

# LECC

Law Enforcement  
Conduct Commission

## OPERATION KURUMBA

REPORT TO PARLIAMENT PURSUANT TO SECTION  
132 *LAW ENFORCEMENT CONDUCT COMMISSION  
ACT 2016*

---

March 2022

# LECC

## Law Enforcement Conduct Commission

Level 3, 111 Elizabeth Street  
Sydney NSW 2000  
Email: [contactus@lecc.nsw.gov.au](mailto:contactus@lecc.nsw.gov.au)

### Postal address

GPO Box 3880  
Sydney NSW 2001  
Phone: (02) 9321 6700  
Toll free: 1800 657 079  
Fax: (02) 9321 6799

Copyright: © State of New South Wales through the Law Enforcement Conduct Commission, NSW, Australia, 2000. You may copy, distribute, display, download and otherwise freely deal with this work for any purpose, provided that you attribute the Law Enforcement Conduct Commission as the owner. However, you must obtain permission from the Commission if you wish to (a) charge others for access to the work (other than at cost), (b) include the work in advertising or a product for sale, or (c) modify the work.

Disclaimer: This document has been prepared by the Law Enforcement Conduct Commission for general information purposes. While every care has been taken in relation to its accuracy, no warranty is given or implied. Further, recipients should obtain their own independent advice before making any decision that relies on this information. This report is available on the Commission's website: [www.lecc.nsw.gov.au](http://www.lecc.nsw.gov.au). For alternative formats such as Braille, audiotape, large print or computer disk, contact the Commission by email: [media@lecc.nsw.gov.au](mailto:media@lecc.nsw.gov.au) or phone: (02) 9321 6700, toll free: 1800 657 079 or fax: (02) 9321 6799.

ISBN 978-1-74003-045-8

The Law Enforcement Conduct Commission acknowledges and pays respect to the Traditional Owners and Custodians of the lands on which we work, and recognises their continuing connection to the lands and waters of NSW. We pay our respects to the people, the cultures, and the Elders past and present.



## Office of the Chief Commissioner

15 March 2022

The Hon Matthew Ryan Mason-Cox MLC  
President  
Legislative Council  
Parliament House  
SYDNEY NSW 2000

The Hon Jonathan O'Dea MP  
Speaker  
Legislative Assembly  
Parliament House  
SYDNEY NSW 2000

Dear Mr President and Mr Speaker,

In accordance with section 132(3) of the *Law Enforcement Conduct Commission Act 2016* ('the Act'), the Commission hereby furnishes to you a Report in relation to its investigation in Operation Kurumba.

Pursuant to section 142(2) of the Act, I recommend that this Report be made public immediately.

Yours sincerely,



The Hon R O Blanch AM QC  
Chief Commissioner

## Contents

1. Introduction .....	1
2. The Commission's Statutory Functions .....	1
3. The Allegations Investigated.....	7
4. History of Complaints .....	8
5. Ozmart Catering Group Pty Ltd Contract.....	10
6. Racehorse Syndicates .....	11
7. Questioned Associates .....	12
8. Disclosure of Involvement in Racehorse Syndicate.....	14
9. Findings .....	15
10. Affected Persons.....	16

## 1. Introduction

The Law Enforcement Conduct Commission's ('the Commission') Operation Kurumba arose from media reports relating to former Commissioner of Police, Mr Michael Fuller.

## 2. The Commission's Statutory Functions

2.1. The *Law Enforcement Conduct Commission Act 2016* (the LECC Act) lists among the Commission's principal functions the detection and investigation of serious misconduct and serious maladministration: s 26.

2.2. Section 10 of the LECC Act defines "*serious misconduct*":

(1) *For the purposes of this Act, serious misconduct means any one of the following:*

(a) *conduct of a police officer, administrative employee or Crime Commission officer that could result in prosecution of the officer or employee for a serious offence or serious disciplinary action against the officer or employee for a disciplinary infringement,*

(b) *a pattern of officer misconduct, officer maladministration or agency maladministration carried out on more than one occasion, or that involves more than one participant, that is indicative of systemic issues that could adversely reflect on the integrity and good reputation of the NSW Police Force or the Crime Commission,*

(c) *corrupt conduct of a police officer, administrative employee or Crime Commission officer.*

