

CHAPTER 2

The Grievance

Background

2.1 The Lindeberg grievance has its origins in the dismissal of a union organiser and whistleblower, Mr Kevin Lindeberg, from his position in the Queensland Professional Officers' Association (QPOA) in 1990.¹

Previous investigations

2.2 Mr Lindeberg's dismissal and associated events have been investigated on a number of occasions over the years by a number of different authorities, including the Queensland Criminal Justice Commission (CJC), the Queensland Parliamentary Committee on the CJC, the Queensland Auditor General, the Queensland Police Service, commissions of inquiry, the House of Representatives Standing Committee on Legal and Constitutional Affairs and committees of the Senate. Mr Lindeberg has expressed dissatisfaction with several of these inquiries, making serious allegations of incompetent and corrupt behaviour.²

2.3 These allegations have been strongly challenged by the persons and organisations against which they were made. For example, the Committee received correspondence rejecting Mr Lindeberg's assertions from the Queensland Police Service, which stated:

The Service does not accept that it or its members acted inappropriately, incompetently or with malice, spite or bias, during the course of investigations into allegations raised by Mr Lindeberg nor does it accept that it or its members failed to undertake the functions given to the organisation pursuant to the *Police Service Administration Act 1990* (Queensland)...³

2.4 Mr Bevan, Queensland Ombudsman and Information Commissioner, also contested the allegations, stating:

I have no information to support Mr Lindeberg's assertion, and no reason to believe, that any of the other CJC officers named by him...were guilty of any impropriety in connection with their

1 Mr K Lindeberg, Submission to the Senate Select Committee on Public Interest Whistleblowing, 3 December 1993, p.1

2 Mr Lindeberg, Submission no. 1, pp.61-77

3 Mr R Conder, Deputy Commissioner and Deputy Chief Executive (Operations) Queensland Police Service, *Correspondence*, 20 October 2004

handling of Mr Lindeberg's complaints or in providing information to any Senate Committee about the matter.⁴

2.5 As stated earlier in this report, responses to Mr Lindeberg's allegations which the Committee agreed to publish have been tabled with this report.

2.6 The most recent report on Mr Lindeberg's dismissal and associated events was presented by the House of Representatives Standing Committee on Legal and Constitutional Affairs in August 2004. In the context of its inquiry into the extent and impact and fear of crime within the Australian community, the House of Representatives committee inquired into the events (described by the committee as 'the Heiner affair') and reached conclusions and made recommendations based on its understanding of those events. As is the case with this Senate committee inquiry, the Queensland Government did not cooperate with the inquiry conducted by the House of Representatives committee.

2.7 It should be noted that the House of Representatives committee's terms of reference were different from, and much wider than, the reference before this committee which has been asked by the Senate to inquire into matters that might constitute contempt of the Senate.

2.8 The most comprehensive report on 'the Heiner affair' was one made to the Queensland Premier and Cabinet by Anthony J H Morris QC and Edward J C Howard, Barrister-at-Law.⁵ The Committee recommends that report, which was presented to the Queensland Legislative Assembly on 10 October 1996, to persons wishing to inform themselves of the detail of the events and issues that surround the Lindeberg grievance.

2.9 A brief outline of the relevant major events and issues may be found in the sections that follow.

Major events and issues in brief

2.10 Mr Lindeberg was appointed by QPOA in late 1989 to represent the interests of a member, Mr Coyne, the then manager of the John Oxley Youth Centre (JOYC), a juvenile detention centre in Queensland. Mr Coyne was at the time involved in a dispute with the Department of Family Services about access to documents that contained allegations made by staff about his management of the centre.

4 Mr D Bevan, Queensland Ombudsman and Information Commissioner, *Correspondence*, 3 August 2004

5 Anthony Morris QC and Edward Howard, *Report to the Honourable the Premier of Queensland and the Queensland Cabinet of An investigation into allegations by Mr Kevin Lindeberg and allegations by Mr Gordon Harris and Mr John Reynolds*, 10 October 1996

2.11 In November 1989, the then Department of Family Services had established an inquiry based on the allegations. A retired stipendiary magistrate, Mr Heiner, was appointed by the minister to conduct the inquiry. The department passed copies of the staff complaints that it had received from the Queensland State Services Union to Mr Heiner, who also gathered additional information from Mr Coyne and other staff of JOYC during his inquiry.

2.12 The Heiner inquiry was wound up on 7 February 1990 by the new Labor State Government and on 12 February 1990 Mr Coyne was seconded from his position at JOYC to head office. Subsequently, he was made redundant in February 1991, and received a payment of \$27 190 over and above his normal redundancy entitlements.

2.13 Also in February 1990 Mr Coyne, through his solicitors, had written to the department to seek access to the documents in which allegations were made against him. The documents that had been submitted to, or generated by, the Heiner inquiry (the Heiner Documents) were shredded on the order of the Queensland Cabinet. The Cabinet decision was made on 5 March 1990 and the Heiner documents were shredded on 23 March. The department did not inform Mr Coyne until 22 May 1990 that it was unable to provide access to the documents because they were not in its possession or control.

2.14 The Queensland Government sought to justify its decision to shred the documents on the grounds that the people who had given information to the inquiry, including Mr Coyne, did not have immunity from legal action. There is some dispute about this, but an opinion given by the Crown Solicitor at the time suggests that the persons involved did not have absolute immunity from action for defamation.

2.15 Mr Lindeberg, on behalf of Mr Coyne, had also made representations to the department and the Minister for access to the documents. His actions in that regard led to his removal from the case by the QPOA, and were one of seven reasons given by the union for his dismissal.

2.16 Following the shredding of the Heiner documents, the original complaint documents were returned by the department to the union. Copies that had been provided to the Crown Solicitor by the department and had been returned to the department were also destroyed. These documents were shredded on 23 May 1990, the day after the department informed Mr Coyne that it was unable to provide access to the documents because they were no longer in its possession or control.

2.17 Mr Coyne and Mr Lindeberg have alleged that destruction of the Heiner documents involved a breach of one or more provisions of the Queensland Criminal Code because the Queensland Cabinet had decided to destroy the documents knowing that they were required for prospective legal

proceedings. There have also been allegations of breaches of Queensland Public Service and Management Regulations and of the Queensland Libraries and Archives Act. These allegations have consistently been denied by various Queensland State office holders and by the Criminal Justice Commission, which have given evidence to Senate committees that have inquired into the issues.

Senate committee inquiries

2.18 As stated earlier, the events and issues surrounding Mr Lindeberg's dismissal and the shredding of the Heiner documents have been the subject of several inquiries. This Committee has been asked to inquire into whether any false or misleading evidence was given to four Senate committee inquiries and whether any contempt of the Senate was committed in that regard. The relevant inquiries are as follows:

- Select Committee on Public Interest Whistleblowing (Report presented August 1994);
- Select Committee on Unresolved Whistleblower Cases (Report presented October 1995);
- Committee of Privileges (63rd and 71st reports) (Reports presented December 1996 and May 1998).

2.19 Mr Lindeberg was a witness at the first inquiry into these matters, which was undertaken by the Senate Select Committee on Public Interest Whistleblowing (PIW Committee). He submitted details of his dismissal from the QPOA and of the shredding of the Heiner documents to that committee. The Queensland Government did not co-operate with the inquiry, but the CJC, a state instrumentality, was a witness. The PIW Committee did not report specifically on Mr Lindeberg's allegations, but it recommended that the Queensland Government establish an independent investigation into unresolved whistleblower cases within its jurisdiction.

2.20 The Queensland Government did not accept the recommendation, and the Senate established another select committee, the Senate Select Committee on Unresolved Whistleblower Cases (UWB Committee), to inquire into those cases itself. The Queensland Government again refused to co-operate in the inquiry, but the CJC was again a witness.

2.21 It was from the inquiry into unresolved whistleblower cases that the two references to the Committee of Privileges arose. Mr Lindeberg alleged on two different occasions in 1996 and in 1998 that the CJC had given false and misleading evidence to the UWB Committee in relation to different matters, and that a contempt of the Senate may have been committed in that regard. These allegations were referred to the Committee of Privileges under the procedures of the Senate. The committee investigated the allegations and on

both occasions reported to the Senate that no contempt had been committed. In both reports the Committee of Privileges expressed the view that the most appropriate avenues for examination of matters of the kind referred to it are state institutions.⁶

2.22 Despite the findings of the Committee of Privileges, this Committee has again been asked to inquire into further allegations made by Mr Lindeberg that false and misleading evidence was given to the UWB inquiry, and also to the Committee of Privileges.

2.23 Mr Lindeberg made many allegations at this inquiry in respect of the evidence that was given to the earlier inquiries. Specifically, he has identified four main matters in which he claims that those inquiries were misled. These matters are as follows:

- (a) providing to the Senate a contrived interpretation of section 129 of the *Criminal Code (Qld) 1899* in particular, and of *Public Service Management and Employment Regulation 65* and *Libraries and Archives Act 1988*;
- (b) deliberately tampering with evidence as in Document 13 by providing it to the Senate in an incomplete form in order to inflict a detriment on a witness and/or witnesses to a related Senate inquiry, and to improperly obstruct the Senate inquiry from making full and proper findings and recommendations;
- (c) deliberately withholding known relevant evidence from the Senate which was in the possession and control of the Queensland Government at all relevant times revealing the crime of pack-rape and criminal paedophilia; and
- (d) failing to properly disclose to the Senate the true nature of the February 1991 Deed of Settlement between Mr Peter Coyne and the State of Queensland concerning certain 'events' at the John Oxley Youth Detention Centre, which both parties agreed to never publicly disclose in exchange for the payment of taxpayers' moneys after threats were made by certain persons against State public officials to take the matter to the CJC, in particular, to investigate.⁷

2.24 These matters are dealt with in Chapter 3 of this report.

6 Committee of Privileges, *Further Possible or Misleading Evidence before select Committee on Unresolved Whistleblower Case: 71st Report*, p.10

7 Mr Lindeberg, Submission no. 1, p.5

