

The Hon Robert Borsak MLC
Chair
Select Committee on the conduct and progress of
the Ombudsman's inquiry "Operation Prospect"
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000

Dear Mr Borsak,

Inquiry into the conduct and progress of the Ombudsman's Inquiry "Operation Prospect"

I refer to the summons served on 27 January 2015 on myself and the Deputy Ombudsman to attend the hearing of the Select Committee at 1:00 pm on 3 February 2015.

I attach a statement in which I have endeavoured to say as much as I can publicly about the issues which are central to the Select Committee's inquiry, including the logistical and investigative steps that have been taken to investigate the conduct of the New South Wales Crime Commission references, Mascot and Mascot II and associated complaints and other relevant matters, and the complexities associated with those steps and the time and resources they have entailed.

As set out in the statement, Operation Prospect has resulted in the production of a vast body of evidence, including over one million pages of information, statements from witnesses, and oral evidence from others over more than 70 non-continuous hearing days. I have reached no conclusions and made no findings about the alleged conduct that is the subject of the inquiry. Nor have I yet provided persons who may be the subject of adverse comment in my report with an opportunity to respond to the evidence, as a matter of procedural fairness and as required by s 24 of the *Ombudsman Act 1974* (NSW).

I have identified in the attached statement a number of concerns about the scope of the evidence that I can give to the Select Committee in circumstances where I am conducting an ongoing inquiry into issues which are also the subject of the Committee's Terms of Reference. Some of those concerns form the basis for my formal claim of public interest immunity that is attached to this letter. My claim in particular focuses on the potential prejudice of evidence that may be given before the Select Committee to the avenues and methods of inquiry that have been, are being or will be pursued in Operation Prospect and the identity of persons who have provided confidential evidence or assistance to Operation Prospect, and the nature or content of the evidence given by these persons.

The Select Committee will note that paragraph 34 of the attached Claim ("paragraph 34") is redacted from that document. The redaction is by reason that the information contained in

paragraph 34 could tend to identify the witness referred to therein in a potentially adverse manner. I have accordingly provided paragraph 34 to the Select Committee under seal as a separate and confidential document.

Apart from the matters which are the subject of a formal public interest immunity claim, any evidence I give to the Select Committee about issues which overlap with the issues under investigation in Operation Prospect has significant potential to be corrosive of confidence in my report, both among those to whom it relates and the general public. Of particular concern is the risk to the public interest that attends the asking of questions, by Parliament, about issues on which I may have taken evidence (voluntarily or by compulsion), as to which I am required to deliberate and make findings and, before finalising my conclusions, accord natural justice to persons whose interests may be adversely affected.

Given the complexity of the issues and the volume of relevant material, any conclusions that the Select Committee draws about the substantive issues which are the subject of the Terms of Reference after four days of hearings will inevitably be incomplete. For individuals who may perceive that they can obtain a more favourable outcome for their particular interests from a short and incomplete inquiry than they could from a more thoroughly conducted one, the Committee's processes are susceptible to being used at least to preempt, if not potentially to derail, my inquiry.

In view of the Committee's truncated hearing and reporting timeframe, the Committee's conclusions are unlikely to quell public controversy about the issues to which Operation Prospect relates, or be accepted by those to whom the inquiry relates as providing adequate resolution of those issues. Instead, the Committee's conclusions are likely to give rise to large and potentially insuperable difficulties for the proper conclusion of my inquiry, and for this reason the Committee may wish to consider whether proceeding to examine witnesses on the substantive issues at all is in fact in the public interest.

By reason of the contentious and complex matters to be dealt with by the inquiry and the potentially serious prejudice to the integrity of Operation Prospect that could arise from our evidence, pursuant to Standing order 225 both myself and the Deputy Ombudsman request the Select Committee's permission to be accompanied by legal counsel at the hearing.

Yours sincerely



Bruce Barbour
Ombudsman

28/1/15

Legislative Council Select Committee on the Conduct and Progress of the Ombudsman's Inquiry "Operation Prospect"

Claim for public interest immunity

1. The Legislative Council Select Committee on the Conduct and Progress of the Ombudsman's Inquiry "Operation Prospect" ('Select Committee') is inquiring into an investigation that I am presently conducting into matters relating to the conduct of members and officers (executive and staff) (howsoever described) of the NSW Police Force ('NSWPF'), NSW Crime Commission ('NSWCC') and the Police Integrity Commission ('PIC') connected with the NSWCC references "Mascot" and "Mascot II", Operation Florida, and associated operations, strike forces and task forces.
2. I presently anticipate that the investigative activities associated with the inquiry will be completed by February or March 2015, and I propose to publish a report to Parliament by June 2015.
3. As the investigations in relation to Operation Prospect are ongoing, I have reached no conclusions and made no findings about the alleged conduct that is the subject of lines of investigative inquiry. For the same reason, I am not yet in a position to provide persons who may be adversely affected by the outcome of the investigation with the opportunity to respond to the evidence, as a matter of procedural fairness and as required by section 24 of the *Ombudsman Act 1974*.
4. In this statement, and also in Annexures 'A', 'B' and 'C' to this statement, I have sought to set out the logistical and investigative steps which I and others on my behalf have taken to investigate, in a careful and comprehensive manner, the conduct of the Mascot references and associated complaints and other relevant matters, the complexities associated with those steps and the time and resources they have entailed, and the steps I have taken to ensure the continued safety and welfare of Operation Prospect witnesses. I have endeavored to say as much as I responsibly can say publicly about the issues which are central to the Select Committee's inquiry as articulated in its Terms of Reference.
5. As is apparent from the material in this statement, a vast body of evidence has been collected in the course of Operation Prospect, as a result, inter alia, of the production of documents, the provision of statements, and more than 70 non-continuous hearing days. That evidence has been, and continues to be, the subject of close scrutiny and careful analysis, a process which has necessitated the allocation of significant resources and time (including resources and time necessary to afford natural justice to persons who may be adversely affected by the investigation).
6. Any conclusions that the Select Committee draws about the substantive issues which are the subject of its Terms of Reference after four days of hearings are unlikely to quell public controversy about the issues to which Operation Prospect relates. They are also unlikely to be accepted by those to whom the inquiry relates as providing adequate resolution of those issues, as they will inevitably be incomplete given the complexity and the volume of relevant material. Nonetheless such conclusions, and even the substantive evidence itself, will give rise to large and potentially insuperable difficulties for the proper conclusion of my inquiry.

7. For example, if witnesses give evidence before the Select Committee that is inconsistent with that given before me, a series of issues will arise. Assuming that I am not prevented by Parliamentary privilege or confidentiality directions from using that material, it will need to be reviewed closely to assess its consistency with evidence given before me. If there are material inconsistencies, I will need to consider whether to recall witnesses to explore those inconsistencies, which would delay the conclusion of my inquiry, potentially quite significantly given the advanced stage it has now reached. Conversely, if I am not able to use that material there will within a short period be two sets of conclusions in the public domain on overlapping issues based upon different evidence.
8. In light of the magnitude of these difficulties and the threat that they pose to the timely and effective conclusion of my inquiry, the Committee may wish to consider whether proceeding to examine witnesses on the substantive issues is in fact in the public interest. There is a real risk that the Committee's processes will be used to preempt and potentially derail my inquiry by individuals who may perceive that they can obtain a more favourable outcome for their particular interests from a short and incomplete inquiry than they could from a more thoroughly conducted one.
9. The risks to the integrity of, and public confidence in, the NSWPF from premature and partial conclusions about the large and complex issues that are the subject of my inquiry are very real. Conclusions reached by this Committee upon incomplete evidence may cause immense damage to the reputations of individuals, and yet may not ultimately be substantiated upon consideration of the whole of the evidence that is available to me.
10. I also have concerns about the potential damage to my inquiry given that I (and my Deputy) have been summoned to give evidence on substantive matters, prior to its completion, before a parallel Parliamentary inquiry. In that event I would both be conducting an independent inquiry, and giving evidence to another, in relation to overlapping issues, which would potentially be corrosive of confidence in my report among those to whom it relates and the general public.
11. Any evidence that I give to the Select Committee about Operation Prospect beyond what is provided in this statement gives rise to a number of difficulties which, in my opinion, have the potential to adversely impact upon the clear public interest in providing a complete, comprehensive and fair report to Parliament on the matters the subject of my inquiry.
12. The Joint Parliamentary Committee on the Ombudsman, the Police Integrity Commission and the Crime Commission, which is appointed pursuant to section 31A of the Ombudsman Act, is expressly precluded from investigating a matter relating to particular conduct, and from reconsidering the findings, recommendations, determinations or other decisions of the Ombudsman, or of any other person, in relation to a particular investigation or complaint. That statutory carve-out recognises the risk to the public interest that attends the asking of questions, by Parliament, about issues on which I may have taken evidence (voluntarily or by compulsion), as to which I am required to deliberate and make findings and, before finalising my conclusions, accord natural justice to persons whose interests may be adversely affected.

13. I make a claim of public interest immunity in relation to documents and evidence that:
- a. Would disclose or tend to disclose the identity of persons who have provided evidence or assistance to Operation Prospect on the basis that the fact of their giving evidence or assistance would be confidential, and the nature or content of the evidence given by these persons. This is of particular concern from the perspective of the safety, health and welfare of those persons who have provided, are providing or are to provide sensitive evidence or information to Operation Prospect;
 - b. Would disclose or tend to disclose the particular avenues and methods of inquiry that have been, are being or will be pursued in Operation Prospect.

