REPORT BY THE PARLIAMENTARY COMMISSIONER FOR ADMINISTRATIVE INVESTIGATIONS UNDER SECTION 158 OF THE CRIMINAL ORGANISATIONS CONTROL ACT 2012 FOR THE MONITORING PERIOD ENDED 1 NOVEMBER 2016

7 MARCH 2017

Ombudsman Western Australia
REPORT BY THE PARLIAMENTARY COMMISSIONER FOR ADMINISTRATIVE INVESTIGATIONS UNDER SECTION 158 OF THE CRIMINAL ORGANISATIONS CONTROL ACT 2012 FOR THE MONITORING PERIOD ENDED 1 NOVEMBER 2016

1 COMMENCEMENT OF THE CRIMINAL ORGANISATIONS CONTROL ACT 2012

Section 2 of the Criminal Organisations Control Act 2012 (the Act) provides that:

This Act comes into operation as follows –
(a) sections 1 and 2 – on the day on which this Act receives the Royal Assent;
(b) the provisions of the Act other than sections 1 and 2 and Part 8 – on a day fixed by proclamation, and different days may be fixed for different provisions;
(c) Part 8 – when section 7 comes into operation.

Sections 1 and 2 of the Act came into operation on 29 November 2012 when the Criminal Organisations Control Bill 2011 received Royal Assent. The remainder of the Act, including Part 8 – Monitoring and review, came into operation on 2 November 2013.

2 LEGISLATIVE REQUIREMENTS FOR MONITORING AND REPORTING

Part 8 of the Act and more specifically, Division 1 – Monitoring, provides for, among other things, the Parliamentary Commissioner for Administrative Investigations (the Parliamentary Commissioner) to monitor the exercise of powers. More specifically again, section 157 requires the Parliamentary Commissioner to keep under scrutiny the exercise of powers conferred on the Commissioner of Police and police officers under the Act and to prepare a report on his or her activities. Section 158 provides for the Parliamentary Commissioner to report on monitoring activities. More specifically,

(1) The Parliamentary Commissioner must, as soon as practicable after the first, second, third and fourth anniversary of the day on which the monitoring period begins, and after the expiry of the monitoring period —

(a) prepare a report on his or her activities under this Division, and include in the report any observations or recommendations that the Parliamentary Commissioner considers appropriate to make about the operation of this Act; and
(b) provide a copy of the report to the Minister and the Commissioner of Police.

(2) The report prepared after an anniversary of the monitoring period must relate to the Parliamentary Commissioner's activities during the reporting period.

(3) The report prepared after the expiry of the monitoring period must relate to the Parliamentary Commissioner's activities during the whole monitoring period.

(4) The Minister must cause each report to be laid before each House of Parliament within 12 sitting days of that House after the Minister receives a copy of it.

This report relates to the third monitoring period which commenced on 2 November 2015 and ended on 1 November 2016.

3 REPORTING ON THE MONITORING PERIOD ENDED 1 NOVEMBER 2016

Following the end of the third anniversary of the day on which the monitoring period began, I wrote to the Commissioner of Police to seek confirmation that, for the third monitoring period commencing 2 November 2015 and ending 1 November 2016, he and police officers had not exercised the powers conferred on them under the Act, including:

(i) any declaration made under Part 2 of the Act; and
(ii) any revocation of a declaration made under Part 2 of the Act; and
(iii) any interim control order; and
(iv) any control order; and
(v) any registered interstate declaration; and
(vi) any cancellation of the registration of an interstate declaration; and
(vii) any registered interstate control order; and
(viii) any prosecution for an offence under any provision of Part 4 of the Act.

On 10 November 2016 the Commissioner of Police confirmed that he and police officers had not exercised the powers conferred on them under the Act during the third monitoring period.
Accordingly, for the monitoring period, I have not been required to keep under scrutiny the exercise of powers conferred on the following persons under the Act:

- the Commissioner of Police
- police officers

as neither of these persons have exercised the powers conferred on them under the Act.