

**PARLIAMENT OF NEW SOUTH WALES – LEGISLATIVE COUNCIL
SELECT COMMITTEE ON OMBUDSMAN’S “OPERATION PROSPECT”**

**Outline of Submissions on behalf of Mr Phillip Bradley,
the former Commissioner of the NSW Crime Commission**

1. Mr Phillip Bradley who is the former Commissioner of the NSW Crime Commission has made three confidential submissions to the Select Committee and has given evidence *in camera*. Mr Bradley was summonsed by the Select Committee to give evidence in accordance with the advice which was provided on 15 January 2015 to the Clerk of the Select Committee by Bret Walker SC.
2. Mr Bradley’s appearance before the Select Committee and his evidence should in no way be interpreted as constituting any personal criticism of the Ombudsman or any other witness. However, as Mr Walker SC has noted in his advice, the Select Committee’s power to investigate matters is in the discharge of its important function in our system of responsible Government. In this case, one of the functions of the Select Committee is to determine whether or not there has been a proper investigation of the grievances of police officers, including Deputy Commissioner Kaldas in relation to their naming in certain affidavits and warrants.
3. The purpose of this outline is to emphasise the existence and importance of documentary evidence which does not accord with the evidence provided to the Select Committee by the Police Commissioner, Andrew Scipione, and the former Commissioner, Mr Moroney.

Importance of document tabled by Mr Bradley at the Crime Commission Management Committee in July 2004

4. In July 2004 Mr Bradley tabled a July 2004 document at the Crime Commission Management Committee meeting. At that time the Crime Commission Management Committee was constituted of the following members: The Minister for Police, the Hon. Mr J Watkins MP, as Presiding Member, The Commissioner of NSW Police, Mr K Moroney APM, The Chair of the Board of the Australian Crime Commission, Mr M Keelty APM, The Commissioner of the NSW Crime Commission, Mr P Bradley. Pursuant to s.27 of the *Crime Commission Act 1985 (NSW)*, the Committee at all relevant times had power to give directions to the Commission.

5. The July 2004 Document sets out, over more than a dozen pages, advice to the Committee on the history of the matter, including detailed excerpts from relevant correspondence with, amongst others, the Commissioner of Police. It contains specific reference to attempts that had been made by the Crime Commission and indeed the Management Committee itself to facilitate the dissemination of information relevant to the investigation, in accordance with the *Crime Commission Act 1985* (NSW). It also sets out the impediments to that process and the reasons for it being ultimately discontinued by resolution of the Management Committee consisting of the persons referred to in paragraph 4 of this submission. This included the Commissioner of Police.
6. In his first submission to the Select Committee, Mr Bradley alerted the Select Committee to the existence of the July 2004 document that recorded his involvement in the matter that is subject to the present inquiry. Mr Bradley regards the document as crucial because it refutes the allegation that has been repeated many times; to the effect that the Crime Commission obstructed the proper and timely investigation of the grievances of police officers named in certain affidavits and warrants. Mr Bradley did not have access to a copy of the document. It appears, however, that a member of the Select Committee was able to obtain a copy of the July 2004 document from another source and produced it to Mr Bradley during the course of his evidence. Mr Bradley adopted the July 2004 document as his own and confirmed that he had tabled it before the Management Committee of the NSW Crime Commission in July 2004. Whilst Mr Bradley did not produce the July 2004 document to the Select Committee, he has no objection to the July 2004 document being made public in order that there be a fair and proper understanding of the role of the NSW Crime Commission in this unfortunate matter.
7. After the July 2004 document had been received as an exhibit to the Select Committee and Mr Bradley had responded to an invitation to make further written comment upon it, the Committee received evidence from a number of witnesses, particularly Mr Scipione and Mr Moroney who are or were Commissioners of Police at relevant times. Both of those witnesses repeated the allegation that the Crime Commission had obstructed the *Emblems* investigation. On a review of the transcript of the public hearing before the Select Committee, Mr Scipione and Mr Moroney were not asked about the July 2004 document or the correspondence referred to therein. Both Mr Moroney and Mr Scipione provided evidence of a similar nature as to the events,

especially what appeared to be a suggestion that there had been an obstruction of the Emblems investigation by the NSW Crime Commission.

8. If Mr Scipione and Mr Moroney had been called before the Ombudsman, they (like Mr Bradley) would likely have been made aware of the contents of the July 2004 document as it contains contemporaneous evidence relevant to a core allegation of the aggrieved police and others. Mr Bradley sought a copy of the July 2004 document, but his request was declined by the Ombudsman despite the fact that Mr Bradley was the author. It is assumed that other witnesses, would not have been given copies of the July 2004 document by the Ombudsman or his office.
9. Mr Scipione's evidence in the public hearing before the Select Committee did not include reference to the July 2004 document or the correspondence referred to in the document. Mr Scipione in his evidence appeared to proceed under the misapprehension that the Crime Commission had obstructed the Emblems investigation.
10. Mr Moroney was central to the events referred to in the July 2004 document and was a member of the Crime Commission Management Committee when the July 2004 document was tabled. In his evidence, Mr Moroney appeared to have forgotten the existence of the July 2004 document, the fact that he received it, or his part in the decision-making process. The July 2004 document was not drawn to Mr Moroney's attention during the course of his evidence at the public hearing of the Select Committee. If the July 2004 document had been shown to Mr Moroney, he would have had to resile from any suggestion of obstruction by the NSW Crime Commission in the Emblems investigation as the July 2004 document clearly demonstrates the contrary position.
11. There are a number of other assertions in the evidence given to the Select Committee with which Mr Bradley does not agree. He does not wish to make further submissions about that evidence as he wants the Select Committee to focus on the evidence related to the alleged obstruction; as it has been given by very prominent witnesses. It is damaging to his reputation and that of the NSW Crime Commission (at a time when he was the Commissioner) as it is now part of the public record. The evidence of Mr Scipione and Mr Moroney in so far as they suggest that there was obstruction by the NSW Crime Commission in relation to investigations concerning the grievances of police officers, is demonstrably wrong and must be rejected. It is unclear at the present time

as to how Mr Scipione and Mr Moroney could have both given similar evidence which contradicts contemporaneous information contained in the July 2004 document which was tabled in July 2004 to the Crime Commission Management Committee.

12. The report of the Select Committee will no doubt shed important light on this matter which has been the subject of so many allegations and questions that have not been answered to the satisfaction of so many people over such a long period. In rejecting the particular allegation of obstruction of the Emblems investigation by the NSW Crime Commission, the Select Committee should correct the record and put an end to the perpetuation of this false allegation. In short, any failings by the Emblems investigation cannot be blamed on the NSW Crime Commission at the time Mr Bradley was Commissioner. The failings, if any, of the Emblems investigation and the reasons for the failure, are matters which only the NSW Police Force can answer.

DATED: 23 February 2015



ARTHUR MOSES SC
New Chambers