

Inquiry calls for prosecutor to investigate John Oxley shredding

Penny Brand

THE HOUSE of Representatives Standing Committee on Legal and Constitutional Affairs Inquiry into Crime in the Community has recommended that the entire Goss Cabinet at the time be charged over its handling of the Heiner Inquiry in 1990.

The Heiner Inquiry into the John Oxley Youth Centre (JOYC), was shut down by the then government which ordered that documents containing evidence of problems in the centre be shredded.

Since that time evidence has emerged of serious issues of physical and sexual abuse occurred at JOYC, including the pack rape of a girl in care.

The Committee also recommended that a "Special Prosecutor" be appointed and granted power to call all those who might have any information as to the content of the shredded documents including "Public Servants at the time, including staff of the then Department of Family Services, the Criminal Justice Commission, Queensland police and the ... [JOYC] relevant union officials".

The Committee recommended all aspects of the Heiner Inquiry be investigated "as well as allegations of abuse" at JOYC.

The Committee said: "If the Heiner Inquiry documents did indeed contain serious allegations of child abuse ... shredding the documents was not only illegal, but immoral also.

"...the very fact that the Queensland Government admitted that the Heiner records included

material [that was] potentially defamatory, along with the hurry with which the documents were destroyed, would certainly suggest that the documents contained allegations of child abuse and (potentially criminal) misconduct by staff at JOYC," the Inquiry report said.

Unlike previous inquiries into the shredding of the documents, the Committee heard from the retired magistrate who conducted the inquiry, Mr Noel Heiner.

The Committee said, despite "some doubts as to the evidence contained in the documentation gathered by him ... in particular, the pack-rape incident ...", the evidence showed "that at minimum two cases of abuse were brought to the attention of Mr Heiner - one of handcuffing and another of sedation." The committee said that although Mr Heiner may not have heard all the allegations about the treatment of children in JOYC, there was sufficient evidence to prove that abuse did occur.

The committee found that agencies such as the Department of Families, the Criminal Justice Commission and "possibly the Queensland police...knew about the abuse and did nothing".

"It is also clear that the Forde Inquiry did not adequately address these issues," the Inquiry said.

The report said that even if Mr Heiner did not know about all the allegations concerning the centre, "at a minimum", the Minister for Family Services at the time, Anne Warner, would have known.

"The committee concludes that the Queensland Labor Government at the time, as well as successive Governments, have, at minimum,

failed in their duty to protect children in their care at the centre," the Committee reported.

Although the Committee could not determine the exact content of the shredded documents it said there was sufficient evidence to show that, "at minimum, the careers of public servants employed at JOYC and the Department of Family services were threatened," it said.

Evidence presented suggested "that there may have been a push by the unions, particularly the Australian Workers Union (AWU) to have the documents shredded," it said.

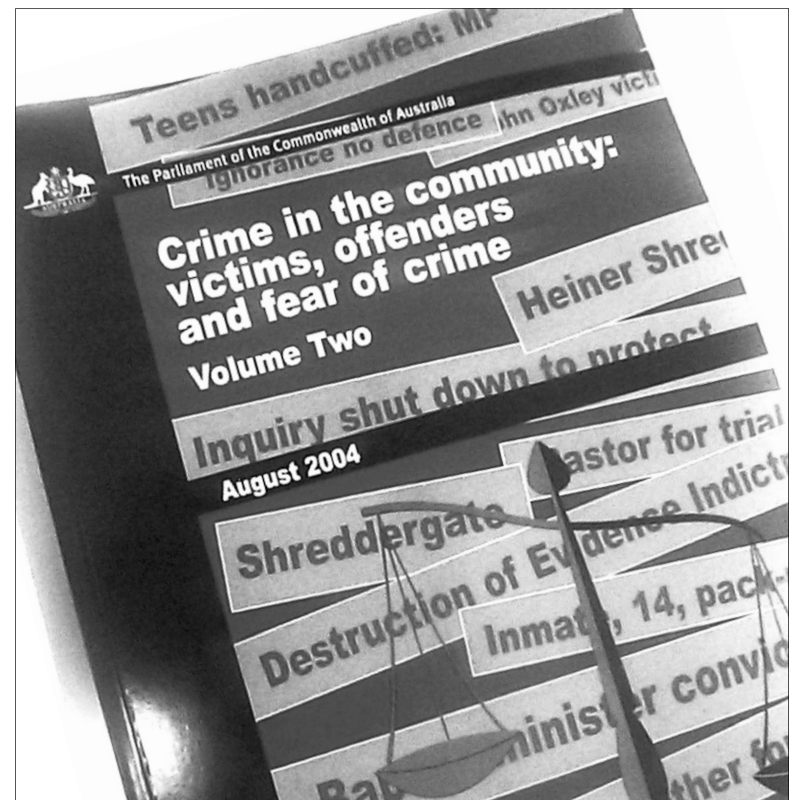
In a statement to the inquiry, the Minister who established the Heiner Inquiry, Beryce Nelson said: "I believe the inquiry was not shut down to protect the innocent; the inquiry was shut down to protect the guilty behaviour of some members of the AWU who were operating at the John Oxley centre at the time.

