



Office of the Children's Guardian

Statement in the matter of: Royal Commission into Institutional Responses to Child Sexual Abuse

Place:

Sunny Hills

Date:

7/8/2013

Name: Jan RASMUSSEN

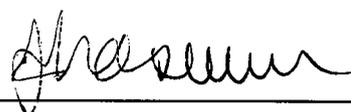
STATES:-

1. This statement made by me accurately sets out the evidence which I would be prepared, if necessary, to give in court as a witness. The statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.
2. I am over 16 years of age.
3. I am a Criminologist and hold a Masters Degree in Social Science (Criminology). I am employed as a Risk Assessment Officer with the NSW Children's Guardian, and have held the position since about March 2004. Prior to March 2004, I was employed as a Risk Assessor in the Department of Community Services (DoCS) Screening Unit. I held that role from December 2000 until March 2004.
4. In preparing this statement, I have reviewed the DoCS Risk Assessment File 03/119, of Steven Andrew Larkins, in particular file notes prepared by myself in 2003. Given the lapse of time, I do not recollect specific conversations, however I do recall making contemporaneous file notes during the assessment. Each of those file notes is contained in the file.
5. Where I have referred to conversations in my statement, I have done so based on the file notes I prepared at, or shortly after the occurrence of each conversation.

Witness:


 JP, 140877

Signature:



Statement (continued) of: Jan RASMUSSEN

In the matter of: Royal Commission into Institutional Responses to Child Sexual Abuse

6. In 2003, I was working at the DoCS Approved Screening Unit situated in Holden Street, Ashfield. My role was to conduct risk assessments under the *Commission for Children and Young People Act 1998* (CCYP Act) of people with relevant records who had consented to a Working with Children Check, and to provide outcomes of these assessments to the applicant and their prospective employer. A relevant record was a criminal charge or conviction for an assault against a child or young person under the age of 18 years, a criminal charge for a sexual matter against a child or adult, or a workplace record. I cannot recall if we assessed apprehended violence orders (AVOs) without a criminal charge associated with the event.

CHRONOLOGY OF LARKINS APPLICATION

7. A Working with Children Check was received by Steven Larkins on 12 February 2003. The criminal history revealed a relevant offence. The matter was allocated to me on 7 April 2003. The offence was a non-fingerprinted offence, which was a criminal charge or conviction where no fingerprints were taken at the time of the charge.
8. On 8 April 2003 I sent Mr Larkins a fax requesting that he provide a copy of the signed consent form for the Working with Children Check, a copy of the signed Prohibited Employment Declaration form and a contact phone number. The Clerical Officer's role was to assess the Working with Children Check forms that were received by the Unit in relation to employer, applicant and the role of the applicant.

EXHIBIT I PRODUCE A COPY OF THAT FAX WHICH IS ATTACHED AND MARKED JR1.

9. On the same day, Mr Larkins contacted me. I made notes about the nature of the conversation, in which I explained to Mr Larkins that he had a relevant criminal record. Mr Larkins denied that the criminal record related to him. Mr Larkins stated he had never been charged with an offence and that he was never in court in 1999. Mr Larkins stated that in 1997 a young boy made allegations however no charges were laid and the allegations were found to be malicious in nature.

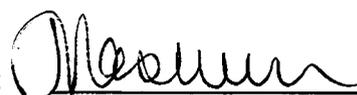
EXHIBIT I PRODUCE A COPY OF THOSE FILE NOTES WHICH ARE ATTACHED AND MARKED JR2.

Witness:



JP, 140877

Signature:



Statement (continued) of: Jan RASMUSSEN

In the matter of: Royal Commission into Institutional Responses to Child Sexual Abuse

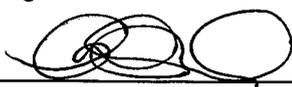
10. Shortly after, on the same day, I received a fax from Mr Larkins stating that he had never been convicted of any offence, including any child related offences.

EXHIBIT I PRODUCE A COPY OF THAT FAX WHICH IS ATTACHED AND MARKED JR3.

