

MR COPLEY: That question and whatever answer this lady might give will not help you one jot.

COMMISSIONER: Right. Repeat your question, please, Mr Lindeberg. 40

MR LINDEBERG: Are you aware of a policy called Crown Acceptance of Legal Liability - - -

MR COPLEY: No, that was not the question.

COMMISSIONER: No.

MR COPLEY: The question was does she agree that public servants have a duty to speak the truth? 1

MR LINDEBERG: I put that question to you.

MR COPLEY: And that's the question Mr Commissioner must now rule on.

COMMISSIONER: Right. Why do you want to ask that question of Ms Walker, Mr Lindeberg? What's her answer, whether it's yes or no - what's the answer going to achieve to help me decide what needs to be done under 3E? 10

MR LINDEBERG: Well, if I can put it this way, there is an assertion that the shredding of the Heiner inquiry documents was done to prevent people suing each other.

COMMISSIONER: Yes, I understand that.

MR LINDEBERG: Now, what I'm advancing is the proposition that there is evidence adduced by counsel assisting showing that crown law said that the Heiner inquiry is lawfully established under section 12 of the Public Service Management Employment Act. 20

COMMISSIONER: Right.

MR LINDEBERG: And there's further advice saying that the witnesses were covered by qualified privilege and any action and defamation was likely to fail.

COMMISSIONER: Yes.

MR LINDEBERG: Now, I'm attempting to advance that by saying - and further to that we have brought forward a submission showing that Mr Heiner was indemnified by Cabinet. 30

COMMISSIONER: Right.

MR LINDEBERG: Right? Now, to all intents and purposes that leaves the witnesses out there, save that they're covered by qualified privilege. Now, what I am wishing to advance to assist in reaching that decision is putting to Ms Walker - I appreciate she's not a lawyer and I'm not sure whether it's a legal question because it is a matter of - - - 40

COMMISSIONER: It's moral.

MR LINDEBERG: - - - as you said - a fundamental acceptance that public servants should tell the truth.

COMMISSIONER: It sounds moral to me, but what has Ms Walker's view about that got to do with anything?

MR LINDEBERG: Well, other than the fact that the notion of the Heiner inquiry being set up incorrectly is covered by a range of things, one of which is the policy that was in place since - according to this - about 19 - I think, it's hard to read, but it was brought in from my knowledge during the - no, it's in force since April of 1982 - - -

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COMMISSIONER: And is your point so long as they tell the truth they're protected?

MR LINDEBERG: Exactly.

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COMMISSIONER: Okay. Well, that's not something I need Ms Walker's help with, that's something that you can advance to me in argument and you can draw the dots where you get that from.

MR LINDEBERG: All right.

COMMISSIONER: And Ms Walker is not a dot in the process of reasoning to that point.

MR LINDEBERG: Thank you, Mr Commissioner. I think I'll let that go, Mr Commissioner. Thank you very much. Thank you, Ms Walker.

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COMMISSIONER: Yes, Mr Lindeberg. Any questions arising, Mr Copley?

MR COPLEY: No. May the witness be excused?

COMMISSIONER: Yes. Ms Walker, thank you very much for coming. I appreciate it?--Mr Carmody.

You're formally excused from your summons.

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WITNESS WITHDREW

COMMISSIONER: Yes, Mr Copley, where are we?

MR COPLEY: Well, we're ready to resume with two witnesses this afternoon who should take most of the afternoon.

COMMISSIONER: All right. Then we'll make it quarter past 2, will we?

MR COPLEY: Very well, yes.

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COMMISSIONER: What about Ms Walker's statement?

MR COPLEY: I think you - - -

COMMISSIONER: I've already - - -

MR COPLEY: It's already been made an exhibit.

24/1/13

WALKER, J. XXN

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24012013 17 /ADH(BRIS) (Carmody CMR)

COMMISSIONER: Yes. And are there any things in it that need to be - - - **1**

MR COPLEY: No, nothing at all.

COMMISSIONER: Okay. Well then I'll direct Ms Walker's statement, exhibit 284, be published.

THE COMMISSION ADJOURNED AT 1.09 PM UNTIL 2.15 PM **10**

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COMMISSIONER: Good afternoon, gentlemen. Mr Copley?

MR COPLEY: Mr Commissioner, I call Beryce Nelson.

NELSON, BERYCE ANNE sworn:

ASSOCIATE: For recording purposes please state your full name and your occupation?---Beryce Anne Nelson and I'm retired.

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COMMISSIONER: Good afternoon, Mrs Nelson. It's good to see you again. Thanks for coming. Yes?

MR COPLEY: Thank you, Mr Commissioner.

Mrs Nelson, were you a member of the Queensland parliament? ---Yes.

When were you first elected?---1980.

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1980; and were you subsequently appointed a minister of the Crown?---Yes.

When was that?---1989.

Okay; and to which - - -?---It was September.

All right. To which portfolio?---I had responsibility for Family Services, for the Brisbane River and for Women's Affairs.

All right. Now, I would suggest to you that your appointment as Minister for Family Services occurred - your appointment took effect from the 25th day of September 1989. Does that accord with your recollection?---That sounds correct, yes.

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Yes, and I suggest to you that your successor in that portfolio was Ms Anne Warner?---Yes.

And her appointment as Minister for Family Services occurred on 7 December 1989?---Yes.

Do you recall the date of the election in 1989? ---2 December.

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Now, your party lost that election?---Yes.

So after 2 December and prior to 7 December, what involvement, if any, did you have in administering your department in that period between the night or the day of

the election loss and the swearing in of the new ministry?
---On the 4th, I believe on the Monday, I resigned my
commission and I believe the department then carried out
any duties between - as far as I remember, I don't believe
I engaged in any activity. I was an unelected person and I
had to resign my commission as soon as possible.

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The election was held on a Saturday, wasn't it?---Yes.

So can we work on the basis that to all intents and
purposes you basically didn't perform any further
ministerial duties after the close of business on Friday,
1 December 1989?---No; no; no.

10

So therefore your period of responsibility for the ministry
ran from, in reality, September 25, 1989 to 1 December
1989?---Well, to the 4th when I resigned my commission.

All right. We will say the 4th then?---Yes.

Thank you. Now, you provided a statement to a Mr Noel
Newnham some years ago about a matter that came to be known
as the Heiner matter or the Heiner inquiry, didn't you?
---Yes.

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I will get you to have a look at this document, please, and
ask you is it a copy of the statement that you signed. So
you might want to turn through each page?---Have a look.

Make sure your signature is on it somewhere?---My initials
are on each page.

Yes?---My signature is on the bottom.

All right?---And the signature is certainly the one I used.
The initials are the ones I used.

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Have you been shown that in recent days?---Yes.

Did some police officers provide you - - -?---Yesterday.

- - - with the opportunity to peruse it?---Yes.

Good?---And I'm very satisfied that this is the statement
that I gave to Mr Newnham.

That's what I just wanted to make sure because we could
save a bit of time if you were?---Yes.

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Mr Commissioner, I would ask that that be provided to you
now.

So Mr Blumke will take it from you. Mr Commissioner,
if you could turn to the fourth page of the statement, I
direct your attention to the paragraph that is the

fifth paragraph down commencing "I have been shown" and I just invite you to consider that?---Could you read that to me, sir?

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Not at this stage, I'm sorry?---Not allowed, okay.

Yes.

COMMISSIONER: It raises a question of parliamentary privilege. Have you mentioned this to the Crown?

MR COPLEY: I have mentioned it to Mr Hanger this morning and undertook to mention it to Mr Selfridge. Unfortunately I haven't had the opportunity to raise it directly with him but Mr Rowland certainly knew about it so it could be that Mr Selfridge is aware of the issue.

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COMMISSIONER: Have you got a position, Mr Selfridge?

MR SELFRIDGE: I'm aware of that matter and I don't have a firm instruction in relation to it as yet, Mr Commissioner? ---Sir, I sort of know a little about parliamentary privilege. You might like to ask me what the problem is.

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COMMISSIONER: I will show the paragraph, paragraph 5 on page 4. It tends to bring into question a statement in parliament?---It doesn't affect parliamentary privilege because it's from the Hansard and it's a public document.

Yes, what Hansard says doesn't. It's the last phrase in the sentence that does. The mere statement of what is said in parliament doesn't present a problem. Challenging it does?

---I was stating what I - - -

No doubt; no doubt?---Yes. It doesn't - that's my statement, this one.

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Yes; yes, I know, but it's a comment about a statement by somebody else in parliament. I'm not inclined to allow the statement in parliament to be questioned in these proceedings.

MR COPLEY: If it assists, my submission is that the principle is this: that nothing said or done in parliament can be questioned in any place outside parliament.

COMMISSIONER: That's right.

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MR COPLEY: This place now is the Commission of Inquiry which you're presiding over and courts and tribunals have to be astute not to breach parliamentary privilege and whilst - - -

COMMISSIONER: From a place outside parliament.

MR COPLEY: Yes, and whilst there may be room for quite a bit of debate about the ambit of parliamentary privilege, the better or more cautious approach, in my submission, should be adopted to this extent: that if there's room for doubt that it may cause the commission to breach parliamentary privilege by receiving that part of the statement, then the commission should not receive that part of the statement.

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COMMISSIONER: Unless the book is worth the candle, that's the approach I take.

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MR COPLEY: It, of course, doesn't prevent this witness or indeed any witness in a similar position from giving evidence and answering questions if they're asked them about what they did, why they did it and what they considered to be the true position.

COMMISSIONER: That's right, as long as it's not referable back to what somebody said in parliament.

MR COPLEY: That's really all that this matter comes down. So unless anybody at the bar table wishes to be heard on the matter, my submission is that the statement, having been properly identified, could be tendered subject to that paragraph have a line or lines ruled through it because there's no difficulty with people being aware of what's there.

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COMMISSIONER: No.

MR COPLEY: It's just that if it's obliterated to that extent, then you could make a ruling that you're admitting and receiving this document in evidence, except to the extent of the obliteration of the 5th paragraph on page 4.

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COMMISSIONER: And the obliteration will mean it's not questioning anything.

MR COPLEY: That's correct, and I, as counsel assisting, won't be asking any questions directed to the content in that paragraph.

COMMISSIONER: Yes, thanks, Mr Copley. Mr Selfridge?

MR SELFRIDGE: For what it's worth, Mr Commissioner, I think that's a sensible and pragmatic approach to that issue and I adopt and support the submission by my learned friend in that regard.

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COMMISSIONER: Thank you. Do you, Mr Harris or Mr Lindeberg, have any issues?

