

Exposing corruption in Department of Communities

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Introduction

- [1] Paul Ronald Whyte was the epitome of a successful senior public servant. Well educated: he held a Masters of Business Administration, a Bachelor of Commerce degree and was a certified practising accountant.
- [2] Respected by Ministers and other public servants he forged an impressive reputation for getting things done.
- [3] Mr Whyte's career showed a steady progression to senior roles. In 2017 Mr Whyte was acting Chief Executive Officer of the Housing Authority when it was absorbed into the Department of Communities. Mr Whyte was appointed Assistant Director General overseeing corporate operations.
- [4] In short Mr Whyte was the ideal public servant.
- [5] Except it was all a lie.
- [6] Mr Whyte was an inveterate gambler who lived well beyond his means. For more than a decade, he rapaciously stole more than \$22 million from the State while maintaining a façade of professionalism.
- [7] In fact he was the epitome, not of a successful public servant but of rampant corruption. He used his positions of leadership to his own advantage. The money he obtained from the State could have been used to provide affordable housing to those in need. Instead it was frittered away supporting an extravagant lifestyle.
- [8] Mr Whyte, now 58, has pleaded guilty to 564 charges of corruption and money laundering.
- [9] He will be sentenced in the Supreme Court. Full details of his activities will emerge in Court. An opinion of serious misconduct is both justified and pointless.
- [10] He is not the only person to be charged. So far, four associates of Mr Whyte have been charged with various offences and are before Court. To avoid prejudice to those for whom the presumption of innocence applies, this report will not cover alleged activities involving Mr Whyte and others.
- [11] Instead this report is to put on record how Australia's biggest corruption by a public servant was uncovered.

It all started with a word

- [12] Mr Whyte was unsuspected. Despite recommendations from time to time drawing attention to certain financial risks, in the absence of any meaningful follow up or action, Mr Whyte's depredations continued.
- [13] In August 2018 the Commission received information that indicated conduct associated with questionable behavioural and lifestyle habits.
- [14] The information did not contain any allegations against Mr Whyte. The matters were in no way criminal and there was no linkage to Mr Whyte's role as a public officer. It was however of interest to the Commission. It was about a senior public servant and could not be ignored.
- [15] At the time the Commission received the information, Mr Whyte was the Assistant Director General at the Department of Communities. Ironically, part of his role at the Department of Communities was to oversee internal governance, standards and integrity, corporate assurance and performance.
- [16] The Commission maintains a general proactive investigation into suspected serious misconduct in procurement and financial management.
- [17] Because he was a very senior public officer, held a position of considerable influence and oversaw large scale government procurements, the Commission decided to look further at Mr Whyte, commencing with his lifestyle and finances.
- [18] The combination of Mr Whyte's position and certain lifestyle factors, in the experience of the Commission, amounted to a combination of factors that might present a corruption risk or vulnerability. Red flags abounded.

Lifestyle and finances

- [19] According to the electoral roll, Mr Whyte resided at 116 Palmerston Street in Mosman Park. His driver's licence, vehicle registrations, banking records and utility bills all supported the fact that Mr Whyte resided at 116 Palmerston Street, Mosman Park.
- [20] Except he did not live there.
- [21] The Commission established that Mr Whyte and his family in fact lived at 62 Johnston Street in Mosman Park.
- [22] This property was registered in the name of Mr Whyte's partner in 2013. The cost of the purchase was \$3,040,465.00. The property was not subject

to a mortgage and funds used to purchase the property did not pass through either Mr Whyte's bank account or that of his partner.

- [23] It was not yet known how Mr Whyte afforded the purchase of 62 Johnston Street, Mosman Park. From his known sources of income the property appeared to be unaffordable.
- [24] The investigation also established that Mr Whyte had held interests in 87 race horses since 1998. The number of racehorses in which Mr Whyte held shares in a syndicate (and not personally named) is more. For example, Mr Whyte had a share in a pacing horse which was not listed on any document supplied by Racing WA. Over 75% of these horses were acquired after Mr Whyte commenced employment at the Housing Authority in 2009. Whilst the horses generated a modest return in race winnings, these did not reach an amount that could explain the property purchase or Mr Whyte's lifestyle.
- [25] The investigation established that Mr Whyte was a prolific gambler. Records obtained by the Commission showed that between 2013 and 2019 Mr Whyte made payments to various betting agencies to the value of \$813,102.00.
- [26] During the same period his net losses totalled \$732,000.00. Additionally a TAB account was opened in 2017 in the name of Mr Whyte's partner. In 2019 the gambling losses associated to this account were \$88,500.00.
- [27] The analysis showed that between 2012 - 2019 Mr Whyte engaged in a high level of household and general spending, on average about \$160,000.00 a year. The total between May 2012 and March 2019 was \$1,092,753.00.
- [28] A picture was emerging and suspicions in respect to Mr Whyte were growing but it was still unknown how his lifestyle was funded although he was clearly living beyond his apparent means.

A breakthrough

- [29] The Commission is a small organisation. With over 7,000 allegations received a year it has to be circumspect with its resources.
- [30] The preliminary investigation had been underway for a number of months. Whilst more was known about Mr Whyte the Commission was struggling to establish how his lifestyle was funded or any form of serious misconduct linked to his role as a public officer.

- [31] On a number of occasions the viability of the investigation was reviewed but on each occasion the decision was made to continue.
- [32] Among its many resources the Commission employs skilled intelligence and financial analysts who work in the background but are responsible for many of the Commission's successes.
- [33] During the course of the investigation, Commission analysts conducted a painstaking review of terabytes of data and mountains of files.
- [34] Finally, after months of work the Commission had a breakthrough. On 2 August 2019, analysis of corporate credit cards issued to Mr Whyte matched payments into companies he controlled, including Boldline Nominees Pty Ltd.
- [35] It is not known how or who approved these credit card accounts as presently the records cannot be found.
- [36] As far back as 2009 Mr Whyte was using his corporate credit card to make payments to one company and authorising electronic fund transfers to two other companies to combined amount of \$50,000 per month. The companies were not listed on Tenders WA as contractors to the Housing Authority or Landgate.
- [37] Although the credit card payments Mr Whyte were making stopped in 2011 he continued to receive electronic funds transfers into his personal accounts from the companies until 2013. This raised suspicion that Mr Whyte was authorising payments to the companies through other means.
- [38] The Commission now had strong leads to pursue in respect of Mr Whyte and potential serious misconduct linked to his role as a public officer.
- [39] Based on this and other information the Commission made a proposition that serious misconduct may be occurring and approved a full investigation named Operation Taurus.¹

October 2019

- [40] Following the discovery of the misuse of the corporate credit card the Commission deployed a number of investigative strategies to get closer to Mr Whyte and establish how he continued to finance his lavish lifestyle.

¹ *Corruption, Crime and Misconduct Act 2003* s 26.

It is not appropriate to detail the investigative strategies utilised but it is no secret that the Commission possesses particular expertise and resources including skilled:

- investigators;
- financial analysts;
- intelligence analysts;
- digital forensic specialists;
- electronic collection capability;
- covert surveillance teams; and
- lawyers.

[41] The Commission has power, under the authority of a Federal judge to capture electronic communications. Under the authority of a Supreme Court judge the Commission can install surveillance devices.

[42] The Commission has power to require production of documents, statements of information and to hold private examinations of witnesses under oath or affirmation.

[43] Surveillance teams were deployed. Mr Whyte was soon observed making withdrawals from accounts linked to shell companies. On Wednesday 16 October 2019 investigative actions came to fruition. On this day the Commission established Mr Whyte was personally authorising payment of false invoices to the value of \$100,000.00 per month to a number of shell companies.

[44] The companies to which the funds were directed provided no products, services or works to the Department of Communities. The bank accounts of these companies were controlled by Mr Whyte and another person. Once remitted to the companies, it appeared that the money was used to fund the private interests of Mr Whyte and the account holders.

[45] At the time it was believed this conduct had been going on for at least two years.

WA Police Force joins the investigation

[46] What had emerged was a clear and continuing threat to the public purse. Swift action was needed to protect State funds.

[47] The Commission does not have the power to lay charges or prosecute.

- [48] On 24 October 2019 the Commission briefed the WA Police Force which immediately established an investigation named Operation Tangmere. Operation Taurus became a cooperative investigation with Operation Tangmere and the two agencies worked together.
- [49] On 14 November 2019 police officers executed a number of search warrants and arrested Mr Whyte and an associate. At the same time the Commission's confiscation team successfully applied to the Supreme Court to freeze Mr Whyte's major assets to safeguard the State's interests.²
- [50] The Commission has continued to work cooperatively with the WA Police Force on the investigation. It acknowledges the professionalism and fine work undertaken by the police officers involved in Operation Tangmere.

Mr Whyte's property is confiscated

- [51] In 2018, Parliament strengthened the fight against crime and corruption by empowering the Commission to investigate and litigate matters relating to unexplained wealth and criminal benefits. This includes the ability to apply to courts to freeze and confiscate property.
- [52] The concept of pursuing cases of unexplained wealth or criminal benefits is not new. Its origins lie in Hong Kong where it was developed to strip corrupt benefits from public servants. The power to pursue persons who have unexplained wealth through courts and consequent confiscation has been part of Western Australian law for 20 years. It had been little used.
- [53] In October 2020 the Commission's actions in relation to Mr Whyte's acquisition of criminal benefits led to the Supreme Court making a criminal benefits declaration and corresponding confiscation orders against Mr Whyte as a consequence of his corrupt conduct. Mr Whyte did not oppose the orders.
- [54] The criminal benefit acquired by Mr Whyte was assessed and declared to be just over \$11 million.
- [55] The Commission confiscated assets including the properties at 62 Johnston Street and 116 Palmerston Street, Mosman Park, \$1.4 million from his defined benefit government superannuation fund (with federal superannuation taxes and fees to be deducted from that amount), and monies arising from the sale from his interests in race horses.

² *Criminal Property Confiscation Act 2000* s 43.

- [56] The Commission's pursuit of criminal benefits led to State regulation changes to make it clear that Western Australian public officer's GESB superannuation entitlements are liable to confiscation if the officer has acted corruptly. These changes mirror federal superannuation legislation.
- [57] The Commission also seized Mr Whyte's interest in his deceased father's estate, which includes real estate in Scarborough. The confiscation of this interest is still being advanced.
- [58] In October 2021 the Mosman Park properties were sold realising in total \$4.7 million. The amount returned to the State will be somewhat less after deducting a mortgage and fees associated with the management and sale of the properties.

Finally

- [59] The sentencing of Paul Whyte will draw this chapter to a close.
- [60] When legal proceedings involving others have concluded there may be further reports which may also deal with the culture within departments that allowed Mr Whyte's corruption to flourish.
- [61] This investigation by the Commission demonstrates that the smallest piece of information can eventually lead to the discovery of serious and significant corrupt and criminal activity, if relentlessly pursued.
- [62] The Commission depends on honest public officers reporting suspicious behaviour - which did not happen in this case. Reporting suspected misconduct is never easy, especially when the person under suspicion holds high office and influence.
- [63] It is never easy but it is always right.