Basis for the claim of public interest immunity

Operation Prospect

14. Annexed to this statement and marked "A" is a document which sets out the background of the Mascot references and the subsequent investigations associated with those references.
15. In broad terms, the objective of Operation Prospect is to deal with all serious allegations made in connection with the Mascot references, together with subsequent investigations of those references by the NSWPF that have not been previously dealt with or had been inadequately dealt with. The scope of the investigation has been informed, inter alia, by:
- a. A broad referral from the Inspector of the PIC in October 2012, which included matters referred to him in May 2012 by the then Minister for Police in relation to Strike Force Emblems (which was established in 2003 to investigate matters associated with the Mascot references) and "at least" three other related police operations: Operation Florida, and Strike Forces Sibutu and Tumen.
 - b. Matters which, as at October 2012, were under investigation by NSWPF Strike Force Jooriland, including "all current complaints about the conduct of officers of the NSWPF in relation to the Operations Mascot, Florida and Emblems and associated matters" (which Operation Prospect took over pursuant to s 156(1) of the *Police Act 1990* because it was related to the same or overlapping subject matters).
 - c. A large number of complaints made under s 12 of the Ombudsman Act, Part 8A of the Police Act, and the *Public Interest Disclosures Act 1994* (PID Act), including in response to a public call for information by the Ombudsman.
16. The referral from the PIC Inspector and Strike Force Jooriland included complaints and allegations both about the conduct of investigations under Mascot and Mascot II, and the improper dissemination of confidential information from the computer systems and/or physical files of the NSWCC, the NSWPF and the PIC. Once established Operation Prospect received complaints within both of these categories.

17. To ensure a comprehensive investigation, the Ombudsman's office has considered all information and allegations received. However, it has not been limited to those matters that were the subject of referrals, media reports or otherwise raised by individual complainants. For example, Prospect investigation staff also identified issues which were incorporated into the scope of Operation Prospect as own motion matters pursuant to section s13(1) of the Ombudsman Act. In conducting the investigation, I have relied on the broad jurisdiction conferred on the Ombudsman pursuant to provisions of the Ombudsman Act, the Police Act, the Public Interest Disclosures Act and the *Police Integrity Commission Act 1996* (PIC Act).
18. Following an assessment of all of the complaints and allegations which were associated with the referral from the PIC Inspector, Strike Force Jooriland and which were received in response to the public call for information, they were categorised into the investigative streams or lines of inquiry listed below, as identified in publicly available documents:
 - a. The use of false and misleading information in warrant applications and supporting affidavits under the *Listening Devices Act 1984* (NSW) and *Telecommunications (Interception and Access) Act 1979* (Cth).
 - b. Improper targeting or investigation of individuals.
 - c. Mishandling of informants/undercover operatives.
 - d. Unlawful and/or improper dissemination of material from hardcopy files and/or the computer systems of the NSWPF, the NSWCC and the PIC.
 - e. Improper interference.
 - f. The provision of misinformation and/or making false statements.
 - g. Other wrong conduct.

Logistics and timeline of investigative activities

19. Having regard to the history of the Mascot references and subsequent investigations, I have approached the current inquiry upon the basis that, within the limits of the resources which were made available to me, and having regard to the desirability of expeditiously resolving the serious allegations made, it should be thorough and sufficiently rigorous to withstand public scrutiny, including by those whose reputations, careers or other interests may be affected by its conclusions. There is a significant public interest in the thorough investigation by Operation Prospect of long-standing allegations of serious misconduct and the fair and balanced reporting of the outcome of that investigation in my final report.
20. On 26 November 2012, legislation commenced amending the Ombudsman Act so as to confer additional jurisdiction and powers on the office of the Ombudsman in order to facilitate investigation of the NSWCC and the PIC and to permit me to retain counsel assisting.
21. I also sought and secured additional funding for the office, including to recruit specialist staff, to construct a secure area and exhibit rooms, and to purchase and customise appropriate forensic/investigative software which could examine and interrogate millions of pages collated over the key six year period by agencies including the NSWCC, NSWPF and PIC.

22. By 22 April 2013, Operation Prospect was fully staffed, the special purpose area had been secured and fitted out, the new information technology equipment and software purchased, and training was being delivered to the newly appointed investigators and investigation support staff.
23. By that time, I had issued summonses to the NSWCC, NSWPF and PIC to produce a wide range of documents and information. Between October 2012 and February 2014, my office took over 40 separate deliveries of documents in response to those summonses, which were scanned and uploaded into the customised database. Investigations undertaken in the course of Operation Prospect since April 2013 have included:
 - a. In the four months after Operation Prospect was fully staffed, reviewing and analysing the records produced by the NSWPF, the NSWCC and the PIC, in order, inter alia to:
 - i. develop a comprehensive understanding of the details of, and the interplay between Mascot, Mascot II, Florida, Banks, Emblems, Sibutu, Tumen and the various associated investigations and/or strike forces (e.g. Boat, Volta, Naman, and Blender);
 - ii. identify the internal structures, policies, procedures and processes for each investigation/strike force, and of each agency, and identify the roles, responsibilities and decision-making authority of the individuals involved in the various matters across the six year timeframe;
 - iii. determine the scope of each investigation/strike force in relation to the various allegations within the scope of Operation Prospect;
 - iv. determine what facts could be established in relation to each line of inquiry under each allegation; and
 - v. identify the information gaps in each line of inquiry and determine which individuals may be able to assist with these gaps.
 - b. In the second half of 2013, engaging external Senior Counsel Assisting who, in conjunction with me, reviewed the information provided by investigators on the outcomes of the above document review and analysis, for the purposes of determining what further investigative activities were required. It was evident to me, following this review, that complex conduct issues, including the implementation of internal policies and procedures, approval and decision making processes, and the management of telecommunications intercept and listening device recordings and transcripts, could not be answered by a document review alone, and that it would be necessary to speak with the majority of people involved in these matters to ascertain what occurred, particularly within the Mascot and Mascot II investigations.
 - c. Commencing in the second half of 2013 and continuing into the first half of 2014, undertaking those further investigative activities, which included obtaining further or missing records and interviewing or conducting hearings with individuals who could assist prior to an examination of the key witnesses and persons against whom allegations had been made. By May 2014, over 60 individuals had been interviewed or attended a private hearing.

- d. Appointment of a Senior Counsel Assisting to conduct the examinations in the second half of 2014 with the key witnesses. These examinations, which are the central component of Operation Prospect, have largely been completed and have resulted in further investigative activities and hearings which are yet to be completed.
24. In Annexure B to this statement, I have summarised in broad terms the tasks which investigators have undertaken in respect of each of the investigative lines of inquiry listed in paragraph 18 above.

Evidence given to Operation Prospect

25. I am required, by s 17 of the Ombudsman Act, to conduct investigations under the Act in the absence of the public. The Ombudsman Act differs in this respect from the legislation governing the Independent Commission Against Corruption (ICAC) and the PIC, both of which make provision for those agencies ultimately to undertake hearings in public (although neither the ICAC nor PIC is under any statutory obligation to conduct public hearings and both agencies generally utilise private hearings to inform and guide the scope and purpose of any public hearings). It is important to note that the ICAC has, in particular, publicly reported on investigations that have been conducted utilising private hearings exclusively.
26. At the time of preparing this statement, over 60 summonses and production notices have been issued in connection with Operation Prospect. There has been over 70 non-continuous days of hearings and interviews, which have been conducted with 102 persons.
27. The investigations associated with Operation Prospect have also involved the taking of statements from persons who are public authorities within the meaning of the definition in s 5 of the Ombudsman Act, pursuant to s 18 of the Act.
28. Each of the summonses to witnesses, and each of the notices to public authorities requiring a statement of information, has stipulated as a matter of course that any information about the summons or the requirement, including its existence, must not be disclosed. By reason of s 19C(1) of the Ombudsman Act, any disclosure by witnesses of information about a summons or a notice requiring assistance constitutes an offence.
29. In addition, s 19A of the Ombudsman Act permits a presiding officer at a closed investigation hearing to make a non-disclosure direction. I have made such a direction with respect to each of the hearings over which I have presided, being satisfied that the direction is necessary or desirable in the public interest. I am aware that the direction was also made in hearings over which I have not presided.
30. It is important to note that at no stage has a request to seek a variation to a confidentiality direction to see a medical practitioner, a psychiatrist, or to speak with a spouse or a support person been denied. Each such request has been assessed and determined on its own merits and an appropriate variation has been made, specifically tailored to the merits of the request.
31. An important purpose of the provisions which I have just identified, which can also be found in the *Independent Commission Against Corruption Act 1988* (ICAC Act) and the PIC Act, is to protect the integrity of an investigation by keeping confidential the

avenues and methods of inquiry that have been or are being pursued. Although the broad areas of interest to Operation Prospect have been publicly released, there has been no disclosure of the detail of the investigations which have been undertaken in the course of Operation Prospect, the identity of any persons who have made statements to the Ombudsman, or given evidence under summons, or produced documents, nor has there been any disclosure of the content of the information that has been given to the Ombudsman, whether voluntarily or under compulsion. Nor has the Ombudsman disclosed the identity of persons to whom notices have been issued under s 16 of the Ombudsman Act.

32. Although the investigations associated with Operation Prospect are significantly advanced, they are incomplete. Disclosure of any of these matters in a public forum will inform persons who are yet to be approached or who may be required for further questioning, or from whom documents or further documents might be sought, as to what Operation Prospect already knows, and how (and from whom) it knows it, why he or she might be approached (or further approached) and in respect of what information.
33. There is one additional matter that I should disclose to the Committee in this context. However, as disclosure of this matter publicly has, in my opinion, the potential to cause grave and irreparable prejudice to the individual to whom it relates, I request that the Committee withhold the following paragraph (redacted in the attached public version of the statement) from publication of any kind, except to members of the Committee.
34. **[Confidential]**
35. In my opinion, advance notice of the avenues and methods of inquiry which have been employed in the course of Operation Prospect will irremediably prejudice the finalisation of this complex investigation, which has been ongoing for 26 months and has involved the expenditure of significant public funds.
36. In my opinion, public disclosure at this stage of the identity of persons who have given evidence (voluntarily or by compulsion) to Operation Prospect, and the details of their evidence, would significantly prejudice the completion of this complex investigation. Disclosure alone of the identity of persons who have given evidence would also, in my opinion, be sufficient to provide persons who have knowledge of the events surrounding the Mascot references and/or subsequent investigations and who are yet to give evidence or further evidence, with information as to lines of inquiry that have been pursued in the investigation, to the prejudice of its proper completion.