(2) *In this section:*

*serious disciplinary action against an officer or employee means terminating the employment, demoting or reducing the rank, classification or grade of the office or position*

*held by the officer or employee or reducing the remuneration payable to the officer or employee.*

*serious offence means a serious indictable offence and includes an offence committed elsewhere than in New South Wales that, if committed in New South Wales, would be a serious indictable offence.*

2.3. “Officer maladministration” and “agency maladministration” are both defined in s 11 of the LECC Act. “Officer maladministration” is defined in s 11(2) in these terms:

(2) *Officer maladministration means any conduct (by way of action or inaction) of a police officer, administrative employee or Crime Commission officer that, although it is not unlawful (that is, does not constitute an offence or corrupt conduct):*

(a) *is unreasonable, unjust, oppressive or improperly discriminatory in its effect, or*

(b) *arises, wholly or in part, from improper motives, or*

(c) *arises, wholly or in part, from a decision that has taken irrelevant matters into consideration, or*

(d) *arises, wholly or in part, from a mistake of law or fact, or*

(e) *is conduct of a kind for which reasons should have (but have not) been given.*

2.4. The conduct of an officer or agency is defined as “serious maladministration” if the conduct, though not unlawful, is conduct of a serious nature which is unreasonable, unjust, oppressive or improperly discriminatory in its effect or arises wholly or in part from improper motives: LECC Act, s 11(3).

2.5. The Commission may hold an examination for the purpose of an investigation into conduct that it has decided is (or could be) serious misconduct or serious maladministration: s 61 (a).

2.6. Section 29 provides the authority for the Commission to make findings and express opinions:

(1) *The Commission may:*

(a) *make findings, and*

(b) *form opinions, on the basis of investigations by the Commission, police investigations or Crime Commission investigations, as to whether officer misconduct or officer maladministration or agency maladministration:*

(i) *has or may have occurred, or*

(ii) *is or may be occurring, or*

(iii) *is or may be about to occur, or*

(iv) *is likely to occur, and*

(c) *form opinions as to:*

(i) *whether the advice of the Director of Public Prosecutions should be sought in relation to the commencement of proceedings against particular persons for criminal offences against laws of the State, or*

(ii) *whether the Commissioner of Police or Crime Commissioner should or should not give consideration to the taking of other action against particular persons, and*

(d) *make recommendations as to whether consideration should or should not be given to the taking of action under*

*Part 9 of the Police Act 1990 or under the Crime Commission Act 2012 or other disciplinary action against, particular persons, and*

- (e) make recommendations for the taking of other action that the Commission considers should be taken in relation to the subject-matter or opinions or the results of any such investigations.*
- (2) Subsection (1) does not permit the Commission to form an opinion, on the basis of an investigation by the Commission of agency maladministration, that conduct of a particular person is officer maladministration unless the conduct concerned is (or could be) serious maladministration.*
- (3) The Commission cannot find that a person is guilty of or has committed, or is committing or is about to commit, a criminal offence or disciplinary infringement.*
- (4) An opinion or finding that a person has engaged, is engaging or is about to engage in:*

  - (a) officer misconduct or serious misconduct or officer maladministration or serious maladministration (whether or not specified conduct), or*
  - (b) specified conduct (being conduct that constitutes or involves or could constitute or involve officer misconduct or serious misconduct or officer maladministration or serious maladministration), and any recommendation concerning such a person is not a finding or opinion that the person is guilty of or has committed, or is committing or is about to commit, a criminal offence or disciplinary infringement.*
- (5) Nothing in this section prevents or affects the exercise of any function by the Commission that the Commission considers*

*appropriate for the purposes of or in the context of Division 2 of Part 9 of the Police Act 1990.*

*(6) The Commission must not include in a report under Part 11 a finding or opinion that any conduct of a specified person is officer misconduct or officer maladministration unless the conduct is serious misconduct or serious maladministration.*

*(7) The Commission is not precluded by subsection (6) from including in any such report a finding or opinion about any conduct of a specified person that may be officer misconduct or officer maladministration if the statement as to the finding or opinion does not describe the conduct as officer misconduct or officer maladministration.*

2.7. This report is made pursuant to Part 11 of the LECC Act. Section 132(1) provides that the Commission may prepare reports “*in relation to any matter that has been or is the subject of investigation under Part 6*”.