PROCESS FOR DISPUTED CRIMINAL RECORDS

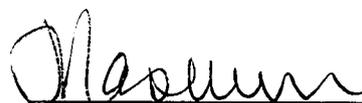
11. The criminal record was identified as 'non-fingerprinted'. In 2003, the process of disputed criminal records was that if the applicant had been fingerprinted when charged, the applicant was required to undergo fingerprint analysis to verify that the relevant record corresponded to that individual.
12. This involved the applicant being provided with a letter from the Approved Screening Agency (ASA) and attending their local police station. At the local police station the applicant's fingerprints were obtained and they were sent for fingerprint analysis. NSW Police would then contact the ASA and report the outcome of the fingerprint analysis.
13. However, in relation to non-fingerprint matters, where the person charged had not been fingerprinted at the time of the charge, the applicant would need to deal directly with NSW Police and provide evidence (such as residing in another State/Country at the time of the incident/court date; description of perpetrator not same as applicant, for example, skin colour difference, tattoo on perpetrator identified by NSW Police, however applicant does not have tattoo etc) to have the matter reviewed. The onus of proof was on the applicant. The same process for disputed criminal records occurs today as it did in 2003.
14. On 8 April 2003 I made a file note about a discussion I had with Nathalie Bratt (A/Manager, Screening Unit at DoCS) in relation to Mr Larkins' dispute of the non-fingerprinted record. I noted that it had been agreed that I would contact Newcastle Police.
15. On the same day, I made another file note about contact I had made with Constable Fletcher of Newcastle Police regarding the process of disputed criminal records. I noted that he informed me that a summons had been requested in relation to the disputed matter, but had not been issued. Constable Fletcher informed me that Mr Larkins could have the matter reviewed and was required to write to the LAC of Newcastle Police requesting a review.

Witness:



JP, 140877

Signature:



Statement (continued) of: Jan RASMUSSEN

In the matter of: Royal Commission into Institutional Responses to Child Sexual Abuse

**EXHIBIT I PRODUCE A COPY OF THAT FILE NOTE WHICH IS ATTACHED
AND MARKED JR4.**

16. Shortly after, on 8 April 2003, I contacted Mr Larkins and left a message. Mr Larkins returned my call, during which I made a file note about the conversation, and I provided him with the information on having the matter reviewed by Newcastle LAC. I sought information from Mr Larkins about the charge and court dates and he stated that in 1999 he was working in Alice Springs in a boarding school. Mr Larkins reported that he would attempt to obtain documents which verified that he was living in Alice Springs at the time of the charge. Mr Larkins informed me at this time that he was aware of another male calling himself Steve Larkins as he had received calls in relation to this person. Mr Larkins' assessment was placed 'on hold' pending a final decision by NSW Police.

**EXHIBIT I PRODUCE A COPY OF THAT FILE NOTE WHICH IS ATTACHED
AND MARKED JR5.**

17. On 7 May 2003 Mr Larkins phoned me and reported that he had written to NSW Police over a month ago. I made a file note about the conversation. Mr Larkins asked me if I had been informed if NSW Police decision on his disputed record. I informed Mr Larkins that according to NSW Police he is to apply to request that a criminal record be removed off the system as he disputes the record.

**EXHIBIT I PRODUCE A COPY OF THAT FILE NOTE WHICH IS ATTACHED
AND MARKED JR6.**

18. On 20 June 2003 I sent a letter to Mr Larkins requesting that he provide documentation from NSW Police to confirm that the record he disputed had been removed from their system.

**EXHIBIT I PRODUCE A COPY OF THAT LETTER WHICH IS ATTACHED
AND MARKED JR7.**

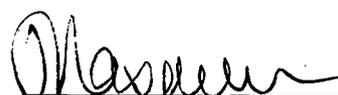
19. On 12 August 2003 Mr Larkins left a message on my voicemail stating that I needed to speak to Sgt Denman of Newcastle Police. I made a file note about the phone message. Mr Larkins stated that Police do not believe the record relates to him and that Sgt Denman

Witness:



JP, 140877

Signature:



Statement (continued) of: Jan RASMUSSEN

In the matter of: Royal Commission into Institutional Responses to Child Sexual Abuse

reported that NSW Police would only give a verbal and would not provide written information on the matter.

20. On the same day, I contacted Sgt Denman and we had a conversation which I made a file note about. We discussed the response I had received from the Criminal Records Branch of NSW Police who reported that they are unable to verify if Mr Larkins is the same person as there are no fingerprints. Sgt Denman informed me that he would review all paperwork and speak to Criminal Record's Branch in relation to whether matter is to be removed from Mr Larkins' record.

**EXHIBIT I PRODUCE A COPY OF THAT FILE NOTE WHICH IS ATTACHED
AND MARKED JR8.**

21. On 15 September 2003 I sent Mr Larkins a letter informing him that the assessment needs to be completed and that he is to provide written confirmation from NSW Police in relation to the disputed criminal record. Mr Larkins was informed that alternatively, his Working with Children Check could be withdrawn however this requires that he not work unsupervised in child related employment. Mr Larkins was also informed that the DoCS Screening Unit cannot accept phone confirmation with NSW Police in relation to his disputed record. Only written confirmation can be accepted. Mr Larkins was advised that the matter is to be finalised on 3 November 2003.