37. The provisions serve the further purpose of protecting, during the course of the investigation, the identity of persons who provide confidential and sensitive information to an investigation and, thereby, the safety, health and welfare of those persons. Many of the persons who have provided information to Prospect, either informally or under compulsion (pursuant to the protections provided by the Ombudsman Act), have a range of medical conditions, including mental health issues. At all times I have sought to ensure that the office has provided support for those persons (the detail as to which is set out in Annexure C to this statement).
38. There are at least eight witnesses who advised Operation Prospect that they suffer from a mental health condition that was, in some cases, related to Mascot or which otherwise related to their experiences during their careers as police officers. With the appropriate support from Operation Prospect, these witnesses attended and gave evidence.
39. There were a further four witnesses who, upon being contacted by Operation Prospect, provided medical reports to indicate that they were too unwell to give evidence. Two of those four witnesses were excused, after receipt and careful consideration of the medical evidence, consideration of the evidence Operation Prospect investigators believed the person could provide, whether there were alternative sources of that information, and the significance of the evidence compared with the potential damage that could be done if the witness was compelled to give evidence. Of the other two witnesses, one was excused mid-hearing when it became evident that the witness was experiencing difficulties, and the other witness has been excused from further attendance (having attended and given evidence on previous occasions), on the basis of a current medical certificate issued after earlier hearings.
40. There are other witnesses who have given evidence and, as a consequence, have been issued with a s 16 Notice under the Ombudsman Act advising them that their individual conduct is now the subject of investigation. This does not mean of itself that any findings will be made against those persons.
41. Although there are persons who have given evidence whom I will have to identify in my report on the investigation, for example those persons who are the subject of adverse findings, I anticipate that for some witnesses it is likely that I will use a pseudonym in order to maintain the protection of their identity (including persons who have made a public interest disclosure within the meaning of the PID Act). Disclosure of information about the identity of witnesses, which may include persons whose identity I would otherwise seek to protect, could in some cases be highly damaging for those persons, some of whom suffer from (in some cases, severe) mental health problems and were very distressed by having to give evidence or whom were otherwise excused from giving evidence.
42. At a broader level, there is an understandable level of anxiety that almost all witnesses feel, and that some Mascot investigators and complainants have been suffering from for a prolonged period, during both the investigation phase and since. Disclosure of details relating to who has given evidence and what evidence they have given, before the investigation has been completed, without context and source material or any opportunity to respond to adverse information would, in my opinion, be unfair and likely to be unnecessarily distressing and damaging to such persons.

43. Apart from the damage to particular individuals, the disclosure of information about this investigation would, in my opinion, prejudice future investigations conducted by this office. It would significantly undermine public confidence in the ability of the Ombudsman to conduct effective investigations and encourage persons to come forward and to speak more freely in the knowledge that their identities will be protected, at least for the duration of the investigation if not beyond that (subject to my satisfaction as to the public interest).
44. As I have stated above, Operation Prospect is now at an advanced stage. Approximately \$4.9M in public funds have been spent to ensure that the inquiry finally resolves the extensive and widely publicly-ventilated issues in a way that is fair to all affected persons, and sufficiently rigorous to command wide public respect. There is a strong public interest in protecting the integrity of the inquiry until its imminent conclusion. For the reasons identified above, in my opinion disclosure to the Select Committee of the confidential operational particulars of an investigation of the complexity and significance of Operation Prospect will cause significant harm both to individuals and the public interest.



Bruce Barbour
Ombudsman

28/1/15

Annexure A

Introduction to Operation Prospect

45. In broad terms, the objective of Operation Prospect is to deal with all serious allegations made in connection with the references of the New South Wales Crime Commission (NSWCC), named "Mascot" and "Mascot II", together with subsequent investigations of those references by the New South Wales Police Force (NSWPF) that have not been previously dealt with or had been inadequately dealt with.
46. The primary subject of investigation in Operation Prospect are allegations that senior officers who were conducting investigations under the NSWCC Mascot and Mascot II references, misused the investigative processes of those references to look into the conduct of other senior NSW Police officers for purposes that were unconnected with the references.¹ However, that is not the only subject of investigation, with the scope of Operation Prospect also informed, inter alia, by:
 - a. A broad referral from the Inspector of the PIC in October 2012, which included matters referred to him in May 2012 by the then Minister for Police in relation to Strike Force Emblems (which was established in 2003 to investigate matters associated with the Mascot references) and "at least" three other related police operations: Operation Florida, and Strike Forces Sibutu and Tumen.
 - b. Matters which, as at October 2012, were under investigation by NSWPF Strike Force Jooriland, including "all current complaints about the conduct of officers of the NSWPF in relation to the Operations Mascot, Florida and Emblems and associated matters" (which the Ombudsman took over pursuant to s 156(1) of the Police Act).
 - c. A large number of complaints made under s 12 of the Ombudsman Act, Part 8A of the Police Act, and the PID Act, including in response to a public call for information by the Ombudsman.
47. The referral from the PIC Inspector and Strike Force Jooriland included complaints and allegations both about the conduct of investigations under Mascot and Mascot II, and the improper dissemination of confidential information from the computer systems and/or physical files of the NSWCC, the NSWPF, and the PIC. Once established, Operation Prospect received complaints within both of these categories.

Misconceptions in the public domain

48. There are a number of misconceptions circulating in the public domain about the Mascot references, Strike Force Emblems and Operation Prospect.
49. Investigations associated with the Mascot references involved, among other things, the issuing of a series of warrants under the (now repealed) Listening Devices Act. Perhaps the most commonly held misconception in this regard is that being named on a warrant as a person whose conversation may be recorded indicates that that person is under suspicion of illegal conduct.
50. Under the Listening Devices Act it was the practice in an application to an eligible Judge for a listening device warrant for the applicant to swear an affidavit in support of the application setting out the grounds for the applicant's belief or suspicion *'that a*

prescribed offence has been, is about to be or is likely to be committed and ... that, for the purpose of an investigation into that offence or of enabling evidence to be obtained of the commission of the offence or the identity of the offender, the use of a listening device is necessary' (s 16(1)). In determining whether a warrant should be granted, the eligible Judge was required by the Act to have regard to 'the nature of the prescribed offence in respect of which the warrant is sought ... the extent to which the privacy of any person is likely to be affected ... alternative means of obtaining the evidence or information sought to be obtained ... the evidentiary value of any evidence sought to be obtained, and ... any previous warrant sought or granted in connection with the same prescribed offence'.

51. A warrant granted by an eligible Judge under the Listening Devices Act could be in force for a maximum period of 21 days and if, at the expiration of that period, the continued use of the listening device was required for operational reasons, it was necessary for the applicant to make a new application for a warrant (commonly referred to as a 'roll-over' application). The roll-over application generally included new or further information in the supporting affidavit.
52. Most importantly for present purposes s 16(4) provided: '*A warrant granted by an eligible Judge under this section shall specify ... the prescribed offence in respect of which the warrant is granted, ... [and] where practicable, the name of any person whose private conversation may be recorded or listened to by the use of a listening device pursuant to the warrant, ...*'. People in this category may not be the target of investigation, and being named on a warrant is not evidence of unlawful targeting or investigation, nor is it evidence that they are a suspect person.
53. Many of the media articles refer to the 'bugging' of individuals who were named on listening device warrants. Speaking generally, it does not necessarily follow that all of the persons whose names are listed on a listening device warrant have their private conversations listened to and recorded, and the list of names can often reflect, not the identity of suspected offenders, but rather the extent to which the privacy of persons may be affected in the course of the use of authorised listening devices – a matter that a judge was required to take into account under the Listening Devices Act. It should also be noted that a warrant that is worded so as to authorise the use of a worn listening device does not authorise the installation of a listening device in a residence or some other fixed location and a warrant that is intended to authorise the latter must be so worded. The listening device warrants in this matter authorised the use of transmitting and recording devices that were worn on the person of the informer whose disclosures prompted the Mascot references to listen to and record private conversations for the purpose of obtaining evidence of the commission of the offences specified in the warrant and the identity of the offenders.
54. Additionally, some media references to the 'bugging' of individuals appear to be references to the authorised interception of telecommunication devices used by those persons. This is legally and technically a different process to the authorisation and use of a listening device, and it is regulated by Commonwealth legislation and authorised by Commonwealth officers.

55. A further misconception is that a mistake or unintentional error in an affidavit of itself constitutes a criminal offence on the part of the person drafting or swearing the affidavit. To commit an offence such as falsely swearing an affidavit there needs to be an element of wilfully making a false statement, knowing it to be untrue in a material particular. As Operation Prospect has not yet been finalised I make this point by way of clarification only, without indicating whether recommendations for criminal charges of this nature will be made.
56. Finally, there remains a misconception that all those named on particular warrants were attending a function. In all affidavits there were multiple reasons for naming particular people: some worked in Manly Police Station or later Crime Agencies where the informant worked, some may have been attending a function, and others were known cohorts of the informant. In some, but not all, of the affidavits, a particular function was one of a number of reasons for why some persons were named. The reasons for seeking warrants are matters under examination, and findings will be made at the conclusion of the investigation.

NSWCC Mascot/Mascot II references and PIC's Operation Florida

57. In December 1998 a police officer approached the NSWCC and disclosed his knowledge of and involvement in organised crime and police corruption spanning over fifteen years whilst he performed criminal investigation duties in various locations. The disclosures he made implicated a large number of former and serving police as well as civilians. This police officer became a NSWCC registered informant and was codenamed "Sea". Each disclosure he made, and each allegation regarding others being involved, was recorded in a document called a **Schedule of Debrief ("SOD")** and was allocated a number. There were initially 86 SODs. This increased over time to 231.
58. In February 1999 the NSWCC Management Committee granted a reference codenamed "Mascot" to investigate the allegations made by Sea. The reference specified the criminal offences that would be investigated under the Mascot reference to be serious drug offences as defined in s 3 of the (now repealed) *NSW Crime Commission Act 1985*, money laundering within the meaning of s 73 of the *Confiscation of Proceeds of Crime Act 1989*, and conspiracy to pervert the course of justice contrary to s 319 of the *Crimes Act 1900* and the common law. The reference named a total of 19 suspect persons who were associates of Sea and who were named by him as involved in, or having knowledge of, corruption.
59. From January 1999 until late 2001 Sea was covertly deployed to prompt and record discussions with current and former officers to corroborate some of his original disclosures and to capture any additional evidence that persons or their associates may have engaged, may be engaging, or may be about to engage in the specified criminal activities. Other investigative activities were also undertaken during this period to investigate the allegations under the Mascot reference and other informants, including serving police officers, provided assistance to Mascot.
60. In June 2000 a Memorandum of Understanding was entered into by the NSWCC, the PIC and the NSWPF outlining the agreement between the three organisations to jointly pursue the allegations and matters being investigated under the Mascot reference.