MR HARRIS: No.

MR LINDEBERG: No, I concur with counsel assisting's view. 1

COMMISSIONER: Thank you. In that case, do you want me to accept the statement subject to paragraph 5 on page 4 not being admitted into the record?

MR COPLEY: Yes, please.

COMMISSIONER: Thank you. Just put a line through paragraph 5. That will be exhibit 285.

ADMITTED AND MARKED: "EXHIBIT 285" 10

MR COPLEY: Thank you. Now, after - or at an appropriate time, if Mr Blumke could return that to the witness, because this is not a criminal proceeding?---No.

So you're entitled to have regard to your statement from time to time if you want to?---Thank you.

Mrs Nelson, on page 4 of the document below the paragraph we asked you to look at, or you wanted to look at, just a moment ago, there's a paragraph that says, "The simple fact is that I set up an inquiry." Do you see that?---Yes, the second-last paragraph. 20

Yes. "The simple fact is that I set up an inquiry to find out the facts about serious allegations about the operations of the centre"?---Correct, "And that children detained there were being seriously physically and/or sexually abused," yes.

That's right. Now, the idea for the inquiry in fact preceded your arrival in the ministry, didn't it?---No.

Okay, well, could I get you to have a look at exhibit 73? 30

COMMISSIONER: Just before you do that, did you have a particular reason for setting up the inquiry yourself? ---Yes, I did.

What was that?---I received - if you actually look at this document, on the front page I've actually listed the reasons that I personally requested an inquiry rather than a departmental review and that I insisted on it being a ministerial inquiry to give it the power of cabinet and I reported it to cabinet so that it had the cabinet legs. In other words, it wasn't a process that could just be put on a shelf as an administrative or departmental review. 40

Who had suggested it be an administrative or departmental review?---Nobody had really suggested it. We just talked about how we would go about it.

When you say "we" - - -?---Various - Alan Pettigrew, George Nix. I think Myolene Carrick might have been there in those discussions as well.

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How did those discussions - what was the genesis of the discussion?---Well, newspaper articles. I mean, the place was a revolving door and there were constant references to JOYC in the media about young people absconding, going to Fortitude Valley, getting off their face, doing various things, having to be taken back. I started to receive disciplinary notices across my desk from the centre for me to be just accepting that people be just given a disciplinary notice and added to their employment file and finally when I got one that I saw was patently inappropriate and I was being asked to just regard it as a misdemeanour, I think that was when I said to Alan, "A flock of bears just flew over the office. We are going to do this properly and we are going to find out what's going on there."

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So what you had in your mind was staff discipline and the management of - the proper management of the John Oxley Centre?---Commissioner, it wasn't just John Oxley. The problem was that we had a systemic problem in the juvenile justice area where we had - in that facility there were children as young as 10 and youths nearly 18, so you had a dangerous situation to start with. You had a facility that was pretty well - as you can see from some of the working reports about the locks and all of those sorts of things, there was a problem, and I did not believe that staff were being properly selected or recruited, trained, monitored, and that's why I wanted a whole review of the whole system. We had also already decided to close the John Oxley Centre. We had selected new land, we had started the architectural briefings and I had been promised the money from the next budget. So this wasn't just about a simple administrative review.

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Right, I see, and just to put things in context, before 1992 children under the Children's Services Act and juvenile offenders were detained - well, were kept in the same place until 1992?---That's right. That's right, that was the big problem.

MR COPLEY: I think my question to you was that the idea for the inquiry didn't come from you and you didn't accept that proposition?---That's right.

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That's right, and so then I wanted you to have a look at exhibit 73?---Sure.

You will see it's addressed to The Hon. the Minister and you will see it appears to be Mr Pettigrew's signature on 17 October 1989. I just invite you to read that please? ---This was the departmental review or the administrative review that the union had requested of the department.

24/1/13

NELSON, B.A. XN

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Yes?---This was not a ministerial inquiry. It's a totally different thing, a completely different body with different powers and different purposes.

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I see. So pursuant to what mechanism would a departmental review have been set up?---Under the Public Service Act and Employment Act the director-general can in consultation with obviously Crown Law or within his own department decide to do a departmental review of facilities under his responsibility.

Yes?---I would - I don't know whether he talked to the previous minister. It doesn't look as though there were any conversations with the previous minister. There may have been. I simply don't know that, but when I came into the portfolio and we talked about John Oxley it was very clear that he had become more deeply concerned, I suppose following his visit out there, and I was adamant that it was not just going to be a departmental administrative review whitewash.

10

So pursuant to what mechanism was a ministerial inquiry to be set up?---A ministerial inquiry has different powers, in the sense that it has the power of cabinet and once you take it - I didn't have to take a submission to cabinet, I simply had to advise cabinet it was happening. Once you advise cabinet something is happening then the reports have to go back to cabinet and no other action can be taken. I mean, the department couldn't shut I down, they couldn't make decisions. It would have to go back to cabinet for follow-up action, and the strategy - just to be very clear, this was not to be - this was a preliminary inquiry, and that was made very clear publicly at the time. Mr Heiner was to make a preliminary investigation in the problems that were publicly being made, the public were very aware of and the department was aware of and I was aware of, and then when he brought his initial report back the plan was to take it to a full commission of inquiry status if he found there was substance to the allegations.

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You've mentioned that an administrative inquiry might be constituted pursuant to the Public Service Management Act? ---Well, I think it was just called the act in those days. I don't think management came into it until after.

Okay, it might have just been the Public Service Act or something?---I think it was.

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Pursuant to what statute would a ministerial inquiry be constituted, according to your understanding?---I have - I don't know. I just know there's a convention, a different convention.

All right?---Because Alan was quite clear that he wanted - if it was going to be done differently he wanted it to be a ministerial inquiry, and I said, "Well, it's going to be a ministerial or a cabinet inquiry."

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It appears that both of you wanted the same thing?---By the time I was a minister we did, yes.

Yes, but before you became the minister, according to this he'd given a commitment to a Mrs Walker that there would be an investigation into the matters the union had raised? ---But the union raised matters about the staff and the management of the facility.

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Yes?---I want to be crystal clear today, I was interested in the children from 10 to 17 who were being held in that facility and what was happening to them. As the minister for family services I was obliged by law. I was their guardian.

Right?---If you looked at the old act, I was their guardian, and I was interested in their problems and their needs along with what was happening to staff.

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What did you perceive to be their problems?---Well, the allegations were that children were being handcuffed to the fence of the swimming pool.

Yes?---That they were being put outside in the winter in their underwear. The disciplinary notices that came across my desk were about inappropriate contact between boys and girls at night. There were also allegations of drugs being brought into the facility and given to the children in exchange for favours. They were allegations.

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Right, and - - -?---Now, the ones about the training to the offence and the underwear seem to have largely been accepted by everybody. The other allegations were allegations. 1

Right. And these allegations, when did they come to you? ---Over the weeks once I became minister.

So from 25 September, because that's when you became Minister?---I mean, it wasn't just from 25 September. I was in the Parliament. I had a junior portfolio-type position anyway and I was reading the press and the John Oxley Centre was the subject of constant media discussion. The department was the subject of constant discussion. 10

So when you say you had a junior portfolio, are you referring to Family Services as the junior portfolio?---No, I was chairman of the Brisbane River Management Committee, which is like a parliamentary secretary's job.

I see?---Nothing to do with Family Services.

Okay?---I was interested in the issue and had been on policy development committees and all of that, but they were purely parliamentary-type. 20

Right.

COMMISSIONER: Did you have any forewarning that you would be offered the Families portfolio?---No, I didn't. I was hoping for a quite different portfolio.

MR COPLEY: Why did you get offered that portfolio and accept on 25 September?---I was a woman.

Sorry?---I was a woman. 30

Yes. Sorry, you were and what?---I was a woman.

Well, you still are?---I am still a woman.

Yes?---And I was offered that portfolio because in Australia if you want someone to do a soft option job - you think is a soft option job - you give it to a woman.

I see?---I'm not being cynical, I'm just telling you the facts. 40

Okay?---If you look at the Family Services Ministers around Australia, try and find a man.

Do you mean now or then?---Now and then.

Okay?---Nothing has changed.

All right.

24/1/13

NELSON, B.A. XN

COMMISSIONER: But one might be regarded as more able in that portfolio?---I think what I'm trying to say is that it was regarded as the bottom of the totem pole and it was funded as the bottom of the totem pole, when in fact as I said to Russell Cooper at the time, it should have been at least about forth on the ranking and funded accordingly.

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Because it would be one of the most challenging, wouldn't it?---Most challenging. At that stage we had marriages, you know, adoptions; we had foster care, we had indigenous children.

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You hadn't ceded the children's powers to the Family Court by that stage either?---No, we still had all of those responsibilities. It was a huge portfolio of responsibility with a miniscule budget. And I'm not being unkind when I say I got it because I was a woman; I was grateful to be offered the portfolio and I'm glad I did it - extremely glad I did it - and I'm very glad I set up the Heiner inquiry. I'm very sorry it was shut down.

MR COPLEY: Okay. Now, on exhibit 73 down the bottom there's some handwriting, isn't there? Can you see that? ---Yes.

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Do you recognise any of the handwriting there?---No.

All right. Do you see the words - - -?---It's not mine.

Okay, that's my next question. Do you see the words below the typewritten "17 October 1989"? They seemed to say, "Minister is very sympathetic." Do you see that?---Yes. I don't know. I mean, I don't - unless he showed this to me after I became a minister. He must have because it's on 28 September. I visited the John Oxley Centre. That's what he's saying.

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Well, he visited the John Oxley Centre on 28 September and that's after - - -?---Well, I was minister from the 25th - - -

Yes?--- - - - so he must have shown or given me - he must have briefed me.

Well, that's my - - -?---He certainly told me. I'm sorry, I haven't seen this document.

That's my whole point. That's the whole point to you, that you - - -?---I beg your pardon.

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You must have seen it because look, at the bottom it's dated - - -?---"Minister sympathetic".

- - - when you're the minister?---Yes, I beg your pardon.

Okay.

24/1/13

NELSON, B.A. XN

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COMMISSIONER: So that's a reference to you?---It must be a reference to me. My apologies, Mr Copley.

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MR COPLEY: That's all right. That's okay?---And in fact it does mention the Westbrook assault underneath there is well.

Sorry, what did you say?---It does mention underneath that the Westbrook assault.

Yes?---Yes.

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COMMISSIONER: At that stage am I right in thinking that Westbrook was targeted for closure as well?---Yes. No, it wasn't targeted for closure until the following year, I believe, but it was certainly under the responsibility of the minister - still under that portfolio at that stage.

Hadn't moved to justice?---No.

MR COPLEY: Well, this memo to use says that he received letters of complaint about Mr Coyne?---Mm.

Did that name mean anything to you at that time?---At that time?

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Yes?---By the end of September, yes, we'd talked about the - yes, definitely.

Okay?---Yes.

So you that Mr Coyne was the manager of John Oxley?---Mr Copley, I had had a couple of people come to see me at my electorate office before I became a minister, one; after I became a minister, another. They both came to see me at my electorate office anonymously, quite frightened for their job, didn't put their name in the diary, and one of them told me about the management problems or talked to me about the management problems.

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Yes?---It was around the time of the leadership changeover - - -

Which leadership changeover?---The Ahern-Cooper, somewhere round about that.

Right. When did they change?---September, it must have been around when I was made a minister. It must have been around that time. So within that period of time.

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Now, these people that came to you - - -?---One was a staff member.

Of what?---At John Oxley.

Yes?---I didn't go into the detail because one was shaking so hard, just being there. 1

Was he the person that was complaining about management, or was that the other person?---No, it was the other person.

All right?---He was concerned about the way children were being treated.

What did he tell you?---He told me about the - confirm the stories that were in the press about them just walking in and out at will; about older children picking on younger children, dealing with them inappropriately; kids being chained to the swimming pool; being left outside in their underwear. He just said all those stories were in the press were true. 10

Okay?---The other person was concerned about the management of the facility.

All right. Well, in this memo to you, exhibit 73, Mr Pettigrew said that he was proposing to recommend you that Mr Viv Gillingwater conduct an investigation?---He wasn't available. 20

And he regarded - that may be so, but he said in the memo to you that he regarded Mr Gillingwater as a suitable person for the task and he had planned to discuss - Mr Pettigrew said, "I had planned to discuss this with you prior to making an approach to him to see if he was available"?---I didn't know him at all and I don't know what he did or what position he held.

Yes, okay?---Because he must have made contact with him the following day and he wasn't available. 30

All right. To the extent that the note on the bottom says, "Minister is sympathetic," or "very sympathetic", would that have accurately recorded your feelings or emotions about a proposed investigation?---Yes.

Okay?---I absolutely wanted one to happen.

All right. Okay. And so, it is, did Mr Pettigrew? ---Absolutely.

And it appears that he had been thinking about that for some weeks according to this document?---According to this, yes. 40

Yes. And you say that Mr Gillingwater was unavailable. Is that because Mr Pettigrew told you that?---Could I just say he never gave me Mr Gillingwater's name. He said, "I'm going to approach somebody."

But didn't he give you his name in this document here?---He may have given me this after the - like, the next day or something. My initials aren't on this. I initialled everything that I read that I gave back to the DG, so my initials aren't actually on this document. If you look back at the statement that I gave to Mr Newnam you'll see a BN on the bottom of each page.

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I see?---I'd use design those documents with those initials so that it was clear that I had seen it and read it. So I'm not guaranteeing that I've read it. I'm not saying I don't know what's in it. What I can say is that he did say he had someone to speak to.

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Yes?---The name Gillingwater doesn't ring a bell with me but I'm not saying he didn't either. I don't think he did.

Yes?---All I know is that he came back to be the next day and said, "He's not available," and then some days passed.

Was it - when you say the next day, the next day after what? What had preceded that the day before?---We had discussions every day.

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So do you now have at the present time a recollection of having seen this memorandum from Pettigrew back on or about 17 October 1989 even though your signature isn't on it?---I could have. I may have. I probably did, but I don't - I would have remembered something like the name Gillingwater. I'm interested in names.

Okay?---That's the only reason I'm hesitating.

Okay?---And my initials are not on it.

All right?---But I'm not saying it wasn't given to me. Look, as, you know, I think you've heard before the day, it was a very difficult time and I could - and 23 years have passed. I could have seen it, I'm not 100 per cent sure.

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But the - - -?---I am sympathetic to what's in it and would have been totally sympathetic to what's in it.

COMMISSIONER: So that might have reflected your position, but the fact that your initials aren't on it is significant to you?---It is significant to me - - -

All right, because?--- - - - because I did try to sign absolutely everything with my initials.

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To indicate?---That I had read them.

To others and also to remind yourself if you were ever asked?---Yes. I was pretty careful about that.

MR COPLEY: Okay. Could you have a look now at exhibit 74, please?---Commissioner, I did the same with Cabinet documents.

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Now, this is a letter from obviously the State Service Union, Mr Gillespie, and it's addressed to you?---And it has my handwriting on the front page.

Okay; and which bits of it are your handwriting?---"Staff ratio", "physical", the underlining, the ticks - it's all classic behaviour, okay.

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So you can be absolutely sure you saw exhibit 74?
---Absolutely certain, yes; yes.

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So he sent a submission to you which he believed the addressed the points; some of which you have ticked; some of which you have circled or underlined?---Yes.

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Okay?---It's very odd. It seemed to me that there was some conflict within the unions about - - -

All right. Let's not - - -?---Well, because he wrote to me.

Look, that's not responsive though to my question, is it? ---Okay; okay, sorry.

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Let's just pause for a second?---That's okay.

If I asked you a question - - -?---I answer it.

That's right, and if - - -?---Can I ask you one?

No?---Okay; just wondered.

That's just how it works?---Okay, that's all right.

And if I cut you off - - -?---That's okay.

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- - - and you think that's arbitrary or Mr Commissioner does, he will pull me into line?---He'll tell you.

That's right?---That's okay.

It's just generally not a good idea to say more than you're asked?---It's all right; okay.

Now, I want you to have a look at exhibit - I think we will give you exhibit 76A. I would just like you to peruse each page of it first and then I will direct you to a part of it?---Mm'hm.

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Now, I don't suppose - you may do, having read the contents of that. Do you actually have a memory now of that cabinet meeting, because it said in the minutes that you were there?---Well, yes, I do have a memory because I actually said at that cabinet meeting, at one meeting, that there was to be an inquiry into the John Oxley Centre.

All right. This document would tend to suggest that when you said it, you did literally say it. You made an oral statement?---I made an oral presentation, yes.

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Yes?---It wasn't a submission.

Okay. That's what I wanted to clarify?---It wasn't a written submission.

There was no written submission went into this cabinet. So on page 2 of that document in the third paragraph it says, "The Honourable the Minister for Family Services indicated that an investigation was to be conducted into the operation of the John Oxley Youth Centre"?---Yes, there were quite often oral presentations. 1

Yes, there seemed to be quite a lot of them put up that day and, indeed, it seems as though there might have been, if you look further into the document, lots of written submissions put to cabinet that day?---Mm. 10

So can you explain to me what happened when you said, "Well, this is what I propose to do"? Did they take a vote on it?---No, they just accepted it and moved on.

They just sort of nodded and said, "Okay," and went to the next issue?---They just accepted it and moved on. They knew it was a ministerial inquiry. The paperwork was in the system so they knew what was happening.

Okay?---I mean, I'd already met with the premier and the justice minister, all those other people, and they knew that legal advice had been taken external to the government because Crown Law was busy. 20

Now, who got this external legal advice?---Alan Pettigrew.

From whom did he obtain it?---As far as I know, it was Allens. I think they were called something slightly different in those days. Does anyone remember what they were called in the eighties?

COMMISSIONER: This is 1989?---Allens - were they Allens by then? 30

I don't even think they were in Queensland.

MR COPLEY: I can't give evidence. I can't answer your question because I'm not allowed to give evidence?---I'll have to go back and check but, look, I'm sure some of the other senior officers from the department will be able to answer that. The Crown Law Office was very busy and they made a recommendation about who to go to and we went externally.

Did you actually see the advice from these people?---No; no, I accepted the director-general's advice. 40

All right.

COMMISSIONER: What about the Solicitor-General?---They were just flat out, I think, because of the Fitzgerald Inquiry. I don't know what was - they were just flat out like lizards drinking, apparently, and they may have - I

think they got - gave them a recommendation of where to go and I'm sure they ran it past them when they got it back, but they weren't in a position to provide the legal advice. It was a time issue.

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MR COPLEY: The most expert people though to provide legal advice about how to set up an inquiry like this would presumably be people in the Crown Solicitor's Office thought, wouldn't they?---Possibly; it depends. I mean, government did then, and still does, outsource a lot of significant legal advice to major law firms around Australia.

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Did it do that? Did this government - what shall we call it, the Cooper government or - - -?---It was the Cooper government, yes.

Did you only serve under Premier Cooper?---Absolutely, yes.

Well, we'll call it the Cooper government?---Yes.

To your knowledge personally, did the Cooper government outsource legal advice?---Some.

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All right, but you didn't actually see a document from a firm?---No.

Okay?---Alan told me it was being done externally. He would absolutely be making sure it was correct and that it would be - he would make sure it was - he would take it to whoever it needed to go to to make sure it was correct.

To your understanding, was Alan Pettigrew a lawyer himself?---No.

What was his background?---Actually I think he had a sports background, unless I'm mistaken. I don't know.

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You didn't pick him as your director-general?---No; no, I inherited him.

You inherited him?---He inherited me. I inherited him.

Okay; and just on that point, apart from perhaps a secretary or whatever they call the people that work in a minister's area, did you inherit all the other senior public servants in that department when you came in on September 25 or did you bring some in with you after that?---No, I really - look, I knew I was there for a good time and a short time. I knew I wasn't going to be there long. I knew the government was going to fall. I knew the election was due on 2 December. Why was I going to come into a department and create upheaval and then they would have to go through it all again? I was very happy to just

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accept the people that were there. I knew that Alan Pettigrew had an excellent reputation and that the - as far as I know, I didn't bring anybody.

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All right?---That was fundamentally why. I'm being clear with you about that.

Yes, you don't need to add that. If I want to ask another question or suggestion or not, I will, but we will move on? ---Okay.

Now, you went out to the John Oxley Centre, did you?---No.

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Did you intend to go?---I did - I went to Westbrook.

Right?---And I did intend to go to John Oxley but - - -

Did you receive a briefing about John Oxley?---Yes.

With a view to a visit?---It might've been more just briefings. It wasn't a briefing. It was briefings.

COMMISSIONER: At this time what do we have, John Oxley, Westbrook, Cleveland? What else?---Was Leslie Wilson still functioning then?

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MR COPLEY: There were four.

COMMISSIONER: Four.

MR COPLEY: I don't want to give evidence?---I think Leslie Wilson was still functioning there, if you could use the word "functioning". The whole lot of it was a disaster.