2.8. Section 133 (Content of reports to Parliament) provides that:

*(1) The Commission is authorised to include in a report under section 132:*

*(a) statements as to any of the findings, opinions and recommendations of the Commission, and*

*(b) statements as to the Commission's reasons for any of the Commission's findings, opinions and recommendations.*

*(2) The report must include, in respect of each affected person, a statement as to whether or not in all the circumstances the Commission is of the opinion that consideration should be given to the following:*

*(a) obtaining the advice of the Director of Public*

*Prosecutions with respect to the prosecution of the person for a specified criminal offence,*

- (b) the taking of action against the person for a specified disciplinary infringement,*
- (c) the taking of action (including the making of an order under section 181D of the Police Act 1990) against the person as a police officer on specified grounds, with a view to dismissing, dispensing with the services of or otherwise terminating the services of the police officer,*
- (d) the taking of reviewable action within the meaning of section 173 of the Police Act 1990 against the person as a police officer,*
- (e) the taking of action against the person as a Crime Commission officer or an administrative employee on specified grounds, with a view to dismissing, dispensing with the services of or otherwise terminating the services of the Crime Commission officer or administrative employee.*

*Note. See section 29 (4) in relation to the Commission's opinion.*

- (3) An "affected person" is a person against whom, in the Commission's opinion, substantial allegations have been made in the course of or in connection with the investigation (including examination) concerned.*
- (4) Subsection (2) does not limit the kind of statement that a report can contain concerning any affected person and does not prevent a report from containing a statement described in that subsection in respect of any other person.*

- 2.9. In considering any factual conclusions to be reached in a report, the Commission will apply the civil standard of proof, namely whether the relevant factual matters have been proved to the reasonable satisfaction of the Commission.<sup>1</sup> Accordingly findings can form the basis of opinions and recommendations, even if they do not reach the standard of beyond reasonable doubt.
- 2.10. The Commission has made a determination to protect the identities of some persons involved. Accordingly, these persons will be referred to by codenames in this report. There is to be no publication of the name or image of any of the codenamed persons in relation to the evidence given in Operation Kurumba or included in this report without further order of the Commission.

### 3. The Allegations Investigated

- 3.1. The scope and purpose of this investigation was to consider articles appearing in the media about the conduct of the former Commissioner of the NSW Police Force, Mr Michael Fuller. These allegations related to his interest in horse racing and also the awarding of a catering contract.
- 3.2. The first question was whether or not Mr Fuller failed to declare his shares in racehorses to the NSW Government in potential breach of anticorruption rules. It was said while he was the Police Commissioner, Mr Fuller owned two horses, together with other members of a syndicate. Those horses were Mad Magic, which he had an interest in from 2015 to 2017, and Once Epon a Time, which he had an interest in from 2019 to 2020.

---

<sup>1</sup> *Briginshaw v Briginshaw* [1938] 60 CLR 336; *Neat Holdings Pty Ltd v Karajan Holdings Pty Ltd* (1992) 67 ALJR 170.

- 3.3. It was said the horses were trained by KUR3, who was punished by racing bodies in New South Wales and Queensland over several doping scandals.
- 3.4. It was said that some of the other co-owners of Mad Magic were leaders of industries declared 'high risk' under the Police Code of Conduct and in particular, that KUR2 was the subject of a fraud investigation by police in 2016 but was never charged.
- 3.5. It was said that KUR1 was a member of the horseracing syndicate and that he was investigated over an illegal asbestos dump on his Sydney property.
- 3.6. The other issue raised was the former Police Commissioner's possible involvement in awarding a lucrative NSW Police Force catering contract to a company owned by KUR1.

## 4. History of Complaints

### Complaint made in 2016

- 4.1. In 2016, information was received by the Police Integrity Commission (the PIC) suggesting that then Assistant Commissioner Michael Fuller had an improper relationship with an undesirable person. This was based on an assertion that he met this undesirable person at a gathering in a marquee he attended on Derby Day in the lead up to the Melbourne Cup. An investigation by the PIC found that, on the evidence it received, the gathering was a large gathering in the marquee and that when Assistant Commissioner Fuller became aware of the presence of this particular individual he immediately left and had no contact with him.
- 4.2. From this investigation, it became clear to the PIC that Assistant Commissioner Fuller was interested in horse racing and betting on horse races. That knowledge continued in the LECC, which succeeded

to the functions of the PIC and the staff of the PIC were largely transferred into the LECC. It is also apparent from this matter that someone was spreading a story which might do Assistant Commissioner Fuller harm.