61. In November 2000 a new NSWCC reference was approved called "Mascot II". The list of suspected persons was broadened significantly to *"not be limited to the persons named in the original Reference but extend to all police (former & serving) suspected of engaging in the offences the subject of the Reference"*, which included additional offences of larceny, corruption and corruptly receiving a benefit. Part of the extraneous material provided to the NSWCC Management Committee in support of the new reference was a Mascot affidavit (in support of an application for listening device warrants) dated 5 October 2000.
62. On 8 October 2001 the PIC commenced public hearings (codenamed "Operation Florida") into crime and police corruption in the Manly/Davidson Local Area Command, Manly Detectives, the Drug Enforcement Agency, the North Sydney Drug Unit, the Major Crime Squad North ("MCSN") including specific investigations into the Armed Hold-Up Unit and the Drug Unit attached to the MCSN, and officers attached to Task Force Magnum (which was an investigation established in 1991 to investigate multiple armed hold-ups throughout NSW). The public hearings were conducted over a 14 month period and comprised a total of 78 days of public hearings. As a consequence of the public hearings Sea's identity was revealed and his covert activities ceased. Sea by this stage was in discussions with the NSWPF and, in particular, WitSec, to be provided with new identities for him and his family and a new residence.
63. Mascot entered its overt stage at the commencement of the PIC public hearings. This stage involved the NSWCC continuing to provide support and evidence to PIC, preparing briefs of evidence against several Mascot targets, liaising with the Director of Public Prosecutions regarding the prosecution process, managing further witness 'rollovers', subsequent investigations and further prosecutions, managing protected witnesses and investigating and reviewing outstanding investigations or allegations. Only a limited number of listening device and telephone intercept warrants were obtained after the commencement of the public hearings and Sea was not involved in the deployment of these devices/intercepts.
64. Following the PIC public hearings which, as mentioned, commenced on 8 October 2001, the PIC published a report on the investigation in June 2004.
65. On 4 July 2002 the then Commissioner of Police authorised the establishment of a new Task Force, codenamed Volta, to deal with 199 medium to low risk allegations or SODs that were not yet finally dealt with by Mascot. Whilst Operation Prospect has not investigated Strike Force Volta in its entirety it has been necessary to review Volta documents and processes as part of examining how Mascot allegations were dealt with to their finality and to determine if the Mascot allegations were appropriate and serious enough to be investigated under a NSWCC Reference/s.

Investigations into Mascot listening device applications 95 and 266 of 2000

66. In 2002, media articles reported that a Mascot warrant that named 114 people, including serving and former police officers, a barrister and a journalist, had reached public circulation. A number of the people named in the warrant complained. It was reported that the then Minister for Police had sought a briefing from the then Commissioner of Police and the then Commissioner of the NSWCC on the matter. Other media reports stated that senior police believed their promotions had been hindered because they were named on the warrant. Additional issues relating to the handling of covert operatives by Mascot were also being raised in the media.

67. On 15 April 2002 the then Minister for Police requested the then Inspector of the PIC, the Hon Mervyn D. Finlay QC, to examine the warrant that had been issued by the Hon Justice Virginia Bell (then a Justice of the Supreme Court of NSW) under s 16 of the Listening Devices Act on 14 September 2000 (application 262-268 of 2000). In reporting on the outcome of his preliminary investigation, on 29 April 2002, the Inspector concluded that the warrant was justifiably sought, complied with the legislation in all material aspects (the Inspector noted one irregularity, in that the affidavit omitted two names, which he described as "minor" and of no substantial consequence), and accepted the advice of the NSWCC that the material obtained by the warrant was used only for the purpose of preparing for "PIC hearings, criminal prosecution briefs, and in furtherance of this investigation".
68. The Inspector advised the Police that the matter did not warrant further investigation. At page 19, the Inspector stated *"I certify pursuant to s56(4)(c) of the Police Integrity Commission Act 1996, that it is necessary in the public interest for the information in this report to be divulged to Mr Michael Costa the Minister for Police, Mr Les Tree the Director General of the Ministry for Police, Mr Phillip Bradley the Commissioner of the NSWCC, Mr Terrence Griffin the Commissioner of the Police Integrity Commission, and to Mr Ken Moroney the Acting Commissioner of Police, and I so direct. I do not divulge my report to the Media."*
69. A number of internal police investigations into matters relating to Special Crimes and Internal Affairs (SCIA) were conducted during this period including Operation Banks in 1999, and Strike Force Sibutu and Strike Force Tumen, both in 2002. Many of those investigations were conducted in response to internal police complaints, some of which have also formed part of Operation Prospect.
70. Following on from those earlier/initial police investigations, Strike Force Emblems was established in 2003 to investigate a range of matters relating specifically to the investigations conducted under the NSWCC Mascot and Mascot II references. These matters included allegations of:
 - a. impropriety in relation to listening device warrants 95 and 266 of 2000
 - b. general inappropriate use of listening devices
 - c. inappropriate deployment of undercover operatives
 - d. mismanagement of personnel and human resource issues
 - e. inappropriate procedures concerning integrity tests
 - f. controlled release of fictitious information to facilitate search warrant applications
 - g. inappropriate investigation into the arrest of three offenders in Coffs Harbour in 1994
 - h. inducing an informant to breach his bail conditions and commit perjury.
71. Strike Force Emblems was ultimately frustrated in its investigation as the NSWCC denied Emblems investigators access to NSWCC material, and police officers attached to the investigations under the Mascot references were subject to the secrecy provisions of the NSWCC Act and were unable to be interviewed.
72. The Emblems Report (2004) noted that the investigation could not be completed and no sustained findings could be made. To this day the investigation remains incomplete.

73. As a result of discussions at the NSWCC Management Committee (at that time constituted by the Minister for Police, the NSWCC Commissioner, the Commissioner of Police and the Commissioner of the Australian Federal Police), the then Commissioner of Police directed that Strike Force Emblems submit to the then Director Legal Services NSWPF a submission to assess whether there was sufficient evidence to refer to the DPP. The Strike Force Emblems lead investigator noted in respect of the submission on 6 February 2004 that:
- a. *The most significant proof of the offences pertains to the affidavits. Emblems have not viewed that document. The affidavit has not been analysed to establish if any falsity does exist.*
 - b. *The deponents [Name & Name] cannot be interviewed as NSWCC has not allowed these officers to be interviewed due to the secrecy provision that bind them under s 29.*
 - c. *The interviews obtained from the current-serving complainants at this time have been conducted as Departmental interviews and would not be admissible in evidence at court. (Due to no jurat). However an adoption statement containing the required jurat can rectify this. All interviews obtained by investigators have been with limited information because of the secrecy provisions surrounding NSWCC documentation and investigators non-possession of the subject affidavit and source material.*
 - d. *As indicated, strike force investigators have not established any direct evidence of criminal offences committed by any person.* (emphasis added)
74. On 8 March 2004 the Director Legal Services NSWPF responded to the effect that he could not provide advice in the absence of a detailed examination of the affidavits and supporting source materials. He declined to provide any advice without being "supplied with an appropriate, full brief of evidence, including statements".
75. On 28 June 2004 the then Assistant Commissioner of the Professional Standards Command prepared a memorandum on his review of the Strike Force Emblems Report findings and recommendations. The Assistant Commissioner concluded that *"the comments of the investigator are extremely subjective, as he has drawn an inference of corrupt conduct without addressing key source documents that would confirm or refute those inferences. The findings are based on conjecture and not based on empirical evidence."* (emphasis added) He also recommended that the Deputy Commissioner should consider the *"investigator's findings, circumstances of the investigation and the PSC recommendations with a view to making a finding of 'not sustained' or 'unable to be determined'"*.
76. On 31 December 2004 the NSW Police Legal Services Branch wrote to the DPP requesting advice in respect of applications for listening device warrants in relation to Operation Mascot, including Listening Device Warrants 95 and 266 of 2000, pursuant to a request by the then Commissioner of Police. The specific advice sought was as to the sufficiency of evidence to justify the commencement of any criminal proceedings against any person for any offence, in the absence of the affidavits supporting the warrant applications. Advice was also sought on any alternative means by which criminal offences may be proved, or any mechanisms available through which investigators could obtain the affidavits.

77. On 22 February 2005 the DPP wrote back to Police advising that there was insufficient evidence to lay charges against any person on the basis of the material provided, that is, the material supplied by Emblems. No other advice was provided. The Manager of the Operational Legal Advice Unit of the NSWPF forwarded the DPP advice to the Emblems lead investigator, stating the DPP advice was consistent with the internal legal advice and that there did not appear to be any further viable avenue for investigation given they had not been able to gain access to the NSWCC affidavits and other documentation.

Events of 2012 leading to Operation Prospect

78. On 11 May 2012 the then Minister for Police wrote to the PIC Inspector asking him to inquire into the Emblems report pursuant to s 217 of the Police Act with an emphasis upon, amongst other things, reporting to the Minister about whether the release of the report would be in the public interest. The Minister provided the following by way of background in his referral letter:

Since becoming Minister for Police I have reviewed those recommendations and am of the view that they cannot be released in their current form. Firstly, I am not confident that these recommendations have been concluded. Secondly I am conscious of the need to ensure that no one person is denied natural justice.