Look, we don't need to - - -?---Okay, carry on.

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It's not responsive, is it?---Carry on.

I want you to have a look at exhibit 77, please.

COMMISSIONER: We have been going a long time?---I know and I'm on after lunch.

MR COPLEY: This is headed "Brief for the Honourable Minister re visit to JOYC Thursday, 26 October 1989"? ---Maybe I did go.

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Does that assist you with whether there was any plan for you to go there and, indeed, whether you even went there? ---I'm just - you know, when you said that, I'm sitting here thinking of this place with no gates, no real fence or no proper locking facility and I'm wondering if I in fact did go there. Maybe we went there the same day we went to Westbrook. I think I'd have remembered. I really don't think I went there.

24/1/13

NELSON, B.A. XN

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You wouldn't though have gone to one of those places without having the department give you some sort of information about - - -?---About the facility, yes. 1

- - - what it was, what it did, what to expect to see there, that sort of thing?---I had briefings on a whole range of things across the department.

All right?---Yes.

Do you recall getting this particular briefing which does not have anyone's signature or squiggles or anything else on it?---No, I don't; I don't. 10

Now, a couple of things I want to ask you about that: you will see at the top of the first page after the cover sheet in the second paragraph it says that JOYC opened on 17 February 1987. Do you see that?---Mm.

So it would appear that a national party government opened JOYC, yet you told me not so many minutes ago that the plan was to close it?---No, I didn't.

Didn't you?---I beg your pardon. I said, yes, the plan was to close it and build another facility: (a) there'd been an increase in the number of young people being detained and I didn't believe it was appropriate for 10-year-olds and 17-year-olds to be in the same facility. 20

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So we had literally sat down and had discussed and found land at Wacol and looked at looked at an entirely different type of facility. So it may have been open - it obviously opened after Sir Leslie Wilson closed, so Sir Leslie Wilson must have closed because it's had children coming from Sir Leslie Wilson Youth Centre, which was at Wilston, and that had a history as well.

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Yes?---So it might have only been open for two years but it was definitely going to be replaced and the money was set aside, the land was set aside and the architects had started work.

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Who made the decision that it was going to be replaced?
---Russell Cooper, the treasurer, and myself and - in a discussion.

So that must have been made some time after 25 September?
---Yes. It was made some time in October or November and that would have gone as a submission to cabinet in the New Year. I fully expected the new government to do it.

But it wouldn't really have been something that you could be certain would occur, would it, because you had already formed the view that you were going to lose office?---Well, I was hoping the new government would do it.

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So there was - perhaps it was more in hope than expectation?---That's right.

Yes?---That's right. However, I had the job to do while I was there. I wasn't governing for hope, I was governing in a real world, and I was doing my job at the time.

Now, this memo on the third page speaks about current significant issues. It's got a heading there. That's entirely consistent with what you'd expect to see as a minister, wouldn't, that the public service would make you aware of what was currently a topical or significant issue. Do you agree?---It's an adequate statement.

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It says, "The director-general is initiating a process for independent investigation of these concerns," meaning the union's concerns. It doesn't make any reference to reminding you that the department is getting galvanised into action to set up a ministerial inquiry into a whole much broader range of subjects, does it?---Mr Copley, I didn't care that the unions had been talking to the director-general and the department about their issues alone. I was interested in the children who were residing in those facilities because they were forced to be there, were sent there for detention. I wanted to know what was happening - in an institutionalised systemic failure of a system, what was happening to them.

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Right?---This is adequate. It wasn't broad enough for me, and which is why it's not the whole objectives of the inquiry that was actually set up.

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All right. Do you know who authored that, who wrote it?
---Who?

Do you know who wrote it?---I've no idea.

Do you remember reading it?---No.

Is it possible you read it?---It's possible, but I have made no indication that I read it.

10

No, and you're not asserting - - -?---And I think I would have on something like that.

You think you would have made a note?---Been quite sure to put my initials on it.

All right, but just getting back to the other issue, with the benefit of a few more minutes to think about it, did you actually go to JOYC or aren't you sure?---I don't think I did.

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You don't think you did, fair enough?---Mr Commissioner, could I just say, and this is nothing to do with my ability to give evidence; I can, but in late 1990 I had what's hemiplegic episode, a mini stroke, and I had quite a big of damage. Some of that relates to my stored memory, to my visual memory and so on. So when I say I'm uncertain I am literally uncertain. It takes a while. The stored memory is able to be retrieved with cues and so on - and it's been an ongoing problem, okay?

COMMISSIONER: Yes, I'll bear that in mind?---So that Mr Copley understands, if I went out to what was John Oxley Centre and I sat outside in the car I would be able to say, "Yes, I was here," or, "No, I wasn't here."

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Yes?---I can't look at this and say I was there.

No, I understand?---I don't have the memory of being there.

All right. We'll bear that in mind?---If you don't mind. My specialist was a fellow called Paul Sandstrom. I was in St Andrew's Hospital, so it's quite bona fide.

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I'm sure it is.

MR COPLEY: Could that exhibit be returned and could you have a look at exhibit 79, please? This is a letter addressed to Mr Gillespie and there's a signature on page 2. Can you confirm if that's your signature?---It is indeed.

So that's a letter you signed?---This is about the letter he had written to - I don't know whether he wrote to me; he might have written to me or the director-general, about the security issues.

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The one that you made squiggles on or notations before - - -?---Yes, that's right.

Yes, okay. Attached to the letter is a response, something headed, "Response to issues raised re JOYC by the State Service Union in a meeting with the Honourable the minister on 18 October 1989." Do you see that?---Yes.

10

So some public servants or other must have prepared this as a basis for the letter, would you agree?---Well, it says "Deputy Director-General, Community and Youth Support" at the bottom.

It does, but there's no signature there, is there?---That's the role that would have done it.

Do you recognise the handwriting down the bottom?---Well, it's got ACP, so I suppose it's Alan Pettigrew.

20

We have heard evidence that someone else says it's Alan Pettigrew's signature?---Okay.

But this sort of area is an area of non-expert opinion which people are generally allowed to offer if they are sufficiently familiar with the alleged signature?---It looks consistent with other things that I've seen today that had the same writing that I did know were his, but I can't give you a guarantee.

No, okay.

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COMMISSIONER: Did you know Ms Janine Walker in those days?---Sorry?

Did you know Janine Walker in those days?---Not personally. I've actually got to know Janine in the last 23 years through work in homelessness and so on, other areas, but no, I didn't really know here, no.

Thank you. She was - just to - - -?---She didn't come to the meetings with me.

No?---No, that was the other public servants that came to the meetings.

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What about Mr Gillespie?---Mr Gillespie, Mr Martindale and Mr Lindeberg were the people who I met with.

MR COPLEY: Was on that on 18 October 1989 as this memo says?---It could have been. It probably was. It could have been. I'm not sure of the date.

24/1/13

NELSON, B.A. XN

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What issues did those men, Lindeberg, Martindale and Gillespie, raise in that meeting, do you remember?---They were very concerned about the management of the facilities.

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Yes?---They were concerned about staffing, adequacy of staffing. I think they were pretty concerned about the bad reputation the facility was getting publicly and they were also concerned about the children. So they were, I think, quite surprised that I accepted everything they had to say and that I was sympathetic to what they had to say.

Thank you. Now, you knew before it was announced that Mr Heiner had been selected to conduct the inquiry?---Yes.

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What did you know about Mr Heiner? Well, first of all, did you know him?---That he was a retired magistrate with children - experience in dealing with children's - or youth matters.

Did you know him personally?---No, I didn't know him personally at all.

Right, so who selected him or nominated him?---A few names were put forward and Alan said he had knowledge of him - I don't know whether it was through Rotary or something, but I think he had knowledge of him, but they had pursued a number of avenues and he was deemed to be appropriate because he had an understanding of the - what I had said to him was that I didn't want it to just be a lawyer.

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Yes?---I did not want it to be just a legal interrogation process, I wanted it to be someone who understood children's issues, so he was quite satisfactory to me.

All right, and I don't know whether your knowledge goes back this far, but the idea of a government appointing a magistrate to inquire into a child detention facility was not unprecedented at that time, was it?---I don't know.

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Okay?---I don't know.

All right, I won't take that further with you. I'll get you to give that exhibit back?---Sure.

I'll get you to have a look at exhibit 80, please. Now, this is a memo dated 1 November 1989 to the minister signed by, apparently, Alan Pettigrew. I'll let you read it? ---Yes.

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And there's a handwritten notation at the top that it was approved by the minister?---Mm.

Now, did you approve the attached terms of reference?---One to eight?

Yes?---Yes.

24/1/13

NELSON, B.A. XN

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Okay. Now, if you'd like just to peruse the draft terms of reference, or have you had an opportunity adequate enough to do that?---I think these were different to the initial ones. I think there were four or five initially. 1

Yes?---Then it was extended to eight after discussions. I mean, this was a matter that went on for some time.

Okay. Now, looking at those eight terms of reference, there's nothing in there that would direct the inquirer obviously into the direction of investigating sexual abuse, is there?---At that stage I have to say I had no personal knowledge of sexual abuse. The only indication I had was that there was something seriously wrong when that misdemeanour came across my desk which said children were allowed to spend the night - that they had spent the night together, there were four of them who - that was my only indication that sexual activity was probably taking place and it could have been taking place between people who had been allowed to get into each other's accommodation, and that that had happened on the watch of someone who allowed it to happen. However - - - 10

Hang on just a sec. Going to that example, though, were the children children of the opposite sex?---Yes. 20

Were some of them boys, some of the girls?---Yes, two boys, two girls.

Right?---Yes.

So that was the only indication prior to the finalisation of the terms of reference that you had about issues of sexual abuse?---It was the only evidence that I had.

Evidence, yes?---I had allegations that there were sexual exploitation; I had allegations that things were happening, but I did not have evidence. The purpose of this was to gather as much evidence as possible about what was happening at John Oxley to take it to the next level so it could be made into a broader inquiry. 30

Well, I suggest to you that when you look at the terms of reference here there's nothing to direct the inquirer - the inquisitor - into the issue of investigating sexual allegations?---Well, the validity of the complaints received in writing from present or former staff members, some of those did include allegations, apparently. 40

Well - - -?---Compliance or otherwise with established government policy, et cetera - - -

Okay, yes?---There is a - you know, they are required to secure - keep the children safe and protected.

Are they? Yes?---Certainly under the old act, they were. 1
"Whether there is any need for additional guidelines,
procedure; adequacy of, and implementation of staff
disciplinary processes; compliance or otherwise with the
code of conduct."

