

*Commissions of Inquiry Act 1950***COMMISSIONS OF INQUIRY ORDER (No. 1) 2016****1. Short title**

This Order in Council may be cited as the *Commissions of Inquiry Order (No. 1) 2016*.

**2. Commencement**

This Order in Council commences on 9 September 2016.

**3. Appointment**

The Governor in Council hereby appoints Kathryn McMillan QC and Professor Megan Davis to conduct in an independent manner an inquiry into—

- (a) the operations of the Cleveland Youth Detention Centre and the Brisbane Youth Detention Centre with respect to the following matters—
  - (i) a review of the specific allegations of the mistreatment of young people made by former staff members and young people (formerly in youth detention in Queensland) in:
    - (A) the Australian Broadcasting Corporation's *7.30* and *Lateline* programs broadcast on Thursday 18 August 2016; and
    - (B) other public commentary (including the report by Amnesty International) in relation to those allegations;
  - (ii) a review of the policies and practices currently operating within Queensland's youth detention centres in relation to the use of force, separation, restraints, reporting, monitoring, and complaint and investigation mechanisms for alleged incidents;
  - (iii) a review of the effectiveness of existing oversight mechanisms which operate in respect of the allegations referred to in paragraph 3(a)(i);
  - (iv) with respect to incidents reported under any of the existing oversight mechanisms referred to in paragraph 3(a)(iii) since 1 January 2011 (*reported incidents*), a review of any specific allegations that the reported incidents were not appropriately investigated or that any action taken as a result of the investigation failed to address the mistreatment of young people in detention in Queensland;
  - (v) a review of the effectiveness of current programs and services delivered in Queensland's youth detention centres that relate to assisting young people to address the causal issues behind their offending behaviour; and
  - (vi) a review of the current cultural programs and services delivered in Queensland's youth detention centres and their effectiveness in addressing the specific needs of Aboriginal and Torres Strait Islander young people in youth detention; and
- (b) the operations of Queensland prisons with respect to the following matters—
  - (i) a review of the specific allegations of the mistreatment of a 17-year-old prisoner in the Brisbane Correctional Centre made in a report in *The Courier-Mail* on 29 August 2016; and
  - (ii) a review of the policies and practices currently operating for 17-year-old prisoners within prisons in relation to the use of force, separation, restraints, reporting, monitoring, and complaint and investigation mechanisms for alleged incidents.

**4. Chairperson**

For the purposes of the *Commissions of Inquiry Act 1950* the chairperson of the inquiry shall be:

- (a) Ms McMillan; or
- (b) whenever Ms McMillan is absent from duty or unable for any other reason to perform the duties of chairperson—Prof Davis.

**5. Procedure**

The persons appointed to conduct the inquiry—

- (a) may receive any document or other material relevant to the terms of reference that they consider appropriate;

- (b) may conduct interviews with any person who has information relevant to the terms of reference either with the person's consent or pursuant to a requirement under section 5 of the *Commissions of Inquiry Act 1950*;
- (c) may not conduct public hearings; and
- (d) may conduct their proceedings using any technology that allows reasonably contemporaneous and continuous communication.

**6. Report**

- (1) The persons appointed to conduct the inquiry shall make full and faithful report on the terms of reference and transmit it to the Honourable the Attorney-General and Minister for Justice and Minister for Training and Skills by 30 November 2016.
- (2) The report should include any recommendations about the matters within the terms of reference.
- (3) In making any recommendations, the following matters should be considered—
  - (a) whether the mistreatment of young people in youth detention centres is systemic in Queensland;
  - (b) a comparative assessment of the current policies, practices and programs relating to the terms of reference, delivered in youth detention centres in Queensland and other Australian jurisdictions;
  - (c) whether there are any issues with respect to the matters within the terms of reference that are of specific relevance to Aboriginal and Torres Strait Islander young people;
  - (d) any interim measure that should be implemented prior to the transition of 17-year-olds from prisons to youth detention centres.

**7. Application of Act**

Pursuant to section 4(2) of the *Commissions of Inquiry Act 1950*, it is declared that the following provisions of that Act apply for the purposes of the inquiry—

- section 5 (Power to summon witness and require production of books etc.)
- section 14(1A) (Self-incrimination privilege not an excuse for failing to answer question or produce document)
- section 14A (Statements made by witnesses not admissible in evidence against the witness)
- section 14B (Protection to and liability of witnesses)
- section 16 (Power to prohibit publication of evidence)
- section 17 (Commission not to be bound by rules as to procedure or evidence)
- section 19 (Powers of inspection)
- section 19B (Custody of documents)
- section 20 (Protection for participants)
- section 25 (Offences)
- section 31 (Commission may make separate reports)
- section 32 (Reports may be tabled)
- section 32A (Disclosure of particular information only if reasonable)
- section 32B (Confidentiality of information)

**8. Definitions**

In this order in council—

**prison** has the same meaning as in the *Corrective Services Act 2006*.

**prisoner** has the same meaning as in the *Corrective Services Act 2006*.

**terms of reference** means the subject-matter specified in paragraph 3.

**youth detention centre** has the same meaning as in the *Youth Justice Act 1992*.

**ENDNOTES**

1. Made by the Governor in Council on 8 September 2016.
2. Notified in the Gazette on 9 September 2016.
3. Not required to be laid before the Legislative Assembly.
4. The administering agency is the Department of Justice and Attorney-General.