

QCPCI Reference:

QCPCI 3 (e)

Date: 13.2.2013

Exhibit number: 321



QUEENSLAND CHILD PROTECTION  
COMMISSION OF INQUIRY

Statement of Witness

<i>Name of Witness</i>	Donald Andrew Cameron SMITH
<i>Date of Birth</i>	01/07/1941
<i>Address and contact details</i>	Known to Queensland Child Protection Inquiry
<i>Occupation</i>	Retired
<i>Officer taking statement</i>	Detective Sergeant Fabian COLLESS
<i>Date taken</i>	15 January 2013

I, Donald Andrew Cameron SMITH state;

1. I am a former employee of the State Children Department, herein referred to as the Department.
2. Originally I commenced government employment as a clerk in the Department of Health. After completing a course in social work I was transferred to the State Children Department. This department was originally attached to the Department of Health but later separated. Over subsequent years the Department took on various titles.
3. Initially my involvement with the department was undertaking general duties, such as family assistance, foster home visits, adoption application assessments, child protection and juvenile justice work within a designated geographical area. During my employment I recall a period of time where the majority of my duties focused on children in residential care, including those in detention centres.
4. Another time I performed duties as Director of Court Services. This role included me managing a team of approximately 8 staff who basically serviced the Brisbane

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Children's Court and higher courts. I didn't handle many court matters direct myself, although I did often represent the department in the supreme or district courts when a child was charged with a serious offence. I had some very minor direct involvement in adoption matters, where we had the right of application to the children's court magistrate. I did handle them directly; however most of the work was to do with juvenile justice and child protection. I performed that role for several years and worked out of the Brisbane Children's Court Building on Quay Street, Brisbane.

5. As Director of Court Services I recall one of my team members being Ms Barbara Flynn. I can recall at some time that Ms Flynn was asked to and assisted in the Heiner Inquiry however I cannot recollect if this occurred whilst I was at Court Services. I believe she was asked to assist fairly early on in the Inquiry's life however cannot state when that occurred. Whilst in that role Ms Flynn never reported to me as Director the results or her involvement in that Inquiry. I cannot recall whether or not that was a full-time role or her coming back to work full-time at Court Services after finishing with the Inquiry however I assume she would have as that had been her original position. I do recall on some occasions, Ms Flynn acting in the role of Director of Court Services.
  
6. Personally I did not know Magistrate Heiner. I may have had some limited contact with him if I was in attendance at court and he was the presiding Magistrate in certain matters. I am aware the Children's Court Magistrate had chambers on the top floor of the Children's Court building, the same floor as the court rooms. There were three magistrates' chambers, however only one was occupied. I was of the belief Mr Heiner held the Inquiry somewhere else however I don't know. That is my assumption only. The court had other offices however I do not know if they were ever being used. I am not aware if at any time Mr Heiner used the Children's Court to conduct his enquiries. The reason for that is that the actual court level was the Justice Department level. We would only attend that level to attend court proceedings as required. Generally we remained on the other level.

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7. At no time did I ever have any direct involvement, knowledge or conversations relating to the Heiner Inquiry. I would have only held general knowledge of it as a Departmental employee, in that I was aware that an Inquiry was being held. My understanding of the Inquiry was that it was to do with staff having some grievances against other staff of the John Oxley Youth Centre [herein referred to as JOYC].
  
8. After leaving my position of Director of Court Services, I moved on to the position of Special Services Officer in the Office of the Acting Director General Ruth Matchett. This occurred a little time after the new government came to power. I cannot recall the date that occurred. I believe I had been recruited as the office desired someone with experience in the department. The functions and duties of that role were largely undefined however my daily duties involved me undertaking tasks the Director General asked me to do, including providing independent review in particular case matters. Eventually this position expanded to me managing administrative law type issues such as grievances and internal review of freedom of information decisions. I also undertook some liaison between the department and the Minister's office.
  