Yes?---"Whether the behaviour has been fair and reasonable;
the adequacy of induction and training," which was a
terrible problems; and, "The need for additional measures
to be undertaken to provide adequate protection for staff
and children to ensure the building itself." 10

And so do you say that all of those things were broad
enough to encompass a - - -?---He was briefed.

- - - investigation of allegations of sexual impropriety?
---It wasn't just - I'll just say something, Mr Copley,
sexual abuse is less than 10 per cent of child abuse. I
spent 14 years on the board of the Abused Child Trust; I've
worked in this area for more than 30 years. Abuse of
children is a much broader thing and sex. The media gets
obsessed with it; lawyers and the courts get obsessed with
it - - - 20

Well, you see, Mrs Nelson, the reason - - -?---90 per cent
of it is not sex.

- - - I'm asking you - the reason I'm asking you is
apparently it is alleged that Mr Heiner was sent out there
to investigate sexual abuse; that he found evidence of
sexual abuse; and that another government destroyed.
That's the allegation, you see, and that's why I'm asking
you about it?
---Well, that's not the allegation that I'm making.

Okay?---I'm making - and in fact not making allegations, 30
I'm just making a statement of fact - is that the inquiry
was set up to investigate what was happening at the John
Oxley Detention Centre and a number of areas were covered.

Yes?---Staff, the building itself, what was happening to
the children. There was - if there had been evidence,
Mr Commissioner, of sexual abuse - if I had known that
somebody out there had literally had happened to them what
subsequently discovered had happened, and obviously to more
than one person, I would have closed the place down and
removed those children there and then. 40

Okay.

COMMISSIONER: If I can just put you in the picture, our
term of reference is limited to - - -?---I realise that.
I've read the terms of reference; very limited.

Yes, it's limited?---Makes it almost impossible.

24/1/13

NELSON, B.A. XN

Well, it is limited to historic child sex allegations and government responses to them in the detention centres?--- Okay. Then please be aware that the other 90 per cent was happening as well.

1

MR COPLEY: If there was any scintilla of material that was available to you that sexual abuse was an issue at that time, you would have ensured that that received - was made manifest explicitly in the terms of reference. Is that what we are to take from what you said before?---I would say, Mr Copley, that when this went to the lawyers for preparation they would have worded it to the whole thing was covered by Mr Heiner. This is what Mr Heiner was given. He went out and talked to the people who'd make statements, he talked to people who hadn't; he discovered things, clearly, that other people might not have wanted him to discover and at that stage - - -

10

Well, now - - -?--- - - - I was out of the ministry.

Why do you say that he discovered things that other people mightn't have wanted him to discover?---Well, clearly the people who did commit the assaults out there would not have wanted him to reveal it.

20

But you don't know whether he found out any evidence that people had committed assaults out there, do you?---No, because the evidence has been destroyed.

Well, that's what I'm trying to get that with you. Did Noel Heiner get in touch with you and tell you - - -? ---No.

- - - what he told - discovered?---No, no, no. He made no contact with me after I'd lost office, which was correct.

30

Okay?---Yes.

So you have no direct knowledge of - - -?---I have no evidence.

All right, well, I'm happy to deal in evidence?---I have no evidence.

You have no evidence - no direct evidence of what Mr Heiner found one way or the other?---No, neither has anybody.

He could have discovered all sorts of things, he could have discovered nothing?---Mr Copley, he discovered enough for the then government to say that people were at risk of being sued for defamation and therefore we had to destroy the documents - - -

40

Do you realise - - -?--- - - - so clearly he discovered something.

Do you realise that since 3 December this commission has sat day in and day out and has asked every single person who worked at John Oxley whether they were spoken to by Noel Heiner or his assistants; some people said they weren't, other people said they were, and those people have given evidence as to what they told Noel Heiner?---Mm. I don't - I haven't looked at the website, I don't know what's been said.

1

No. So there is evidence available as to what Noel Heiner found?---Okay. Well, I'm not aware of that. I will go - is it on the web site?

10

Look, I can't answer your questions, is just not how it works?---Sorry, okay.

It's not proper. Okay?---Okay. All right.

But if sexual abuse - this is what I want to posit to you for you to respond to now?---Sure.

That if there was a major concern, a serious concern in your mind about sexual abuse, can I suggest to you it would have found a manifestation in the terms of reference?---That's your opinion.

20

I'm positing it to you - - -?---Well, I don't agree with you.

- - - for you to reply to that?---I don't agree with you.

Okay?---I think those terms of reference cover all the broad issues and would have brought to light anything that was happening.

Now, did you ever read the complaints that have been received in writing?---No, I did not.

30

So you don't know what's in those?---No. Mr Copley, Mr Heiner was to report back, I think, by about - somewhere around about 5 December, something like that.

Yes?---Initially.

Yes?---And by that time I was no longer minister and quite - would have been inappropriate for me to be involving myself in what might have been submitted to him.

40

Yes. All right. Now, just for the sake of completeness I'd like you to have a look at exhibit 81 and exhibit 89. These documents may need to be read together. It will save time too. Now, 81 is dated 6 November 1989 and it's addressed to you from Don Martindale. Is there any initial on there that's yours?---Well, my signature is on one - sorry, which one?

1

The one dated 6 November 1989?---Sorry. Yes, that all looks clear cut.

So do you recall receiving the letter of 6 November 1989? ---God, I probably did. It hasn't got my initials on it that I can see.

10

That's one thing I wanted to clarify. Your initials don't seem to be on that. Is that what you're saying?---Yes.

Okay?---But that doesn't mean it wasn't part of a discussion, okay.

No?---It could've been handled by someone else in the meeting but discussed with me.

20

Yes, and then the letter - I assume you accept you signed that letter 30 November 1989, exhibit 89?---I think the pen must have been running out if I did.

It could just be the photocopying. These have been photocopied a couple of times more frequently than normal over the years?---It's certainly my signature.

Okay; and that was your response to Mr Martindale's letter of 6 November 1989?---Yes.

That can be returned, thank you. No further questions, thank you.

30

COMMISSIONER: Thank you. Mr Selfridge?

MR SELFRIDGE: Ms Nelson, my name is John Selfridge. I act on behalf of the State of Queensland?---Yes.

There was previously posited to you - a question was posited to you by Mr Copley in relation to had you had any direct knowledge of sexual abuse at that point in time that would have found its way into the terms of reference in relation to when Mr Heiner did his inquiry and you suggested that you didn't agree in relation to that. You disagreed and said the terms were wide enough to contain that themselves?---The terms were wide enough to cover the issues that had been raised with me where there was enough evidence to substantiate there was a major problem.

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24/1/13

NELSON, B.A. XN
NELSON, B.A. XXN

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Sure?---We set up the inquiry with the objective of him determining what the problem - some of the problems were so that we could then expand it into a larger inquiry. That was the plan.

1

Isn't that then of itself a bit of a circular argument and you had already told Mr Copley that prior to the setting up of the Heiner inquiry, as we call it, you had no personal knowledge of sexual abuse at that point anyway?---I didn't have knowledge - I didn't have evidence of sexual abuse. I had evidence in that misdemeanour - a couple of misdemeanours about sexual activity. I didn't know how old the children were and that really deeply concerned me. I knew they shouldn't have been allowed to do what they were doing. I didn't know whether it was pressurised, whether it was consenting, whether they were above the age of consent or below so to me that constitutes really poor management of the facility and that was one of the areas that prompted me to act more quickly and to make a ministerial inquiry apart from anything else.

10

Sure?---So it's not a circular argument.

Okay?---I don't agree with that.

20

All right. I accept that. On page 1 of exhibit 285, do you see an example of the - and this is what you're making reference to as something that concerned you in terms of a case of two boys and two girls spending the night together. Is that what you're making reference to?---That's one of the issues.

What other issues were there?---There were other similar types of allegations about sexual activity between the detainees or residents and staff acting inappropriately as well, but there was no evidence and I wanted to get the evidence and the evidence required someone with the right skills and experience to go in and ask the right questions and Noel Heiner was the right person to do that.

30

Okay, but there's nothing contained either in this attachment to exhibit 285 - they're the submissions to the Commission of Inquiry dated 15 May 1998 - or indeed the terms of reference themselves specifically in relation to any other allegations outside of that?---If I'd had a formal allegation that I could put to paper, I would've perhaps even added another heading to that, but you've got to have - you can't just, you know, clutch a straw in the wind. You have to really - all the allegations that were coming were about staffing; selection; training; poor management. They were about apparently very inappropriate behaviour between the staff and the children; the children - inappropriate behaviour amongst the children themselves. All of that said to me was that the facility was very

40

poorly run. The children were not safe and secure and we needed to find out what was going on and why. I find it really - - -

1

Excuse me, sorry, Ms Nelson. Why then did that not find its way into a term of reference? If there was a whole series of allegations - - -?---Well, that is in the terms of reference. There terms of reference - - -

Where do we find that?---The terms of reference for the inquiry are quite broad. You've got them, the eight of them, there.

10

Yes, I do have the eight of them here. Which one do you suggest incorporates allegations - - -?---Could I just have another look at the terms of reference, please?

COMMISSIONER: Certainly?---No; no; no, I'm not going to play that game. There is nothing in there that says "sexual abuse" and that was specifically not put in because there wasn't a case of sexual abuse that we knew of that we could put in there. If we had known about that, I wouldn't have even let it go that far. If we had known there was sexual - rapes, et cetera, et cetera, occurring there, the place would have been closed down.

20

MR SELFRIDGE: Well, that's precisely my point, Ms Nelson. The place would have been closed down or at least it would have been addressed in the terms of reference had there been anything specific in relation to it?---It would've been closed down before there was an inquiry.

Thank you. I have no further questions.

COMMISSIONER: Thank you. Yes, Mr Harris?

30

MR HARRIS: I have no questions, commissioner.

COMMISSIONER: Mr Lindeberg, do you have any questions?

MR LINDEBERG: Thank you, Mr Commissioner.

Good afternoon, Mrs Nelson. Mrs Nelson, may I put it to you that, notwithstanding the terms of reference, you didn't restrict Mr Heiner from taking evidence from people that had some concerns about the centre was running which could have been a matter of child sexual abuse?---The terms of reference were quite broad and empowered him to speak to everybody involved, to talk to public servants as well who were their superiors, and he was in a very good position to address the issues.

40

COMMISSIONER: Despite the breadth of the terms of reference as they appear in the document, ultimately their width and scope is a matter for the interpretation by Mr Heiner.

