

## INQUIRY INTO FAMILY RESPONSE TO THE MURDERS IN BOWRAVILLE

**Organisation:** Aboriginal Catholic Ministry

**Date received:** 3/02/2014

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Partially Confidential

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Catholic  
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**The Director  
Standing Committee on Law & Justice  
Parliament House, Macquarie Street, Sydney, NSW, 2000  
Parliamentary Inquiry, February 2014**

**Murder of Three Bowraville Children**

**Submission from:  
Aboriginal Catholic Ministry  
Fr. Paul Sullivan sm**

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**The Director  
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Mr Abernethy, State Coroner, in the Coronial Report of 2004, states:

*"Like the investigating police I am of the opinion that the circumstances surrounding the disappearance of Colleen Walker and the murders of Evelyn Greenup and Clinton Speedie have strikingly similar characteristics". (1,)*

*Mr Abernethy identifies **eleven** points of 'strikingly similar characteristics' with the three cases. (2,) (bold and underline print not in original report)*

Mr Abernethy concludes: *"In view of the fact that I've terminated the Inquest of Evelyn Greenup I am of the view that the DPP should look closely at the three cases in making a decision as to proceed further with the Greenup case".(3)*

These are the findings of the Coronial Inquiry conducted by State Coroner, Mr J Abernethy into the deaths of Evelyn Greenup and Colleen Walker, at Bellingen on 10th September, 2004.

Since the children were reported missing in 1990, the families of the murdered children have experienced a 'roller-coaster ride' of rising hopes and crashing disappointments. There is a litany of events over the years all leading to the same outcome, namely a series of false hopes, lack of justice and another dead end.

**A Litany of Events** (incomplete)

- Unprofessional initial response and investigations by Police
- Decisions to hear the court cases one by one and not proceed with a court hearing where there is a 'missing body due to the unlikelihood of obtaining a conviction'.
- Two unsuccessful court cases for the charge of murder
- Professional Grief Counsellors engaged for the Bowraville families
- Intensive & professional investigations by Detective Inspector Jubilen
- Formation of a Community Action group for justice by the families
- The proposed change to Double Jeopardy legislation in NSW
- The change of government in NSW offering new hopes of action
- Informal support & counselling for family members



On-going and deep seated family and community conflicts, tension, gossip and alcohol problems  
\$250,000 reward offered for information leading to an arrest & conviction  
Media stories - TV, magazine, newspaper - giving details of the three murders  
The Double Jeopardy legislation passed in NSW Parliament  
The application for a Double Jeopardy hearing to the NSW Attorney  
Protest marches to NSW Parliament by the families and communities  
The rejection by the NSW Attorney of the application for a Double Jeopardy hearing for the Bowraville murders.

In the meantime: 'the truth is locked away ... the truth is imprisoned... 'the truth is in jail ... and the alleged offender walks free'. It is time to set the whole truth free. There is a fundamental injustice and families do not heal.

### **Truth & Justice & Healing**

Truth - justice - healing - peace are deeply interrelated.  
Unless the whole truth is told in the court - justice will not be administered and - healing & peace will not occur for families. This is true at various levels: for individuals, families, the Aboriginal community and the wider community of Bowraville and the Nambucca Valley.

The book of Psalms has a beautiful ancient prayer that expresses the interrelatedness of these rock solid foundations of society:

"Mercy and truth have met,  
Justice and peace have embraced" (4)

Truth is the foundation for justice and when justice is exercised with a sense of mercy and compassion healing and peace can begin to take place.

Tragically, after over 24 years, we are still at the first stage: the whole truth has not been heard in the right places at the same time. While some people want to focus on healing - healing without the foundation stones of truth and justice is just a dream.

### **The Court System & Telling the Truth**

When a witness takes the stand in court they are asked to 'tell the whole truth and nothing but the truth'. The court system itself needs to follow the same principle, namely: to facilitate the telling of the whole truth and nothing but the truth in the one place at the same time.

Unfortunately, (to my knowledge) the three murders have not been formally considered in the same court. While the Coronial Inquest heard evidence in relation to the three murders, the primary focus of the Inquest was the death of Evelyn Greenup and Colleen Walker as a missing person.

**Consequently:** the court and the jury do not have access to the whole story and the whole truth and do not appreciate the similar patterns and the 'strikingly similar characteristics' to the three cases.