"That particular union was the faction in the election of the Goss government.

"It remains the powerful force within the current government, and I think it exercises the same powers of collusion and concealment in cases that are before the public at the moment," she said.

The report also referred to evidence that child abuse has continued at the replacement institution for JOYC, the Brisbane Youth Detention Centre, despite the Forde Inquiry into child abuse in Queensland institutions in 1999.

"Had action been taken in 1990 to clean up instead of cover up, subsequent abuse could have been avoided and the culture changed," the House of Representatives inquiry said.



Crime in the Community report ... critical of Queensland agencies

Report slams CJC

THE REPORT of the House of Representatives Crime in the Community Inquiry's investigation into the Shreddergate scandal is trenchant in its criticism of Queensland's super watchdog agency, the Criminal Justice Commission (now Crime and Misconduct Commission).

The report makes several references to the CJC's various involvements in the matter, including its claim that evidence could be destroyed as long as no court action requiring such evidence was actually underway, that the Heiner shredding matter had been investigated to the "nth degree", and its finding that there was no official misconduct involved in the matter of a girl being pack raped while held in custody in the John Oxley Youth Detention Centre.

The report says: "...Of grave concern to the Committee in the Heiner Affair and abuse at JOYC are the inadequacies of the investigations carried out by the then Criminal Justice Commission (CJC) in particular. The Committee notes that other Queensland Government bodies also appeared to have failed in their duty to protect Queenslanders and their children. Indeed, Queensland institutions appear to have collapsed around the executive government, and, in that sense, protected it".

"The Committee also considers that officers of the Department of Family Services and the CJC at the time of the shredding of the documents have failed to do their duty and may have a case to answer under sections 132 [Conspiracy to pervert justice] and 140 [Attempt to pervert justice] of the Queensland Criminal Code Act 1899".

"The Committee found, without reservation, that the evidence suggests certainly misconduct, possibly extending to criminal conduct, by officers within the Department of Families, the CJC, and possibly the Queensland police, in not investigating - and hence covering up - abuse at the Centre. It is clear these agencies knew about the abuse and did nothing. It is also clear that the Forde inquiry did not adequately address these issues".

"The Committee also concludes that there is evidence of abuse at JOYC which appears not to have been investigated exhaustively by the Forde inquiry or the CJC. Indeed, the investigation of the CJC at least arguably points to a cover-up".

At the time of going to press the Chairman of the Crime and Misconduct Commission, Mr Brendan Butler, had not responded to our invitation to reply to the Committee's criticisms of the organisation he headed.

Govt fights rape victim claim

Candace Harvey

THE State Government has rejected a claim for compensation from a woman who was pack-raped as a 14-year-old girl while a resident of the John Oxley Youth Detention Centre.

Her claim was rejected because the statute of limitations only gives childhood victims of abuse until they are 21 years of age to claim for compensation.

Roger Singh, partner and personal injury litigation lawyer with Shine Roche McGowan, is representing the woman.

"The statute of limitations is an easy defence on their part and they're being very resistant on that score," Mr Singh said.

"What we find with victims of abuse - and for good reason - is that it takes many years

to get the impetus to come forward, but the law doesn't recognise that," he said.

Mr Singh said the victim's turmoil was exacerbated because of the obstacle the statute of limitations created.

When asked how reasonable it was to employ this defence when most victims were minors and might block the incident from their memory for many years, Mr Singh said that the fact of the matter was the law allowed the statute of limitations defence to be pleaded.

Despite the legal obstacles, Mr Singh said his practice intended to challenge the stance taken by the government in the case of the girl who was pack raped.

A Senate inquiry into the abuse of children in care has called on state governments to alter their statute of limitations regimes to allow childhood victims of abuse access to the courts

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