24/1/13

NELSON, B.A. XXN

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MR LINDEBERG: Exactly, thank you, Mr Commissioner?
---Mr Commissioner, can I just say something else? Every inquiry that's been ever held in this country has uncovered something they didn't expect to find. I just find this is all astonishing to me. It's not rocket science. We did expect him to find things that were major problems because there were rumblings everywhere and allegations everywhere, but to do something about it we needed evidence.

1

COMMISSIONER: And all you could do was define the areas of inquiry as best you could with the information you had?--And also to cover the interests of all the parties because in a sense the staff were being abused as well.

10

It needed to be broad enough to give him flexibility but not so broad as to be vague?---That's exactly right.

MR LINDEBERG: Mrs Nelson, I'm going to come back to the Heiner inquiry. I just want to refer to your comments that when you were, I think, a backbencher, you had people coming to you and you made comment that they seemed - one was so - - -?---One was agitated.

Agitated. Did they take it further than that in terms of - what were they agitated about?---They were anxious; anxious; fearful; a bit sweaty. They shouldn't have really been there, you see, because they could have been dismissed for going to see a member of parliament.

20

In one sense, would it be fair to say that they were somebody in a whistle-blowing situation?

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COMMISSIONER: I don't know what that means. 1

MR COPLEY: It has a meaning in law actually.

COMMISSIONER: I know it does.

MR COPLEY: So he's asking again for a legal opinion.

MR LINDEBERG: Yes, well - - -

COMMISSIONER: Do you mean it - - -?---I can't answer that and I don't - I'd have to say no. 10

MR LINDEBERG: But am I correct in - didn't I hear you before saying that you didn't want their names put in your diary?---No, they wouldn't have come if their names were in my diary.

Can I ask you, please, to look at exhibit 42, but before you do look at it, Ms Nelson, I just wanted to ask you something. Were you aware of the riot at the John Oxley Youth Centre in March of 1989 when Mr Sherrin was the minister?---Is that the one where they all went down to Fortitude Valley and - one of the many? Was it a riot or a break-out? 20

No, I'm sorry - no, from my understanding, this was a riot at the centre?---No, I'm sorry.

You're not aware of it?---No. If I was aware of it I have forgotten. I don't - look, John Oxley Centre was at the front of mind, I guess, with everybody on a regular basis, because it was forever in the news or forever being talked about so, yes, I don't know. Was it - - -

May I ask you to look at the newspapers in respect of the riot to see if it refreshes your memory? 30

COMMISSIONER: What's the date of that report, Mr Lindeberg?

MR LINDEBERG: 17 and 18 March of 1989.

COMMISSIONER: Thank you.

MR LINDEBERG: I know it's a difficult copy. Please have a look at it carefully?---No, I hadn't seen this. I wish I had. 40

Why do you say that?---Well, I'm just looking at some of the highlighted issues.

Can I now - have you finished? Thank you. Did you look at both - - -?---Yes, I've looked briefly at both of them.

Can I ask you, please, to look at exhibit 42, please, and may I particularly ask you to look at points 7 and 8, please?---Yes, I've read it.

1

I think the article talks about the Harding incident, or Annette?---It does, yes.

Are you aware of what that incident is about?---I subsequently became aware of that through a Mr Bruce Grundy some years after I was - after I'd lost my seat and wasn't in politics anymore.

10

So you're aware it is about an incident of child sexual assault?---Yes, definitely.

You are aware of that?---Well, I'm aware of it now, yes.

And you were aware - - -?---I was made aware of it by Mr Grundy some years after the actual event.

I appreciate that, but you are aware that a witness has said that when she was interviewed by Mr Heiner she - - -

MR COPLEY: Well, how would she be aware of that - - -

20

MR LINDBERG: Well, having read that - - -

MR COPLEY: - - - beyond what is put in that statement which she's only just seen?

COMMISSIONER: Sorry, Ms Chapman has only just become aware of it.

MR LINDBERG: My apologies.

COMMISSIONER: That's all we need to know. She's just become aware of that, wishes she had been aware of it earlier, and therefore there's no real point asking her about the content of the article?---Commissioner, one thing I can say now is that having listened to the evidence this morning it was interesting to me that a number of other girls' names were mentioned and other staff members, which may attract the interest of the police.

30

MR LINDBERG: Mrs Nelson, I think that - I have just one final question. It is correct that you did not speak to Mr Heiner?---No, I did not speak to Mr Heiner.

40

You made it clear to Mr Pettigrew and Mr Nix what you wanted them to convey to Mr Heiner, what you expected the inquiry would be about?---Absolutely.

Did they confirm to you that they told Mr Heiner that?
---Yes.

You are sure that they told you that?---They told me that, 1
yes.

Yes?---Yes, I'm sure they told me that. They made it very
clear that he'd been given a full briefing.

Again, you're quite satisfied that the terms of reference
were so wide as to - - -

COMMISSIONER: No, Mr Lindeberg, it doesn't matter how
wide they were intended to be, it's how wide 10
Mr Heiner - - -

MR LINDEBERG: Sorry, I meant - okay. You were quite
satisfied that Mr Heiner could at his discretion so
interpret them as to cover the issues of concern for you?
---Mr Heiner had adequate scope with the breadth and depth
of the terms of reference to fully investigate the matters
at the John Oxley Centre. Could I just say,
Mr Commissioner, there's been a lot of talk over 23 years
about somehow this inquiry was not set up properly and it
was absolutely necessary to shut it down because of that.
It's hot air. It was set up properly. I'm sure the 20
gentleman did it properly. The reasons for which it was
shut down we'll never know because the documents have been
destroyed. All I can say is I took the matter to cabinet.
That makes it cabinet documents and cabinet documents are
supposed to be kept for 30 years and not released and they
have to be stored by the archivist. That's all I wish to
say on the matter. My interest in this matter is about
children, their rights, their needs and how we can protect
them in the future, which is your job, more safely, more
securely, living in a time where there's systemic abuse in
the public domain and in institutional domains still.

COMMISSIONER: And regrettably in the private domain as 30
well?---Absolutely, yes. Everywhere.

MR LINDEBERG: Thank you, Mrs Nelson. I have no further
questions.

COMMISSIONER: Mr Copley?

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

COMMISSIONER: Mrs Chapman, thank you very much for coming 40
this afternoon. It's very much appreciated?---Thank you.
Thank you for being patient, Mr Copley.

You're formally excused from your summons?---Thank you,
commissioner.

WITNESS WITHDREW

MR COPLEY: Mr Commissioner, I call Noel Ronald Newnham. 1

NEWNHAM, NOEL RONALD sworn:

ASSOCIATE: For recording purposes, please state your full name and your occupation?---Noel Ronald Newnham. I'm retired.

Please be seated.

COMMISSIONER: Good afternoon, Mr Newnham?---Good afternoon, sir. 10

Good to see you again. Welcome. Yes, Mr Copley?

MR COPLEY: Mr Newnham, between 1989 and 1992 were you the commissioner of the Queensland Police Service?---I was, sir, and I'd ask you to speak up a little. I'm getting hard of hearing in my old age.

Okay. Now, in May of 1998 were you approached by a man in Sydney to conduct some investigations?---I use the term "inquiries". 20

Do you? Okay. And who was that man?---That was Geoff Moss.

And who was he?---He claimed to be representing an organisation called the Enterprise Council.

30

40

And did he tell you what the nature of that organisation was?---No, I don't know. **1**

You didn't ask him?---No.

Had you ever heard of it before?---Not before that, no.

Did you hear of it in the months or years after your inquiries?---I heard of it maybe 12 months later in connection with a different matter.

Yes. Did this Mr Moss tell you what he did for a living? **10**
---No.

Okay. And what were you doing for a living at the time you spoke with him?---I was an academic employed by Charles Sturt University.

Okay. And where were you living at the time you were approached? What city?---In Dee Why in Sydney.

In Sydney. Okay. And was the point of the contact that he wanted you to conduct some investigations into some matters connected with Mr Noel Heiner?---Yes. **20**

Okay. And did you agree to conduct those investigations for him?---I agreed to spend some limited time making some limited inquiries.

And on whose behalf did you understand you would be making those limited inquiries?---There were several parties who appeared to be interested.

Yes?---One was Kevin Lindeberg.

Yes?---And Moss knew of Lindeberg. Lindeberg had previously mentioned a firm of solicitors called Ryan and Bosscher. **30**

Yes?---So all of those people seemed to be interested in having these inquiries made.

Right?---As far as I was concerned I was inquiring on behalf of finding out the truth.

You were what?---I was conducting my inquiries on behalf of finding out the truth. You used the term, "On behalf of whom?" I wasn't acting for anyone, I was acting in a particular interest. **40**

And the interest was?---Finding out the truth.

Okay. So in an effort to find out the truth did you travel anywhere?---Yes.

Where did you go?---Brisbane and environs.

24/1/13

NEWNHAM, N.R. XN

Brisbane and environs, did you say?---Yes. 1

Okay. Now, I'll just get you to have a look at a document. Could the witness be shown his statement, please.

Can you just confirm to me that that's a statement that you provided to detectives and signed on 23 January 2013? ---Yes, it is.

All right. Now, in paragraph 9 of that statement - do you need glasses or something?---Thank you. 10

Yes. If you turn to page 3. In paragraph 9 of that statement you say you travelled to Queensland between - came to Queensland and were in Queensland between 13 and 15 May 1998?---Yes.

Okay. And you spoke with a number of different people, according to the statement?---Yes.

Now, in paragraph 11 you state that one of the people you spoke to was Rudi Pekelharing?---Yes.

Okay. And you state that you recorded notes of your conversation with Mr Pekelharing in your notebook?---Yes. 20

Do you have there with you the notebook - or a photocopy of the notebook - wherein you recorded your conversation with Mr Pekelharing?---My copy is in there.

And you're pointing to a blue folder. Would you like to get it?---Yes.

Thank you. Now, before we get into your notes, do you remember where you saw Mr Pekelharing?---Can I look at my notes? 30

Okay, if that assists you to remember, you may?---No, I don't. There is an address there that's not in my writing. I don't think it is. And some directions.

Yes?---Which suggests pretty firmly to me that it was at Beenleigh.

At Beenleigh, okay. Well, the notes that you made, were they made at the time the conversation was going on with Mr Pekelharing?---Yes. 40

Okay. Would you now be able to read out to us word for word and without putting anything in to interpret it for us, just read out exactly what you recorded at that time Mr Pekelharing to have said; or indeed if you made a note at the time of something you said to him, so that it was a two-way notation there, you can read that out too. But I

don't want you to interpret it or add to it at the moment; 1
I just want you to read out exactly what's in that note?
---Leaving aside the address bit?

