

## **Establishment of the Government Inquiry into Matters Concerning the Escape of Phillip John Smith / Traynor**

Pursuant to section 6(3) of the Inquiries Act 2013, I, The Honourable Paula Bennett, Minister of State Services, hereby establish the Government Inquiry into matters concerning the escape of Phillip John Smith / Traynor (“Inquiry”).

### **Background**

On 6 November 2014, Phillip John Smith / Traynor absconded while on temporary release from Spring Hill Prison. On the afternoon of 6 November, Mr Smith / Traynor left New Zealand by plane for Chile, on a passport previously obtained under his birth name (Phillip John Traynor). Mr Smith / Traynor subsequently travelled to Brazil, where he was apprehended by Brazilian Police.

At its meeting on 17 November 2014, Cabinet:

- agreed that a Government Inquiry be established under the Inquiries Act 2013 to inquire into matters concerning the escape of Phillip John Smith;
- agreed that the Minister of State Services be the appointing Minister for the Inquiry (CAB Min (14) 36/21 refers).

### **Membership**

The Honourable Dr John Priestley, cnzm, qc, and Mr Simon Murdoch, cnzm, are appointed to and constitute the Inquiry. The Honourable Dr John Priestley has been appointed as Chair of the Inquiry.

### **Terms of Reference**

#### **Background**

On 6 November 2014, Phillip John Smith / Traynor was released on temporary release from Spring Hill Prison. On the same day, he was able to depart from New Zealand on a passport obtained under the name of Phillip John Traynor. Given the public importance of the issue of Mr Smith / Traynor’s departure from New Zealand while on temporary release, the Inquiry is established to look into the circumstances of these events, and to make recommendations arising from these matters.

#### **Appointment and Terms of Reference**

The Minister of State Services has appointed the Honourable Dr John Priestley, cnzm, qc, assisted by Mr Simon Murdoch, cnzm, to inquire into the matters set out below.

#### **Matters for the Inquiry**

The Inquiry will inquire into, report upon, and make any recommendations relating to:

- a. The use of alternative names (including aliases) by people in their interactions with the criminal justice system, from the point of charging onwards (such as during sentence management), including, by way of illustration (but not limited to):
  - i. the means by which people may identify themselves or purport to do so, whether by passports, drivers’ licences or other records or documentation;
  - ii. particular identity issues at the point of charging Mr Smith / Traynor, including any subsequent charges;
  - iii. the treatment of identity or name issues in the context of Mr Smith / Traynor’s sentence management;
- b. Mr Smith / Traynor’s temporary release from Spring Hill Prison and departure from New Zealand. This will include:
  - i. the assessment of Mr Smith / Traynor as suitable for temporary release relative to any risk profile as to possible re-offending;
  - ii. the sentence management for Mr Smith / Traynor, including the monitoring of Mr Smith / Traynor while on temporary release and identification of Mr Smith / Traynor’s departure from New Zealand;
  - iii. Mr Smith / Traynor’s ability to obtain a passport and to access any other means, whether in prison or otherwise, that would allow him to depart New Zealand;
  - iv. Mr Smith / Traynor’s ability to travel on that passport on 6 November 2014;
  - v. the actions or inactions of any relevant State sector agencies relating to these events; and

- vi. the adequacy of the relevant legislative and regulatory settings and operational practices relating to these matters.
- c. the adequacy of information disclosure, sharing or matching between State sector agencies (including border sector agencies) that apply to those persons who would be expected to remain in New Zealand by virtue of their particular status in the criminal justice system. This will include the adequacy of settings, practices or systems relating to:
  - i. any breach of conditions of temporary release by prisoners;
  - ii. the existence of reasons for refusal of a passport or its cancellation under the Passports Act 1992 and how this is dealt with operationally;
  - iii. border controls to prevent prisoners from departing New Zealand.
- d. any other matters relevant to the above matters, to the extent necessary to provide a complete report of these matters.

The Inquiry may be informed by any departmental or State services reviews that have been undertaken, including whether by specific public service departments or on a multi-agency basis.

**Exclusions from Inquiry and Scope of Recommendations**

In accordance with section 11 of the Inquiries Act 2013 (“Act”), this Inquiry will not determine the civil, criminal or disciplinary liability of any person. This Inquiry may, as provided in section 16 of the Act, be postponed or temporarily suspended.

**Reporting Sequence**

The Inquiry is to report its findings and opinions to the appointing Minister in writing by **30 June 2015**.

**Consideration of Evidence**

The Inquiry may begin considering evidence on **15 December 2014**, after the Terms of Reference have been published in the *New Zealand Gazette*.

**Relevant Department**

For the purposes of section 4 of the Act, the State Services Commission is the relevant department for the Inquiry and responsible for administrative matters relating to the Inquiry.

Dated at Wellington this 9th day of December 2014.

Hon PAULA BENNETT, Minister of State Services.