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IN THE DISTRICT COURT
OF NEW SOUTH WALES
CRIMINAL JURISDICTION

5 JUDGE O'ROURKE SC

MONDAY 25 JULY 2022

10 **2019/00026907 - R v Wayne Gregory ASTILL****NON-PUBLICATION ORDER RE IDENTITY OF COMPLAINANTS**15 Mr S Hughes for the Crown
Mr J Tyler-Stott for the Accused

15

20 HUGHES: It's a matter for trial. It's now to be, just by very short background or overview, a 54-count indictment. Three ex officio counts were sanctioned by the Director last week and I understand there's to be no objection to the indictment be amended in accordance with those extra charges.

HER HONOUR: No objection?

25 TYLER-STOTT: No, your Honour.

HER HONOUR: Okay. So I'll grant the Crown leave under s 20 to amend the indictment.

30 HUGHES: I'm mindful, I don't want to inundate your Honour having just walked on the bench with unnecessary detail. It might assist your Honour if I can say this, what this matter is about. Mr Astill was a Corrective Services officer at Dillwynia Correctional Centre out at Windsor, which is an all-female gaol. The subject matter of the trial is reflected in the counts, is alleged
35 misconduct towards a number of those women. There are a considerable number of witnesses who are either complainants or other inmates. I brought to Judge O'Brien's attention and then to Mr Venito's(?) attention, that there are a number of high-profile inmates in that case, all of whom would be protected, their identity will be currently protected by virtue of law or in the case of non-
40 complainants, by non-publication orders which are still in existence. I raised it with his Honour that there may be judges, and I want to be abundantly cautious here, of this Court who have prosecuted - well, I know there are, who have either prosecuted, on trial or on appeal, or have appeared for various witnesses or indeed sentenced them, although perhaps that's not such a--

45

HER HONOUR: Well, has it been double-checked that I haven't.

50 HUGHES: Well, Mr Venito came out and I've said, "Well, these are the judges I'm aware of," and I pressed upon him, I haven't gone through every bit of litigation for every person. But one's, for example, C. Out goes Judge

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Baker. Judge Gurden can't. Judge Gurden can't. So there's various judges, but I did have--

5 HER HONOUR: I'm assuming with the number of female complainants that are in correctives there will be a fair few judges that will probably have some, whether you call it conflict but some prior involvement with them.

HUGHES: Well--

10 HER HONOUR: I did briefly go through the indictment. There was nothing there that, the names of them, but I would have to double-check it really and a list that the Director's chambers should have, in any event.

15 HUGHES: Yes. I can provide that to your Honour. It's two page. I've highlighted the ones which I think may or may not be problematic. Mr Tyler-Stott, do you have any objection of it going to her Honour now?

TYLER-STOTT: No objection, your Honour.

20 HER HONOUR: Court officer, please.

HUGHES: Would I presume that necessarily some involvement would create a problem but I--

25 HER HONOUR: No.

HUGHES: --certainly want it brought to your Honour's attention, that's all.

30 HER HONOUR: None of those names either ring a bell or spark anything in my mind that I've had anything to do with any of them.

HUGHES: Yes, your Honour.

35 HER HONOUR: Yes. I might just keep that list and I will double-check it, just with the chambers. Yes. Yes.

40 HUGHES: So previously the trial was last vacating owing to COVID outbreak where her Honour Judge Sweeney ruled on some surveillance device material and we took the legal argument as far as we could. There is tendency in the trial but there is no resistance to the tendency evidence or the notice, but we will give that to your Honour of course sooner rather than later so your Honour knows what it's about.

45 HER HONOUR: Yes.

HUGHES: There is an issue with respect to a number of inmates and that is the accused wishes to cross-examination a number of the inmates on their criminal histories.

50 HER HONOUR: Yes.

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HUGHES: To that end we have, my solicitor has, put together a schedule of all the inmate witnesses' statements in the matter, criminal histories. I must say it's been ongoing work in progress so far as refining as between me and
5 Mr Tyler-Stott, to what extent there's to be argument about those, so I'm loath to hand it up and have your Honour poring over that without--

HER HONOUR: Well, there may be some practical and some reasonable approach that both of you can take without my intervention, and it may be
10 something that really needs to be done on a case-by-case basis as we're going through it, if there needs to be legal argument on a particular witness.

HUGHES: I must say, and I think I said to her Honour Judge Sweeney, I thought that perhaps judges have different views on this, but whilst ordinarily I
15 know that that's how it is done, the issue of s 103 arises during the consequence, I simply I suppose make the offer that we could, potentially to avoid that disjointing of the evidence given the number of witnesses who this is going to apply to, if it was a matter that was suitable for a pre-empanelling
20 decision.

HER HONOUR: Well, if it is, then it can be done with, fine, but are you really, is the Crown objecting to every single one not being able to be cross-examined?

25 HUGHES: No.

HER HONOUR: That's what I mean.

HUGHES: No, I'm not.

30 HER HONOUR: And sometimes it's an evolving beast, isn't it, throughout the trial, as to something becomes more relevant so it's allowed and then the rulings become irrelevant or outdated.

35 DISCUSSION AS TO SUITABLE DATES

DISCUSSION AS TO SCHEDULING

40 What is the legal arguments that need to be ventilated? Is there anything left?

HUGHES: There's that, and potentially still, because we've come to significant agreed facts of the trial.

45 HER HONOUR: All right. Good.

HUGHES: And there are a number of matters which are pleas, guilty. What the agreed facts are, and one of the accounts in particular, there's one woman who is now unavailable. She is deceased. And there's a plea to the one, there's one misconduct with respect to conduct towards her. She would give
50 evidence of other observations. And we're having some discussions as to

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whether we need to have a s 65 argument about that in light of the, anyway, there's been discussions about the basis of that plea being entered. So we're trying to limit the matters your Honour has to rule on if we can agree sensibly, of course. That doesn't leave much for us to proceed on immediately, I must say.

5

HER HONOUR: What do you really need? More time to discuss?

HUGHES: Yes. I really think that would be beneficial, yes.

10

HER HONOUR: Mr Tyler-Stott, what do you say?

TYLER-STOTT: I agree. I agree.

15

HER HONOUR: You agree. Well, how do we wish to proceed then? It's just while I've got the few days I would like to be able to utilise the days that I actually have this week and just get it going. I mean, one thing we could do, I suppose, is empanel the jury now, have that done. Are you in a position to open?

20

HUGHES: Not today. I'd prefer not to open today, your Honour, no.

HER HONOUR: But then it would be sending them away to be ready to commence tomorrow, or do you think there might be legal argument tomorrow?

25

HUGHES: There might be legal argument tomorrow.

HER HONOUR: Which you utilise the morning and I'm unavailable in the afternoon. Then there's Wednesday, which is a full day, but then Thursday, by that sentence, has been vacated a couple of times so who would know whether Wednesday night I receive application for adjournment of that. So I think what we're looking at then, if I give you today, tomorrow morning if there's anything that needs to be ventilated before me, we can do it, and then Wednesday we empanel and get as far as we can. If I can't sit Thursday then I cannot sit Thursday but we can at last manoeuvre stuff so we've got Friday morning, and then we can basically hit the ground running for Monday.

30

35

HUGHES: Your Honour, I think that would work, with a view perhaps--

40

HER HONOUR: In relation, can I just ask you, I saw there was an AVL ...(not transcribable)... now, there's no issue in relation to the AVLS being granted, is there, for witnesses to give their evidence?

45

TYLER-STOTT: No, your Honour. That's right.

HER HONOUR: Thank you. So that's all, can be all organised. What about the suppression that you're seeking? I thought there was some notice of motion or some application for a suppression, which would have been, all the complainants no doubt fall within 578A anyway.

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HUGHES: Yeah, they do.

HER HONOUR: But why would the other ones be that don't fall within that?

5

HUGHES: They variously raise concerns, security concerns, having regard to their status in the gaol or in their socioeconomic status having regard to the role and power imbalances between the accused, who is a mid-ranked prison ...(not transcribable)...

10

HER HONOUR: But how is that going to change anything then, whether their name's suppressed or there's a non-publication order? Where's the safety issue related to? The other Corrective Service officers? As if they're not going to know in prison in any event.

15

HUGHES: Sorry. I would only seek non-publication order, your Honour, I must say.

HER HONOUR: A non-publication?

20

HUGHES: A non-publication order only, yes.

HER HONOUR: Yeah, but in relation to whom? Just to the ones that are the complainants, as in normal, or tendency witnesses that would normally be given like automatically, or, 'cause I'm struggling to understand why others who are just witnesses in the trial would be subject to a non-publication order.

25

HUGHES: Well, the other witnesses, for whom these orders are sought, are variously, were or are inmates in the system, and they, I'm speaking generally here for having conferred with them myself, there's a great deal of concern about other Corrective Services officers becoming aware who may, and I don't suggest that there is any basis in truth--

30

HER HONOUR: You think they don't know already?

35

HUGHES: Well, that may be so.

HER HONOUR: I mean, because most of them that are contained in that list are complainants.

40

HUGHES: No, I understand. There's no need for those, I understand.

HER HONOUR: Right. So can we just deal with that if you need it. Can you just have a look at that overnight and just see, because the current list that you have a notice of motion dated 22 July refers to 37 people and I can see that a lot of them, if not most of them, would be subject to a 578A anyway.

45

HUGHES: I'll have to check it, your Honour.

HER HONOUR: Have a look at that overnight.

50

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- 5 HUGHES: I've got a slightly different document, your Honour, anyway, but I hear what your Honour says and I will confine that to what we need, as least to the Crown's point.
- HER HONOUR: Right. So the questions, the law that may need to be ventilated tomorrow then is going to be, what, just on the 103 issue.
- 10 HUGHES: Yes, 103, possibly a s 65 matter. With the 103, I mean, hearing what your Honour says about it may be more appropriate to do them seriatim as the trial proceeds. If we could do, say, C. We'll call the witnesses in order, or the complainants at least in order of the indictment. So C, a few of the earlier ones earlier on the trial.
- 15 HER HONOUR: Yes.
- HUGHES: Use the time to do that.
- 20 HER HONOUR: Yes. We can do that if there is a need to do it. I won't say anything until I hear the application. So there's a question of the 103. And what else? And did you want to give me then the statements or what I might need so I can read that and utilise my time today?
- HUGHES: Yes.
- 25 HER HONOUR: Not all of them but the ones that, well, give me the folder I suppose if that's--
- HUGHES: I'll give you the folder. It's got everything. That way your Honour can look at it.
- 30 HER HONOUR: So apart from the 103 issue is there anything else that I need to think about? The s 65, you said possibly, but that's in relation to a plea matter. Is that right?
- 35 HUGHES: Yes, it's a plea. It's E. So she's deceased.
- HER HONOUR: Right.
- 40 HUGHES: It was a plea on a misconduct charge, but then she would, you know, speak to observations relevant to other counts.
- HER HONOUR: Is the indictment with the plea counts going to be in whole and be presented in that way and pleaded in that way in front of the jury?
- 45 HUGHES: Yes.
- HER HONOUR: Including the plea counts?
- 50 HUGHES: Yes, and with the extra three counts sanctioned last week.

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HER HONOUR: Yes. Do you have an indictment then for me, Mr Crown?

HUGHES: I do, your Honour.

5

HER HONOUR: And as I said, under s 20 of the Criminal Procedure Act, noting that there is no objection by Mr Tyler-Stott on behalf of the accused, I grant the Crown leave to amend the indictment and present a fresh one.

10 HUGHES: I present the indictment of the trial of Wayne Astill, and there's a working copy. It's also blue.

MFI #1 INDICTMENT OF THE TRIAL OF WAYNE ASTILL

15 HER HONOUR: Right. And that folder, Mr Crown, did you want to provide that to me? There's not much use in my arraigning now the accused. It's going to take some little time in any way, so we'll do it when we need to do it. If there's a legal argument tomorrow we can do it. If there is no legal argument can you let me know so I can try and get the panel booked so that we can
20 book them in for 10 o'clock tomorrow.

HUGHES: Yes, your Honour.

HER HONOUR: Or if you think that the argument's not going to go too long,
25 'cause we need to book them in even with a different system because otherwise they may say, "Yes, we can get it on Wednesday or Thursday."

HUGHES: Yes, your Honour.

30 HER HONOUR: So just update me this afternoon.

HUGHES: There's one other matter. I don't think it's going to lead to argument, but s 293 will have some application in the case but we can have that outlined appropriately in writing so your Honour has reasons in the
35 legislation as required.

HER HONOUR: Okay. Well, a lot of the time it just seems more economical and practical to do it as we need to do it throughout the trial 'cause sometimes the issues dissolve as the trial--
40

HUGHES: I respectfully agree, your Honour, yes.

HER HONOUR: Yeah. Okay. Has that folder been handed up to me? Great.

45 MFI #2 CRIMINAL HISTORIES AND STATEMENTS OF COMPLAINANTS ON VOIR DIRE

Is this just all the criminal histories with the statements of the complainants?