9. As the Special Duties Officer I would have seen some of the correspondence that came through to the department from the Minister's office. I didn't actually manage the process as that it was not my responsibility to ensure the correspondence had been replied to or not. Someone else did that. Around the time when I moved to the Acting Director General's office there had been some changes. From memory Trevor Walsh was also working in the Director General's Office as a senior administrative person there.
  
10. My memories surrounding matters relating to the Heiner Inquiry are as follows. I cannot place in exact chronological order, but certainly at some point in time I became aware that some staff at JOYC were unhappy with senior staff there. That's what I believed was the basis of the Inquiry. My memories are tainted

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somewhat because I know it has come up in the media a lot since that time. I obviously learnt that at some time the Inquiry was closed down. I believe the reason for this had been because of the way it had been structured and perhaps Mr Heiner and persons he interviewed did not have the right protections. As far as I am aware that was probably a Cabinet decision. There would be no doubt on file some notations I would have made relating to correspondence created after the closure of the Inquiry seeking protections of people. There was protection being sought for the staff who had made complaints through their union. I assume that the correspondence originally had gone to the Inquiry, but as I recall those papers were later returned to the union.

11. My understanding is that JOYC workers would have been invited to have the matter dealt with as normal grievances, if they had a grievance against another worker. That is the normal process to manage it. I cannot remember what happened after that. I'm not aware, for instance, if the staff did take up the offer to have matters dealt with by way of a grievance process. I may well have been aware of that if it had happened however I can't remember that happening. I do not know what happened in terms of whether or not there was any immediate change to the management at JOYC as a result.
12. I know that the documents Mr Heiner made or created were destroyed and that's been part of the controversy. I am not sure if I was aware of the documents destruction around the time it occurred or due to later media reports. Whether I was aware of the Cabinet decision, which I assume provided for the destruction to happen at the time, again I do not know.
13. Whilst I was a Special Duties Officer under Director General Matchett I recall at some time having to convey some instructions to Crown Law in relation to the issue. I know there's a comment I made on the file that came up in the Morris Inquiry. There was a desire to put the staff who had made grievances back in a position that they were not disadvantaged and that the original documents were to be returned to the union. I know I made a comment on the file at that time that the

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photocopies that had been taken were destroyed. I make some assumptions that it was a normal matter to make photocopies of documents from time to time, and that one didn't keep them forever. So when the originals were returned the photocopies were not retained either.

14. On the 15<sup>th</sup> January 2013 I was shown a photocopy of a document dated the 18<sup>th</sup> of April 1990 authored by Mr Ken O'Shea, Crown Solicitor. I confirm that on the bottom of that photocopy there is a hand written notation in my hand writing and signed by me stating 'these copies were photocopies, they were destroyed today' dated the 23<sup>rd</sup> of May 1990. From recollection I had been liaising between the Director General and Crown Law. I believe the documents relate to statements that had been provided by staff of JOYC relating to grievances. I do not recall how many statements there were however assume that at some stage I saw those papers personally. My understanding is that the original statements were later returned to the Queensland State Services Union [QSSU]. I do not know by whom or when those papers were returned. At the same time, copies held by the Department that had been sent to Crown Law were destroyed.
15. In relation to the Crown Law advice that was sent, there had been a desire to place the staff in the position they were in prior to the papers being lodged via the union with the department. Once the Inquiry was no longer in existence, my understanding is that the desire was to place staff back in the position, so that they could have their concerns dealt with in another formal process. I believe that such matters would have routinely been referred to Crown Law for such advice. I believe contact had been through Barry Thomas of the Crown Solicitor's Office. I do not have exact recollection of conversations with Mr Thomas however I imagine saying something like, 'this is what the department desire is'.
16. I am aware that around that time Mr Peter Coyne, Manager of JOYC was attempting to obtain documents. I do not have further memory other than he must have been aware that some criticism may have been made of him or his management and he was seeking that information. I do not have recollection of

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having specific conversations with Mr Thomas about Mr Coyne seeking those particular statements.