#### **Anonymous complaints made in 2019**

- 4.3. In July 2019, the LECC received an anonymous complaint about personal bias being shown by then Police Commissioner Fuller in the promotion of senior police. An investigation was undertaken by the LECC and a private report was sent to the Police Commissioner and to then Minister for Police, Mr David Elliot MP. This report concluded there was no misconduct and the actions of the Police Commissioner were neither unlawful nor unreasonable. A public statement to that effect was made on 11 October 2019. In the course of this enquiry, evidence was given by other police officers who were involved in the syndicate about the ownership of Mad Magic and that evidence disclosed that the Police Commissioner was a member of the syndicate. The information was thus known to the LECC at that stage.
- 4.4. In August 2019, the LECC received another anonymous complaint about the Police Commissioner, this time referring to the promotion system but also mentioning that he was involved in the ownership of a horse called Mad Magic. This complaint also asserted that the Police Commissioner was involved in awarding a contract for catering and also mentioned race fixing. This complaint was considered by the LECC on 12 September 2019, and a decision was made to retain it for information only. This complaint was mainly about favouritism in the appointment of staff, which was already being investigated as a result of the July 2019 complaint. The reference to the contract was not considered further and neither was the reference to ownership of horses but this last issue was touched on in the hearing held into the July 2019 complaint.

## Issues raised in 2021

In 2021, questions were raised about the Derby Day matter which had been considered by the PIC in 2016. The LECC examined the investigation by the PIC and was satisfied with that investigation and the result.

### 5. Ozmart Catering Group Pty Ltd Contract

- 5.1. The inference raised that the Police Commissioner was somehow improperly involved in the awarding of a contract for catering in 2017 has been investigated by the LECC. This matter related to a contract obtained by Ozmart Catering Group Pty Ltd (Ozmart), a company owned by KURI. The LECC obtained from the NSW Police Force the documentation in relation to this contract but found nothing to indicate that the Police Commissioner had anything to do with awarding this contract to Ozmart.
- 5.2. In the usual course of events, contracts of this nature would be dealt with by public servants working for the NSW Police Force, a process which is oversights by a senior police officer. In the case of the Ozmart contract, it appears the oversighting was done by Acting Assistant Commissioner, David Donahue and the Acting General Manager of Strategic Procurement and Fleet Services, Mark Herrero. Mr Fuller gave evidence that it was Mr Herrero who had the final say on the contract. Mr Fuller also pointed out that it was not simply a NSW Police Force contract but there were other agencies who sat on the panel to select Ozmart. There was tendered an executive summary of a large volume of documents relating to the evaluation, which said that Ozmart was the only proposal to pass the mandatory criteria and the minimum cut-off score of 60%.
- 5.3. When questions were raised about this contract, the Police Commissioner requested a full evaluation of the process be made by Deloitte. Tendered to the hearing was a summary of the Deloitte

findings which said, 'other than the matter identified below nothing came to our attention to suggest that NSWPF did not materially comply with requirements outlined in the NSWPF procurement manuals for the two tenders examined'. The matter referred to was the failure of Acting Assistant Commissioner Donohue to sign a declaration that he had no conflict of interest.

- 5.4. Mr Fuller gave evidence before the LECC that he did not have any part in the approval of the successful tender by Ozmart. Indeed, the history of this contract began in 2012, when Ozmart first won the tender. There is no suggestion that Mr Fuller had any part at all in the acceptance of that original tender. Ozmart, which is owned by KUR1, successfully carried out the contract for what appears to be a period of five years. The evidence is that KUR1 was not known to Mr Fuller in 2012 and they eventually met because KUR1 was involved in providing catering services to the police.
- 5.5. It is quite clear there is no evidence of any involvement of Mr Fuller in awarding this contract and the LECC accepts his evidence that he was not involved.

## **6. Racehorse Syndicates**

- 6.1. Mr Fuller gave evidence to the LECC that in about 2008 he and four friends from school formed a punters club ('the punters club') so they could maintain contact with each other and share a common interest.
- 6.2. In 2012, the punters club decided to buy a horse to race named Lime Burner Lola and they were joined in that by three other serving police officers. Mr Fuller said this horse raced a couple of times but retired and was sold in July 2014.
- 6.3. The punters club purchased an interest in another horse called Half a Danish but the horse didn't race and was sold.