The Minister requested that the Inspector review the recommendations made in the Emblems report to ensure:

1. That they have "been properly dealt with" and
 2. If release of the recommendations would be in the public interest and
 3. Whether their release would prejudice any legal action or investigation by the Police Integrity Commission or the office of the PIC Inspector and
 4. Whether their release would unreasonably reflect upon any individuals without them being afforded natural justice.
79. On 25 May 2012 the then Premier wrote to the Inspector of PIC seeking his advice as to "whether the Emblems Report could be publicly released in its entirety".
80. On 31 August 2012 a police officer who was formerly attached to the Emblems investigation received an anonymous package of documents containing:
1. Fourteen page report by Catherine Burn dated 13 April 2002 regarding LD Warrant 266/2000 with Annexure "A" referring to persons named on the warrant
 2. Letter from Catherine Burn to The Hon MD Finlay QC dated 22 April 2002 regarding LD Warrant 266/2000
 3. NSWCC File Note re LD 266/2000
 4. NSWCC LD Affidavit 262-268 of 2000 dated 14 September 2000 sworn by Glenn Trayhurn.
81. The officer immediately contacted the lead investigator of Emblems. The lead investigator took possession of the documents and reported the anonymous delivery to the then Deputy Commissioner Specialist Operations, who secured the documents and later referred them to the PIC Inspector.

82. Operation Prospect has also been provided, by a number of persons, with copies of a large number of confidential documents that could only have originated from the electronic or physical files of the NSWCC, the NSWPF and/or PIC.
83. On 21 September 2012 the NSWPF established Strike Force Jooriland within the Professional Standards Command to investigate the following allegations or complaints:
- That, during or before 2012, a person/s unknown supplied to journalist Neil Mercer and others an affidavit or affidavits related to Mascot contrary to s 29(2) of the NSWCC Act.
 - That, during or before 2012, a person/s unknown supplied to journalist Neil Mercer and others documents related to NSWPF investigation Emblems contrary to cl 75 of the Police Regulation 2008.
 - That, during and/or subsequent to 1999, a person/s attached to SCIA knowingly swore an affidavit or affidavits containing false or partly false information contrary to s 319 Crimes Act 1900.
 - That, during and/or subsequent to 1999, a person/s attached to SCIA unlawfully monitored and/or recorded conversations in the office of now Deputy Commissioner Kaldas contrary to ss 5 and 10 of the Listening Devices Act.
 - That, during and/or subsequent to 1999, a person/s attached to SCIA unlawfully monitored and/or recorded conversations on the mobile telecommunications service of now Deputy Commissioner Kaldas contrary to ss 7(1) and 105 of the Telecommunications (Interception and Access) Act.
 - That, during and/or subsequent to 1999, a person/s attached to SCIA unlawfully monitored and/or recorded conversations on the former home telecommunications service of now Deputy Commissioner Kaldas contrary to ss 7(1) and 105 of the Telecommunications (Interception and Access) Act.
 - That, during and/or subsequent to 1999, a person/s took detrimental action against now Deputy Commissioner Kaldas substantially in reprisal for him making protected allegations contrary to s 206(2) of the Police Act.
 - That, during and/or subsequent to 1999, a person/s attached to SCIA failed to comply with s7 of the Police Act in respect to the investigation of now Deputy Commissioner Kaldas and others.
84. On 7 October 2012 the then Premier issued a media release stating the office of the NSW Ombudsman would undertake an independent investigation to deal with the issues that continued to be unresolved.
85. On 11 October 2012 the PIC Inspector, the Hon David Levine AO RFD QC, made a direction to refer the matters referred to him in May 2012 and other related matters to the Ombudsman for investigation.
86. On 23 November 2012 the PIC Inspector wrote to the Minister in response to the earlier request under s 217 of the Police Act, on the basis that it remained necessary for him to do so notwithstanding the remittal to the Ombudsman:
- On the question of whether the Emblems recommendations had “been properly dealt with”, the Inspector answered in the negative. He also noted they were not viable recommendations in the context of the overall deficiencies of the Strike Force Emblems report;

- It was not in the public interest for the Emblems report to be released and that such publication could potentially prejudice investigations now being conducted by the Ombudsman;
- That publication of the Emblems report could unreasonably reflect upon individuals without affording them natural justice.

87. In his report the PIC Inspector stated "This is an instance where it fairly can be argued that the steps taken to refer the matter to the Ombudsman are not to avoid public scrutiny by some form of public inquiry. That is, the purpose is not to conceal but rather to protect relevant individuals unless and until there is a good reason for their deserved protection and privacy to be foregone."(emphasis added)

Annexure B

Investigations pursuant to Operation Prospect

88. At the start of the investigation, Operation Prospect investigators assessed all of the complaints and allegations associated with the referral from the PIC Inspector, Strike Force Jooriland and received in response to the public call for information with a view to categorising them into investigative streams or lines of inquiry. This exercise involved an analysis of over 179 allegations and led to the following heads of inquiry, as identified in the summonses and other publicly available documents:
- The use of false and misleading information in warrant applications and supporting affidavits under the Listening Devices Act and the Telecommunications (Interception and Access) Act.
 - Improper targeting or investigation of individuals.
 - Mishandling of informants/undercover operatives.
 - Unlawful and/or improper dissemination of material from hardcopy files and/or the computer systems of the NSWPF, the NSWCC and the PIC.
 - Improper interference.
 - The provision of misinformation and/or making false statements.
 - Other wrong conduct.
89. The following sections address the investigative steps, methodology and strategies that are involved in each of the above streams of inquiry.

The use of false and misleading information in warrant applications and supporting affidavits under the Listening Devices Act 1984 (NSW) and Telecommunications (Interception and Access) Act 1979 (Cth)

90. This and the category of complaints or allegations relating to 'improper targeting or investigation of individuals' have been the most resource intensive areas of investigation for Operation Prospect.
91. Operation Prospect summonses have caused the production of 99 affidavits that were sworn in support of applications for 462 listening device warrants (it should be noted in this regard that a single affidavit can and generally does support an application for multiple listening device warrants). The 99 supporting affidavits comprise, in total, approximately 3,812 pages. The shortest supporting affidavit is eight pages long (003/1999 and 022-025/1999) while the longest is 82 pages (262-268/2000). The median size of the supporting affidavits produced to Operation Prospect is 38.5 pages.
92. In addition, a total of 111 supporting affidavits in relation to 246 telephone intercept warrants have been produced. In total the 111 telephone intercept supporting affidavits produced comprise approximately 2,322 pages. The shortest affidavit that is in Operation Prospect holdings is nine pages (093/1999) whilst the longest is 40 pages (174/2001). The median size of a telephone intercept supporting affidavit is 20.9 pages.

93. To investigate the claims that false and misleading information was contained in these affidavits and applications it has been necessary to examine each paragraph of each affidavit that was the subject of an allegation and then trace that information back to its source. Apart from undertaking this task where my office had received specific complaints from individuals who were named on the two warrants in public circulation, Operation Prospect also undertook the task in other cases, where the evidence seemed unclear as to why a person was named on a warrant/s.
94. Every affidavit was required to be scrutinised in some way despite many of them being 'roll-over' warrants and containing similar information. This was because on occasion the information regarding events or persons were amended slightly or updated causing investigators to again search for the source material that led to this change. During the life of Mascot the paragraphs in many affidavits grew in length as further evidence was gathered to support that the prescribed offences listed in the warrants had been, were about to be or were likely to be committed.
95. This task involved reviewing over 488 pages of transcript of debrief with Sea and over 138,831 documents produced on summons and by request (noting that the NSWCC has cooperated by using its own powers of dissemination to provide documents upon request) so as to locate source minutes, information reports, contact advice reports, emails, surveillance reports, listening device and telephone intercept transcripts and audio and other documentation.
96. As the material was produced in a seemingly random order by agencies, and with no set naming convention, Operation Prospect investigators often had to search the document management system (containing over a million pages) using key word searches which frequently returned thousands of hits. The investigator then read each document to see if it was relevant to the allegation that false and misleading information was contained in the supporting affidavits.
97. The 11 Mascot tape logs books were also produced pursuant to summons, comprising 1,197 entries from hundreds of LD tape recordings made by Sea, ERISP interview recordings, micro cassette and video tape recordings. There are several thousand hours of recordings, and tens of thousands of pages of transcripts, that were apparently used by Mascot staff as evidence and information to support references made in paragraphs in affidavits. Operation Prospect investigators have listened to many of these tape recordings to verify the accuracy of transcripts prepared as part of Mascot as well as the paragraphs in an affidavit that referenced it.
98. Where the information was only contained on an audio cassette tape (with no corresponding transcript) the tape was digitised to a CD so that an investigator could listen to it. On many occasions investigators listened to the audio even where there was a transcript to ensure that they analysed source material rather than relying on the transcription. The investigators found the transcripts were occasionally incorrect or incomplete; part of my investigation involves examining whether this was due to genuine error or for other reasons.
99. The time required to examine each of these individual entries varied, with some of the entries containing recordings of over nine hours duration while others were less than an hour.