17. I acknowledge making notation on that document indicating that the documents were destroyed. I have no recollection of making such notation or the actual physical destruction of the documents themselves. I can make only assumptions now that if the originals were being returned to the union and no longer on the department's file, then it wouldn't have protected the staff if copies were held. It was very routine to make copies for all sorts of purposes, and when they were no longer required, they wouldn't be retained. I do not know who had made the photocopies in the first instance, nor do I recall who made the decision to authorise their destruction. I would not think it had been my decision to destroy such documents.
18. I make the assumption that in order to seek legal advice copies were made and sent to Crown Law. When Crown Law advised that the originals should be returned, they were. The photocopies also needed to be dealt with. I do not believe that photocopies of documents needed to be forwarded to the State Archivist for approval of destruction. I had no previous dealings with the State Archivist in relation to such matters and do not believe that advice was needed to be sought. For instance, we might keep a copy of an original letter received to make sure, if it was referred to someone, that it was properly replied to. Once the original came back and that was properly replied to, you might not keep these hundreds of other duplicate papers. It wouldn't have been normal to go to the archivist to say, 'I've answered the letter, we've dealt with the matter and seek permission to dispose of a duplicate copy. Other than general knowledge that certain accounting records were, in practice, to be held for certain periods of time that is all I can comment on. I had no experience with that personally. I had no knowledge if whether advice was ever sought from the State Archivist, nor can I comment as to why the Department never retained a copy of the papers on its file other than what I have said – to put staff in the position they were in prior to the papers being provided by the union and to allow them to access the normal grievance process.

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19. Although I was aware that Mr Coyne had been attempting to access those documents, I was not advised nor aware or told by any person, including Ms Matchett, that the reason for disposing of the statements were to prevent Mr Coyne accessing them. My understanding is it was done to protect the staff, to put them back in the position they were in prior to the basis of the material being lodged in the first place.
  
20. I know Janine Walker by name only as the secretary of the QSSU. The names Brian Mann or Sue Ball have no meaning to me. I have had no dealings with those persons.
  
21. On the 15<sup>th</sup> January 2013 I was shown a photocopy of a document dated the 8<sup>th</sup> May 1990 titled, 'The John Oxley Youth Centre, discontinued inquiry and other matters'. Upon review of that document I confirm that it is a report authored by me to the then Acting Director General Ruth Matchett. I cannot recall writing that document however from review believe I must have been asked to review the papers and provide advice as to what matters were still outstanding and what still needed to be resolved. It appears that letters were sent to various bodies, lists of unions, etc. I do not know what happened to the advice contained within that document. I am assuming letters were forwarded to the listed bodies and unions, and from that document know that Ms Matchett met with staff at JOYC on the 13<sup>th</sup> February to advise them that the inquiry had been discontinued. I am not sure about the reference to actions relating to the 'advice to Mr Heiner' and 'dealing with Mr Coyne'. I do not know what else was done in relation to the grievance procedures. I assume someone would have clarified to the staff, 'this is your rights in terms of lodging grievances'. From providing that report to Ms Matchett, she would have tasked various people to undertake various tasks such as ensuring JOYC staff were aware of the department's grievance procedures. I did not do that myself.

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22. I am surprised how the Heiner Inquiry ever came to be related to child protection matters, as I have no knowledge as to how those links were ever made. In all my dealings in that matter I did not see anything about sexual abuse. That would have raised an alarm and I imagine would have been referred to Police. As far as I am aware there was nothing done departmentally to suggest that such concerns were raised either.

Donald Andrew Cameron SMITH

**Declaration**

This written statement by me dated 15/01/2013 and contained in the pages numbered 1 to 8 is true and correct to the best of my knowledge and belief.

Don Smith Signature

Signed at Breabara this 6th day of February 20 13

Signature of Officer

[Signature] Signature

Name Deviso Paron Rank DSC Reg. No. 10736

Signature of Witness:

Don Smith

Signature of Officer:

[Signature]