- 6.4. In June 2015, a work colleague of the Police Commissioner, then NSW Police Force Inspector KUR4, suggested buying a racehorse called Mad Magic. They bought this horse from KUR5 on 11 June 2015 and it was trained by KUR3. The syndicate of owners of Mad Magic consisted of 14 individuals but Mr Fuller's involvement was on behalf of his punters club. Mr Fuller's actual share in Mad Magic was 5%. The 14 registered shareholders included KUR1 and KUR2. In early 2017, the horse Mad Magic broke its leg and was put down. This occurred before Mr Fuller became the Police Commissioner.
- 6.5. Thereafter, it was suggested by KUR4 that they purchase another horse through KUR3. This horse was called Once Epona Time. The evidence was that KUR4 organised a syndicate of 17 owners and the syndicate included a number of police officers. This syndicate did not include KUR1 or KUR2. Mr Fuller is nominated as owning a 10% interest in the horse but he was in fact holding that interest on behalf of the punters club, so that meant his real interest in the horse Once Epona Time was 2%. This horse was bought on 26 November 2019 and it was sold on 10 December 2020.

## **7. Questioned Associates**

- 7.1. The media articles published in February 2022 identified three individuals, KUR1, KUR2 and KUR3, with the suggestion that it was inappropriate for the then Police Commissioner to be involved in a horse owning syndicate with them.

### **Association with KUR1**

- 7.2. KUR1 is a respectable businessman and the only adverse suggestion in relation to him is that he was investigated in relation to asbestos being dumped on his property. It is noted that the prosecution was abandoned and there can be no suggestion that he is not an appropriate associate for the Police Commissioner. Mr Fuller gave evidence to the LECC that when this asbestos matter was raised with

him, he made enquiries and understood that costs were awarded to KUR1. Mr Fuller gave evidence that he continued to have an association with KUR1 because of his police catering work and occasional social contact. Mr Fuller gave evidence that KUR1 is not a close friend of his. Enquiries with the court have confirmed that the allegation was in fact withdrawn.

### **Association with KUR2**

- 7.3. In respect of KUR2, the suggestion again is that an association with him was not appropriate for the Police Commissioner because KUR2 was investigated for fraud in 2016, but he was never charged. Self-evidently, KUR2 was never charged because there was no evidence to prove he had committed any offence. Again, it is worrying that this has been raised and it lends credibility to the explanation that someone is prepared to throw whatever mud they can, in the hope something sticks. Mr Fuller gave evidence he had only met KUR2 two or three times socially and it was not the practice for members of the syndicate to get together.

### **Association with KUR3**

- 7.4. The LECC has already referred to KUR3 in the context of showing that he was already the trainer of Mad Magic when that horse was purchased. The syndicate was obviously satisfied with his training when they purchased from him the second horse, called Once Epon a Time. Mr Fuller has given evidence that he was not aware of any doping allegations or findings against KUR3. Apparently, one of the allegations related to an event in July 2020 where another horse trained by him had won a race and the associated prize but because of a finding of doping the decision about who won the race was cancelled. Mr Fuller gave evidence that he did not believe the horse Once Epon a Time ever raced and it was sold in December 2020. Mr Fuller also said he had only met KUR3 once or twice.

## 8. Disclosure of Involvement in Racehorse Syndicate

- 8.1. The first complaint made to the PIC in 2016 did not involve any questions about then Assistant Commissioner Fuller's ownership of racehorses. This subject first came to the attention of the LECC as a result of the 2019 LECC investigation into the complaint made to the LECC on the 27th of August 2019. This complaint mentioned the ownership Commissioner Fuller had in the horse Mad Magic. As indicated, that 2019 complaint was interpreted as relating to the promotion system and that subject matter was dealt with in another enquiry held by the LECC. That enquiry made a private report to the Police Commissioner and the then Minister for Police and a short public statement was made. During the course of that enquiry, police were questioned about the ownership of racehorses and the LECC was made aware that Mr Fuller had part ownership of a racehorse.
- 8.2. The then Minister for Police, David Elliot MP, confirmed in writing to the LECC that Commissioner Fuller did disclose to him in 2019 that he had a part ownership of horses and the Minister for Police took the view that he was entitled to do so as a hobby. The Minister for Police conveyed this information to the Minister for Better Regulation and Innovation, the Hon Kevin Anderson MP, when the matter was raised in the media.
- 8.3. In 2015, the Public Service Commission issued a direction to heads of government agencies, including the Police Commissioner, to comply with the Code of Ethics and Conduct (the Code) for New South Wales Government Sector Employees from 1 September 2015. The Code required Executive Officers within government agencies to make 'a written declaration of private financial business personal or other interests or relationships that have potential to influence or could be perceived to influence decisions made or advice given by the senior

executive.’ The requirement was to do that at least annually. Even if there was nothing to declare, a box could be ticked to indicate this.

- 8.4. In the case of the Police Commissioner, the declaration was to be made at least annually and submitted to the Department of Premier and Cabinet. It appears that Mr Fuller, as the Police Commissioner, made such a declaration in 2021 by ticking the box to say he had no relevant conflict of interest. In evidence, Mr Fuller could not remember whether or not he had made an annual declaration as required by the protocol and he accepted he may not have complied. The normal way this occurs in the public service is that the business manager or CEO of an organisation presents the form for the relevant individual to sign. It appears this may not have happened, but it also appears that there was no monitoring of whether there was compliance by the agency responsible for receiving the declaration. If that is the case, it may be that a monitoring system should be put in place.
- 8.5. If the appropriate forms were not submitted by the Police Commissioner, it is apparent that his interest in horse racing and ownership of racehorses was disclosed to the Minister of Police and it was known to the LECC as a result of the 2019 investigation.

## 9. Findings

- 9.1. In 2017, when Mr Fuller became the Police Commissioner, it was at a time when there was considerable disharmony in the upper echelons of the NSW Police Force. Mr Fuller, at the time, was an Assistant Commissioner of Police and his promotion to Police Commissioner was at the expense of the then Deputy Commissioners and other applicants. Mr Fuller’s evidence in this inquiry was that there had been approximately five years of serious unrest in the NSW Police Force when he assumed the role of Police Commissioner and he set out to make reforms to sort out the problems that existed. In doing that, he

no doubt created hostility amongst people who thought they should be promoted in preference to others and also in people who felt they should leave the NSW Police Force. It would appear that it is probably one or more of these disaffected officers who have mounted a campaign to harm the reputation of Mr Fuller as the Police Commissioner. The repetition of old claims at the time of his retirement would appear to be a malevolent attempt to cause him harm when he is seeking to establish a new life after his retirement from the NSW Police Force. The LECC notes, the media report states that his bid to join the Board of Racing New South Wales failed because of these allegations being raised. It raises a distinct possibility that these allegations were raised for that very purpose.

- 9.2. The mere interest in horseracing or betting on horses is not in itself illegal and betting on sporting events is enjoyed by a large section of the community. Because betting can lead to illegal activities, care needs to be taken but nothing in this investigation shows any lack of care or any actual conflict of interests with his duties as Police Commissioner.
- 9.3. There is clearly no substance in any of the allegations that have been made against Mr Fuller. At the end of the day, Mr Fuller has served 34 years of loyal service with the NSW Police Force and he has been responsible for significant reforms in the police force which have had the effect of increasing its efficiency and enhancing its reputation.
- 9.4. The evidence does not support a finding of serious misconduct or any misconduct at all.

## 10. Affected Persons

- 10.1. In Part 2 of this report the Commission set out the provisions of s 133 of the LECC Act dealing with the contents of reports to Parliament. Subsections (2) and (3) relate to 'affected persons'.

10.2. The Commission is of the opinion that Mr Fuller is an affected person within the meaning of subsection 133(2) of the LECC Act, being a person against whom, in the Commission's opinion, substantial allegations have been made in the course of the investigation.



# LECC

Law Enforcement  
Conduct Commission

Level 3, 111 Elizabeth Street  
Sydney NSW 2000  
Email: [contactus@lecc.nsw.gov.au](mailto:contactus@lecc.nsw.gov.au)

**Postal address**

GPO Box 3880  
Sydney NSW 2001  
Phone: (02) 9321 6700  
Toll free: 1800 657 079  
Fax: (02) 9321 6799