50 HUGHES: Yes, your Honour. That's right.

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HER HONOUR: How many complainants in total?

5 HUGHES: Nine of sexual offences and then there's another witness on the indictment, misconduct charges as well. Those are all people who were inmates or are inmates.

HER HONOUR: So that's it then. The section, possibly 103 and possibly 65.

10 HUGHES: Yes.

15 HER HONOUR: I will give you today and I will read the material so I can be on top of it for tomorrow, and as I said, I would appreciate if you could let me know whether we can empanel tomorrow and I'll book one in for 10 o'clock so we can get a start, and then we can utilise whatever time we've got this week. But as I said, I'll be a bit disjoined this week but back on board next week.

ADJOURNED TO TUESDAY 26 JULY 2022

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IN THE DISTRICT COURT
OF NEW SOUTH WALES
CRIMINAL JURISDICTION

5 JUDGE O'ROURKE SC

TUESDAY 26 JULY 2022

10 **2019/00026907 - R v Wayne Gregory ASTILL****NON-PUBLICATION ORDER RE IDENTITY OF COMPLAINANTS**

15 HER HONOUR: Yes, good morning. What's going on?

HUGHES: Your Honour, I sent through an email at about 9.30. Firstly, apologising for late notice, which I reiterate to your Honour's associate, and it's this. There's a witness, F, who relates to counts 38 and 41 on the indictment.
20 There's a difficulty, in short, in securing her attendance. There's been cause to believe up until recently that that wouldn't be a problem, but it seems to have crystallised as a problem. My instructions are that, well, in anticipation that if she cannot be secured as a witness that, one, there not be a warrant sought. Not be. Not be. I don't anticipate making an application under s 65,
25 which leaves those particular counts in a state likely to be removed from the indictment. My instructions from the Director are to ask that we defer empanelling this morning until tomorrow because there is contact available with her, although her lack of response has been troubling, perhaps telling.

30 HER HONOUR: Why does it matter? Why couldn't we just start? We wouldn't get anywhere near her.

35 HUGHES: Well, the difficulty, I think the difficulty is - and my friend shares this concern - is if the jury have that on the indictment and then it's removed, we're empanelled, the jury hears that name and suddenly there's an amendment to remove her tomorrow, It's undesirable if it can be avoided.

HER HONOUR: Is there one of the plea counts in relation to her?

40 HUGHES: No.

HER HONOUR: All right.

45 HUGHES: There's three statutory sex offences and there's--

HER HONOUR: I read her statement.

HUGHES: --misconduct.

50 HER HONOUR: I've read her statement.

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HUGHES: Yes. Without breach of privilege, I anticipate--

5 HER HONOUR: The thing is, with so many complainants, she may change her mind again in a week and you wouldn't even have got to her counts 38 to 41.

10 HUGHES: The last visit to her premises, the premises were abandoned, although there's electronic contact possible with her. She's expressed vacillating--

HER HONOUR: Not unusual, though, in a case like this.

15 HUGHES: No, I know your Honour's well aware of that. I'm not lecturing your Honour. But I think it very likely that she would not be in attendance at Court, ultimately. She may change her mind but the - I should complete what I ...(not transcribable)... I expect that my solicitor would send out an email to her this morning with a self-executing deadline of make contact today and indicate your position, otherwise the proceedings are likely to go, will go a particular way. Give her the final chance. But it's not a situation where she's - she's previously and not so long ago indicated a willingness to come, albeit reluctance. But given the nature of the offences, I would not be asking for a warrant. I don't want her brought here in handcuffs.

25 HER HONOUR: No, I know that, but it's just, it's not an unusual situation - with the number and the type of charges these are - that complainants do oscillate between day 1, "Yes, I want to give evidence" to "No, I don't want to give evidence," and then turn up. Has she been subpoenaed?

30 HUGHES: Yes.

HER HONOUR: I suppose I'm struggling to see why we just couldn't go on and then if it's removed, it's removed. I wouldn't have thought - where's the prejudice to your client?

35 TYLER-STOTT: Your Honour, just unfortunately another name amongst many that you wouldn't have to deal with and we wouldn't be speculating as to whether or not the jury were thinking about the reasons for the--

40 HER HONOUR: And what if she comes up at day 5 and says, "I want to give evidence"? What would the Crown do then?

45 HUGHES: Proceed on. The time's passed. That's the purpose of giving her 24 hours. There was some suggestion I'd ask for a couple of days and I made it - it's my suggestion that, well, your Honour's got the full day tomorrow and we need to make use of it and get on with it. But those are my instructions.

50 HER HONOUR: So, can I just ask, Mr Tyler-Stott, what's the issue in the case in relation - I note, and I'm asking this in relation to the pleas that have been entered as to effectively that there has been some sexual contact in light of the

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plea. So there's an acceptance and an admission of sexual contacts with some of the complainants. What's the defence case in relation to or particularly those counts, not those plea counts but the counts relating to that same complainant where there is a plea?

5

TYLER-STOTT: There was consent, plain and simple. And--

HER HONOUR: And in relation to the other complainants?

10 TYLER-STOTT: Didn't occur.

HER HONOUR: All right. Okay. So you're asking effectively for - I suppose we're only going to sit till 1.00, so you're asking for the day today?

15 HUGHES: Those are my instructions ...(not transcribable)... your Honour, yeah.

HER HONOUR: Well, okay, I suppose. I don't really see the prejudice in relation to the accused. In relation to this count, it can swing both ways. But if you're both basically seeking it and prepared to give it, we just need to get on with it. Is there any pre-trial legal issues or have they been resolved?

20

HUGHES: Your Honour, they've been resolved, certainly for the time being. If I could put it this way--

25

HER HONOUR: I can let you know, I've read the material that you gave me yesterday, and so going forward, for example, the first few counts on the indictment, I mean, what's the position in relation to the 103 issue?

30 HUGHES: The position is this, it's to adopt, really, I suppose, to some extent what your Honour suggested, that we do them by the witness but as the witness comes up.

HER HONOUR: Yes.

35

HUGHES: But I've suggested to my friend, and I think he's agreeable to this, that where witnesses are going to be asked - for example, C, because the witnesses are in different, there's different situations.

40 HER HONOUR: And the witnesses have some more relevant. If there's going to be, I would have thought that in relation to some of their prior - we all know they're going to be inmates. That's going to be clear, isn't it?

HUGHES: Yep.

45

HER HONOUR: So that's already there. I wouldn't have thought trawling through every conviction and every prior conviction of every complainant is going to be a worthwhile cause or a relevant cause for the issues in this trial.

50 HUGHES: No. Well, your Honour--

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HER HONOUR: Particularly, maybe if there was a make false statement, that might be a different situation, but going through everyone's prior conviction rap sheet I would not have thought is going to be relevant or productive.

5

HUGHES: Could I indicate, firstly, I respectfully agree with your Honour. So as an overview, my approach is this, that where's there's matters of dishonesty, unless they are particularly archaic, then they will be matters which are fair game, without going on and on about the detail of them. Where there's
10 - there's an argument which I think my friend will make with respect to some of the offences, which is a social norms argument, that is that they are, and I don't want to do his bidding, but they show such disregard for the law that it's a matter of, it's capable of bearing on credibility of the witness. Now, presumably in a substantial way. There'll be arguments with respect to those.
15 But it gets a little more complicated in the case, say, of a C, who's maintained her innocence, did not give evidence at trial, albeit put a case which a jury's rejected, and that's where s 91 of the Evidence Act comes into play, and there's authority of last year which dealt with that issue. With s 91, I'll come to that when we need to. But what's proposed, then, is this.

20

HER HONOUR: What case was that one?

HUGHES: It is Aherne(?) - trying to remember. I don't have it right at hand but I--

25

HER HONOUR: That's all right. It'll be upstairs somewhere.

HUGHES: It's 2021. It was known as DAO number 4, otherwise known as
30 DAO number 4, D-A-O, D-A-O. So where there's a maintenance of innocence, it may be complicated. And what I for my part wish to avoid--

HER HONOUR: I certainly don't want a trial within a trial.

HUGHES: And that's precisely what I wish to avoid. But in any event there
35 are, the approach that I've pressed, and I don't want to overstate it if I say my friend agrees, but as I understand it he saw no difficulty with this, is that absent the jury, the witness - say C and others, H - give some evidence, questions asked. Now, it may be that in practice, if not at law, my friend would be bound by the answer given because the conviction, for example, for C can't be used, I
40 say, to prove the facts in this case. In any event, he's not interested, as I understand it, in the fact of the ...(not transcribable)... but rather the inconsistency of accounts.

HER HONOUR: Credit.

45

HUGHES: But as to the approach, I keep interrupting myself, but as to the approach it's then to have the witness asked absent the jury. That way if the answer is to negative, "No, I don't agree with you," and there's not going to be any evidence contradicting that, I say the jury should not be left with the
50 prejudice to the witness and to the Crown of a question where the evidence, of

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course, can only ever be the answer. So that's the approach that I've suggested.

5 HER HONOUR: Okay.

HUGHES: I don't expect--

HER HONOUR: Do you agree with that?

10 TYLER-STOTT: I do, your Honour. Your Honour, it wouldn't be lengthy in any event. I don't - it's not my intention to trawl--

HER HONOUR: It's going to be quite plain to the jury that all of them are inmates.

15

TYLER-STOTT: Yes.

HER HONOUR: And all of them have committed serious crimes and they're in protection for various reasons.

20

TYLER-STOTT: Yes, your Honour.

HUGHES: We can send your Honour that case through, save your Honour looking it up.

25

HER HONOUR: Oh, that's all right. I'll find that. It'll be - it's upstairs somewhere in one of my folders. I'll have a re-read of it, though.

HUGHES: Trying to remember the presiding officer.

30

HER HONOUR: Okay. And what was the other aspect? The 65.

HUGHES: That's been resolved.

35 HER HONOUR: Okay. And so is there going to be an agreed facts before the jury in relation to the plea matters?

HUGHES: Yes.

40 TYLER-STOTT: Yes.

HUGHES: Yes, there are. And we've settled those, which tied in with the 65.

HER HONOUR: Right.

45

HUGHES: So there's agreed, some agreed facts. The other agreed facts are more of matters for the Government Gazette and that sort of thing, but - and times where people were on holidays, where movements of inmates and that sort of stuff. That sort of thing, I should say, with formality.

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HER HONOUR: Okay. How many witnesses are there in the Crown case and, like--

5 HUGHES: How many all up?

SPEAKER: 50.

10 HUGHES: Not going to get to 50, though. I think, realistically, your Honour, we might be looking at 30 witnesses.

HER HONOUR: All right.

15 HUGHES: There's 50 on the list but, I mean, a number of them we can trim down with - as the issues become more clear through the trial, I don't expect to call ...(not transcribable)...

HER HONOUR: Yes. Because some, even in the folder that I had, it seemed some were quite superfluous. It didn't really seem to go anywhere.

20 HUGHES: Depending on the--

HER HONOUR: Not in addition to the other material.

25 HUGHES: No. And depending on - sorry.

HER HONOUR: So 30 plus witnesses. The estimate would still be six weeks?

HUGHES: You think?

30 TYLER-STOTT: I think to be safe, your Honour.

HER HONOUR: Will there be a defence case?

35 TYLER-STOTT: Unlikely.

HER HONOUR: And what else did I want to know? Your opening, how long will that take, Mr Crown?

40 HUGHES: I would have thought about three hours, your Honour.

HER HONOUR: Three hours?

HUGHES: Mm.

45 HER HONOUR: Okay. And will you be opening, Mr Tyler-Stott?

TYLER-STOTT: I will but it will be probably ten minutes, I'd imagine, your Honour. Very short.

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HER HONOUR: Okay. Well, that's appropriate, anyway, being a defence opening. Okay, so if we're looking at tomorrow, we could have the panel in ready to go pretty much at 10 o'clock?

5 HUGHES: Yes, your Honour. And I would have thought - because I might be going where your Honour's thinking - I say three hours, I would be working towards having that finished along with your Honour's opening remarks and finishing it tomorrow.

10 HER HONOUR: Yep.

HUGHES: So we might be able to truncate a little, but perhaps very, very--

15 HER HONOUR: Well, that's all right. Yes, take as long as you need. But basically we should get to give the opening, and it's just that it's unfortunate that I've got the Thursday matter that I cannot move. But just keep that open, though. Don't lock in anything for Thursday because it may well - that has folded before for some various reasons. So if it does, I want to utilise the day. So I'm not going to tell the jury about it until I definitively know that I cannot sit
20 on Thursday. And then Friday I'm going to squeeze it around so that we at least have the morning. So it'll be 10 o'clock to 1 o'clock.

HUGHES: Could we revisit tomorrow afternoon just for the sake of getting
25 witnesses along?

HER HONOUR: Of course. So you won't need, so you're saying we won't need witnesses or won't need to get witnesses organised for tomorrow?

HUGHES: Tomorrow, no, not tomorrow.

30

HER HONOUR: And then it really won't be until Friday morning if it runs?

HUGHES: If the sentence proceeds.

35 HER HONOUR: Yes. But I'll let you know that and give you plenty, as much notice as I can.

HUGHES: Unless your Honour finds out at 10 o'clock, but--

40 HER HONOUR: Yes.

HUGHES: I understand.

45 HER HONOUR: Yes. If it is, it's going to be too difficult anyway. They've already, I can't bring the jury back in anyway.

HUGHES: Of course, of course.

50 HER HONOUR: So we need 15?

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HUGHES: Yes, please, your Honour.

HER HONOUR: Any other issues?

5 TYLER-STOTT: No, your Honour.

HER HONOUR: Nothing. Do you want to utilise the time?

HUGHES: Yes, of course.

10

HER HONOUR: Okay, well, I'll give you today to sort out the indictment, Mr Crown, in relation to that other complainant and then we should be ready to go then--

15 HUGHES: Yes, your Honour.

HER HONOUR: --one way or the other tomorrow.

HUGHES: Yes, your Honour.

20

HER HONOUR: So I won't have the panel in first. I'll get them right on stand-by for 10.00 so that if there's anything that needs to be raised in the morning without them sitting in the back of the Court--

25 HUGHES: Thank you, your Honour.

HER HONOUR: --'cause it'll probably be a fairly big panel.

HUGHES: Yes, of course.

30

HER HONOUR: Okay, right, well, bail to continue and I'll adjourn it to tomorrow at 10 o'clock. Thank you.

ADJOURNED TO WEDNESDAY 27 JULY 2022

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IN THE DISTRICT COURT
OF NEW SOUTH WALES
CRIMINAL JURISDICTION

5 JUDGE O'ROURKE SC
AND A JURY OF FIFTEEN

WEDNESDAY 27 JULY 2022

10 **2019/00026907 - R v Wayne Gregory ASTILL**

NON-PUBLICATION ORDER RE IDENTITY OF COMPLAINANTS

15 Mr S Hughes with Ms S Stuart as Crown Prosecutor
Mr J Tyler-Stott with Mr P Plunt for the Accused

20 HER HONOUR: Are we ready to proceed?

CROWN PROSECUTOR: Yes, your Honour.

25 HER HONOUR: Now, in relation to the panel, I think there's about 45. In
relation to the reading out of the indictment and having the accused arraigned,
Mr Tyler-Stott, I don't - because of the amount of counts, what happened in the
end, Mr Crown?

30 CROWN PROSECUTOR: There's 51 counts, your Honour. The trial counts
for Ms F have been removed. There did actually remain a misconduct with her
name on it, but that's a plea of guilty.

HER HONOUR: Right.

35 CROWN PROSECUTOR: So there's now 51 counts on the indictment.

HER HONOUR: Okay. Now, so that's presenting a fresh indictment?

CROWN PROSECUTOR: Yes, your Honour.

40 HER HONOUR: Any objection?

TYLER-STOTT: No, your Honour.,

45 HER HONOUR: I grant you leave under s 20 of the Criminal Procedure Act to
present a fresh indictment. Now, I will have the accused arraigned in front of
the panel. Because of the number of counts, I don't propose once they're put
in charge of the jury for my associate to have to read out all 51 again.

CROWN PROSECUTOR: No.

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HER HONOUR: There's authority for that, a decision of Pearce(?) v R in 2012. But unless either of you have any objection or wish my associate to read out 51 charges again, putting them in the charge of the jury.

5 TYLER-STOTT: No, your Honour.

CROWN PROSECUTOR: Not for the Crown's part, your Honour.

10 HER HONOUR: Right. So 51 counts but there's seven or eight of them that are pleas?

CROWN PROSECUTOR: Yes.

15 HER HONOUR: So what she will be saying to them is that they are in charge of the matters that basically are charges of the, that were read as charges on the arraignment that he pleaded not guilty to.

CROWN PROSECUTOR: Yes, your Honour.

20 HER HONOUR: So of course they're not in charge of him in relation to his pleas.

CROWN PROSECUTOR: Yes, your Honour.

25 HER HONOUR: That's suitable for both of you?

TYLER-STOTT: Yes.

CROWN PROSECUTOR: Yes, your Honour.

30

HER HONOUR: Yes. Okay.

35 CROWN PROSECUTOR: It may assist your Honour, and I would ask the jury receive - I've indicated this to my friend in due course - there's a one-page summary of the counts, the type of offence and whether it was a plea and to which complainant it relates. So it's nothing--

HER HONOUR: Are you going to give that in your opening?

40 CROWN PROSECUTOR: I propose to do with your Honour's leave.

HER HONOUR: That's fine. There's no objection?

TYLER-STOTT: No.

45

CROWN PROSECUTOR: I might hand a copy of that for your Honour now.

HER HONOUR: Okay, thank you. I'll mark that MFI - well, I'll mark the new indictment.

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CROWN PROSECUTOR: Thank you.

HER HONOUR: The new indictment presented, if you've got a working copy for me.

5

CROWN PROSECUTOR: I do.

MFI #2 NEW INDICTMENT PRESENTED

10 MFI #3 SUMMARY OF GUILTY AND NOT GUILTY PLEAS

There's a copy of the indictment there.

HER HONOUR: Thank you.

15

CROWN PROSECUTOR: Your Honour, can I just indicate this before the panel come down. So far as what I propose to say to the jury, in addition to reading from the witness list, I had proposed to say to them before reading out the names of the various witnesses that a considerable number of them are or were at the relevant time inmates, some of a high profile. I'm torn about that but--

20

HER HONOUR: I don't know about "high profile". "Well known"?

25 CROWN PROSECUTOR: "Well known". It draws attention to it but I think it has to be drawn attention to if they are--

HER HONOUR: Well, even to be basically playing it down, "some you may have heard their names before". I mean, really, we don't want to be putting them up on a pedestal on the basis that they're high profile or well known or whatever.

30

CROWN PROSECUTOR: No, indeed. But just to achieve - yeah, very well. I just wanted to check the purpose.

35

HER HONOUR: I'll be making sure that they're all aware, the panel, the ones that are chosen and are not chosen, that there are non-publication orders in relation to the names of the witnesses.

40 CROWN PROSECUTOR: Very well, your Honour.

HER HONOUR: Just on a general basis for this stage.

CROWN PROSECUTOR: This stage, yes, your Honour.

45

HER HONOUR: But there is no application, is there, by the Crown for a non-publication in relation to the other witnesses that aren't covered by s 578A of the Crimes Act?

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5 CROWN PROSECUTOR: Your Honour, I'm asking at this stage that the previous orders made by Judge Yehia continue, but with a view to revisiting that, I've asked my solicitor to go with some more detail to particular witnesses who have expressed concerns. So it would be a much refined list but at this stage, your Honour, I'd ask nothing with respect to it because they're existing orders with respect to those witnesses.

HER HONOUR: All right. Okay, any objection to that, Mr Tyler-Stott?

10 TYLER-STOTT: No, your Honour.

HER HONOUR: Okay, so we're ready for the panel?

15 CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: Yes, we might just ask the officer in charge, yes, if you could basically move perhaps--

20 SPEAKER: ...(not transcribable)...

HER HONOUR: The witness might confuse the jury as to why there is a police officer up in the witness box at this stage. Is there another spare seat? Could he use yours? Yeah, just use the - and maybe manoeuvre yourself over near the instructing solicitor or somewhere. Just don't want them wondering who and what you are, basically.

25 I've just been told the MFI 2 was already marked, which was the folder of material that you gave me. So the new indictment of trial indictment will be MFI 3 and the summary MFI 4.

30 MFI #3 NEW INDICTMENT PRESENTED

MFI #4 SUMMARY OF GUILTY AND NOT GUILTY PLEAS

35 Okay, are we ready? How long will it take for the panel to--

SPEAKER: ...(not transcribable)...

40 HER HONOUR: Well, I'll go off and let me know when the panel's in. Thank you.

SHORT ADJOURNMENT

45 IN THE PRESENCE OF THE JURY PANEL

Yes, take a seat. Yes, Mr Crown.

50 CROWN PROSECUTOR: Your Honour, in the trial of Wayne Astill I present an indictment.

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HER HONOUR: Thank you. Mr Tyler-Stott, you appear for the accused, Mr Astill?

TYLER-STOTT: Yes, I do, your Honour.

5

HER HONOUR: And you've seen the indictment?

TYLER-STOTT: I have.

10 HER HONOUR: Yes, Mr Astill, please stand. You'll be arraigned.

ASSOCIATE: Wayne Astill, you stand indicted by that name.

15 CHARGE 1 For that he between 29 January 2016 and 23 December 2016 at Berkshire Park in the State of New South Wales did assault C, and at the time of the assault committed an act of indecency on C in circumstances of aggravation, namely at the time of the offence C was under your authority

20

PLEA Not guilty

25 CHARGE 2 Further that he between 29 January 2016 and 23 December 2016 at Berkshire Park in the State of New South Wales did assault C, and at the time of the assault committed an act of indecency on C in circumstances of aggravation, namely at the time of the offence C was under your authority

30 PLEA Not guilty

35 CHARGE 3 Further that he between 29 January 2016 and 23 December 2016 at Berkshire Park in the State of New South Wales did assault C, and at the time of the assault committed an act of indecency on her in circumstances of aggravation, namely at the time of the offence she was under your authority

40 PLEA Not guilty

45 CHARGE 4 Further that he between 29 January 2016 and 23 December 2016 at Berkshire Park in the State of New South Wales did assault C, and at the time of the assault committed an act of indecency on her in circumstances of aggravation, namely at the time of the offence she was under your authority

PLEA Not guilty

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5	CHARGE 5	Further that he between 29 January 2016 and 23 December 2016 at Berkshire Park in the State of New South Wales did incite C, a person above the age of 16 years, namely 44 years, to commit an act of indecency towards you in circumstances of aggravation, namely at the time of the offence she was under your authority	
	PLEA	Not guilty	
10	CHARGE 6	Further that he between 29 January 2016 and 23 December 2016 at Berkshire Park in the State of New South Wales did assault C, and at the time of the assault committed an act of indecency on her in circumstances of aggravation, namely at the time of the offence she was under your authority	
15	PLEA	Not guilty	
20	CHARGE 7	Further that he between 11 August 2015 and 29 December 2016 at Berkshire Park in the State of New South Wales did misconduct yourself in public office by engaging in an inappropriate sexual relationship with inmate C whilst you were a senior correctional officer at Dillwynia Correctional Centre	
25	PLEA	Guilty	
30	CHARGE 8	Further that he between 1 August 2016 and 18 October 2018 at Berkshire Park in the State of New South Wales did assault K and at the time of the assault committed an act of indecency on her in circumstances of aggravation, namely at the time of the offence she was under your authority	
35	PLEA	Not guilty	
40	CHARGE 9	Further that he between 1 August 2016 and 18 October 2018 at Berkshire Park in the State of New South Wales did assault K, and at the time of the assault committed an act of indecency on her in circumstances of aggravation, namely at the time of the offence she was under your authority	
45	PLEA	Not guilty	
	CHARGE 10	Further that he between 1 August 2016 and 18 October 2018 at Berkshire Park in the State of New South Wales did misconduct yourself in public office by engaging in an inappropriate sexual relationship with inmate K whilst you	

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	were a senior correctional officer at the Dillwynia Correctional Centre	
5	PLEA	Not guilty
	CHARGE 11	Further that he between 19 February 2016 and 1 November 2016 at Berkshire Park in the State of New South Wales did assault H, and at the time of the assault committed an act of indecency on her in circumstances of aggravation, namely at the time of the offence she was under your authority
10		
	PLEA	Not guilty
15	CHARGE 12	Further that he between 1 November 2016 and 1 December 2016 at Berkshire Park in the State of New South Wales did assault H, and at the time of the assault committed an act of indecency on her in circumstances of aggravation, namely at the time of the offence she was under your authority
20		
	PLEA	Not guilty
25	CHARGE 13	Further that he between 1 November 2016 and 1 December 2016 in Berkshire Park in the State of New South Wales did have sexual intercourse with H without her consent and knowing that she was not consenting to the sexual intercourse in circumstances of aggravation, namely at the time of the offence she was under your authority
30		
	PLEA	Not guilty
35	CHARGE 14	Further that he between 1 November 2016 and 1 December 2016 at Berkshire Park in the State of New South Wales did incite H, a person above the age of 16 years, namely 40 years, to commit an act of indecency towards you in circumstances of aggravation, namely at the time of the offence she was under your authority
40		
	PLEA	Not guilty
45	CHARGE 15	Further that he on 1 November 2016 in Berkshire Park in the State of New South Wales did have sexual intercourse with H without her consent and knowing that she was not consenting to the sexual intercourse in circumstances of aggravation, namely at the time of the offence she was under your authority
50	PLEA	Not guilty

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5	CHARGE 16	Further that he on 1 November 2016 in Berkshire Park in the State of New South Wales did have sexual intercourse with H without her consent and knowing that she was not consenting to the sexual intercourse in circumstances of aggravation, namely that at the time of the offence she was under your authority	
10	PLEA	Not guilty	
15	CHARGE 17	Further that he on 1 November 2016 in Berkshire Park in the State of New South Wales did have sexual intercourse with H without her consent and knowing that she was not consenting to the sexual intercourse in circumstances of aggravation, namely that at the time of the offence she was under your authority	
20	PLEA	Not guilty	
25	CHARGE 18	Further that he on 8 January 2017 in Berkshire Park in the State of New South Wales did have sexual intercourse with H without her consent and knowing that she was not consenting to the sexual intercourse in circumstances of aggravation, namely that at the time of the offence she was under your authority	
30	PLEA	Not guilty	
35	CHARGE 19	Further that he on 8 January 2017 in Berkshire Park in the State of New South Wales did have sexual intercourse with H without her consent and knowing that she was not consenting to the sexual intercourse in circumstances of aggravation, namely that at the time of the offence she was under your authority	
40	PLEA	Not guilty	
45	CHARGE 20	Further that he on 27 January 2017 in Berkshire Park in the State of New South Wales did have sexual intercourse with H without her consent and knowing that she was not consenting to the sexual intercourse in circumstances of aggravation, namely that at the time of the offence she was under your authority	
50	PLEA	Not guilty	
	CHARGE 21	Further that he between 3 August 2017 and 10 August 2017 in Berkshire Park in the State of New South Wales did have sexual intercourse with H without her consent and knowing that she was not consenting to the sexual	

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		intercourse in circumstances of aggravation, namely that at the time of the offence she was under your authority	
5	PLEA	Not guilty	
	CHARGE 22	Further that he between 1 September 2017 and 1 October 2017 at Berkshire Park in the State of New South Wales did incite H, a person above the age of 16 years, namely 40 years, to commit an act of indecency towards yourself in circumstances of aggravation, namely at the time of the offence she was under your authority	
10			
	PLEA	Not guilty	
15	CHARGE 23	Further that he between 1 September 2017 and 1 October 2017 at Berkshire Park in the State of New South Wales did assault H, and at the time of the assault committed an act of indecency on her in circumstances of aggravation, namely at the time of the offence she was under your authority	
20			
	PLEA	Not guilty	
25	CHARGE 24	Further that he between 19 February 2016 and 1 October 2018 at Berkshire Park in the State of New South Wales did misconduct yourself in public office by engaging in an inappropriate sexual relationship with inmate H whilst you were a senior correctional officer at the Dillwynia Correctional Centre	
30			
	PLEA	Guilty	
35	CHARGE 25	Further that he between 27 March 2017 and 18 October 2018 at Berkshire Park in the State of New South Wales did assault O, and at the time of the assault committed an act of indecency on her in circumstances of aggravation, namely that at the time of the offence she was under your authority	
40			
	PLEA	Not guilty	
45	CHARGE 26	Further that he between 27 March 2017 and 18 October 2018 at Berkshire Park in the State of New South Wales did assault O, and at the time of the assault committed an act of indecency on her in circumstances of aggravation, namely that at the time of the offence she was under your authority	
50			
	PLEA	Not guilty	

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5	CHARGE 27	Further that he between 27 March 2017 and 18 October 2018 at Berkshire Park in the State of New South Wales did assault O, and at the time of the assault committed an act of indecency on her in circumstances of aggravation, namely that at the time of the offence she was under your authority
	PLEA	Not guilty
10	CHARGE 28	Further that he between 27 March 2017 and 18 October 2018 at Berkshire Park in the State of New South Wales did have sexual intercourse with O without her consent, knowing that she was not consenting to the sexual intercourse in circumstances of aggravation, namely that at the time of the offence she was under your authority
15		
	PLEA	Not guilty
20	CHARGE 29	Further that he between 27 March 2017 and 18 October 2018 at Berkshire Park in the State of New South Wales did have sexual intercourse with O without her consent, and knowing that she was not consenting to the sexual intercourse in circumstances of aggravation, namely that at the time of the offence O was under your authority
25		
	PLEA	Not guilty
30	CHARGE 30	Further that he between 27 March 2017 and 18 October 2018 at Berkshire Park in the State of New South Wales did have sexual intercourse with O without her consent, and knowing that she was not consenting to the sexual intercourse in circumstances of aggravation, namely that at the time of the offence O was under your authority
35		
	PLEA	Not guilty
40	CHARGE 31	Further that he between 27 March 2017 and 18 October 2018 at Berkshire Park in the State of New South Wales did have sexual intercourse with O without her consent, and knowing that she was not consenting to the sexual intercourse in circumstances of aggravation, namely that at the time of the offence O was under your authority
45		
	PLEA	Not guilty

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5	CHARGE 32	Further that he between 4 January 2016 and 20 February 2019 at Berkshire Park in the State of New South Wales did misconduct yourself in public office by engaging in an inappropriate sexual relationship with inmate O whilst you were a senior correctional officer at Dillwynia Correctional Centre	
	PLEA	Guilty	
10	CHARGE 33	Further that he between 1 June 2016 and 1 June 2018 at Berkshire Park in the State of New South Wales did misconduct yourself in public office by engaging in an inappropriate relationship with inmate G whilst you were a senior correctional officer at the Dillwynia Correctional Centre	
15	PLEA	Not guilty	
20	CHARGE 34	Further that he between 1 April 2017 and 14 May 2017 at Berkshire Park in the State of New South Wales did assault M, and at the time of the assault committed an act of indecency on M in circumstances of aggravation, namely that at the time of the offence M was under your authority	
25	PLEA	Not guilty	
30	CHARGE 35	Further that he between 1 April 2017 and 14 May 2017 at Berkshire Park in the State of New South Wales did assault M, and at the time of the assault committed an act of indecency on her in circumstances of aggravation, namely that at the time of the offence she was under your authority	
35	PLEA	Not guilty	
40	CHARGE 36	Further that he between 6 May 2016 and 27 May 2017 at Berkshire Park in the State of New South Wales did misconduct yourself in public office by engaging in an inappropriate sexual relationship with inmate M whilst you were a senior correctional officer at the Dillwynia Correctional Centre	
45	PLEA	Guilty	
	CHARGE 37	Further that he between 1 January 2018 and 18 October 2018 at Berkshire Park in the State of New South Wales did misconduct yourself in public office by engaging in an inappropriate sexual relationship with inmates I and J	

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		whilst you were a senior correctional officer at the Dillwynia Correctional Centre	
5	PLEA	Guilty	
	CHARGE 38	Further that he between 1 April 2018 and 5 August 2018 at Berkshire Park in the State of New South Wales did misconduct yourself in public office by engaging in an inappropriate sexual relationship with inmate F whilst you	
10		were a senior correctional officer at the Dillwynia Correctional Centre	
	PLEA	Guilty	
15	CHARGE 39	Further that he between 19 January 2016 and 6 July 2018 at Berkshire Park in the State of New South Wales did assault N, and at the time of the assault committed an act of indecency on her in circumstances of aggravation, namely that at the time of the offence she was under your	
20		authority	
	PLEA	Not guilty	
25	CHARGE 40	Further that he between 19 January 2016 and 6 July 2018 at Berkshire Park in the State of New South Wales did assault N, and at the time of the assault committed an act of indecency on her in circumstances of aggravation, namely that at the time of the offence she was under your	
30		authority	
	PLEA	Not guilty	
35	CHARGE 41	Further that he between 19 January 2016 and 6 July 2018 at Berkshire Park in the State of New South Wales did assault N, and at the time of the assault committed an act of indecency on her in circumstances of aggravation, namely that at the time of the offence she was under your	
40		authority	
	PLEA	Not guilty	
45	CHARGE 42	Further that he between 14 March 2014 and 20 February 2019 at Berkshire Park in the State of New South Wales did misconduct yourself in public office by engaging in an inappropriate personal relationship with inmate N whilst you were a senior correctional officer at the Dillwynia Correctional Centre	
50	PLEA	Not guilty	
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5	CHARGE 43	Further that he between 1 July 2018 and 20 February 2019 at Berkshire Park in the State of New South Wales did misconduct yourself in public office by engaging in an inappropriate sexual relationship with inmate Witness E whilst you were a senior correctional officer at the Dillwynia Correctional Centre	
	PLEA	Guilty	
10	CHARGE 44	Further that he between 17 June 2018 and 14 September 2018 at Berkshire Park in the State of New South Wales did have sexual intercourse with D without her consent and knowing that she was not consenting to the sexual intercourse in circumstances of aggravation, namely at the time of the offence she was under your authority	
15	PLEA	Not guilty	
20	CHARGE 45	Further that he between 17 June 2018 and 4 September 2018 at Berkshire Park in the State of New South Wales did misconduct yourself in public office by engaging in an inappropriate sexual relationship with inmate D whilst you were a senior correctional officer at the Dillwynia Correctional Centre	
25	PLEA	Not guilty	
30	CHARGE 46	Further that he between 1 July 2018 and 18 October 2018 at Berkshire Park in the State of New South Wales did assault A and at the time of the assault committed an act of indecency on her in circumstances of aggravation, namely that at the time of the offence she was under your authority	
35	PLEA	Not guilty	
40	CHARGE 47	Further that he between 1 July 2018 and 18 October 2018 at Berkshire Park in the State of New South Wales did assault A, and at the time of the assault committed an act of indecency on her in circumstances of aggravation, namely that at the time of the offence she was under your authority	
45	PLEA	Not guilty	
	CHARGE 48	Further that he between 1 July 2018 and 18 October 2018 at Berkshire Park in the State of New South Wales did misconduct yourself in public office by engaging in an inappropriate sexual relationship with inmate A whilst you	

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were a senior correctional officer at the Dillwynia Correctional Centre

5 PLEA Not guilty

CHARGE 49 Further that he between 24 June 2018 and 18 October 2018 at Berkshire Park in the State of New South Wales did assault S and at the time of the assault committed an act of indecency on her in circumstances of aggravation, namely, that at the time of the offence, she was under your authority

10

PLEA Not guilty

15 CHARGE 50 Further that he between 24 June 2018 and 18 October 2018 at Berkshire Park in the State of New South Wales did assault S and at the time of the assault committed an act of indecency on her in circumstances of aggravation, namely that at the time of the offence, she was under your authority

20

PLEA Not guilty

25 CHARGE 51 Further that he between 24 June 2018 and 18 October 2018 at Berkshire Park in the State of New South Wales did misconduct yourself in public office by engaging in an inappropriate sexual relationship with inmate S whilst you were a senior correctional officer at the Dillwynia Correctional Centre

30 PLEA Not guilty

35 HER HONOUR: So, ladies and gentlemen, you've heard then the accused, Mr Astill, plead guilty to seven counts on the indictment, which is simply the document that was handed up which contains the charges and pleaded not guilty to 44 other counts. In relation to the 44 other counts and for his plea of not guilty, that is why we need to select the jury. Because the length of the trial, the length of the estimate is around six weeks, we're going to be selecting 15 of you to be on the jury, so that is the 12 that normally makes up a jury plus three reserves because of the length of the trial. So that's what we're about to do.

40

45 Now, I don't know how much you've been told downstairs but let me just tell you a couple of things in relation to the trial and the way that we operate. We work Monday to Friday here. We ask the jurors to come in by 9.30 and Court normally finishes at 4 o'clock in the afternoon, with some breaks throughout the course of the day because it's hard going listening to the evidence at times. Now, that's five days a week. There may be the exception where we finish early or start late or whatever, but you'll be advised of that if possible and

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so that you can plan your week in accordance. So it means that you have to arrive though Monday to Friday unless there is a day that we're not sitting.

5 What it also means is that when you do arrive, you must be focused on the jury service. You'll be sitting in the jury box and so it's not as though you can bring your laptop or your phone in to the courtroom and conduct your business or your social life during the course of the day. I grant access to your phone and the like at lunchtimes, but you won't be accessing them or looking at your laptop during the time that you're in Court. So you need to focus on the
10 evidence and listen to the evidence.

You also need, of course, to understand the English language and be able to read the English language. If you can follow what I am saying, you are perfectly equipped to be a juror in relation to the level of English language.
15 You do not need to be a lawyer to understand the legal concepts that might arise in this trial. That is my job, to make sure that you understand them and how you need to apply them. So, for example, in relation to the duration of the trial, I say six weeks and that's an estimate. It could go shorter, often they go a bit longer and, of course, it will depend on deliberations. But if, for example,
20 you have a holiday booked and paid for in the next six weeks, then you need to let me know.

The other thing that's expected of you is that when you are sitting in as a juror, there will be times, a period of hours, that you're sitting listening to evidence.
25 You need to be mentally and physically able to do that. If you have a physical or mental ailment that will prevent you from being able to concentrate, for example, a knee or it's uncomfortable for you to sit for more than 15 minutes or an hour or so at a time, then you need to let me know because there'll be periods of time you'll be sitting there for a couple of hours.

30 Now, before we actually select the 15 of your, I am going to ask the Crown Prosecutor, who's the barrister to my right, which is to your left, to give you a very quick outline or a blurb as to what this case is about. You may have picked up from the reading of the indictment but if we just outline to you what
35 essentially the Crown case is about and what they are alleging and also a name of witnesses or people that may be referred to in this trial because the aim, of course, in selecting a jury is to select a good jury, to select an impartial jury that will be fair to both the Crown and to the accused. So if, for example, you're related to one of the witnesses or you know one of the witnesses really well, that makes your ability to be impartial and to be a fair juror, that it reduces
40 that ability, then you need to let me know. So please listen carefully to what the Crown Prosecutor is about to say to you.

45 CROWN PROSECUTOR READ LIST OF WITNESSES

CROWN PROSECUTOR: Now, her Honour also asked me just to give you a very brief overview of what the prosecution allegations are, so that you understand what it is, the subject matter, of what you would be listening to. And, as you may have gleaned, when you heard the indictment read out by her
50 Honour's associate, the accused in the case was at the relevant time a senior

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5 corrections officer, a prison officer in the old language at an all-female gaol out at Berkshire Park near South Windsor in north-western Sydney. That gaol is called Dillwynia Correctional Centre. There's allegations with respect to a number of women that Mr Astill has sexually assaulted the women, otherwise engaged in sexual acts with them and otherwise misconducted himself having regard to his duties as a corrective services officer.

10 So far as the sexual assault evidence is concerned, you would not be subjected to videos or graphic sort of visual evidence or that sort of thing, but what you would be required to do is listen to a number of these women describing sexual acts which, the allegation is, they say were not consensual, so you might take that into account, to the extent that you'd be listening to those sort of accounts from witnesses who may at times become upset and the like. So the offending which is alleged by the prosecution is said to have
15 taken place between 2014 and 2019. I will just add this finally before I sit down. A number of the names that you heard called out are or were inmates in the gaol and some of those names may have been familiar to you.

20 HER HONOUR: So, ladies and gentlemen, you've heard a bit about what the Crown case is about and the witnesses or the people that will be referred to in this trial. So what I'm going to ask you now is that if you are seeking to be excused from being a juror in this trial, that you raise your hand. What I'm going to ask is that one by one you come up to speak to me up on the side here and make your application. So if there's anyone that is seeking to be
25 excused, can you stand and line up, please? Can I also advise that making it that it's just simply inconvenient for your work or your employer is not a valid reason to seek being excused from a jury.

30 HER HONOUR CALLED ON JURORS IN ACCORDANCE WITH S 38(7)(b) OF THE ACT

Yes. Thank you. We'll call for the enrolment.

35 JURY EMPANELLED

ASSOCIATE: Wayne Astill, please stand. Members of the jury, the accused stands charged by the name of Wayne Astill on the charges, on the arraignment for which he has pleaded not guilty to. He has pleaded guilty to counts 7, 24, 32, 36, 37, 38 and 43 and not guilty to the other 44 counts. Your
40 duty therefore is to inquire whether he is guilty or not guilty, to listen to the evidence and to return your verdict according to the evidence.

45 HER HONOUR: Now, to the remaining panel, thank you very much for giving up your time. It is appreciated. We understand it is of some inconvenience but it is a critically important component of our criminal justice system that we have the community contribute by being members on the jury. So we appreciate the fact that you have made yourself available and that you have attended and that you were willing to be on the jury panel. So I thank you all. I don't know what's in store for you. No doubt, the court officers will let you

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know as you leave the Court, but again, thank you very much and have a great day.

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IN THE PRESENCE OF THE JURY

HER HONOUR: So ladies and gentlemen of the jury, I can now call you that, what we're going to do, no doubt some of you will need to make arrangements
5 now that you have been selected as jurors. So what I'm proposing to do is to let you go out and meet each other. You're going to be spending a bit of time with each other over the next few weeks. So have a cup of tea and coffee. There's also some paperwork that you need to fill in that ensures, for example, that you get paid, so it's a fairly important piece of paper that you want to fill in.
10 But make those arrangements that you need to make, for example, letting your family know or kids that might need to get picked up or whatever. But we'll be sitting through to 4 o'clock today. I'll indicate as we're going, this week is a little bit disjointed for me 'cause I've already been allocated other matters but from then on, from next week, it will be full-on in relation to it. So there may be
15 some time for the rest of the week after today where we may not be sitting but I'll give you the heads-up so you know and you can plan. So go out and have a cup of tea. It usually takes a little while. We'll have morning tea, as well.

20 HER HONOUR EXPLAINED TO JURY COURT PROCEDURES RELATING TO GENERAL SITTING TIMES, LUNCH AND MORNING TEA BREAKS

But if you can put in the room where you will be will be your room for the next six or so weeks. It's also where you can store all your items. And just
25 remember, of course, as I said earlier, there's no mobile phones, there's no laptops, there's no iPads being brought back to Court or your personal belongings. But just get to know each other, have a cup of tea and we'll see you in about 25 minutes. Thank you very much.

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IN THE ABSENCE OF THE JURY

I expect it will be about 25 to 30 minutes 'cause the extra number of jurors, as well, so let's say 5 to 12. If there's any delay, I'll let you know but it should be
5 around that time. So then I'll give my opening remarks, which will only go for about 20 minutes and then you can start your opening address.

SHORT ADJOURNMENT

10 Just a couple of things before we get jury in. Just to confirm, the new consent directions, do they have any applicability in this trial?

CROWN PROSECUTOR: No.

15 HER HONOUR: Because of?

CROWN PROSECUTOR: The time of the offences.

20 HER HONOUR: Time of the offences or time that it was brought in this Court? It doesn't matter about the time of the offences, I didn't think. I thought it was the proceedings not the offences. It may be because it started as a trial in relation to the first arraignment back--

25 CROWN PROSECUTOR: Years ago, yeah.

HER HONOUR: --pre the time, but you might want to have a look at that.

CROWN PROSECUTOR: I will.

30 HER HONOUR: I'm pretty sure it doesn't relate to the offences. It relates to the proceedings.

CROWN PROSECUTOR: To retrospectively change criminality.

35 HER HONOUR: Well, not really, it's just the directions that you give because it's more enlightened. So it's just like the other tendency 97A.

CROWN PROSECUTOR: I understand.

40 HER HONOUR: It's not offences. It's proceedings. So just double-check on that, but the commencement of the proceedings may well be the first arraignment date. And, secondly, one of the counts had two complainants contained within the misconduct charge. That's deliberate?

45 CROWN PROSECUTOR: Yes.

HER HONOUR: Permissible?

50 CROWN PROSECUTOR: Yes.

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HER HONOUR: Okay. Are we ready to go? Is there an agreed facts that you're going to hand up?

5 CROWN PROSECUTOR: There is some agreed facts, yes, your Honour.

HER HONOUR: Can I have that before you hand that up. And I take it the indictment that you gave me had the law part code, but I take it the one you're giving to the jury doesn't.

10 CROWN PROSECUTOR: That's correct, your Honour. I should raise this in light of what your Honour has just raised, what I had proposed to say to the jury, I don't think it would be changed in any event, is that consent necessarily has to be freely and voluntarily given, when I take them to the elements, but as usual I would not go into ...(not transcribable)... trespass on the law greatly. I'll
15 leave that to your Honour. But I don't think what I would say would be controversial in any event. There's further agreed facts coming, your Honour. Just waiting for the pleas and the like but those are--

20 HER HONOUR: Well, if there isn't a concerted position yet then I can wait. Okay. Well, get the jury. And I'll just hand down the written directions that I give to the jury, have a peruse and there's nothing confidential, but I'll give it to them at lunchtime.

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IN THE PRESENCE OF THE JURY

Yes, good afternoon, ladies and gentlemen. Take a seat, Mr Astill. Now, what I'm going to do now, I'm just going to give you some opening remarks from me, just to give you a bit of an idea on how this trial will proceed, what your obligations are, what your role is in the trial, and then we're going to hear some opening address and principally the opening address from the Crown which will go into more detail as to what the Crown case is anticipated to be. And we do this because obviously serving on a jury for most if not all of you is a new experience and it's something that hopefully may assist you in understanding what your role and obligations are. There's also going to be a written document when you leave at lunchtime which is really a summary of what I'm about to say to you, so that may be of some assistance.

Now during, some of what I'm going to say to you might be repetitive of what you have already been instructed this morning, so bear with me but it's important that you understand. Now, it's alleged by the Crown here that the accused has committed - on the indictment here were 51 counts on the indictment. He has pleaded guilty to seven of them, so those seven you have on role in, but it's the remaining 44 that you're here to decide whether or not the accused is guilty or not guilty of those charges. Now, during the trial the accused will be referred to as the accused, so Mr Astill, it's not normally that we refer to him as Mr Astill. It's as the accused, because simply because he is accused of committing crimes and it's a matter of convenience.

Now, he's pleaded not guilty to those 44 counts and so has denied those allegations made by the Crown, and so now it becomes your responsibility as the jury to decide whether the Crown is able to prove those charges, those 44 charges beyond reasonable doubt. Now, it's also, as you can see, there are a number of offences that has been alleged by the Crown by a number of complainants, and a complainant simply means a person who has complained of the accused in committing an offence. Now, those charges are being tried together as a matter of convenience. However, you will in due course be required to return a verdict in relation to them separately. You will need to consider each charge separately, and of course there's no legal requirement that your verdict must be the same on all counts, but this will become more apparent when you and I are more familiar with the evidence. I'm not in any greater position than you are at this stage in relation to the trial.

Now, of course there is a number of charges and a number of complainants in this trial and you must be careful that you're not prejudiced, or do not feel any prejudice against the accused because he is facing a number of charges against a number of complainants. He is to be treated like any other accused and that is as being not guilty of any offence unless and until he is proved guilty by your evaluation of the evidence as it unfolds over the next six weeks, and by applying the law that I will explain to you as we go, but centrally at the end of the evidence. The charges are tried together merely because it is convenient to do so and because there is a connection between them. You've heard that he was the senior correctional officer at Dillwynia Correctional

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Centre and the complainants are or were inmates of that centre, so there's that connection.

- 5 Now, I'm going to say a bit more to you about our role and obligation at the end of the trial, but just from the outset so that you have some idea, you should understand that you are the sole judges of the facts, so you resolve, in respect of all matters of dispute, about matters of fact in this case. It's going to be you and not me who's going to decide them. So that means effectively it's up to you to decide what evidence you accept and what evidence you reject.
- 10 And for that reason it's important that you pay careful attention to the witnesses when they come to give their evidence. Now in this trial we'll have some witnesses who will be in Court but due to COVID and various reasons and logistics and convenience, there is also a number of the witnesses and complainants who will give evidence by AVL so that you will see them up on
- 15 the screen. But how a witness presents to you and how he or she responds to questioning, and particularly so in cross-examination, may assist you in deciding whether or not you accept what a witness says to you as being the truth and being reliable.
- 20 Now, you are entitled, as the jury, to accept all of what a witness says. You are entitled to reject all of what a witness says, but you are also entitled to accept some of it and reject another part of it. It's a matter for you as judges of the facts. Now, each of you as well is to perform a function of a judge. You are the judges on the facts and that means that the verdict and the verdicts are
- 25 going to be ultimately your decision. I have no say in the evidence that you accept or reject or what arguments or submissions of counsel that you may end up finding persuasive, nor do I, as I said, decide the verdicts you give in respect to the charges before you. That is your responsibility and you make that decision by determining what facts you find proved by applying the law
- 30 that I will explain to you. Obviously I have a role as a judge in this trial and I am the judge of the law, as you no doubt have presumed. So during the trial I am here to ensure that all the rules of evidence and the rules of fairness and procedure are adhered to, and during the trial and at the end of the evidence I will give you legal directions about the principles that are relevant to this case
- 35 and explain to you how they are to be applied by you to the issues that you have to decide. Of course I may be required by law to warn you as to how you must approach certain types of evidence but in performing this function you must accept and you must apply the law and the principles that come from me.
- 40 Now, during the trial itself, a question of law or evidence may arise. Now, sometimes, and more often than not, that will require me to listen to counsel in your absence, and it means you have to basically go back to the jury room for a period of time. I'll just let you know I appreciate that it can be inconvenient. I appreciate that it can be frustrating sometimes sitting in a jury room twiddling
- 45 your thumbs, but just be aware that it will happen, but please be aware that I will be trying to keep those times to a minimum and try to deal with any legal issues either before Court, after Court or the like as I completely appreciate how frustrating that can be at times. But please just be patient with us. It's not to hide anything from you. It's more the fact that something may be ruled by
- 50 me to be inadmissible or not relevant to the trial and so then if you had heard

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it, it may have been a distraction for you. It also allows counsel to speak more freely to me if you're not here and it makes basically, we can get on with it a little bit quicker. So please don't get offended or think we're hiding anything from you. It's just the way the trials operate.

5

Now let me introduce the lawyers to you or you the people in the courtroom to you so that you understand their roles. The barrister sitting closest to you, as you have heard, is the Crown prosecutor, and in a criminal case it is the prosecutor who presents the charges in the name of the State of New South
10 Wales and on behalf of the community. Now, I refer to the Crown as either Madam Crown if it's a female Crown prosecutor or Mr Crown. Of course that's not their surname, but it is there to signify effectively that they are not acting in any personal capacity but acting on behalf of the state. The lady sitting next to the Crown prosecutor is a solicitor from the DPP, the Director of Public
15 Prosecutions, and she will be there to help him and assist him in presenting the case for the Crown. You may see her and the other gentleman solicitor going in and out of the Court. Please don't be distracted by that. They're just doing their job, getting things and getting things organised for the barrister. So the gentleman sitting next to the lady solicitor is another solicitor who appears
20 for the accused and he will be there to assist his barrister and assist the accused during the course of the trial.

Now, Mr Tyler-Stott is the barrister at the end of the table. He will be appearing for the accused during the course of the trial. He will be giving a
25 brief opening address to you as well and no doubt will be giving a closing address at the end of the trial, putting arguments and submissions to you as to how you should interpret the evidence. Now, my associate is also a solicitor who is below me, just underneath me, and she is here to assist me during the trial and for my job, so she is here and you will see her nearly every day if not
30 every day, and you also have met the court officer, and there may be some other court officers. They interchange and sometimes it won't be the some one throughout the course of the trial. Can I just indicate though, the court officers are there to bring you in and out of court. They are to make sure that you are comfortable, to make sure you get your food, make sure you have
35 your pens and your pads and whatever you might need, or your notes, but they are not there to ask questions about the trial. So any question that you have concerning yourself, if there's some issue or particularly if there's an issue about a witness or you want to ask a question or there's some query that you may have, please put it down in writing. You will have notes and notepad, or
40 jury notes in your jury room. Write it down, your issue. Put it in an envelope and give it to the court officer but please don't discuss it with him or her. That will be then sent to me, so all notes and queries go to me, and then I will speak to counsel about what is of concern to you if that's appropriate, and we will get you back in and hopefully resolve the issue or the query that you may have.
45 So any issue on the law or any issue in relation to this trial or any issue that you have personally, put down in a piece of paper, put it in an envelope and address it to me.

You've seen that you've all got pens and a folder. That folder takes the
50 exhibits. Some of the paper exhibits can be placed in there so you have your

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own copy. Please just be aware, the evidence itself is recorded from the witnesses and that means we get a transcript every day of the evidence, so rather than putting your head down and missing things and trying to write down all the evidence, of course feel free to do that if you wish but it might be more
5 worthwhile, you will see writing particular points down or your impressions that you had about a witness down rather than the evidence per se because you are entitled to receive a copy of the transcript of the evidence if you request it from me. So if you wish to get a transcript of a particular witness or all of the witnesses in this trial, you only need to put a note down to let me know, okay,
10 so that stops you having to try and write everything down and five weeks later trying to remember what someone said on day one. So that's there for you.

Now, can I just quickly say anything about if there's been any media publicity, I'm not aware of any. There may well have been. Can I just also advise that
15 we have in-court court reporters. We have media from TV, print and radio, do drop into various trials throughout the course of the day or through the week. They may well drop in. They may well write an article or be on TV or be on the radio. Can I ask you from the outset, if there has been anything that
20 you've seen or heard or read, put it to one side and in the future please don't even both listening, reading it or viewing it if it's on TV or on the paper. More often than not they come in for a quick spurt and write down something quickly, and it can be, in the end, whether it's inaccurate or accurate, but it can also have no bearing or no relevance to the issues in the trial. And once again
25 it's not the journalist who is deciding the verdicts in this case, it's you. So please, the easiest and the best way forward is just to ignore it and put it to one side.

Now, in relation to what is a criminal trial or what the nature of a criminal trial is, the overall issue in a criminal trial is whether the Crown can prove the
30 charges alleged on the indictment. So the evidence that's placed before you on that issue is under the control of counsel of both parties and I basically have no role in that except to deem it relevant and, that is, that it goes to some significance to the facts and the issues in the trial. So the parties of course
35 decide what issues or what facts are in dispute, and I play no role in which witnesses are called. As I said, my task is only to ensure that the evidence being led before you is relevant to the facts in issue that you have to decide.

Now, usually, of course, there is no issue between the parties, have decided whether something is relevant or not to a fact in issue, but if there's an
40 objection or if there's a question of relevance, and that's something that I need to determine, and as I said to you before that may need to occur in your absence. But the obligation on the Crown is to put evidence before you the jury in order to prove beyond reasonable doubt that the accused is guilty of the charge or the charges alleged against him. So it's important to bear that in
45 mind throughout the trial and during the course of your deliberations, that fundamental aspect of a criminal trial. It is the Crown that must prove the accused guilty based on the evidence it places before you. The accused has no obligation to produce any evidence or to prove anything at all at any stage in the trial. In particular, the accused does not have to prove that he did not
50 commit the offences. The accused is presumed, like any other accused in an

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Australian criminal trial, he is ...(not transcribable)... to be innocent of any wrongdoing until a jury is satisfied beyond reasonable doubt that his guilt has been established according to law. That does not mean though that the Crown has to satisfy you of its version of the facts wherever a dispute arises. What is
5 required is that the Crown must prove those facts that are essential to making out the charge and proves those facts beyond reasonable doubt. Now they're sometimes referred to as the ingredients of the offence, or the essential facts or the essential elements of an offence.

10 So as you are aware, there are 44 counts on the indictment that you need to decide upon. Within each of those counts is a particular charge, so a particular charge is a count on the indictment. Within that particular charge it is made up of essential elements or ingredients that make up that charge. It is those ingredients that the Crown must prove beyond reasonable doubt, but
15 we'll get to them. It sounds complicated, but when I'm summing up to you at the end of the trial I will also provide you a written document which will outline all the essential elements that need to be proven beyond reasonable doubt in a written form so you can go through that.

20 Now, the expression beyond reasonable doubt, you've no doubt heard it. It's an old expression. It's an ancient expression. It's been around in criminal law for centuries. But it effectively means what it says, proof beyond reasonable doubt. It's the highest standard of proof known to law. It is sometimes
25 compared to the lower standard of proof in civil cases where it's held on the balance of probabilities. Now, this test in criminal case is not whether the accused is probably guilty. In a criminal trial the Crown must prove the accused guilty beyond reasonable doubt. So obviously a suspicion, even a strong suspicion that the accused may be guilty is not enough. A decision that the accused has probably committed the offence or offences also falls short of
30 what is required. Before you can find the accused guilty you must consider all the evidence placed before you and ask yourself whether you are satisfied beyond reasonable doubt that the Crown has made out its case. The accused is entitled by law to the benefit of any reasonable doubt that is left in your mind at the end of your deliberations.

35 Now, flowing from that, as I said that the trial is going to last for around six weeks, maybe longer, maybe shorter, but it should be obvious that what I'm saying to you is that you determine your verdicts, you determine your position in relation to the verdicts based only on the evidence that is produced in this
40 trial by the parties over the next six weeks. So that's one of the reasons why we say that you don't read the newspapers, don't listen to the TV, because then you may be infiltrated or subconsciously taking into account what someone else has said. So you concentrate solely on what is produced in the Court during the next six weeks and it is from that evidence that you base your
45 verdicts upon.

So flowing from that again is, we ask you, and it happens very rarely, but if it does, then there's serious repercussions for it, but we also direct you that you are not to discuss the evidence that you hear in the courtroom with anyone
50 else apart from your fellow jurors when you're all together. So it's not about

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getting into groups of three and four and having a chat about it. It needs to be with the whole 15 of your discussing it before you start discussing the evidence. You're no doubt going to go home. There is a good likelihood that this will be on TV or in the newspaper at some stage, maybe or maybe not, but
5 if your friends or your family ask you what your trial is about, ask you what the evidence is about, please tell them that you have been directed by the trial judge that you are not to discuss the evidence in this case. And once again, the reasoning for that is the people that you're talking to or want to voice their opinion as to how you should view something or view someone, they're not
10 here listening to the evidence. They're not here viewing the person given their evidence and they're not here seeing the evidence as it is being produced throughout the trial. So please just nip that in the bud straightaway and tell them that you've been directed not to discuss it.

15 And in addition to that is that there is a prohibition, if you can make sure that you do not go searching and be investigators yourself. So it is an offence for a juror to get on Google and go on your computer and start googling up the names of people involved in this trial, bringing forward information on your own and doing your own investigation, for example, driving past the Dillwynia
20 Correctional Centre or the like. All of that is strictly prohibited and it's indeed a criminal offence, so please just concentrate on your normal life outside of this courtroom, but when you're in the courtroom it's listening to this evidence and this evidence alone, and make your verdict and your decisions based upon that. If of course you become aware of anyone doing the wrong thing you
25 need to let me know.

Now, some nicer issues. We sit, as I said to you, at around 10 o'clock each morning. This week is going to be a bit different and I'll let you know as soon as I know firmly as to how we're going to proceed for the rest of the week
30 because I have already been allocated other matters, but that's not going to happen from this week onwards, but I will discuss that with counsel and let you know by the close of business today what's going ahead for the next couple of days. But we normally sit from 10.00 till 4.00. You'll have a break at 11.30. We ask you to be here at 9.30 so we know everyone's here and we're ready to
35 kick off with a fresh start again at 10am. 11.30 we have morning tea. As I said, it's provided. It goes for about 20 minutes. 1.00 to 2.00 we have lunch always, and that's provided, and then there's a session 2.00 to 4.00 in the afternoon. Now sometimes that can be a bit hard going. If you feel like you're drifting off, or I feel like I'm drifting off or your drifting off, we'll have a break at
40 around 3 o'clock just to stretch our legs and have a bathroom break or the like and if you need to go to bathroom of course when you're sitting there, please let me know because it can be quite distracting and you're not going to be listening to the evidence if you have an urgent need to do something else. So just let me know about that.

45 If you are too hot or too cold or you cannot hear a witness or you're having difficulty with understanding the evidence or the like, please let me know because it's very important of course that you hear the evidence and you understand the evidence as it's falling. If there is any other difficulty, a
50 personal difficulty that arises, that is, causing a distraction to you or the like,

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then you need to let me know. There is a requirement, as I said, that you attend every day that Court is sitting. If, for example, you are sick. Particularly we're going through the COVID and that's one of the reasons why we have 15 jurors, if, for example, you are feeling ill with COVID systems, of course you don't attend, but just be aware that if you do not attend on a court day, we don't sit, so it's not as though you can catch up by reading the transcript the following day. But if you're sick you sick. We don't want you attending, and that's just the way it is, particularly now. But please just be aware that there is the obligation that you attend every day when you are well.

Now, I think that's about all. In relation to how the trial is going to flow, I am going to ask the Crown prosecutor shortly to commence his opening address. I expect that that may take some little while because the length of the charges on the indictment, but please just understand that what the Crown is about to say to you is not evidence per se. It is just an outline of the Crown case. So it's giving you, so that when the evidence is actually called by the witnesses, you'll understand and be able to put it in some context and it just won't be completely out of the blue. But what he is about to say to you now is not evidence in the trial. I will then ask Mr Tyler-Stott if he's going to respond to the matters in the Crown opening. The purpose of a defence opening is very different to a Crown. It is simply to indicate to you the areas in dispute and briefly the defence answer to the prosecution's allegations. Now, neither counsel are going to be putting forward any arguments or any submissions to you at this stage of the trial. That will occur at the end of the trial. Then the evidence is going to be led, and that will be, as I said, by witnesses giving evidence in the witness box here before me or on an AVL.

Now, there may be documents, there may be photographs, I'm not aware, that become exhibits in the trial, but you will get copies of them and they can be placed in your own individual folder. Now, the end of the evidence both the counsel will address you. Mr Crown will go first. That's, traditionally the Crown always goes first in closing address and then Mr Tyler-Stott will address you on behalf of the accused. After that I'm going to sum up, and that summing-up reminding you of the law that you have to apply and the elements and ingredients that need to be proven, and I'll be setting out the issues that you need to consider before you reach your verdicts. Then you're going to be asked to retire to consider your verdicts. You will be left alone in the jury room with the exhibits to go on with your deliberations in any way you so choose. If your deliberations last more than a day then you will be allowed to go home overnight. They used to keep jurors in, but you're allowed to go home overnight and return the next day to continue with your deliberations. Now in relation to that as well, can I just, as an aside, in relation to a foreperson, how you choose a foreperson is a matter for you, so you can choose a foreperson by secret ballot, volunteering, nominating, voting, whatever way you choose. When you choose a foreperson is also a matter for you. A foreperson has no greater role in the jury than announcing the verdicts at the end, so a foreperson is your spokesperson for the verdicts. He doesn't or she doesn't carry an extra weight or an extra vote and so when you determine to choose a foreperson, as I said, it can be at any stage of the trial, but of course when you're delivering your verdicts it's a very good idea to have had a foreperson

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chosen by then. The foreperson when they're announcing the verdicts will sit where the gentleman closest to me is, simply because there's a microphone in front of him and that is to announce and record your verdicts.

- 5 So when you have reached verdicts you will let me know by simply writing a note stating you've reached verdicts without telling me what the verdicts are, and you will be brought back into the courtroom and your foreperson will give the verdicts on behalf of you all, and that will complete your functions and role as a juror in this trial. Now, as I said to you before, just quickly, in relation to, because of the length of the trial we choose 15 jurors and because of COVID and the like there is a chance that numbers drop during the course of the lengthy trial. At the end though when there is to be deliberations, if there are more than 12 jurors it will be a ballot for the 12 jurors to be chosen in relation to who's going to deliberate and to give the verdicts in relation to that, but that's a fair while away so we won't worry about that yet, but just so you know the reasoning for the 15, the 15 people on the jury. So, yes, thank you. We've only got 15 minutes but we'll utilise the time to 1 o'clock and Mr Crown can commence his opening address to you.

- 20 FOR PROCEEDINGS AFTER 12.43PM SEE SEPARATE TRANSCRIPT

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IN THE DISTRICT COURT
OF NEW SOUTH WALES
CRIMINAL JURISDICTION

5 JUDGE O'ROURKE SC
AND A JURY OF FIFTEEN

WEDNESDAY 27 JULY 2022

10 **2019/00056907 - R v Wayne Gregory ASTILL**

STATUTORY NON-PUBLICATION ORDER

15 Mr S Hughes as Crown Prosecutor
Mr J Tyler-Scott for the Accused

20 PROCEEDINGS TAKEN OVER FROM SOUND REPORTERS AT 2PM
IN THE ABSENCE OF THE JURY

25 HER HONOUR: We might go for about 45 minutes and then have a bit of a
break, Mr Crown.

25 CROWN PROSECUTOR: Thank you, your Honour. By that stage I could give
your Honour an update as to how I am moving. Your Honour will probably see
by the number on the indictment--

30 HER HONOUR: Yes, got a bit to get through. I just think it would be better to
get that done tomorrow - the other one can wait - and then Mr Tyler-Scott can
respond and then we will adjourn until Monday.

35 CROWN PROSECUTOR: Yes, your Honour. All my doing but I was
misunderstanding your Honour earlier about that change in the law.
Your Honour is quite right, the directions have changed but the Crimes Act
amendments don't take effect but the Criminal Procedure Act does. That is
where I was confusing myself.

40 HER HONOUR: Yes. In light of the commencement of the proceedings really
with his other trial, or the first trial, I think it is a probably a safer course to just
say that the commencement has already occurred for the implementation of
the Criminal Procedure Act amendments.

45 CROWN PROSECUTOR: Yes. And there was argument, as your Honour
knows, there was pre-trial argument before Judge Sweeney last--

HER HONOUR: Well, that is what I mean.

50 CROWN PROSECUTOR: Yes. No, I understand.

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IN THE PRESENCE OF THE JURY

5 HER HONOUR: Yes, thank you, ladies and gentlemen. What we will do is continue with the Crown opening address for about 45 to 50 minutes and then we are going to have a bit of a break, just to stretch your legs. It is quite difficult to have some address you and be able to listen continuously, so we will have a quick break at around 3, a bit after, and then we will continue.

10 Yes, thank you, Mr Crown?

CROWN PROSECUTOR: Thank you, your Honour.
Members of the jury, just before lunch I'd gone through with you those essential elements or ingredients of particular offences, examples of which
15 appear on the indictment. One of those elements which features is that position of authority. That is, that C, for example, in count 1, was under the authority of the accused.

20 Now, the Crown says - and before I take that any further, her Honour already told you that I am referred to historically as "the Crown", and when I say the Crown it is a bit more jargon. I am referring to the prosecution. So please take that as interchangeable. If I say "the Crown says", that is what I am saying, on behalf of the prosecution.

25 The Crown says this: Of that feature of authority, that is significant in two key respects. Firstly, it has got that legal significance I have already spoken of so far as those types of offences I have referred to, that it is an element of the offence, essential element of the offence. And when I come shortly to that offence known by shorthand as misconduct of a public official, it features in
30 there as well because it's the power that he, Mr Astill, wielded which is relevant to his misbehaviour, his misconduct in his public office.

35 So it has got that legal significance but it also has a factual significance, because the Crown says that that authority, that power imbalance as between gaoler and prisoner, as between Astill and these women, goes towards explaining why there was not an immediate complaint. Because, as you will hear, there was intimidation, the women felt intimidated; the women were vulnerable to being, for example, transferred.

40 So there was enormous power which could be wielded over those women, which, the prosecution says, goes a long way and relevantly explains why there was a delay in reporting, why there was a reluctance, as you will hear, on the part of these women to come forward. Which I will suggest to you ultimately was, well, understandable.

45 The misconduct in public office, that aspect - and, as you are already aware, there has been pleas of guilty to examples of that offence - the first element, though, for those matters where he has pleaded not guilty, of course you need to be satisfied beyond reasonable doubt of these matters.
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He was a public official. There may be no dispute about that. He was in public office; correctives officer. That he was acting at the time in the course of his, and connected to his, occupation, that public office. He's operating as a Corrective Services at the time and it may be there is no issue about that. And
5 that he wilfully, or deliberately, misconducted himself, misbehaved, by doing something or neglecting to do something; that's another element. That there was no reasonable excuse or justification for his behaviour, and the Crown says here there could be no such justification possible.

10 And also this, something I touched upon earlier, that the misconduct, misbehaviour, is serious and it warrants condemnation and criminal punishment, having regard to responsibilities of the office of the officeholder. In other words, the responsibilities with which Mr Astill had been charged or given.

15 We have looked, then, at what are those responsibilities, what are the purposes of them, so far as the public interest. It is to house, keep secure, inmates away from the public, one, quite obviously perhaps. Two, to assist in the rehabilitation. It is quite the opposite, you might think, to what he is alleged
20 to have done and what he has admitted to do have done with respect to those counts to which he has pleaded guilty.

And, as you will hear in the evidence, there are significant rules, protocols, touched upon earlier. I won't belabour the point but in which he has been in
25 breach. He has breached a number of rules; not only, obviously enough, having sexual relations, inappropriate relationships with women, but around that. Favours, contraband. That word simply means smuggled in or items which are not supposed to be there which are brought in surreptitiously or secretly. All amounts to misconduct in the prosecution case.

30 I will move now to the various counts on the indictment. Firstly, counts 1 to 7 I will deal with. By way of background, Wayne Astill was employed in October 1999 by Corrective Services New South Wales. He'd formerly been a police officer, and this is something he had told various people at the gaol,
35 inmates, of, and, indeed, one inmate is shown a photograph of himself as a younger police officer. He left the police force, as I say, in the 90s and he joined the Corrective Services.

40 In 2009, so 10 years later, he's transferred from Parklea, which is a male gaol, male inmates, to Dillwynia Correctional Centre. He is promoted to senior correctional officer and in 2017 he was promoted to chief correctional officer.

45 So, as part of his duties, both as a senior correctional officer and certainly as the chief, he had a lot of access to all parts of the gaol. You will hear that there is different areas in the gaol depending on the status of the particular prisoners. There is a high needs area, a medium needs area and a low needs area, and then there is a Behavioural Intervention Unit and there will be some evidence about that from, I expect, the first witness to be called, a witness from
50 the Corrective Services department.

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(CROWN PROSECUTOR)

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The accused was, as we have mentioned, in a relationship, as it happened, with another correctional officer, a lady by the name of Tania Hockey. One of the rules so far as Corrective Services officers conducting themselves is, you might not find surprising, that male officers are not to be in the company of female officers alone. You might think that is for very good reason; to protect them, apart from anything else, from suggestions of some sort of impropriety or sexual misbehaviour towards an female inmate. But that is something in fact that Mr Astill did.

10 HER HONOUR: Mr Crown, you said "female officers"; do you say mean "female inmates"? I only intervene because I think it is important.

CROWN PROSECUTOR: I am glad your Honour intervened because it was a slip. It was a slip. Male officers with female inmates. And that might have misled you because I just mentioned Tania Hockey. There is no suggestion it was wrong they were in a relationship. I am simply saying that's a factor that will come out in the case. So the impropriety, or the rule is against male officers being alone with female inmates. I thank your Honour.

20 That is something that Wayne Astill, however, did on numerous occasions.

C was an inmate at Dillwynia from 4 February 2014 to 23 December 2016. She was based within the high needs area and the accused often worked in that area and something of a rapport was built up. That is, something of a friendship of sorts.

He would speak to her about personal matters, including her family; that is, C's family. C's father had been a police officer and he mentioned "I too am a police officer". So he builds up with her this relationship.

30 It led to some comments which C put in a diary, which you will see. Comments which were of a sexual nature, including this:

35 "I've heard you don't have any tan lines. How's that possible?"

That is Astill talking to C, if that is not obvious. And she said:

"Who told you that?"

40 He also said words:

"I'd love to see your tits without tan lines."

45 And said he laughed at that. She made a diary entry about that. He made other similar comments, including the quote "Your arse looks good in those tights" and that sort of thing after she had done some exercise. So this ongoing inappropriate behaviour.

50 There was particular incidents that she recalled. She will tell you that on about six occasions he'd taken her hand and put it on his penis. He'd brought her

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magazines. He would come in, he would touch her, kiss her and offer her access to people who he said could help her. That is, in the gaol. Favours in the gaol. Favours so far as procedurally.

5 Specifically, count 1 on the indictment. It was around the 21st in January 2016 the accused pressed his body up against C while walking past her. And she made a diary note: "A x push up", A being reference to Astill. She said this on several occasions, she will say, he kissed her. They'd speak briefly. When she stood to leave, he'd walk around the desk, she said lunged at her,
10 pressing his lips to her.

On one occasion, she was stuck between the wall and a filing cabinet. He forcibly kissed her, pushing his tongue into her mouth. She was able to move back slightly and he let her leave.
15

There were a number of occasions where he touched or grabbed at her. First count is count 1. The second, the forced kissing, is count 2 on the indictment.

20 Count 3 was an incident which you will hear about, where he noticed that she was unpacking stores from a truck delivery. He grabbed between her legs from behind and touched her vagina on the outside of her clothes, so on the area of the vagina.

25 There was a particular day - this is count 4 - this is an incident where C will say that he felt under her clothes. She was called to the accused's office, and this is something you will hear that he'd do often; a recurring theme with many of the women, him summoning them to the office. Now, they'd have to go, they're the inmate, so they go to his office.

30 This particular day, this is count 4, she went there to his office in the high needs area. Spoke to him. As she stood up to leave, he came close to her, reached his hands up her shorts, put his fingers under the elastic of the her underwear and said words to these effect - and, I'm sorry, but the language is necessarily at times a bit colourful but that is just the nature of the beast, I'm
35 afraid. He said words to this effect:

"I want to feel your pussy. I can already feel you're warm."

40 C will say she pushed his hands way and said something like "come on", "oi come on".

There were a number of occasions; this moves to count 5. This is a charge of inciting an indecent act, again towards C. A number of occasions, late in the evening, the accused would go to C's cell - and, again, this is something of a
45 recurring theme in the trial, you will hear - and knocked on the door and looked in the window.

He gave her several pairs of underwear. One day, shortly after that incident that I refer to as count 4, where he put his hands under her underwear, he told
50 her that in the evening he wanted to see her wearing the underwear he'd given

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here. And she complied by wearing it and would she wear a T-shirt and a robe on top.

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CROWN PROSECUTOR: And which she wore a T-shirt and a robe on top and she did it in the hope that if she complied that he would see her and then leave her alone and that would be the end of it effectively. That night he appeared at her cell room; insisted that he see the underwear, waved his
5 hands at her and blew kisses, the purpose of which was, you will be satisfied, to encourage her to show him the underwear, and she eventually went in and did so. So this was the inciting and encouraging of that act.

10 There was another occasion - this is count 6 - I'm just giving you a little bit of the detail because you will hear it and I don't want to overshadow it. This is not the evidence, it's just an indication of what it's about.

Ms C, C, another inmate went to the chief's office. He went in. Astill, Mr Astill told the other inmate he only wanted to see C. She stood outside and he
15 called out "move away from the door". C said: "What do you want?" He said: "I haven't seen you for a while", words to that effect, and she'd been in the media recently. He reached forward, pulled the chair she was in towards him; she stood up to leave; he reached forward, put his hand up the front of her shorts, moving his fingers under the elastic of her underwear; she pushed his
20 hands away. He said: "No one will see", and she left.

Now, the conduct relied on in count 7 is that there was sexual relationship but it was more than the touching which formed part of those counts, those first six
25 counts. The whole relationship was grossly inappropriate; giving her favours for the purpose that he did was a breach of his duty as a correctives officer, about which there will be evidence, and his conduct towards her in its totality was a serious breach of his public duty.

30 And one of the problems with this, apart from that which may be obvious and that one of the aims of the prison is that a person be rehabilitated is that quite apart from not achieving that, causing more problems, it leaves open that officer to blackmail, another problem with the public officials misusing their power in a way such as Mr Astill the prosecution says has. His lewd
35 comments towards her, all part of that misconduct, members of the jury, we would say.

