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Government Notice

Internal Affairs

Commissions of Inquiry Act 1908

Commission of Inquiry into Provision of Computer System Known as the Integrated National Crime Information System (INCIS)

MICHAEL HARDIE BOYS, Governor-General
ORDER IN COUNCIL

To all to whom this order shall come, and to:

The Right Honourable Sir IAN LLOYD MCKAY, K.N.Z.M., of Wellington, formerly a Judge of the Court of Appeal of New Zealand; and

GERALD CHRISTOPHER PHILIP HENSLEY, C.N.Z.M., of Martinborough, formerly Secretary of Defence; and

ARTHUR FRANCIS SMALL, of Wellington, Managing Director of Tranz Rail Limited:

GREETING:

WHEREAS in 1994, for the purposes of giving effect to a project to modernise information systems of the police (in this order referred to as "the INCIS project"), the Crown, acting through the Commissioner of Police, entered into a contract with IBM New Zealand Limited and International Business Machines Corporation (together referred to in this order as "IBM") for the provision of a computer system to be known as "the Integrated National Crime Information System":

And whereas the said contract has been varied from time to time, and is, as so varied, referred to in this order as "the INCIS contract":

And whereas the INCIS contract was repudiated by IBM on

9 August 1999 and cancelled by the Crown on 17 August 1999:

And whereas legal proceedings were commenced by the Crown against IBM:

And whereas the Crown and IBM have settled those legal proceedings and all outstanding claims relating to the INCIS contract:

And whereas the police and certain Government departments (in this order referred to as "the departments") had various responsibilities and accountabilities in relation to the INCIS project, including the negotiation of the INCIS contract and the management of that contract:

And whereas—

- (a) The manner in which the INCIS project was developed, managed, and administered by the police and the departments from the inception of the project until the cancellation of the INCIS contract; and
- (b) Whether, and to what extent, the police and the departments acted in a proper and competent manner in carrying out their responsibilities, and in discharging their accountabilities to the Government, in relation to the INCIS project; and
- (c) The extent to which, based on the experience of the INCIS project, changes should be made in policies and practices in relation to managing and implementing the development of major information technology projects by public agencies,—

are matters of public importance:

NOW, THEREFORE, pursuant to the Commissions of Inquiry Act 1908, I, Sir Michael Hardie Boys, the Governor-General of New Zealand, acting on the advice and with the consent of the Executive Council, appoint you,

the said the Right Honourable Sir Ian Lloyd McKay, Gerald Christopher Philip Hensley, and Arthur Francis Small, to be a Commission to inquire into and report upon—

- (a) The development, management, and administration of the INCIS project by the police and the departments from the inception of the project until the cancellation of the INCIS contract:
- (b) Whether, and to what extent, the police and the departments acted in a proper and competent manner in carrying out their responsibilities, and in discharging their accountabilities to the Government, in relation to the INCIS project, including, in particular,—
- (i) The extent to which the advice given by the police and the departments (which advice was the basis for the Crown's decision to enter into the INCIS contract) was of an appropriate quality and took adequate account of information that was available or should reasonably have been available at the time:
- (ii) Whether, and to what extent, the police and the departments, for the purpose of managing the INCIS project, made appropriate use of internal staff and made appropriate use of, and placed appropriate reliance on, external advisers:
- (iii) Whether, and to what extent, the police and the departments contributed to the breakdown of the INCIS contract, or whether that breakdown can properly be regarded as having other causes:
- (c) The extent to which, based on the experience of the INCIS project, changes should be made in policies and practices in relation to the management and implementation of the development of major information technology projects by public agencies:

Provided that you are not, under this order, to inquire into—

- (a) The merits of either—
- (i) The decision of the Crown to commence legal proceedings against IBM; or
- (ii) The decision of the Crown and IBM to settle the legal proceedings against IBM and all outstanding claims relating to the INCIS contract; or
- (b) The conduct of the negotiations between the Crown and IBM that were for the purpose of the settlement of the legal proceedings against IBM and of all outstanding claims relating to the INCIS contract:

And, on that advice and with that consent, I appoint you, the said the Right Honourable Sir Ian Lloyd McKay, to be the Chairperson of the Commission:

And, for the better enabling you to carry this order into effect, you are authorised and empowered to make and conduct any inquiry under this order, in accordance with the Commissions of Inquiry Act 1908, at such times and places as you consider expedient, with power to adjourn from time to time and from place to place as you think fit, and so that this order will continue in force and the inquiry may at any time and place be resumed although not regularly adjourned from time to time or from place to place:

And, without limiting any of your other powers to hear proceedings in private or to exclude any person from any of your proceedings, you are empowered to exclude any person from any hearing, including a hearing at which evidence is being taken, if you think it proper to do so:

And you are strictly charged and directed that you may not at any time publish or otherwise disclose, except to me in pursuance of this order or by my direction, the contents or purport of any report so made or to be made by you, or any evidence or information obtained by you in exercise of the powers conferred upon you, except such evidence or information as is received in the course of a sitting open to the public:

And it is declared that the powers conferred by this order are exercisable despite the absence at any time of any one of the members appointed by this order so long as the Chairperson, or a member deputed by the Chairperson to act in the Chairperson's stead, and one other member are present and concur in the exercise of the powers:

And it is declared that you have liberty to report your proceedings and recommendations under this Commission from time to time if you judge it expedient to do so:

And, using all due diligence, you are required to report to me in writing under your hand, not later than 1 May 2000, your findings and opinions on these matters, together with any recommendations that you think fit to make in respect of them.

Given in Executive Council under the hand of His Excellency the Governor-General this 4th day of November 1999.

MARIE SHROFF, Clerk of the Executive Council.

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