



POLICE
Nga Pirihimana O Aotearoa

3 March 1994

Mr W H Wealleans
1 Bradford Street
CHRISTCHURCH

Mr R Keys
111 Vancora Road
CHRISTCHURCH

Dear Messrs Wealleans and Keys

CIVIC CHILD CARE CENTRE INVESTIGATION AND THE DOCUMENT - "A REVIEW OF THE MANAGEMENT POLICY AND PRACTICES OF THE CIVIC CHILD CARE CENTRE"

With reference to your letter dated 4 February 1994 you asked a number of questions and to answer them fully I will deal with each question chronologically.

"On 18 March 1992 Smart met with Civic staff as a group. She produced transcripts of staff statements which they had made to Police on an earlier date. She read them and then offered the staff the opportunity at the beginning of their interviews with her to re-read their statements and tell her if there was anything they would like to say differently or would like to add."

Ms Smart met informally with the staff of the Civic Creche on 18 March 1992 - this was at a monthly staff meeting. The purpose of the meeting was to introduce herself to the staff and explain the purpose of the review. Ms Smart has advised me that during this meeting staff members requested that she read the statements that they had made to the Police as they felt they did not accurately describe what they intended to say. Ms Smart did not have possession of any statements on 18 March. In the statement taken from Ms Smart on 18 November 1992 she explains that at the commencement of each interview with staff members she offered them the opportunity to read their statement and tell her if there was anything they would like to say differently or add to it.

1 **"Was Smart a private individual, a sworn or unsworn member of Police, a special constable or Police representative?"**

"Explain criteria and circumstances for appointment of special constables, Police representatives or investigators."

Ms Smart was employed by the Christchurch City Council to conduct a review examining the management and supervision practices of the Civic Child Care Centre and make recommendations for any changes that needed

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to be made. Ms Smart at no time was a sworn or unsworn member of Police, special constable or Police representative in any way.

- 2 **"Was it permitted, accepted or normal Police practice for private (assumed) individuals, such as Smart, to obtain the staff's (some of whom were suspects) statements?"**

"Quote the applicable statute, regulation or rule permitting this."

Ms Smart was given access to witnesses statements made by staff members from the Civic Creche at the request of the persons who had made the statements. At the time the statements were made and given to Ms Smart, all staff members of the Civic Creche, with the exception of P M H Ellis, were being treated as witnesses only.

- 3 **"Was Smart investigating on behalf of the Police?"**

Ms Smart was contracted by the Christchurch City Council and was not investigating on behalf of the Police.

- 4 **"Who in the Police approved supply to Smart of staff's statements?"**

"Supply name, rank and number."

The Police are unable to ascertain who released the statements but it would be quite proper for a person who had made a statement to the Police as a witness to request a copy either for themselves or for another person, normally a solicitor.

- 5 **"Who in the Police delivered to Smart the staff's statements?"**

"Supply name, rank and number".

Constable D Smith C022 delivered the statements to Ms Smart in March 1992. The exact date is unknown.

- 6 **"On which date did Smart take delivery?"**

The statements were delivered to Ms Smart sometime after 3 June 1992 as they were returned on 30 June 1992.

- 7 **"On which date did Smart return to Police staff's statements?"**

See above.

- 8 **"Does Smart still have any staff statements?"**

Ms Smart returned all statements given to her.

- 9 **"Was Smart permitted to show, discuss or question staff's statements with other parties?"**

Ms Smart had possession of the statements at the request of the persons who had made the statements and to whom she showed the statements.

"What were the conditions or guarantees covering this?"

Ms Smart had possession of the statements for the purpose of assisting her in her interviews with the staff members of the Civic Creche.

- 10 **"In addition to Smart, who else was supplied statements or other information?"**

"State names and reasons and quote statute, regulation or rule permitting this."

The only other persons permitted to view or possess any documents on the enquiry file, other than Police and the authors of the statements, were solicitors acting for parties involved in the enquiry.

- 11 **"Were the Police aware of any terms of reference or brief covering Smart's conduct of the review?"**

"Supply copies or details."

The Police were not aware of the terms of reference or brief covering the conduct of her review as it was a matter between her and the Council.

- 12 **"Did those terms of that brief state any requirement on Smart to investigate any matters already being investigated by the Police then or in the future?"**

In the statement taken from Ms Smart in November 1992 she states that she was not charged with apportioning blame for any lack of supervisory practice that may have contributed to the alleged sexual abuse at the centre. Nor could she disregard the fact that on some occasions when concerns were voiced by parents and children, no action or inadequate action was taken by those in charge.

- 13 **"Was Smart permitted to offer the opportunity to amend, alter or expand on those statements?"**

"Quote statute, regulation or rule permitting this."

Ms Smart was acting in her capacity as a consultant to the City Council and was entirely at liberty to ask whatever questions she liked of the staff employed at the Civic Creche.

- 14 **"Was Smart, on her presentation of statements and her invitation to staff to amend, alter or expand on those statements, obliged to advise staff of rights?"**

Ms Smart was not a person in authority in terms of the rules of evidence and not obliged to advise staff of their rights.

- 15 **"Did any staff amend, alter, add or expand on their statements?"**

The statements were returned to the Police unaltered.

- 16 **"What would be the status of those amendments, alterations or expansions - sworn, unsworn legal, illegal or whatever?"**

If such amendments were made it would be quite proper to adduce such statements in evidence if the person who made the statement was a defendant in criminal proceedings.

- 17 **"Did the Police, in considering their involvement with Smart, view Smart's involvement in counselling and therapy through her directorship of the Presbyterian Support Services Campbell Centre as compatible?"**

The Police involvement with Ms Smart was that of a witness after she had been contracted by the Christchurch City Council to conduct a review of the Civic Creche.

- 18 **"Did the Police consider a possible conflict of interest?"**

The Police involvement with Ms Smart, other than the supply of the staff statements, did not arise until late 1992 by which time her report had been prepared and submitted to the Council.

- 19 **"Were the Police aware of any involvement by the Campbell Centre in the therapy and counselling of complainant children and parents before, during and after Smart obtaining staff statements?"**

The Campbell Centre was not involved in the counselling of complainant children and parents during the period of the Civic Creche enquiry.

Yours faithfully


Paul Fitzharris
Superintendent
for Region Commander