Yes, the substance of - - -?

*Came to work at JOYC one day and found a kid
handcuffed to a grate in the ground near swim pool.
He had a blanket stuffed in the grating. He had been
there all night, I think. I think it was just
because he was noisy in the wings. Name should not
be mentioned. Not Daniel Alderton because he died at 10
home of asthma attack. Sarah knows his name but I
can't remember. Trevor Cox, Fred Feige still there
and should know. NK -*

can I interpret that?

That would help because it's meaningless otherwise?---"Not
know" or not known".

Okay?

*---if actually on duty, but know of the incident. 20
Incident reports were kept there. Handcuffing was
introduced by Coyne when arrived as manager. I
objected. Pettigrew visited us. George Nix also
came down. He had [something] he tried to get the
introduction of handcuffing as a unanimous decision
by the team and I was the only one who stood out and
disagreed and Peter said the meeting would go on
until I did. This was a management meeting.
Principal youth officers and above (and might have
been seniors as well).*

And might have been - what did you say - seniors? 30
---Seniors.

Seniors, okay?

*---Two deputies and the manager, and I think a
psychologist too. Coyne introduced the fitting
of points of attachment in the three room 1s, the
secure rooms in each wing. Principal youth officer
responsible for internal and external recreational
activities. Handcuffing was not all that common, not
every day. Then there was the time-out room and no
attachment point there. Peter took over from Terry 40
McDermott. I told Heiner about the handcuffing and
my disagreement with it. Met Mrs Alderton. She on
TV after he died, not long after his release. Not
sure where she lived; probably not Beenleigh. Not
think we ever handcuffed David.*

Sorry, "not think we ever handcuffed"?---David - sorry,
Daniel.

24/1/13

NEWNHAM, N.R. XN

Yes?---Thank you, "Can't recall any death in custody in my time." I retired 1994, "One suicide in Leslie Wilson recently last Christmas. We had suicide attempts" - underlined - "and" - no "and", my apologies, "Some kids really tough." 1

And then there's a name there. There's a Christian and a surname of someone there?---Yes, there are three names actually.

You better read them out so that we know what they are, I think?---Okay. One is Shay. 10

Yes?---The next one is Shane Doolan and then there is Che, C-h-e.

Yes?---"Heard of" - "heard of those three names".

Okay?---"Not heard of Che Guevara. Name of Natalie rings a bell but not Granzanti. Teresa Ahern was a toughie; violent; came from Cunnamulla."

Cunnamulla, do you think?---Cunnamulla: 20

Daniel worked with Sarah Moynihan. Anne Dutney was deputy manager appointed by Coyne. Drugs were rarely administered and then only if prescribed by a psychiatrist not on staff. Nurse administered them on this prescription; not know of Mogadon being used; Serepax used if prescribed. We had 28 to 30-odd kids.

So that would seem to be, would you agree, simply notes made by you of what he said?---Yes.

It doesn't include the questions or the things you said that got him to say those things, does it?---Correct. 30

If we go back in the notes to the second-last page that you read out where he said, "I told Heiner about the handcuffing and my disagreement with it," do you remember what you had said that caused Mr Pekelharing to tell you about what he had told Mr Heiner?---Not specifically, but probably a question rather like you just asked me.

What did you - - -?---"What did you tell Mr Heiner?"

Mr Heiner, okay. Now, there is no note in there that Mr Pekelharing said he told Mr Heiner anything about sexual abuse?---That's correct. 40

If Mr Pekelharing had said something of that nature, would you have put it in these notes?---Yes.

Thank you. Now, did you ever meet Mr Noel Heiner?---Yes.

When did you first meet him?---During those three days and it was early in the piece. 1

So somewhere between 13 and 15 May 1998?---Yes.

Where did you meet him? Do you remember?---At his house.

At his house?---Yes.

Did you go there pursuant to a prior appointment or did you arrive unannounced?---I don't know. I would guess it was unannounced. 10

Do you recall if it was the daytime or the night-time that you went?---Daytime.

Was he there when you got there or home?---Yes.

Did he allow you into his house?---Yes.

Did the two of you sit down and have a conversation?---Yes.

Did you make any recording of it?---No. 20

Did you take any notes of the conversation?---Yes.

Do you have those notes with you?---Yes, I have a photocopy of them.

You have a photocopy of them. Are they in that book that you have got open in your lap?---Yes.

At the time you made those notes, were they made at the time of the conversation, as the conversation was happening or - - -?---Yes. 30

They were, all right. Now, I might just give you this document which is, I trust, a photocopy of your notes and I just ask you to find me the page on there where your notation of what you spoke with Mr Heiner about starts and then you can give that back to the court assistant. Now, before we go to the notes, I assume, being presumably a polite person, you would have explained to Mr Heiner who you were and why you were there?---Yes.

You would have said, "I'm Noel Newnham," and what did you tell him in terms of the purpose of your visit?---I don't recall the exact words but I was - told him I was asking about his inquiry and what he was told. 40

Okay; and was he willing to speak with you?---He was prepared to rather than willing.

And, of course, you could only speak with him if he was prepared or happy enough or willing to speak with you, couldn't you - - -?---That's right.

24/1/13

NEWNHAM, N.R. XN

- - - because you were not then a police officer with the powers to do anything, were you?---Even if I had been a police officer, the same situation would apply. 1

Yes; yes, that might be so. So can you tell us now what your notes record of what Mr Heiner said? Just read them out exactly as you did before with Mr Pekelharing?

---Noel Heiner asked by Pettigrew to conduct inquiry in management practices; provided with clerical assistance by Jan -

dot, dot, dot, no family name mentioned - 10

from Family Services; no rules of evidence; taped and transcribed; took evidence from anybody and everybody who wanted to; going through transcripts -

transcript, singular -

first draft report; struck me that I should see about indemnification, obviously power. I wrote and asked whether any report I put in I would have indemnification. Reply: "New government did not require any further action." 20

I'm sorry, I'm extending my shorthand words.

That's all right?---G-o-v means government to me.

That's okay. I don't mind if you do that?---Okay, thank you.

Yes, but we will just get that last line again?---Yes:

Reply, "New government did not require any further action; bundle up all paper; bundle up all papers, et cetera, and hand to Family Services." I was led to believe when I sent back, I pretty sure I got back a letter indemnifying, terms of reference acknowledged - 30

Now, pause there just for a moment. I'm reluctant to interrupt you but it could save time. "Terms of reference acknowledged" - did you show him a copy of the terms of reference?---What I understood to be the terms of reference, yes.

COMMISSIONER: So you were recording his acknowledgment of what you showed him?---Yes, sir. 40

As the terms of reference?---Yes, sir.

Thank you.

MR COPLEY: Okay, carry on, so "Terms of reference acknowledged". What's the next thing there?---"No mention of abuse of children."

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Now, what does that relate to?---It relates to the obvious fact that there's no mention specifically of abuse of children in the terms of reference.

Okay?

---Some brought in written reports but they read from them into microphone; used them as aide-memoire. There were a lot today; can remember somebody saying something about handcuffs and suppressant drugs; not necessarily same person; mentioned in passing to get across to me the procedures adopted by management and staff. Coyne asked for copies of transcript and all the evidence. I told him, "Not on." He took it personally. I tried tell him (sic) not directed at him. Every document I believe was shredded, including tapes; not aware of anybody wanting anything (apart from Coyne wanting it in running) until after they were shredded.

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I agree with government granting immediate indemnification and with shredding when found not properly appointed under commission, not inquiry act. Believe I and all witnesses were given indemnification. I believe got that from Cabinet to department head, Ruth Matchett. Can't remember getting a copy. She rang and said Cabinet had given this indemnification. As soon as new government came in I was told they required no further action. I instituted it. I instituted it. I was about to write the report and it was on that that I queried it. Wrote letter. I was told no further action required. They were going to get Crown Law advice and to bundle everything up and hand over to department, which I did same afternoon. I queried my appointment and under what authority I was appointed. This was to the old government, the one that appointed me. Allan Pettigrew did all the talking to me but he was not director-general there. I queried my appointment to the director-general. I started in November, still functioning in December, finished either just before or just after Christmas. Had to wait for late transcripts and as reading goes, and that was then confirms arose. Not sure how I was told of terms of appointment. There were two or three inquiries: Commission of Inquiry Act, Public Sector Management Act -

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that's "PS", I'm sorry.

That's okay?

---PS Management Act; Authority of Cabinet. Previous government would not have told them and Cabinet papers locked away under 30-year rule. Not recall sequence of just when told indemnification granted and when told no further action needed.

30

Okay. And does that note or those notes cover everything that Mr Heiner said to you that day at his house?---I'm unaware of any other conversation apart from what I've noted.

All right. Now, so that we might tender those notes and only those notes, I'm going to provide you with a photocopy of what I think is that book you've been reading from. I'm just going to ask you to isolate the pages relevant to Rudi Pekelharing in the copy and the pages relevant to your conversation with Mr Heiner in the copy. And the easiest way to isolate it, Mr Newnham, would be for you to fold those pages over in some way. Actually, Mr Blumke has got some sticky things?---There are three pages and you've got a sticky note on all three of them now.

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Right. Now, do all three relate to the one fellow, or - - -?---That's Heiner.

24/1/13

NEWNHAM, N.R. XN

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Heiner, yes. So he's the first thing you've tagged in that book?---Correct. 1

All right?---Pekelharing is next.

Yes?---And there are three pages flagged there.

COMMISSIONER: So if we copy between the flags we'll get what you read out?---Each - - -

Not between the flags, each flag.

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MR COPLEY: Copy each flagged page?---All pages I read out are now flagged, sir.

COMMISSIONER: Thank you.

MR COPLEY: Thank you.

COMMISSIONER: What's Mr Newnham's availability tomorrow, Mr Copley?

MR COPLEY: The police advise me that he's not booked on a plane until sometime later tomorrow?---That's news to me, sir. 20

Okay. I'll just find out.

COMMISSIONER: I thought you might want to know?---It's not a problem to me. I don't mean to object.

MR COPLEY: Whatever plane he's booked on, that can be rearranged if he needs to return tomorrow morning.

COMMISSIONER: Right.

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MR COPLEY: And Mr Newnham, I think, said it's no problem.

COMMISSIONER: It's not the police service jet, is it? Not much fun going anywhere in that.

MR COPLEY: No, I hope not. No, it's not.