Improper targeting or investigation of individuals

100. In order to ascertain whether someone was appropriately investigated or specifically targeted in the context of the references which are the subject of investigation, Prospect investigators first identified warrants that named complainants and cross-checked each associated affidavit to establish if the affidavits provided an explanation as to why persons were named in the associated warrants. They then searched for all holdings that named the complainant to establish if they were targeted by Mascot. If they were targeted, Prospect investigators also undertook the following tasks:
- looking at how long a person was targeted;
 - what the initial allegation/s was, its age and seriousness, and whether the information about the original allegation/s matched that contained in affidavit/s;
 - identifying any corroborative evidence that may have existed at the time to support whether, at the time Mascot began its investigation, a crime associated with that person, or about which there was a reasonable basis to form a view that a person had knowledge of a crime, had in fact been committed;
 - examining all documents relating to a person: schedules, information reports, briefs, surveillance logs and reports, listening device recordings and transcripts, emails, minutes and internal reports;
 - identifying any exculpatory evidence found during the Mascot investigation that ought to have been referred to in any affidavit seeking authority to record conversations of certain persons;
 - analysing prior complaint histories of individuals, as held by Mascot, to determine if appropriate or inappropriate weight had been given to those histories;
 - examining all policies and procedures in place at the time to determine if they had been followed in the investigations associated with Mascot (both NSWCC and NSWPF policies applied to the Mascot investigation);
 - assessing whether the method of targeting the individual officer was appropriate in the circumstances.
101. These tasks involved identifying and considering a significant range of evidence that was collected by Mascot/Florida and associated investigations over a six year period between late 1998 and 2004 (by which time the investigations associated with Mascot and Florida were completed. The investigators also needed to determine if that material was held by Mascot at the relevant time of inclusion of a target's name in an affidavit or operational strategy.
102. In order for the committee to understand some of the complexities of this task I provide the following examples. It should be noted that no findings have been made on the conduct involved in the following examples and no findings will be made until all hearings have been finalised and inquiries and investigative steps completed and procedural fairness has been afforded to all involved officers.
103. Person A made a complaint to Prospect that they had been inappropriately targeted by Mascot and, due to this, their promotion was delayed over several years. Person A was named in 4,436 electronic records, some of which are one or two pages in length

while others are several hundred pages. Prospect found that Person A was adversely mentioned in ten SODs that were investigated between 1999 and 2004. Person A was named in 47 sworn affidavits that supported and obtained 177 associated warrants for both telephone intercept and listening device warrants. Person A was also named within a paragraph in a small number of affidavits without being a person named as the subject of the associated warrant applications. This person was the subject of one planned meeting with Sea and one integrity test.

104. Person A was interviewed in the course of Mascot and Volta in relation to allegations of "conspiracy to pervert the course of justice, perjury, assault, verbals and loads, bribery, theft of seized goods, failure to report, hinder investigation, improper association and other general corruption matters". In 2004 Person A was advised by Volta that 'no record of adverse finding [was made] against you' and that this would be placed on Person A's record.
105. Prospect investigated a complaint by Person B that they were improperly targeted. Person B is named in 2,362 electronic records, some of which are one or two pages in length while others are several hundred pages. Prospect has found that Person B was adversely mentioned in six SODs and parts of those allegations were investigated by Mascot (and Volta) from 1999 to 2004. Person B was named in a number of listening device and telephone intercept warrants and affidavits. Three listening device warrants named Person B with no explanation in the associated affidavit as to why he was mentioned. Sea was deployed to meet with and record conversations with Person B between August 1999 and November 2000 in relation to one of the allegations, on more than ten occasions without a warrant specifically referring to permission to record conversations with Person B. Between May 2001 and September 2001 Person B is named in several listening device warrants which is explained in seven associated affidavits. At the conclusion of the investigation Person B was subject to reviewable action under the Police Act.
106. Prospect conducted an 'own motion' investigation into the targeting of Person C. Person C is named in 2418 electronic records, some of which are one or two pages in length while others are several hundred pages. Person C was adversely mentioned in two SODs causing Person C to be named in 252 listening device warrants explained in 36 separate affidavits between February 1999 and May 2001. Person C was named in a small number of affidavits without being a person named as the subject of the associated warrant applications. Despite this, my investigation has identified that Sea was never tasked to record Person C and there is no evidence of any investigation being undertaken by Mascot staff other than basic record checks and Person C's details being entered into two related SODs. The allegations against Person C continued in affidavits despite a late correction by Sea of a misapprehension of the effect of comments about that particular officer in the January SOD.
107. Prospect conducted an 'own motion' investigation into the targeting of Person D between March 1999 and April 2001. Person D is named in 3564 electronic documents, some of which are one or two pages in length while others are several hundred pages. Person D was named in 80 listening device warrants, with Person D's inclusion explained in 29 associated affidavits. Person D was also named in four telephone intercept warrants with an explanation detailed in two associated affidavits. Mascot suspected Person D of leaking information to several Mascot targets. Person

D's inclusion in these affidavits did not relate to the investigation of any particular SOD. Person D was only adversely mentioned in one SOD which was unrelated to the reasons for the naming of person D in any of the affidavits.

108. In October 2000 Person D was the subject of an integrity test that provided Person D with an opportunity to leak information to several targets. Person D passed this test. Nevertheless Person D continued to be named in affidavits until April 2001.

Mishandling of informants/undercover operatives

109. Complaints were made about the improper use of Sea as an informant or undercover officer, including that he was given a secret payment to ensure he did not complain about the mishandling.
110. Investigation of these allegations has entailed a review of the informer policies and procedures, informant management files, review of contact advice reports, information reports, minutes of meetings, receipts for expenses, reviews of agency records including those of WitSec, a Deed of Release, inter-agency memos, medical records and reports, and a review of material involving the Australian Taxation Office which also reviewed Sea's financials. Hearings were also held with relevant witnesses.
111. The circumstance of a police officer "rolling over" so extensively and then performing undercover or field operative work for two years, was an unusual situation not previously seen in either the NSWCC or the NSWPF. Following on from this experience in 2003, the Court and Legal Services Branch of the NSWPF conducted a review of the handling of Sea and developed policies regarding 'rollover operatives similar to Sea'.
112. Prospect received several complaints which alleged impropriety in the handling of another NSWCC informant, codenamed "Paddle". An allegation has also been made that a previous complaint about this same conduct, made to the NSWPF, was not properly investigated.
113. To investigate these allegations investigators reviewed 19 boxes of information provided by the NSWCC and a range of other documents including Mascot minutes, information reports, surveillance reports, operational plans, transcripts of conversations captured by listening device, Mascot Chronology entries, court transcripts, affidavits, listening device warrants and telephone intercept warrants. Investigators also reviewed court files, the files of the Office of the Director of Public Prosecutions and the NSWCC's informant management file. In addition, investigators reviewed the Strike Force Emblems investigation report into this issue and relevant material contained in the Emblems e@gl.i brief. Taped recordings of conversations captured by Mascot listening devices were digitized and also reviewed.

114. Former Mascot officers and other persons of interest were profiled by Operation Prospect investigators and a large number of these persons were interviewed by my officers. This process included obtaining and reviewing the duty books of the involved officers. Other former Mascot officers were also questioned about their knowledge of the handling of this informant. Operation Prospect conducted approximately sixteen hearings connected to this allegation, including a hearing with the informant Paddle. This matter has also required legal research into the issues identified.

115. I am currently considering the evidence in respect of the above allegations.

Unlawful and/or improper dissemination of material from hardcopy files and/or the computer systems of the NSWPF, the NSWCC and the PIC

116. Operation Prospect is also investigating allegations relating to the unlawful and/or improper dissemination of confidential material held by the NSWPF, the NSWCC and/or the PIC. Inquiries to date indicate that over 20,000 pages of confidential hardcopy and digital material has been released into the public domain. This is a conservative estimate as it is likely that documents are in the possession of individuals who have not come forward to Operation Prospect.

117. Allegations of this nature are serious. The penalty for the unauthorised public release of a NSWCC document is a maximum penalty of 50 penalty units or imprisonment for 12 months or both: NSWCC Act, s 29(2). The release of NSWPF documents is not a criminal offence but breaches cl 75 of the Police Regulation. Unauthorised release of PIC documents may attract a penalty of up to 50 penalty units or imprisonment for 12 months, or both. (Note: the sanctions may change dependent on findings as to when documents were leaked due to legislative amendments). The unauthorised provision of information relating to a telephone intercept warrant or intercept material itself is a serious Commonwealth offence under the Telecommunications (Interception and Access) Act which may attract a penalty of imprisonment for up to two years.

118. The allegations pertain to the computer systems which are accessible to, and are being examined by, Operation Prospect. They were included within the scope of Strike Force Jooriland. In making the decision to investigate these allegations I took into account the criteria outlined in s 13(4) of the Ombudsman Act and determined that there was nothing to suggest that these allegations were made frivolously, vexatiously and not in good faith.

119. To date, as part of this stream of the investigation it has become apparent that information leaked consisted of at least 61 separate documents, many of which were voluminous and contained highly sensitive and confidential information. Some documents attract legal professional privilege. The following documents (with their owner agency identified) have been disseminated publicly:

1. *Memo from Peter Ryan to NSWPF Executive re establishing SCU dated 23 December 1999 – NSWPF*
2. *Warrant number 109/1999 dated 12 March 1999 – NSWCC*
3. *Warrant number 266/2000 dated 14 September 2000 – NSWCC*

4. *Warrant number 95/2000 dated 4 April 2000 – NSWCC*
5. *Warrant number 403-406/2001 dated 29 June 2001– NSWCC*
6. *Unsworn affidavit re Magnum dated 1998 – NSWPF*
7. *Affidavit sworn 14 September 2000 for LD warrants 262-268 /2000 – NSWCC*
8. *Transcript of Interview between Catherine Burn and Damian Henry and Sea –8 January 1999 - NSWPF*
9. *Transcript of Malcolm Brammer departure Interview 13 June 2002 - NSWPF*
10. *Transcript of Gary Richmond Tumen Interview 21 August 2002 - NSWPF*
11. *Transcript of Paul McDonald Tumen Interview 22 October 2002 - NSWPF*
12. *Transcript of Paul Albury Tumen Interview 25 October 2002 - NSWPF*
13. *Transcript of [name] Tumen Interview 12 November 2002 - NSWPF*
14. *Transcript of John Reisp Tumen Interview 18 November 2002 - NSWPF*
15. *Transcript of Peter Moroney Tumen Interview 21 November 2002 - NSWPF*
16. *Transcript of Catherine Burn Tumen Interview 02 December 2002 - NSWPF*
17. *Transcript of [name] Tumen Interview 12 December 2002 - NSWPF*
18. *Transcript of [name] Tumen Interview 23 December 2002 – NSWPF*
19. *Transcript of Catherine Burn Emblems Interview 30 June 2003 – NSWPF*
20. *Sibutu Preliminary Report dated 21 February 2002 – NSWPF*
21. *Sibutu Final Report 18 September 2002 – NSWPF*
22. *Tumen Preliminary Report dated 21 June 2002 – NSWPF*
23. *Tumen Report Final Report 25 September 2002 – NSWPF*
24. *Emblem Preliminary Report undated and unsigned – NSWPF*
25. *Emblems Report Final Report dated 22 March 2004 – NSWPF*
26. *Brett McFadden email chain to Peter Moroney/Andrew Scipione dated 30 November 2001 - NSWPF*
27. *Report by Catherine Burn regarding Warrant 266/00 dated 13 April 2002 - NSWCC*
28. *Catherine Burn letter to PIC Inspector Finlay dated 22 April 2002 - NSWCC*
29. *Crime Commission file note regarding 266/2000 (undated and unsigned) - NSWCC*
30. *Michael Diamond report on welfare of M5/Sea dated 17 October 2002 and associated legal advice – NSWPF*