The following words by Malcolm Knox, a Walkley Award winner for journalism, in "The Monthly" in October 2010, names this same truth : *"In August 1993, Justice Badgery-Parker had ruled that the evidence against [redacted] over Evelyn's and Clinton's murders would be so prejudicial as to make it impossible for him to get a fair trial if they were run together. Leonie Duroux, the widow of Clinton's uncle Marbuck-Duroux, says that in the grieving families' view, "this decision meant that [redacted] had won his trial before it started."* ( 5 )

Knox further writes: *"Arrested and charged after the remains of two of the missing children were found, [redacted] caught a break in 1993, when Justice Badgery-Parker of the NSW Supreme Court ruled that [redacted] could not be tried for the two murders together. Rules of 'similar fact' and 'tendency' evidence were more favourable to an accused person then than they are now.* (6)

### **Adversarial Questioning Style & the Credibility of the Witness**

The adversarial and forensic questioning style of the court proceedings puts the Aboriginal witness at a great disadvantage as this style of language and procedure is not typical in Aboriginal cultural. The adversarial and forensic atmosphere creates confusion and uncertainty in the mind of the Aboriginal witness and then in the mind of the jury as they hear evidence. When sorting out the veracity of evidence the jury is placed in an awkward situation - who do you believe and who do you doubt - especially when the Aboriginal witness is at a disadvantage in the court setting?

The fact that some Aboriginal witnesses were drinking alcohol at the time of the murders and still suffer from drinking problems further works against their credibility as a witness in court. All these factors work in favour of the defence being about to create doubt in the mind of the jury and defendant being found not guilty.

Aboriginal witnesses have a story to tell and the court needs to allow and encourage their truth to be heard. Professor Diana Eades has written several articles outlining the cultural disadvantage of the court proceedings to the Aboriginal person. (7)

**Consequently:** it is very easy for the Defence to create doubt in the mind of the jury as to the reliability and credibility of the evidence of the Aboriginal witness.

**Consequently:** in the two trials for murder the jury found that 'there was insufficient evidence beyond reasonable doubt to convict the defendant of the charge of murder'. The same pattern is obvious.



This leaves the families feeling betrayed over and over again. They feel deeply resentful and stuck in a whirlpool of unresolved grief that is further entrenched by the lack of justice. While some people are inclined to give up on the justice system the families do not give up on grieving for their murdered children.

Hopefully, the Parliamentary Inquiry can **revisit**:

the whole truth of the three cases  
the findings of Justice Badgery-Parker in 1993  
the findings of the Coronial Inquiry in 2004,  
and other relevant material

Hopefully, the Parliamentary Inquiry can **re-focus** on how to proceed with these unresolved murders in order:

to set the whole truth free in the one place at the same time,  
to enable justice to be exercised and  
to begin the process of healing for the families and the local community.

Fr. Paul Sullivan sm

30th January, 2014

Aboriginal Catholic Ministry,

Paul Sullivan sm: I am a Catholic Priest and belong to the order of Marist Fathers. I have exercised ministry in the Nambucca Valley for the past 10 years as a member of the Aboriginal Catholic Ministry (ACM) team. I previously worked for 12 years in the NT with the Aboriginal community as the Director of a church based organisation called Alcohol awareness & Family Recovery. The ACM team has been involved with the Bowraville community and families of the children since 1990 and the Catholic church has had a long standing relationship with the community.

Footnotes:

- 1 Coronial Inquest, Bellingen, J Abernethy, 10th September, 2004 , p 28
- 2 Coronial Inquest, Bellingen, J Abernethy, 10th September, 2004, p 26-27
- 3 Coronial Inquest: NEW SOUTH WALES STATE CORONER'S COURT, BELLINGEN, STATE CORONER, J ABERNETHY, FRIDAY 10 SEPTEMBER 2004, INQUEST INTO THE DEATHS OF EVELYN CLARICE GREENUP and COLLEEN ANNE WALKER
- 4 Bible, Douay-Rheims version, Psalm 85, v 11
- 5 Malcolm Knox, 'The Mission, the Bowraville Murders', The Monthly, October, 2010, No 61
- 6 Malcolm Knox, 'The Mission, the Bowraville Murders', The Monthly, October, 2010, No 61
- 7 Diana Eades - see submission to this same Parliamentary Inquiry, February 2014, from Diana Eades and Diana Eades, 'Aboriginal Ways of Using English', Canberra Aboriginal Studies Press, 2013