**EXHIBIT I PRODUCE A COPY OF THAT LETTER WHICH IS ATTACHED
AND MARKED JR9.**

PREVIOUS RISK ASSESSMENT MODEL

22. In 2003 the risk assessment model was a statistical based model. The process of risk assessment involved two components. The first component was in relation to the criminal record. This component required the risk assessor to answer a number of questions based on the applicant's criminal record. The questions sought to the following information:

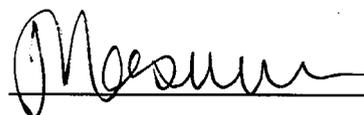
a. Whether applicant was an adult or child at the time of the offence;

Witness:



JP, 140877

Signature:



Statement (continued) of: Jan RASMUSSEN

In the matter of: Royal Commission into Institutional Responses to Child Sexual Abuse

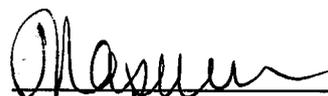
- b. age difference of applicant and victim which was identified as less than two years/two to five years/more than five years;
 - c. whether there was one offence/two offences or more than two offences;
 - d. and information relating to the outcome of the charge as in whether the charge led to conviction/acquittal or withdrawn/dismissed.
23. The total point score was considered as a risk level for the criminal record and the outcome provided as Low, Medium or High.
24. The second component was in relation to an assessment on the Workplace characteristics. The risk assessor contacted the employer who provided the information for this component to be completed. This component identified a number of factors, including:
- a. if the applicant would be working directly with children;
 - b. whether the position involved information and in-service training on child development and behaviour management strategies;
 - c. the age of the children in the workplace which selected age categories such as 0-2 years/6-12years;
 - d. whether children with at least moderate disabilities would be present in the workplace;
 - e. whether the position required the person to work with children with challenging behaviours;
 - f. whether the person would have opportunity to work alone with individual children;
 - g. whether the work environment was in a residential setting;
 - h. and whether the person's supervisor would be present in the workplace.

Witness:



JA 140877

Signature:



Statement (continued) of: Jan RASMUSSEN

In the matter of: Royal Commission into Institutional Responses to Child Sexual Abuse

**EXHIBIT I PRODUCE A COPY OF THAT WORKPLACE CHARACTERISTIC
ASSESSMENT WHICH IS ATTACHED AND MARKED JR10.**

25. In this instance although Mr Larkins was being assessed in his role, he was noted as the employer and information relating to the Workplace was obtained from him. From my recollections of conducting Workplace Assessments, the occurrence of an applicant who was also deemed an employer did occur when the employer also had a role of working unsupervised with children.
26. A total score was obtained which identified the level of risk to children in the workplace as either Low, Medium or High. The scores from the two components were added together to form an aggregate level of risk.

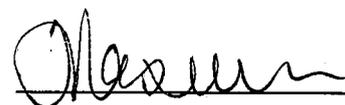
**EXHIBIT I PRODUCE A COPY OF THE RISK ASSESSMENT TOOLS USED
TO ASSESS MR LARKINS' APPLICATION WHICH ARE
ATTACHED AND MARKED JR11.**

27. Once the initial risk assessment had been completed, a re-assessment on the outcome could be conducted, prior to the final determination, for those matters in which an applicant had provided information. This information could include references (relating to the person's paid/unpaid work history and community involvement); counselling and education such as courses and workshops.
28. I finalised Mr Larkins' risk assessment on 11 November 2003 and this was approved by Helen Priestly, (Acting Manager, Screening Unit DoCS) on 17 November 2003. No reassessment was conducted as Mr Larkins did not provide any documents. To my knowledge the general practice in 2003 was that a matter was not withdrawn after it had been finalised. That remains the practice today. I have not been aware in the time I have worked as a Risk Assessor of matters being withdrawn after they have been finalised.
29. I do not recall having received any information relating to interim AVO's.
30. In February 2004, Mr Larkins contacted the Commission for Children and Young People, appealing the decision of the risk assessment and requested a review of this assessment. I understand that the reassessment was conducted by Helen Priestley.