31. *Legal advice by Alan Bloomfield regarding M5/Sea dated 16 September 2003 - NSWPF*
32. *NSWCC Information Report regarding M5 being body searched dated 1 May 2001 - NSWCC*
33. *NSWCC Information Report dated regarding M5 security assessment dated 3 July 2001 - NSWCC*
34. *Mascot/Boat pseudonym list (undated) - NSWCC*
35. *Memo regarding John Dolan, Mark Standen and Sea on meeting to discuss Sea swearing false affidavit dated 5 September 2000 – NSWCC*
36. *PIC Inspector Finlay Report dated 29 April 2002 regarding Warrant 266 – PIC*
37. *Phillip Bradley letter to PIC Inspector Finlay dated 19 April 2002 - NSWCC*
38. *Peter Ryan document dated 23 December 1999 about the establishment of SCIA - NSWPF*
39. *Legal advice by Barrister Greg Hoare in relation to Tumen dated 20 January 2003 – NSWPF*
40. *PIC Inspector Finlay letter to Phillip Bradley on legality of LD warrants dated 29 April 2002 - NSWCC*
41. *Legal advice by Lionel Robberds dated 17 October 2003 – NSWPF*
42. *[name] complaint about Malcolm Brammer, Catherine Burn and John Dolan dated October 2002 - NSWPF*
43. *Minutes of meeting involved Peter Reith, Catherine Burn and others about conciliation regarding investigation of a SCIA detective dated 14 May 2002 – NSWCC*
44. *File note dated 18 June 2001 - statements on integrity testing, [name] complaint re John Dolan, statement that John Dolan has been told details of complaint – NSWCC*
45. *File note by Phillip Bradley regarding [named officer's] possible move to National Crime Authority undated – NSWCC*
46. *Email Phillip Bradley to Mark Standen dated 23 July 2001 headed MASCOT about perceived conflict between [officer name] and [Mascot investigator name] - NSWCC*
47. *NSWCC file note, undated, by Phillip Bradley headed MASCOT. Refers to call from [named officer] on 23 July 2001 - NSWCC*
48. *Email Catherine Burn to Phillip Bradley about [named officer] concerns about his private life being known from TI material dated 09 August 2002 – NSWCC*

49. *Report by Matthew Heenan, undated, signed by Catherine Burn stating that those named were involved in or had knowledge of corruption dated 12 April 2002 - NSWCC*
50. *Email from Phillip Bradley to Mark Standen, Catherine Burn and Matthew Heenan dated 12 April 2002 stating reasons why officers named on warrant - NSWCC*
51. *Information Report dated 14 December 2001, authored by Greg Jewiss about suspicions and actual searches of Sea - NSWCC*
52. *NSWCC file noted by Phillip Bradley headed MASCOT, re promotion of [name] dated 14 December 2001 - NSWCC*
53. *Document headed "SOD 231" undated, unsigned, about Leak of information - NSWCC*
54. *Email Phillip Bradley to Mark Standen and John Dolan re allegations against [named officer] and integrity test dated 14 June 2001 - NSWCC*
55. *Email Phillip Bradley to Mark Standen dated 23 July 2001 headed Mascot [and other matters] - NSWCC*
56. *NSWCC Memo Phillip Bradley to Mark Standen dated 09 May 2001 re integrity testing - NSWCC*
57. *Report regarding Hurt on Duty application relating to Sea dated 19 September 2003 - NSWPF*
58. *Numerous documents re informant codenamed Paddle and final Emblems Investigation regarding this matter dated 18 March 2004 - NSWPF*
59. *Letter from PIC Inspector Levine to A/Commissioner Singleton regarding Strike Force Emblems Ministerial Reference dated 25 May 2012 - PIC*
60. *Letter from PIC Inspector Levine to A/Commissioner Singleton regarding Strike Force Emblems Ministerial Reference dated 25 June 2012 - PIC*
61. *Complaint by [an officer] to the NSWPF Professional Standards Command 2012 dated September 2012 - NSWPF*

120. It is apparent from the above list that classified or restricted documents from the computer systems of the NSWCC, the NSWPF and/or the PIC have been improperly accessed and disseminated, either by one or more persons attached to the investigations who had access to the records (Mascot/Florida/Emblems/Sibutu/Tumen investigators or authorised supervisors) or by persons who have subsequently been granted authority to access these particular records on one or more of these computer systems. Many of the documents contain personal and sensitive information and their dissemination represents a grave breach of the security that surrounds the relevant information systems.
121. With the exception of the documents provided to the former Emblems investigating officer, none of the above documents seem to have been provided to an investigative authority *upon receipt* by an individual. Many of them appear instead to have been handed directly to other individuals, including members of the media. This has

occurred even after public announcements about Operation Prospect and my public call for information. In many cases, a s 18 notice or s 19 summons under the Ombudsman Act was required to obtain the above documents from individuals. It cannot be said of these cases that there has been any legitimate attempt to use the protections of 'whistleblower' legislation by providing the documents to an appropriate agency.

122. It has been well publicised that there is ongoing tension in the upper echelon of the NSWPF hierarchy, due largely to one Deputy Commissioner having been involved in Mascot as an investigator and another Deputy Commissioner being named on Mascot warrants. The current Commissioner of Police was also the head of SCIA during the latter stages of Mascot and has had allegations made against him which Prospect has investigated. The tension was exacerbated by persistent rumours, from late 2012, that the Commissioner would soon be resigning his post, with one article reporting that a number of police and political sources had been privately moving to prop up their favoured candidate as a successor until the Commissioner quashed these rumours by publicly stating that he would remain in his position until 2015. Many articles have observed that the top two candidates for the position of Commissioner are the Deputy Commissioners referred to above.
123. In circumstances where the unauthorised release and subsequent disclosure to the media of sensitive confidential documents might have been motivated by self-interest on the part of particular persons or groups, or by altruistic motives, or both, I have not had regard to the motives behind such disclosure. However, allegations of improper conduct of officers involved in Mascot, Florida, Emblems, Sibutu or Tumen and associated investigations are squarely within the remit of Operation Prospect, including those relating to the improper accessing and releasing of confidential information. In order to investigate this allegation, persons who have come into contact with confidential information disseminated without authorisation must be asked what they did with the information and if they have any knowledge of who provided it. Furthermore, audits of various types must be conducted to confirm evidence given to investigators or to identify further avenues of investigation. Such actions are not only undertaken to identify the 'source' of the dissemination, they also serve to clear certain people of any suspicion that they participated in any such activities.

'Whistleblowers'

124. A number of public comments have been made describing those who have provided information to the media and others as "whistleblowers", including persons who have disclosed what might broadly be termed Operation Prospect-related information to my office, or to the media and others. It is important to briefly address this issue.
125. There are two broad groups of persons who might generally be described as "whistleblowers", within the ordinary meaning of that word. The first group comprises persons who fall within the technical legal requirements of the PID Act; that is, persons who have made Operation Prospect-related conduct complaints directly to my office, or to another public authority which has referred the matter to my office, in a capacity that meets the threshold for protection provided under the PID Act. As a matter of routine procedure, my office notifies these persons that they have

made a public interest disclosure within the PID Act (in the case of an Operation Prospect-related public interest disclosure that has been made to another agency and referred or taken over by my office, the disclosure will continue to be classified as a public interest disclosure). My office also ensures that persons who have made public interest disclosures are informed at regular intervals of the progress of the investigation of their public interest disclosure, although such updates cannot, given operational exigencies, include particulars of the evidence disclosed or the avenues to be taken by the investigation.

126. The second group of persons are those who have made disclosures which do not, for a number of reasons, fall within the requirements of the PID Act. Some comments on radio, in print media and in the Parliament have suggested that the conduct and actions of such persons should be considered to be public interest disclosures by reason, it would seem, that the information was disclosed for a 'noble cause' and involved what the person believed to be criminal conduct. However, if these persons do not meet the requirements of the PID Act my office has no power or authority to provide them with the protections of that Act.

Improper interference

127. It has been alleged that the current Commissioner of Police intervened in the investigation associated with the Mascot reference, to stop the investigation of a particular police officer and, further, that he may have provided details of the Mascot investigation to that officer.
128. There have been private hearings in respect of this allegation, and Prospect investigators have reviewed the Prospect holdings, including Information Reports, operational strategies, memos, emails, SOD reports and other reports. A Prospect officer conducted an analysis of telephone records relating to particular calls upon which the allegations were based.
129. A full review of the PIC findings regarding both these allegations was also undertaken.

Provision of misinformation and/or making false statements

130. This particular investigative stream arose from allegations that certain senior police officers had misled the public through disseminating misinformation and/or making false statements.
131. One of these allegations concerns the 60 Minutes interview conducted with the then Commissioner of Police, Peter Ryan, on 14 April 2002. Substantial work has been completed on the allegation that the Commissioner misled (or was misinformed) when he told the 60 Minutes journalist, Mr Richard Carleton, that the Mascot warrant in the public domain contained a large number of names because those people were attending a function.

132. Further allegations under this stream of investigation concern a statement made to the media by the current Commissioner. In examining those allegations, Prospect investigators have reviewed television news footage, internal NSWPF memorandum, diaries, emails (both internal and external), police notebooks, Emblems correspondence and reports. In addition, a number of hearings were conducted in relation to this allegation.

