

The Hon Robert Borsak MLC
Chair
Inquiry into the progress of Operation Prospect
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000

Dear Mr Borsak,

IN CONFIDENCE

Inquiry into the progress of Operation Prospect – Order for papers by General Purpose Standing Committee

I refer to Ms Higgins' letter to me of 22 June 2015 requesting that the statutory declarations from investigators working on Operation Prospect, as outlined in my evidence on 19 June 2015, be provided to the Committee pursuant to standing order 208(c).

Whilst I do not consider that standing order 208(c) confers power on the Committee to compel me to provide the statutory declarations, I have decided to make them available in response to the request in order to assist the Committee in relation to its inquiries, and to confirm that there has been no inappropriate contact between my staff and Mr McKenzie.

Each of the investigators making a statutory declaration states that he did not have any discussion with Mr Nick McKenzie about Operation Prospect. The declarations confirm the evidence I gave to the Committee in response to questions regarding contact between officers of my office and Mr McKenzie (see page 19 of the uncorrected transcript which has been published on the Parliament's website; see also page 32):

Mr Barbour: I have already indicated to you that under statutory declaration they have indicated that they did not discuss any issues in relation to Operation Prospect or Deputy Commissioner Kaldas with Mr McKenzie.

On reviewing the transcript yesterday I noted that at several points I provided briefer responses which, if read without the context of my other answers, may convey the impression that the relevant officers had provided me with statutory declarations stating that they had not had any contact with Mr McKenzie.

To ensure that there is no ambiguity in my evidence on this issue, I wish to clarify that according to the statutory declaration of one of the Operation Prospect investigators, Mr McKenzie contacted that staff member on 1 April 2015. As indicated in that staff member's statutory declaration, Mr McKenzie knew the staff member from some years ago,

and whilst in Sydney for other reasons invited the staff member for coffee, which was declined. There was no discussion in the course of the conversation, on the part of either Mr McKenzie or the officer, about Operation Prospect, anything to do with the Ombudsman's office or any of the matters that were the subject of Mr McKenzie's article.

In providing the statutory declarations I request that the Committee keep them in strictest confidence and that it not publish the documents or the names of staff. Please note that redactions on the copies are of personal information (a private address, drivers licence/passport numbers).

Yours sincerely

Bruce Barbour
Ombudsman

23/6/15

STATUTORY DECLARATION

I, _____ of _____ solemnly and sincerely declare
that –

1. I am employed by as an officer of the New South Wales Ombudsman in the position of Investigator, Operation Prospect.
2. I have been employed as an officer assigned to Operation Prospect since _____.
3. I have read the letter from Mr Tim O'Connor of the New South Wales Crime Commission to the Honourable Robert Borsak MLC dated 17 June 2015, which was published on the New South Wales Parliament website on 18 June 2015.
4. I am aware of the article "*NSW Deputy Commissioner Nick Kaldas may face charges from Ombudsman inquiry*" published on 17 April 2015 in the Sydney Morning Herald newspaper. I further understand that Mr Nick McKenzie was one of the authors of this article.
5. In 2013 I worked as the _____ at the _____ and may have had contact with Mr Nick McKenzie as the central point of contact for media inquiries, but have no specific recollection of having spoken with him.
6. Since my commencement at Operation Prospect, I have never spoken with Mr Nick McKenzie in relation to any matters relating to Operation Prospect, including any of those matters that were the subject of Mr McKenzie's article.

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Made and subscribed at Sydney
in New South Wales on 19 June 2015

in the presence of _____
of _____ 379 Pitt St, Sydney. Solicitor of Supreme Court
who certifies the following matters concerning the making of this statutory declaration by the person who made it:

1. I saw the face of the person; and
2. I have confirmed the person's identity using an identification document and the document I relied on was a _____

Signature of witness:

Signature of declarant:

STATUTORY DECLARATION

I, _____ of level 24, 580 George Street, ^{Sydney,} New South Wales
2000, solemnly and sincerely declare that –

1. I am employed by as an officer of the New South Wales Ombudsman in the position of Investigator _____, Operation Prospect.
2. I have been employed as an officer assigned to Operation Prospect since _____
3. I have read the letter from Mr Tim O'Connor of the New South Wales Crime Commission to the Honourable Robert Borsak MLC dated 17 June 2015, which was published on the New South Wales Parliament website on 18 June 2015.
4. I am aware of the article "*NSW Deputy Commissioner Nick Kaldas may face charges from Ombudsman inquiry*" published on 17 April 2015 in the Sydney Morning Herald newspaper. I further understand that Mr Nick McKenzie was one of the authors of this article.
5. I have never met or had any conversations with Mr McKenzie.
6. I have never spoken with or provided any information to Mr McKenzie in relation to any matters relating to Operation Prospect, including any of those matters that were the subject of Mr McKenzie's article.

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Made and subscribed at Sydney
in New South Wales on 19 June 2015

in the presence of
of _____

379 Pitt Street, Sydney. Solicitor Supreme Court NSW

who certifies the following matters concerning the making of this statutory declaration by the person who made it:

1. I saw the face of the person; and
2. I have confirmed the person's identity using an identification document and the document I relied on was an Australian passport.

Signature of witness:

Signature of declarant:

STATUTORY DECLARATION

I, _____ of Level 24/580 George Street, Sydney 2000, solemnly and sincerely declare that –

1. I am employed as an officer of the New South Wales Ombudsman in the position of Investigator, Operation Prospect.
2. I have been employed as an officer assigned to Operation Prospect since _____
3. I have read the letter from Mr Tim O'Connor of the New South Wales Crime Commission to the Honourable Robert Borsak MLC dated 17 June 2015, which was published on the New South Wales Parliament website on 18 June 2015.
4. I am aware of the article "*NSW Deputy Commissioner Nick Kaldas may face charges from Ombudsman inquiry*" published on 17 April 2015 in the Sydney Morning Herald newspaper. I further understand that Mr Nick McKenzie was one of the authors of this article.
5. During the course of my career prior to 2004, I had cause to speak with Mr Nick McKenzie and many other journalists in _____ in relation to criminal matters being reported. Post 2004 my contact with any journalist has been limited and any contact has always been declared to my employer.
6. Since joining the NSW Ombudsman, I have not had any contact with any journalist regarding my employment at this office or Operation Prospect.
7. On 1 April 2015 Mr Nick McKenzie called me on my mobile and asked if I would like to have a coffee with him. I declined his request. We spoke about matters unrelated to the NSW Ombudsman's office. At no time during this conversation did he or I mention Operation Prospect, or anything at all to do with the NSW Ombudsman's office, nor did we speak about any of those matters that were the subject of Mr McKenzie's article.
8. I have not spoken to Mr Nick McKenzie since that conversation on 1 April 2015.

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Made and subscribed at Sydney
in New South Wales on 19 June 2015
in the presence of
of

Solicitor of 379 Pitt St, Sydney
of Supreme Court of NSW

who certifies the following matters concerning the making of this statutory declaration by the person who made it:

1. I saw the face of the person; and
2. I have confirmed the person's identity using an identification document and the document I relied on was a

Signature of witness:

Signature of declarant: