

JOHN OXLEY YOUTH CENTRE INVESTIGATION

Background

14.9.89 Director-General met with Janine Walker, State Service Union. She expressed concerns regarding the working relationship between the Manager and some of the staff at the Centre.

28.9.89 Director-General visits Centre and tells staff of his discussion with Janine Walker and says he will establish independent investigation if complaints are confirmed in writing.

10.10.89 Janine Walker forwards statements from Youth Workers to Director-General - "supplied to you personally on the understanding that they will not be circulated widely for the purpose of substantiating our concerns in relation to the management of the Centre".

18.10.89 Minister meets with State Service Union re concerns at Centre - staff safety, staff training, management.

13.11.89 Director-General writes to Mr. Heiner advising of his appointment to undertake "investigation of staff complaints at John Oxley Youth Centre" and encloses Terms of Reference (copy attached).

Early December Concerns expressed by senior officers, Manager and other staff of the Centre regarding the direction of the inquiry. Complaints focussed on "breach of natural justice" because those who believed that allegations had been made against them were not given written advice of the specific allegations.

It appears that the inquiry sought to establish whether or not the specific incidents referred to in the statements provided by the State Service Union had or had not occurred. From the October letter from the State Service Union and subsequent confirmation from the State Service Union it is clear that the State Service Union never envisaged that the statements of their members provided personally to the Director-General would be used in this way.

Broader issues such as staff training, safety and the nature of the management of the Centre did not appear to be under close examination by Mr. Heiner.

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Date: 29-1-2005
Exhibit number: (S) A

17.1.90

Acting Director-General sought advice from the Crown Solicitor regarding the legal basis of the inquiry because of the concern that defamatory information was being presented to Mr. Heiner. Also, certain staff of the Centre had indicated to the Acting Director-General their intention to take civil action against informants to the inquiry.

Also on 17th January, 1990 Solicitors on behalf of the Manager and the Deputy Manager indicated their intention to seek a Writ of Prohibition to injunct Mr. Heiner from proceeding further with the inquiry. To date, no such writ has been sought.

Having regard to the advice of the Crown Solicitor, it became apparent that:

- 1) Mr Heiner was appointed as an independent contractor and was therefore not a Crown Employee.
- 2) No indemnity was therefore afforded to him during the course of his conduct of the inquiry.
- 3) Informants to the inquiry were similarly not provided with statutory protection from civil action (May have qualified privilege under the criminal code).
- 4) The Department having established the inquiry was liable to be subject to adverse criticism and/or legal action.
- 5) Written statements and tape recorded statements made to Mr. Heiner are not public records as defined by Section 5(2) of the Libraries and Archives Act because Mr. Heiner was an independent contractor not a crown employee. Hence all information gathered by him does not constitute "public records". Rather they are his working documents/records.

19.1.90

Acting Director-General met with Mr. Heiner to discuss the basis for his appointment and the legal implications.

19.1.90

Mr. Heiner advised Acting Director-General in writing of his intention not to continue with the inquiry until legal issues were clarified. He further sought to be indemnified for his conduct of the inquiry. In response to this letter the Acting Director-General verbally requested Mr. Heiner to send all records to her. The Acting Director-General subsequently took possession of

all documents which are sealed and have not been sighted by the Acting Director-General and has them secured in her office.

It is clear that because the establishment of the inquiry had no firm legal basis any report flowing from it will have no appropriate standing - if it were to be prepared it would contain defamatory material which would further inflame staff/management relationships.

Underlying issues of concern such as staff training, safety and management dealings with staff have been overshadowed by the inquiry's focus upon alleged incidents involving certain staff. Mr. Heiner did not intend to make any recommendations in his report, nor was he required to do so (refer to Terms of Reference).

No useful purpose can be served by continuation of the inquiry.

The Acting Director-General on 7th February, 1990 wrote to Mr. Heiner advising him that he was not to continue the inquiry any further.

The Acting Director-General has kept both the Professional Officers' Association and the State Service Union informed of developments.

- PLAN:
- 1) seek Cabinet approval to indemnify Mr. Heiner.
 - 2) seek Cabinet approval to the destruction of the working documents and records generated by Mr. Heiner.
 - 3) Acting Director-General to address staff at the Centre on 13th February, 1990 outlining:
 - 1) termination of the inquiry
 - 2) plans to address outstanding issues - training, safety etc
 - 3) secondment of Manager to special project
 - 4) announcement of Acting Manager