Other wrong conduct

133. This head of investigation was included to ensure that findings on systemic issues could be made pursuant to s 26 of the Ombudsman Act, and to ensure that where further conduct came to attention during the investigation it could be investigated. To ensure that all avenues of investigation were covered and to be able to comment on systemic issues, Prospect investigators have reviewed all relevant NSWPF and NSWCC policies and procedures. A list of the relevant policies and procedures can be found at the end of this document.ⁱⁱ
134. In addition, Operation Prospect has reviewed informant files, emails, duty books, diaries, extensive e@gle.i holdings and c@ts.i holdings.

ANNEXURE C

Safety, health and welfare of persons who have provided, are providing or are to provide sensitive evidence or information to Operation Prospect

135. Comprehensive welfare services are provided to Operation Prospect witnesses pursuant to an agreement between the Ombudsman's office and Davidson Trahaire Corpsych ('DTC'). Those services, which exceed any similar services provided by the ICAC or the PIC, are additionally available to witnesses' family members.
136. DTC's counselling service is completely confidential and our arrangement with DTC is structured so that my office is not advised of, and cannot request, the identity of persons who have sought counselling.
137. My office pays an upfront fee for DTC to provide up to six sessions of counselling if the counsellor is of the view that these are required, so the full extent of the service is not confined simply to an initial consultation if the counsellor believes that additional sessions are needed. In this circumstance the counsellor can seek approval within DTC for additional sessions and the cost of any ongoing sessions is taken to be part of the upfront fee that is paid by my office.
138. Because this office is not charged per counselling session, the office has no knowledge of, and cannot request from DTC, particulars such as the number of persons who have sought counselling or the number of counselling sessions that have been provided. DTC's counselling services are provided in a manner that is entirely appropriate and independent from my office.
139. While the service provided by DTC is a counselling service and not a medical service, the counsellors are trained to refer a client to other services, including medical practitioners, as needed.
140. Section 19A of the Ombudsman Act permits a presiding officer at a closed investigation hearing to make a non-disclosure direction. As mentioned the provision is modelled on s 112 of the ICAC Act and s 52 of the PIC Act. The underlying rationale of a statutory non-disclosure direction in this context is primarily to protect the integrity of an investigation by keeping confidential the avenues and methods of the investigation and the evidence that has been obtained, and preventing collusion. Additionally, however, a direction serves the important purpose of protecting the identity (and thereby the safety, health and welfare) of persons who have provided confidential and sensitive information to an investigation.
141. Even though non-disclosure directions can only be made by a presiding officer in general terms at the commencement of a closed hearing, s 19A of the Ombudsman Act permits the presiding officer to vary the ambit of the direction, during the course of a particular hearing or at any time thereafter, to accommodate the legitimate needs of a witness to disclose information about matters that have been the subject of their evidence. Medical and welfare assistance is a significant, but not the only, legitimate need that a witness may have to disclose information, with variations to facilitate these needs assessed by a presiding officer on a case-by-case basis. It has been our

experience that witnesses' legal representatives will actively seek variations on behalf of their clients whenever these are required. This is additionally facilitated by the ready accessibility for all Operation Prospect witnesses of no-cost legal representation and legal advice through the Legal Representation Office, which can, in some circumstances, include the witness's choice of legal representative.

142. As noted in the body of this statement, the officer presiding at a closed hearing will make a general non-disclosure direction but is able to vary the ambit of that general direction at any time thereafter. In short, witnesses are not precluded from discussing information covered by statutory non-disclosure directions with (for example) a mental health professional, provided that an appropriate variation to a general non-disclosure direction has been made. Such a variation can be made on the application of the witness or on the motion of the presiding officer where he or she identifies that a variation needs to be made, and the witness may then disclose investigation-related information to their mental health professional for the purpose of discussing their circumstances without breaching the direction.

ⁱ The catalyst for these allegations was the service of warrant number 266 of 2000 in a Mascot prosecution brief in 2002 (Listening Device warrant 266 of 2000 was issued by Her Honour Justice Bell, then of the NSW Supreme Court, on 14 September 2000). After service of the prosecution brief, the warrant was tendered in evidence and was disseminated to a number of people named in it and possibly others. On 12 April 2002 Channel 9 news ran a story focusing on the contents of that warrant. Later that evening the then Commissioner of the NSWCC sent an email to the Crime Commission Director in charge of the investigation, and to two senior police investigators, advising them that he had received complaints from several people named in the warrant (the associated affidavit was not in the public domain at that time although it has since been disseminated to some individuals).

ⁱⁱ **NSWPF**

Controlled Operations

Special Crime Unit - Standard Operating Procedures for Obtaining Controlled Operations - 31 January 2000
Attachments:

- Application for Authority to conduct a Controlled Operation
- Authority to conduct a Controlled Operation

Examples and Templates - Application for Authority to conduct a Controlled Operation (Forms, checklists, Code of Conduct, etc. relating to Controlled Operations)

Law Enforcement (Controlled Operations) Regulation 1998

Law Enforcement (Controlled Operations) Act 1997 (NSW) - prepared by the Special Applications Section, Legal Services

Undercover Branch, Special Applications Section, Drug Squad, Region Enforcement Squads, Education and Training - Principal Law Enforcement Officer Workshop " Session 3 -Application processes for controlled operations and surveillance device warrants and the submission of conduct reports - 2007

Covert Operations

Internal Affairs Covert Operations Unit – Standard Operational Procedures - Date Unknown

Covert Investigation Unit – Professional Standards Command – Standing Operating Procedures – Last Revised May 2011/Last Reviewed February 2014

Informant Management

Informant Management Manual – published March 1997

Commissioner's Circular - CC No 94/47, 94/48, 94/41, 94/42 - 16 May 1994 - Extracted from the Police Service Weekly (PSW) – Volume 6 No 20

Refer to CC No 94/48 for 'The NSW Police Informants Management Plan'

Registered Informant Management Plan - August 1992

Informant Management Manual - published March 1999

Information Management

Records Management Policy Statement (p. 1-8) attached to Records Management and TRIM Information

Worker Standard Operating Procedures – December 2012

Statement (p. 1-8) attached to Records Management and TRIM Information Worker Standard Operating Procedures – December 2012

Integrity Testing

Integrity Testing Policy and Guidelines - 22 May 1997

Integrity Testing Unit – Special Crime and Internal Affairs Command - Standing Operating Procedures – October 2002

Investigations

C@ts.i Investigation Management – Complaint Investigators

Listening Device

Best Practice Guide for Listening Device and Telephone Intercept Warrants and Controlled Operations

Authorities – 1st Edition 2003 (printed January 2004)

Legal Services Branch - Applications for Listening Devices and Telephone Intercepts - Extract from Police Service Weekly - 18 March 1991

Internal Affairs Investigations Manual - Listening Devices - January 1999

Article titled 'Law News 69' - Guidelines for preparation of Listening Device and Telecommunications

Interception Affidavit/Applications and Controlled Operations Applications - Senior Legal Advisor Peter Thompson, SCC - Date Unknown (but document properties suggest circa 2006 or earlier)

NSW Police Service - Guidelines for the Investigation of Major Crime Listening Devices (February 2000)

Telephone Interception

Telecommunications Interception Branch - Information Package for Investigators requesting Telecommunication Interception

- Introduction dated 23 February 2001
- Summary of procedures dated February 2001

Revised TIBAC Operating Procedures dated 1 July 1999

Guidelines for the Investigation of Major Crime - Telephone Intercepts - February 2000

Code of Conduct and Ethics/Conflicts of Interest

Code of Conduct and Ethics - Version 1 - Published January 1997

'Old Code of Conduct & Ethics' (from intranet page titled NSWPF 'Code of Conduct & Ethics') - Version 2 - Undated

Conflicts of Interest - Police and Guidelines - Published October 2006/Reviewed October 2008

Complaints

Extract from Commissioner's Instructions - Instruction 72 - Complaints against police - 1 April 1996

Complaints and Management Reform (Manual) - Version 1 - March 1999

Customer Assistance Tracking System (c@ts.i) - Complaints Administration Training Manual - Version 5.0 - August 2003

C@ts.i Investigators Guide - Undated

Other

Task Force Members - General Induction Paper (undated but was attached to NSWCC Induction forms from 1998 to 2002)

Proposed - Working Practices and Procedures Involving SCIA Command and the TIB - Date Unknown

Special Crime and Internal Affairs - Induction Package - May 2000

Special Crime and Internal Affairs Command - Induction Package - April 2002

NSWCC

Controlled Operations

Controlled Operations - Law Enforcement (Controlled Operations) Act 1997 - Draft Manual - printed 29 August 2000

Informant Management

Informant Management Plan

Investigations

Investigation Manual Release December 1999 (Chapter 1-3, 6, 8- 10, 13) January 2002 (Chapters 4-5, 7) February 2002 (Chapter 14) July 2004 (Chapter 12)

Task Forces - Directions and Guidelines - 6 March 1992

NSW Crime Commission Act Section 27A - Task Forces - Directions and Guidelines - Adopted by the Management Committee on 7 October 1998

Investigation Division Manual - 26 June 1995

Listening Device

Listening Devices Manual - 29 June 1998

Listening Devices Manual - December 1999

Memo by Phillip Bradley - Titled 'Urgent Listening Devices' - 8 August 1996 regarding a note on the requirements of the LD Act

Memo - Summary of NSWCC Listening Devices Manual, December 1999

Telephone Interception

Telecommunications Interception User Procedure Manual – printed 28 July 1998

Telephone Interception Manual June 2001

Code of Conduct and Ethics/Conflicts of Interest

NSW Crime Commission Code of Conduct – November 1998

NSW Crime Commission Code of Conduct – July 1999

Memorandum of Understanding (MOU)

Memorandum of Understanding – Informant Sea – signed by Judge Urquhart QC, Commissioner of the Police Integrity Commission on 29 July 1999 and Phillip Bradley Commissioner of the NSW Crime Commission on 3 August 1999

Memorandum of Understanding between The Commissioners of the New South Wales Police Service, The Police Integrity Commission and the New South Wales Crime Commission - Regarding a joint pursuit of allegations of police corruption (the Mascot Reference), signed by Commissioners Peter Ryan (NSWPF), Judge PD Urquhart QC (PIC) and Phillip Bradley (NSWCC) in early June 2000.

