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QUEENSLAND CABINET OFFICE



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 Reference: F2114/PW:RJB  
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29th April, 1991.

QCPCI 3 (e)

ATTENTION: Mr. P. Jones

Date: 3.12.2012

Exhibit number: 212

Sir Max Bingham,  
 Chairman,  
 Criminal Justice Commission,  
 P.O. Box 157,  
 NORTH QUAY. Q. 4002

Dear Sir,

I refer to your letter dated 12th April, 1991, seeking information that might assist in the Commission's assessment of a complaint relating to the destruction of documents relevant to an inquiry headed by the former Stipendiary Magistrate, Mr. Noel Heiner.

As you may be aware, Mr. Heiner was appointed on 13th November, 1989, by the Director-General of the former Department of Family Services to investigate and report on certain matters relating to the John Oxley Youth Centre, after representations by the Queensland State Service Union over certain management practices at that Centre.

As part of his investigations Mr. Heiner is believed to have gathered information of a potentially defamatory nature from a number of informants in the form of both written and electronically recorded information.

B/C: Director-General,  
 Department of the Premier,  
 Economic and Trade Development,  
 BRISBANE.

*PD s/s.*

For your information.

*S. Tait*  
 S. Tait  
 Secretary of Cabinet  
 29.4.1991

*D. J. STANLEY 3/5*

*AS 18/5*

As time went by, doubts arose within the newly created Department of Family Services and Aboriginal and Islander Affairs as to the legal status of Mr. Heiner's appointment and the extent of his immunity against any legal action which might arise as a result of his investigations.

Within this context, it was noted that Crown employees would normally be indemnified against the costs of any legal claims arising out of the due performance of their duties.

The Crown Solicitor was consulted and advised that although Mr. Heiner had been lawfully appointed, he was an independent contractor, rather than an employee of the Crown, and that the nature of his appointment did not afford either him or his informants any statutory immunity against legal action in relation to their respective involvement in the investigation - much less indemnity against the costs of any legal claims which might arise.

In view of the Crown Solicitor's advice and what was perceived to be the limited value of continuing with the investigation, the Acting Director-General of the Department of Family Services and Aboriginal and Islander Affairs terminated the investigation and took possession of all documents, thereby reducing the likelihood of any legal action for all concerned.

The documents under discussion were handed to the Acting Director-General in sealed boxes and were not subsequently perused.


Upon coming into the Crown's possession, these sealed documents became "public records" within the meaning of Section 5 (2) of the Libraries and Archives Act 1988.

As the Inquiry had been terminated the written advice of the State Archivist was sought as to whether the documents should be destroyed or retained under Section 55 of the Libraries and Archives Act. (Copies of correspondence attached). Following the State Archivist's advice that the documents were not required for permanent retention, the documents were destroyed under the supervision of the State Archivist.

The above information summarises my recollections of this matter.

I trust it will be of assistance and, in the event that you should have any further queries, I suggest that the Director-General, Department of Family Services and Aboriginal and Islander Affairs might also be consulted.

Yours faithfully,

  
S. Tait,  
Secretary of Cabinet.