Witness:


JP, 140877

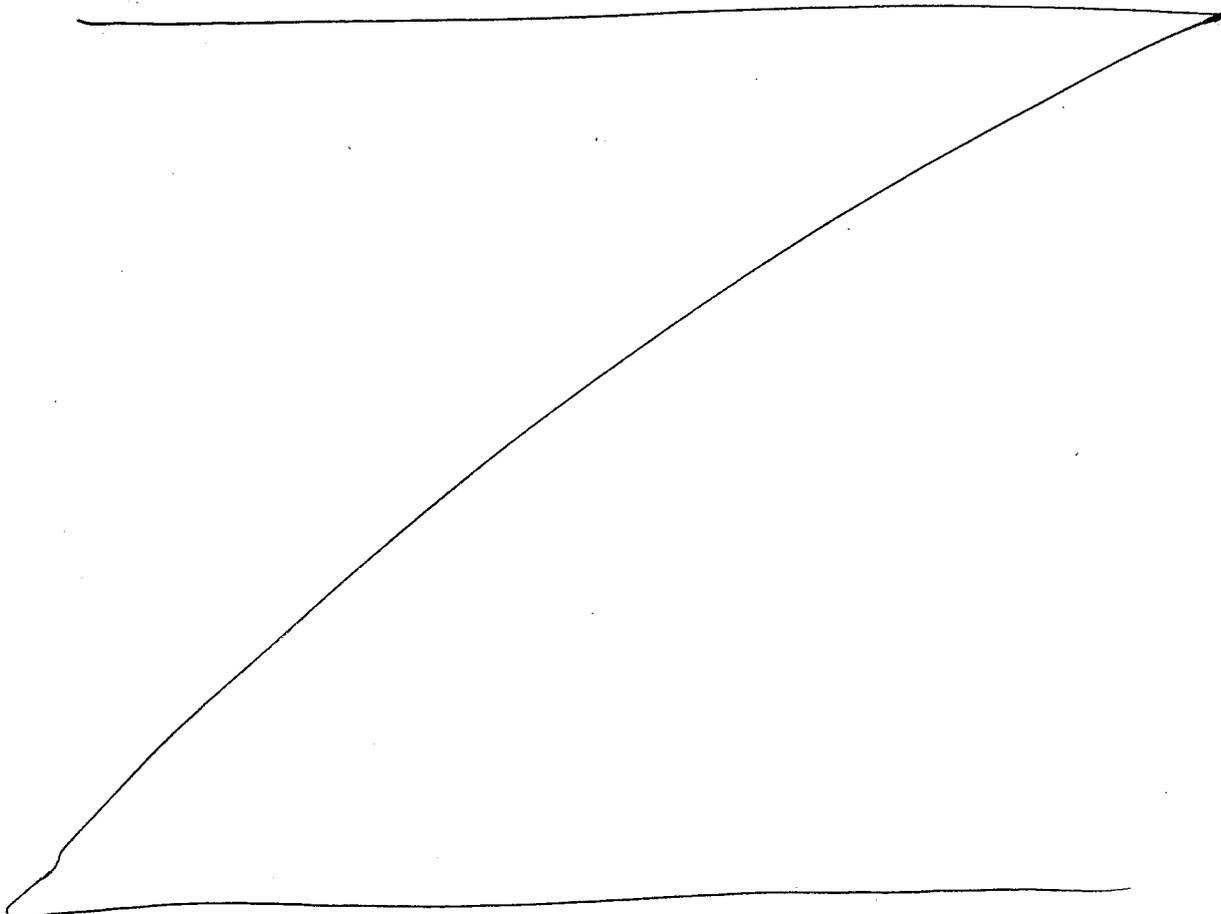
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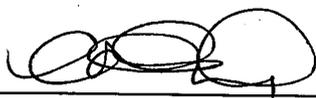
Statement (continued) of: Jan RASMUSSEN
In the matter of: Royal Commission into Institutional Responses to Child Sexual Abuse

CURRENT RISK ASSESSMENT MODEL

31. On 15 June 2013 the CCYP Act was superseded by the *Child Protection (Working With Children) Act 2013* (CP(WWC) Act), which regulates the operation of the WWCC in NSW.
32. In 2003, references were accepted as part of the reassessment process. Referees were not provided with a standard reference form and the references were not verified with the referees. Under the current risk assessment model, all references provided for the purposes of a WWCC are verified.
33. The current WWCC system is significantly different to the previous system. If I assessed Steven Larkins today for a WWCC the current risk assessment model would enable me to make further enquiries and access records not available under the previous model. I believe that the outcome of a risk assessment of Steven Larkins would be different if he were assessed today.



Witness:


JP, 140877

Signature:

