


RECORDS SERVICES DIVISION
Business Management Department
637 FLINDERS STREET
Melbourne 3005
Victoria, Australia
DX 21 0076
Telephone (03) 9247 6494
Facsimile (03) 9247 3180


19 June 2007

Working with Children Check Unit
121 Exhibition Street
Melbourne VIC 3000

Attention: 



In response to your request for further information regarding:

REFERENCE NUMBER: 43185
NAME: Brian William HOWE
DATE OF BIRTH: 
JURISDICTION: VIC
CHARGE: Melbourne General Sessions (01/09/1964)
'Carnal Knowledge Girl B/W 10-16' (1 charge)

COMMENTS:

If the information is available;

- (a) What were the circumstances surrounding the laying of the charges?
- (b) What was the age(s) of the victim(s) of this offence(s)?
- (c) What was the date(s) of the offence(s)?
- (d) What was the date the offender was charged?
- (e) What section of what act was the defendant charged under?
- (f) Is there any further information that may assist us in making an assessment in this matter?

Working with Children Responses:

- (a) Circumstances – The applicant and the complainant had sexual intercourse on a number of occasions over a period of time.
- (b) Victim Age – Not stipulated in police records
- (c) Offence Date – Not stipulated in police records
- (d) Charge Date – 03/04/1964
- (e) Act & Section – Not stipulated in police records
- (f) Further Information – The complainant and the applicant wished to marry but the applicant's father refused his permission to marry resulting in the applicant leaving home. He later lived with the complainant as "man & wife".

SUBJECT: WORKING WITH CHILDREN CHECK: ASSESSMENT OF A CATEGORY 2 APPLICATION.

PURPOSE

4. That you issue an Assessment Notice (AN) to Mr Howe as there is no evidence to suggest that he poses an unjustifiable risk to the safety of children, pursuant to section 13(2) of the *Working with Children Act 2005* (the Act).

BACKGROUND

5. The offence 'carnal knowledge of a girl between 10 and 16 years' is a relevant offence under the Act as it is an offence against section 21 of the Crimes Act 1958, which is an offence specified in clause 1(d)(viii) of Schedule 1 to the Sentencing Act 1991. Legislative changes made by the Working with Children Amendment Bill 2007 came into effect on 8 November 2007, which among other things, changed the category of certain "carnal knowledge offences" from Category 1 to Category 2. As a result, Mr Howe's application is now a Category 2 application.
6. For a Category 2 application, the Secretary to the Department of Justice (the Department) is required to make an assessment, pursuant to section 13(2) of the Act, that the applicant does not pose an unjustifiable risk to the safety of children before an AN and Card can be issued.

Date	Action	Comment	Attachments
4 April 2007	Application for WWC Check	Volunteer - currently engaged in child-related work by [REDACTED]	D
2 May 2007	VIF Check	No findings	
28 May 2007	CrimTrac fax received by WWC Check Unit	CrimTrac indicates applicant was found guilty of 'carnal knowledge of a girl between 10 and 16 years'	E
29 May 2007	Certified Court Extract received.	<i>Extract from General Sessions Court of Melbourne confirms the offence as 'carnally knowing a girl aged above 10 and under 16 years of age' (2 counts).</i>	F
19 June 2007	Information from Police Information Liaison Office (PILO)	<i>"The applicant and the complainant had sexual intercourse on a number of occasions over a period of time. The complainant and the applicant wished to marry but the applicant's father refused his permission to marry resulting in the applicant leaving home. He later lived with the complainant as "man & wife".</i>	G
19 July 2007	Interim Negative Notice sent to Applicant and Volunteer Agency		
1 August 2007	Applicant & Employer INN Submission received.		H
8 November 2007	Working with Children Amendment Bill 2007	Application re-categorised to Category 2 application.	

<p>(e) the ages of the applicant and of any victim at the time the applicant committed, or allegedly committed, the offence;</p>	<p style="text-align: right;">NOT 18</p> <p><u>Age of applicant:</u> 18 years (approximately) at the time of the offence. X</p> <p><u>Age of victim:</u> Between 10 and 16 years.</p> <p>Applicant Response:</p> <p>The applicant did not provide the age of the victim.</p>
<p>(f) whether or not the conduct that constituted the offence or to which the charge relates has been decriminalised since the applicant committed, or allegedly committed the offence;</p>	<p>The offence of 'unlawfully and carnally knowing and abusing a girl aged between 10 and 16' (as amended) of the <i>Crimes Act</i> was repealed on 1 March 1981 by section 5 of the <i>Crimes (Sexual Offences) Act 1980</i> and replaced with the offence of 'sexual penetration of a child between 10 and 16 years'.</p> <p>Applicant Response:</p> <p>The applicant was not required to respond to this factor.</p>
<p>(g) the applicant's behaviour since he or she committed, or allegedly committed, the offence;</p>	<p>The applicant appeared before the courts in 1962, 1964 and 1970 for offences that are not relevant for the purposes of categorising his application as Category 1, 2 or 3.</p> <p>Applicant Response: X</p> <p>The applicant was not required to respond to this factor.</p>
<p>(h) the likelihood of future threat to a child caused by the applicant;</p>	<p>Applicant Response:</p> <p><i>"Doing and teaching taekwondo for half of my life which I would like to continue as long as I can. I've had 3 heart attacks so my ability is limited but helping Marco and seeing the students coming up through the ranks is pleasing."</i></p>