

SSC INQUIRY INTO THE USE OF EXTERNAL SECURITY CONSULTANTS – FREQUENTLY ASKED QUESTIONS

1. When does the Solicitor-General or Crown Law use private investigators/external security consultants?

Crown Law has used and continues to use the services of private investigators, mainly to serve documents and in limited instances to provide litigation support, including contacting witnesses, and supporting the briefing and cross examination of witnesses. While we consider the use of private investigators is acceptable for a range of tasks, there is an expectation that there is appropriate oversight and measures in place when we use them.

2. What policies and procedures did Crown Law have in place for managing private investigators/ICIL Group in 2007?

We accept the inquiry's findings that Crown Law did not maintain sufficient controls or oversights in using a private investigator in 2007 and failed to provide sufficient protections to ensure individuals would be treated fairly. Refer to the Inquiry's findings.

3. What policies do you have in place for managing private investigators now? How can we be assured this won't happen again?

The Solicitor-General intends to put in place and comply with the model standards issued today by the State Services Commission (SSC), Information Gathering and Public Trust. These standards will supplement the Attorney-General's values for Crown Civil Litigation. These values are available on Crown Law's website.

4. How do you know surveillance hasn't incurred in other legal matters led by Crown Law?

In responding to the SSC's inquiry a search was undertaken in Crown Law's email and document management systems, and financial management system for transactions involving security consultants or similar entities in the past ten years. We also asked all current staff whether they were aware of the use of private investigators by Crown Law. Our search didn't identify any behaviour in the past ten years that was inconsistent with the SSC's code of conduct or model standards. With the exception of the White Case we are not aware of any other situation prior to 2008 in which instructions were given to a private investigator that were so broad that they may have led to conduct that is inconsistent with the SSC's model standards issued today.

- 5. Does the Inquiry's findings contradict the Solicitor-General's previous statement to Mike Wesley Smith on 22 February 2018 that the Crown would not instruct a private investigator to do [surveillance of a witness]? Does the Solicitor-General stand by her previous statement?**

The Solicitor-General stands by her previous statement. There was no specific instruction to undertake surveillance of the sort complained of or raised by Mike Wesley Smith. The Inquiry has confirmed that. What the Inquiry found, and the Solicitor-General accepts, is that the breadth of the instructions risked surveillance or actions close to surveillance without adequate controls and oversight.

- 6. Has Crown Law publicly released all the documents that it submitted to the Inquiry?**

No, Crown Law has withheld the bulk of the documents because they are legally privileged, involving legal advice to the Crown and material produced in the preparation of litigation.