## Opening Statement by Professor John McMillan AO, Acting NSW Ombudsman, to announce the public release of the Operation Prospect report

20 December 2016

A short while ago I visited the Presiding officers of both Houses of the State Parliament and tabled the final report into the Operation Prospect investigation. The Presiding Officers accepted my recommendation that the report be published immediately. It is now available on the NSW Ombudsman website.

The Operation Prospect report runs to over 900 pages, in 6 volumes and 22 chapters. It culminates the largest investigation to have been undertaken by an Ombudsman in Australia.

Operation Prospect began in October 2012 when the NSW Premier asked the Ombudsman to conduct an independent investigation into a controversy in NSW policing and corruption investigation that had been simmering for more than a decade. Government decided there was a need for a thorough investigation by an independent agency that was not part of the controversy.

The NSW Ombudsman agreed to take on this formidable challenge and formed a special investigation team. The scope of the task was unknown at that stage. It was not known how many documents would need to be summonsed and analysed, how many complainants and witnesses would participate in the investigation, and the full range of issues to be examined.

Nor, of course, was it known that the investigation would itself be drawn into the controversy, and face two parliamentary inquiries, threats of litigation, intense media scrutiny, and constant correspondence with interested parties.

Those challenges have been overcome with the publication of today's report. Along the way the Operation Prospect team has assembled over one million pages of source documents, conducted 107 hearings and 67 interviews with 131 witnesses, provided 1,425 pages of provisional findings to 38 affected parties, arranged 103 days of document inspection for 27 parties, considered 61 submissions from the parties

comprising 1,626 pages of submissions, and handled more than 330 complaints, enquiries and public interest disclosures regarding the matters under investigation.

I am satisfied that we have conducted a fair investigation and that I now publish a report that is thorough and balanced. My report contains a large number of findings about the conduct of agencies and individuals that were in breach of the standards of good administration, and in some instances breached legal requirements and offence provisions. I make many recommendations for apologies to be provided to individuals who were unfairly targeted by the Mascot investigations or whose complaints were not dealt with properly at the time.

The report acknowledges the challenging circumstances in which the Mascot investigations were undertaken. That investigation expanded quickly and went longer than any of the Mascot investigators expected. The administrative systems and staff training to support an investigation of that scope were inadequate, and quickly succumbed to the pressures of a large and complex undertaking.

The Mascot investigations nevertheless achieved great success in uncovering police corruption and criminality. This resulted in the successful prosecution of some officers, the dismissal and resignation of others, and the recovery of the proceeds of crime.

Yet many mistakes were made along the way. Innocent people were unfairly named in warrants and affidavits that were part of a corruption investigation. Inaccurate information was included in affidavits given to Judges in support of warrant applications. Far too many names were drawn into the investigation based on hearsay and gossip. People's names were left on the record for far too long as potential investigation targets. The promotional progress of some police officers was hindered as a result.

When concerns arose and questions were first asked about the Mascot investigations, they were not well handled. At numerous times — more than a decade ago — opportunities arose to stand back for this brewing controversy and take stock of what had gone wrong. That did not occur. There was frequent defence of the investigations, from the middle to the highest levels of government. Obvious defects in the Mascot investigations were skated over.

Some officers acted on their discontent by initiating their own inquiries. Some complained through proper channels, but some also accessed and disseminated documents in breach of legal and policy constraints. That occurred before the Ombudsman investigation commenced. It has always been an important element of the scope of this investigation and is examined in Volume 6 of this report.

The main objective of the Operation Prospect investigation was to examine, evaluate and report publicly on the disputed events between 1999 to 2012 that make up this controversy. Our objective was to unravel the story and place it on the public record, in a thorough and balanced manner. It was always known that many of the events that are examined in exhaustive detail in this report are now part of history. The necessary administrative and legal reforms have been made, and many key players have acknowledged what went wrong.

There are nevertheless important messages that can be drawn from this report, for anyone working in policing or government. I will mention two.

The use of privacy invasive investigation techniques — such as listening devices and telephone interception — depend on judicial authorisation based on documents that are prepared in accordance with exacting legislative requirements. Anyone deposing to a legal document in support of such an application must understand the heavy responsibility they bear. Public confidence in the integrity of coercive and intrusive law enforcement action depends on being able to trust that sworn documents that underpin that action are what they purport to be — a reliable record of facts and information.

Secondly, the importance of high-standard record keeping should never be undervalued. At the heart of the Mascot problems is that people were named in government documents that were linked to a corruption probe. A person may become deeply upset, even outraged, when they learn this occurred. There may be a good reason at the time why it was done, but it is vital for government that that reason was recorded in the documents of the time. A later rationalisation may carry little weight.

I am pleased that I can now publish this important Ombudsman report on a controversial era. My strong belief is that when an Ombudsman's office is given a difficult or complex task, it will tackle it properly, professionally and with maximum transparency. I believe the Operation Prospect report meets that standard.