

**Submission
No 28**

**INQUIRY INTO FAMILY RESPONSE TO THE MURDERS IN
BOWRAVILLE**

Name: Ms Janette Blainey

Date received: 2/05/2014

To the Parliamentary Inquiry into the family response to the murders in Bowraville.

**UNANSWERED QUESTIONS IN THE SEEKING OF JUSTICE
FOR THE FAMILIES OF THE MURDERED CHILDREN.**

Firstly I would like to acknowledge the land, ancestors and custodial Elders of the land where the NSW Parliament sits and the land, ancestors and Elders of the Gumbaynggirr people.

It would be worth knowing ... Why it was decided not to make an application to the Court of Criminal Appeal for the retrial of the persons acquitted of the murders of Evelyn and Clinton and an Ex-Officio Indictment for the murder of Colleen, as requested in the families' submission to the NSW Attorney-General in June 2011, requesting that he exercise his power under Section 115 of the Crimes (Appeal and Review) Act 2001?

Could it be made clear to the families why the new evidence would not enable a fair chance of a change in verdict in another court hearing. Also why a trial for the murder of the 3 children, with this new evidence is not considered capable of getting a conviction?

Is it because the original statements taken by police are to be admitted as evidence and therefore appear to confuse the jury into questioning the credibility of the witnesses speaking 23 years later, today, when witnesses are more fully aware of the legal implications and the consequences of their answers? When they are aware also of the whole legal process and the way their responses are often misunderstood by those listening?

Is it because the same processes would be present in another hearing, for example where the Aboriginal English and other styles of communication are not understood by members of the court, including the jury?

Is it because the hugely threatening environment of interrogation is employed?

Is it because again the jury would not be informed by expert witnesses, about the different styles of communication, use of language etc of the Aboriginal witnesses providing evidence, as has been accepted as normal procedure in other states?

What in fact are the reasons why the evidence of 3 cases being heard at once with proper instruction of the jury of the issues identified below would not have a reasonable chance of getting a conviction?

1. Aboriginal English
2. Cultural interpretation of body language, turn of phrase and tone of voice
3. Stress and confusion, then and now; cultural ways of dealing with police questioning both historically and currently; community relations with police 20 plus years ago;
4. Implications of all this and lack of awareness back then of the implications of the answers given under duress and ignorance of police process or the importance of police records and how they would be used in the future.
5. Issues of cultural perceptions, where party and drug & alcohol culture are part of life in a community that has experienced racism, dispossession and discrimination generationally.

How might it be possible to achieve justice for the families of the children murdered 23 years ago?

With respect for Gumbaynggirr country, the ancestors, the people and the culture, while continuing to seek justice...

Janette Blainey
Macksville

2 May 2014