COMMISSIONER: All right. Okay. Goodo.

MR COPLEY: So what I need to say is that I tender Mr Newnham's notes regarding his conversation with Mr Pekelharing as one exhibit. 40

COMMISSIONER: Yes.

MR COPLEY: And I tender the notes he made regarding his conversation with Mr Heiner as another exhibit.

COMMISSIONER: Yes. The Heiner notes will be exhibit 287.

24012013 28 /adh (BRIS) (Carmody CMR)

ADMITTED AND MARKED: "EXHIBIT 287"

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COMMISSIONER: The Pekelharing notes will be 288.

ADMITTED AND MARKED: "EXHIBIT 288"

COMMISSIONER: And the balance of the copy?

MR COPLEY: Well, the balance of the copy I'm expecting Mr Blumke will go back to the commission office this evening - - -

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COMMISSIONER: Give it back to you.

MR COPLEY: - - - and unstaple the rest of that notebook and give it back to me, because it's not an exhibit, the balance of it.

COMMISSIONER: Okay.

MR COPLEY: You're not intending to adjourn in the next minute or two, are you?

COMMISSIONER: No.

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MR COPLEY: Okay, thank you.

Now, Mr Newnham - - -

COMMISSIONER: But I was thinking that I would do it around 4.30.

MR COPLEY: Yes.

COMMISSIONER: And I wasn't expecting he would be finished by 4.30.

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MR COPLEY: I don't know yet.

COMMISSIONER: No.

MR COPLEY: Mr Heiner - Mr Newnham - see, you've both got the same Christian names so I'm getting it mixed up. Did you ask in terms - did you ask Mr Noel Heiner what it was he discovered when he went out and did his investigation at John Oxley?---Well, not in those words. I asked what he was told generally speaking, yes.

40

Right. And there's no mention in your notes that he said he was told anything about sexual abuse?---That's correct.

COMMISSIONER: Sorry to interrupt, but your mission was to find out the truth about what, exactly?---More of the facts relating to the shredding of the Heiner documents and what was in them and the legitimacy of the shredding.

24/1/13

NEWNHAM, N.R. XN

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Right. Now, Mr Heiner, as you read out in the notes, told you that as he was writing the report or about to write the report he thought of indemnification, which is probably a sound thing to think about at that particular juncture?
---That's what he told me, sir, yes.

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And made some inquiries. But did you specifically ask him - and he told you about the shredding because he knew - he thought everything including tapes had been shredded?
---Yes.

Did you ask him what the documents and tapes that he was referring to as having been shredded contained?---Only in the sense that I asked him what he was told, and those documents recorded what he was told as I understood.

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Did you ask him for any summary or précis of what was in them? What he'd been told?---Only in the general terms that I've already mentioned. Mr Heiner was somewhat reluctant to talk to me. I persuaded him and I was in turn reluctant to push him.

But did you achieve your objective, your mission of finding out what was in the shredded documents?---No.

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MR COPLEY: Why do you consider that you didn't achieve that purpose?---Because he answered in the most general of terms. He talked of two incidents which might have been construed as abuse of children; handcuffing - - -

Yes?--- - - - and the administration of drugs; but then not the same person.

Yes?---Not on the same occasion.

That, coincidentally, accorded with what Rudi Pekelharing told you too, didn't it, in the sense that he talked about handcuffing and administration of drugs?---Yes, later on.

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COMMISSIONER: Heiner came first, did he?---I believe so. Can I check on that?

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MR COPLEY: Well, if you can assist the commissioner by checking your notes to answer his question you should? ---Yes. Heiner came first. 1

COMMISSIONER: So Heiner, then Pekelharing confirmed what Heiner had told you, about those two incidents, anyway? ---Well - - -

Or they coincided?---Yes. There was no conflict.

No, fair enough. Did you actually tell either gentleman what the other had told you?---No. 10

You weren't actually out there to compare?---No.

MR COPLEY: You also interviewed a Mr Edward Clark, didn't you?---Yes.

You took a statement from him?---Yes.

Do you have a copy of that statement, or the original of that statement, available?---I don't have the original. I have a photocopy. 20

Okay, maybe we have the original. I'll just see. No. You've got a photocopy of it, have you, Mr Newnham?---Yes.

Okay?---Well, it's a photocopy of a photocopy, I think.

Yes, that's okay. We'll just call it a copy. It's a typed document, is it?---Yes, I have that.

All right, but before I go to that there's something I forgot to do. Remember you said that you showed Mr Heiner what you understood to be his terms of reference?---Yes. 30

Do you have a copy of the document that you showed him that you understood to be his terms of reference there?---Yes.

Could you produce that?

COMMISSIONER: This is what was not acknowledged in the notes?---Yes.

Mr Newnham's notes, this document?---Yes.

MR COPLEY: Well - - -

COMMISSIONER: You know where it says - - -?---Yes, I have that. 40

- - - "Terms of reference acknowledge", that's a reference to this document that we're talking about not, is it?

MR COPLEY: I thought you said "not acknowledged".

COMMISSIONER: No, it was acknowledged. 1

MR COPLEY: Yes, okay?---Yes.

So this document you're about to produce is what Mr Heiner acknowledged as his terms of reference?---Yes.

Okay, could you produce it, please?---There's two copies.

Are there? Are they both the same?---Yes.

COMMISSIONER: That's what a copy is, Mr Copley. 10

MR COPLEY: Yes, your Honour - Mr Commissioner, I know that, but - that's true. I just tender one of them if they're both the same, and the notation would be "Document acknowledged by Mr Heiner".

COMMISSIONER: Separate - yes, I'll make it a separate exhibit.

MR COPLEY: It can just follow on from the last two that were tendered. 20

COMMISSIONER: All right. The terms of reference shown to Mr Heiner and referred to in Mr Newnham's notes will be exhibit 289.

ADMITTED AND MARKED: "EXHIBIT 289"

MR COPLEY: Lastly, you've got that statement from Mr Clark there somewhere, have you?---Yes.

Could you produce that, please? Thank you. We might just mark that for identification for today's purposes, thank you, Mr Commissioner, and we'll deal with that - - - 30

COMMISSIONER: The document headed Edward Charles Clarke with an E will be MFI 5.

ADMITTED AND MARKED: "MFI 5"

MR COPLEY: When were you appointed commissioner of the police service? What date?---I believe it was 1 November 1989.

So prior to that date would it be correct to say you were working in the Victoria Police?---Correct. 40

So you weren't resident in Queensland prior to that date? ---Correct.

In your statement you state at paragraph 15, "It was through the work of Mr Grundy that the rape incident involving a female child Annette while on an outing from the John Oxley Youth Centre was exposed"?---Yes.

24/1/13

NEWNHAM, N.R. XN

You go on to state that you became aware of the rape incident, "After 1998 when I conducted my inquiries"?
---Yes. 1

Was it your understanding from the way you've expressed that sentence that it was through his work that this incident was exposed?---I'm sorry, did what?

Was it your understanding from the way you've expressed the sentence that this man Grundy exposed the rape incident that until Mr Grundy had looked into it it hadn't been exposed or revealed to the public?---Yes. 10

That was your understanding?---Yes.

COMMISSIONER: In your statement when you use the word "rape" is that intended to convey that that's how it was described to you by Mr Grundy or is it intended to convey that as a fact?---Both.

Why do you say it's used to describe the rape as a fact?
---I've seen FOI released copies expurgated of what purports to be the departmental file dealing with the matter and it seems to me to be plain that there was in fact a rape of Annette Harding on the occasion in question. 20

You say that as a high ranking - highest ranking police officer in Queensland, familiar with the statutory definition of rape?---More familiar with the statutory definition of rape in Victoria, sir, but generally speaking, yes.

All right. Do you want to take that anywhere, Mr Copley?

MR COPLEY: Well, if you're alluding to unlawful carnal knowledge versus rape I don't want to take that anywhere. There's no point. 30

COMMISSIONER: Okay.

MR COPLEY: What I do want to take with Mr Newnham is this. Because you were in Victoria prior to 1 November 1989 you may not have been aware of a media release dated March 17, 1989 issued by a Queensland government minister. I'll get you to have a look at exhibit 251. You will see it's headed Media Release, the Honourable Craig Sherrin MLA, Minister for Family Services?---I see that. 40

It's got March 17 at the top there but if you look further up you will see a fax note there, 17, 89?---Yes.

Okay, so we're working on the assumption it came out on what I think might have been St Patrick's - Sir Joseph's Day.

COMMISSIONER: No, that's March.

24/1/13

NEWNHAM, N.R. XN

24012013 29 /RMO(BRIS) (Carmody CMR)

MR COPLEY: Yes, this is March.

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COMMISSIONER: Is it?

MR COPLEY: Yes, 1989.

COMMISSIONER: What date in March is it?

MR COPLEY: The 17th.

COMMISSIONER: St Pat's.

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MR COPLEY: Yes, some moveable feast.

Mr Newnham, in that document on the page numbered 3, which isn't literally - there's a page missing, but on the page numbered 3 at the top you will see in the bottom third Mr Sherrin talking about a serious charge in an article about a rape?---Yes.

Do you see that, and how it was alleged a 15-year-old was raped during an excursion by three 14-year-old fellow inmates?---Yes.

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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?---Yes.

So to that extent we need to read your statement in paragraph 15 perhaps with the caveat that as far as you were aware Mr Grundy exposed this incident?---Yes.

Okay, thank you.

COMMISSIONER: The source of that awareness was Mr Grundy himself?---Yes.

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MR COPLEY: Or was it someone else who told you he had exposed it?---Probably from Mr Lindeberg first.

Right, okay. No further questions.

COMMISSIONER: Thank you, Mr Copley. Unless anyone is keen to examine today I think we might call it a day.

MR SELFRIDGE: I've no questions for this witness, Mr Commissioner.

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COMMISSIONER: All right, thank you.

MR HARRIS: I do have some questions, commissioner.

COMMISSIONER: You have some? All right, well, I think we'll keep them until tomorrow, Mr Harris, if that's all right.

24/1/13

NEWNHAM, N.R. XN

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24012013 29 /RMO(BRIS) (Carmody CMR)

MR LINDEBERG: I have questions, Mr Commissioner.

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COMMISSIONER: Yes, thank you. All right, well, we'll keep them both till tomorrow. Will it be all right for you to come back tomorrow at 10 am, Mr Newnham?---Yes, sir.

Thank you, good.

THE COMMISSION ADJOURNED AT 4.25 PM UNTIL
FRIDAY, 25 JANUARY 2013

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24/1/13

NEWNHAM, N.R. XN

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