Now, the prosecution says that as with the various other inmates, the fact of C having ongoing contact has to be seen, with the accused in the circumstances of what has happened, has to be seen in the context of the power and
40 balance. This is not people in the general community who have an option of saying "well, I don't want to see you any more", and there may well be in those cases a good explanation as to why relationships might continue but here she is quite literally a captive audience.

45 And Mr Astill in his position was able to do her favours, able to do these women favours. As you will hear in the evidence, there were both threats and favours; he had it over them, all over them.

K. K relates to counts 8 through to 10.
50 Now, she was an inmate of Dillwynia from 23 February 2015. Now, you won't

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need to remember a lot of these dates so far as when people were at gaols when Mr Astill was working there because there will be agreement as between the parties; it's going to be documents setting out what is in agreement as to that matters that are not controversial, so I can tell you that.

5

K, you will hear evidence from her. She had several rolls working at the gaol. She worked in the kitchen; she was at Dillwynia as well. She at one point was working as a sweeper, which is a cherished position in the gaol for inmates. She would have access to different parts of the gaol; it's for that reason it's quite a trusted position but that's the position that she lost.

10

But she at one stage made a racial comment, this is - a racial comment to a corrective services officer. Following that, now that was obviously the wrong thing to do quite rightly, as one would expect. She was called in by the accused into the office after that incident to see, so far you might expect that that's nothing untoward. She went in there with another inmate by the name of JJ.

15

The accused told K that she had been charged with correctional centre office, offence rather, of being disrespectful to a corrective services officer. They have these internal charges in the gaol system. He didn't, he refused to show her any paper work and he shredded some paper work in his hand and said to her that he would not take any action against her.

20

She and JJ left the office. He followed them and as K walked out the door he grabbed her on the buttocks. Now, she did not agree to that - that goes without saying - and he had no reason to think that she was agreeable to that. She, K will tell you she was shocked, didn't know what to do and she told JJ what he'd done and she'll say that there were other occasions where he did the same thing to her. He would talk about sexual matters with her, lewd sexual comments to her, including what his particular tastes were in women, this sort of thing; the whole behaviour completely inappropriate.

25

30

There was another occasion where the accused approached her. She was kneeling down, doing some cleaning at the reception area and he said "that's exactly" - so that his crotch was at her eye level, and he said "that's exactly what I want you to do; you have done a similar thing on other occasions".

35

Now, I pause there, members of the jury, to say this. There's going to be evidence, I will talk about a recurring theme. These particular women when they give these accounts, no one of these women stands alone; their voice is not alone in any of these because the evidence that I rely on with respect to much of the conduct of the accused is evidence that I rely on to show that he had a tendency to behave in particular ways. I will come to that now.

45

Now, you will get I expect, as with every other area of law there will be directions that her Honour will give you before you are asked to go out and deliberate after the case. When it's all over, the barristers have addressed you, the judge will tell you what the law is to apply to the fact as you find them to be. One will be I expect she will give you an important legal direction about

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the way you can use what we call tendency evidence. That is evidence that the prosecution in this case relies upon to show that the accused had a tendency to behave in a particular way, such that if you are satisfied of the tendency you could say "well, if he did that there, it's more likely that he did that over there", for example.

The tendency which the prosecution say the evidence supports is this and establishes is this. He had a tendency to give favourable treatment to particular female inmates including giving them contraband or material that should not be in the gaol. He had a tendency to make sexually suggestive comments to the inmate. He had a tendency to put himself in a position where he was alone with a female inmate or inmates with no other officers around but where there is the possibility of being interrupted. He had a tendency to engage in sexual acts with inmates. I rely in part there on his own pleas of guilty, including the requests for sexual activity, touching, as well as sexual intercourse. He had a tendency to do that without the consent of the inmate and also to intimidate any inmates who challenged those actions that I have just referred to. There will be a direction about that as to how you can use that tendency evidence when you are considering particular counts on the indictment.

So that is count 8 I have just dealt with where he had - I say "he", I mean Mr Astill, I don't mean anybody in this case. By Astill I mean Astill, the accused, Mr Astill. That he followed K, followed her out and he has grabbed K on the buttocks.

Count 9. This is another, in this case pinching K on the buttocks. At this stage, at a particular point K lost her job in the reception area after working in the IT department. So a lot of people in the gaol work within the gaol. He told her that he'd helped her to get her, that he'd help her to get her job back, and after she returned to work in the section area that he had at one stage pinched her buttocks with his fingers. That is count 9; you will hear some detail of that.

You will hear that he told K that he was a former officer - this is the woman who was shown the photograph in the police uniform and he would make comments to her of a lewd kind, that is crude kind, sexual behaviour towards her. In doing so and in his treatment of her in the way he dealt with her is what's relied on in count 10, and she will tell you about that sort of conduct including all sorts of sexual comments; sharing of personal information - that's a no no as a corrective services officer. Access, perhaps not telling inmates you have personal information on your prison officer for security reasons. You could compromise security in the gaol.

I move to H. H is counts 11-24. She first went into Corrective Services custody in November 2014. She was transferred in 2015 to a part of the gaol you hear about known as SMAP, that's the acronym for Special Management Area Placement, which is sometimes referred to as prisoners who are being in protection and she was in that area because she had been assaulted in a previous gaol. I don't know the incident but that's why she came to be in there.

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- So 19 November 2015 she was transferred to Dillwynia. About three months after she arrived she met the accused. They interacted initially in a normal way but as time went by he started to make jokes, inappropriate jokes, inappropriate comments. He progressed, H will tell you, to touching her.
- 5 Brushed past her; she will say pretend that he bumped into her by mistake and in a way which you might, that might sound like *deja vous*; starts out friendly and has these inappropriate comments towards her, and H will say the matter, the behaviour rather, escalated.
- 10 He would frequently call her to the office; target her with attention and favours such as getting her medicine, visiting her cell, and part of the problem with that - this comes back to the misconduct aspect of the case - part of the problem with that is within the gaol it would cause resentment if some prisoners are seen as receiving special favours. It would be cause for
- 15 resentment and this can lead to bigger problems in the gaol escalating to potential violence.

- Now, count 11 in the indictment relates to this, it's an aggravated indecent assault. Sorry, the charge, this count is an example of an assault with actual
- 20 indecency in circumstances of aggravation. On this occasion you will hear from H that she was watching TV in the J room, the common room. There were other inmates there.

- The accused was there and the conversation came about because there was
- 25 an older person on the TV, and the accused said: "Us old blokes go all right", and he made a reference to his sexual ability, and he said: "You don't mind an old one, do you, H", referring to an older male. As he left the common room, he deliberately brushed her on the buttocks. That's the indecent assault. So assault doesn't need to be a particularly violent act which is forceful. That's the
- 30 assault, touching in circumstances being indecent assault, which he has got authority over her.

- You will hear her say, this H, she took on the sweeper role in Dillwynia in 2016. She was given additional duties of cleaning the high needs staff room, which
- 35 meant she had a lot more interaction with the accused, as at that stage acting as the chief of the high needs area, and she would tell you this, that on a number of occasions he grabbed her or the buttocks without her consent; she would say "no" but she felt unable to comment on or report the matter because again she is an inmate and he's a senior officer and what might flow from that.
- 40

- Now, in November 2016 she was doing the mid-morning cleaning duties in the administration area of the gaol. Mr Astill called her into the photocopy room; she went in and then halfway closed the door; he grabbed her hand, put it on the outside of his pants on top of his penis and said something to the effect of
- 45 "do you like that", and she tried to pull away her hand and said "don't". He held on to the hand for a short time later saying "it's okay".

- She was shocked. She will tell you what happened, that he let go of her hand but then removed his erect penis from his pants. He said: "Suck it." She
- 50 didn't respond initially. She was shocked at what was being said. She noticed

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that his penis was circumcised and the accused said: "Do you want to move", which she took in the circumstances of being in the gaol as do you want to move, as in do you want to be transferred to another gaol, which you would expect would cause some upheaval in a person's life suddenly to move, 5 visiting arrangements and what have you, you might think readily taken as a threat.

The accused says: "Do you want to move?" She said: "No." The accused said: "Then suck it." He pushed her down with his hand on her shoulder. She 10 resisted a little bit but he pushed her firmly and she sucked the accused's penis for a short time. There was a noise and the accused said: "That'll do." There was a noise coming from nearby; he zipped up his pants and she stood up.

15 Now, the inference there the prosecution says is that he was worried he was going to get caught; there was a noise and he brings it to an end.

Now, I just say something there about she resisted a little bit. Members of the jury, I to say this, but where there is no physical resistance, that does not 20 amount to consent; that of itself does not amount to consent. It is the fact that a woman or a man does not have an obligation to physically resist. The fact I repeat that there is no physical resistance offered, for which there may be good reason, but even if there is not it is not consent.

25 Mr Astill was right, there was a noise and having heard the noise, shortly after another corrections officer entered the room, Shirley Douglas, and H went away and attended to her duties. She didn't report it. Why? Because she was worried she would be transferred to the other prison, another prison, as per the threat.

30 Members of the jury, count 14 is another count. That was count 13, that is sexual intercourse. I told you that intercourse can include fellatio or penile intercourse.

35 Count 14 also includes H. This is inciting H to commit an act of indecency. It was in this circumstance. She will tell you, H, that throughout November 2016 the accused continued to interact with H in a way which you would be satisfied was inappropriate. On one occasion when another inmate asked him what time the lockin was, he grabbed his groin and moved his genitals saying: "Let 40 me consult my crystal balls", and this is in full view of H. She will tell you that almost every time on afternoon muster he would linger around the house, which is what they called that part of the gaol, until he was the last officer left after lockin. He would walk over to her cell, look inside and started behaving by saying: "Give us a look, show us", indicating her breasts, in other words 45 flash her breasts at him. There was a particular occasion where she would that to him, he would to that to her and motion towards her vagina, indicating he wanted her to expose her vagina.

Now, whether or not she complies with that I would say this, whether she

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complied with what was being incited, encouraged, is not the offence; the offence is just encouraging but that is what he did on a particular occasion, which constitutes count 14, that is the occasion of exposing her breasts to him in those circumstances.

5

Count 15, this is a case of a count alleging sexual intercourse without consent, again in circumstances of aggravation where he knew that she was not consenting. This is the morning of 1 December 2016. So H was cleaning the administration area of the gaol. There was an area services and programs officers, known as SAPO. Those areas were being cleaned, they were unoccupied. She asked the corrections officer to unlock the door for her but they didn't have the correct key and they, that is H and this officer asked the accused to unlock the door. He was acting on that day in the capacity of chief; his office was nearby.

15

So he unlocked the door. H went inside and started vacuuming. As she entered one of the officers, he followed her in. He told her to take off the vacuum cleaner backpack. She was confused as to what he was getting at. He repeated the question; she took it off. He pulled her close to him, attempted to kiss her on the lips. She initially tried to turn away and avoid the kiss but ultimately complied, when the accused said: "Don't do that."

20

She said: "Don't do that." She remembered what he'd previously said about her being moved from Dillwynia Correctional Centre and as a result of her fears she didn't resist the kiss and he pushed his tongue into her mouth. He then spoke about the incident in the coffee room, that is that other incident of oral intercourse, and wanted to talk to her about that. He then guided her to her knees and removed his penis from his pants and had her suck his penis until he became fully erect.

30

I pause there to say this, members of the jury. After the police started investigating this matter he told a number of lies; he told lies to his fellow officer, higher officers, some of which were caught on listening device. One of the things in denying matters he now admits to, one of the things was well, he can't get an erection he said, he told a fellow officer, higher officer, he can't get an erection because of erectile dysfunction. That was a lie. You will hear his interview in due course, members of the jury. He told a lot of lies. He told a lot of lies to colleagues, he told lies to the police.

35

40 So count 15 is this removing his penis and having her suck his penis.

Count 16 follows on from that in terms of the same incident. Once his penis was erect, he said something like "turn around, pull your pants down, not all the way down" and placed his penis in her vagina. He asked around at the time about the possibility of getting her pregnant. She said, H, she was not on the contraceptive pill, and he said: "Does it feel good."

45

That's count 16. Count 17 is this. After a while - it's all the same incident - after a while the accused said: "Turn around." She complied. He told her get back on her knees. She complied. He put his penis inside her

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mouth. He ejaculated in her mouth. He told her to swallow the semen, which she did. He said: "Fix yourself up", and asked her if she was okay. She said: "Yeah, I'm fine." She pulled up her pants, put on the vacuum cleaner backpack and resumed cleaning. Now, she made a diary entry, which you will
5 hear about as well, about her, to which you will hear in some more detail.

I move now to count 18 in the indictment.

10 HER HONOUR: Perhaps finish the counts in relation to H, Mr Crown, and then we will have a break.

CROWN PROSECUTOR: Thank you, your Honour.

15 This is count 18 is another count of sexual intercourse without consent knowing that she was not consenting, H, in circumstances of aggravation. He was in a position of authority over her. This is the early in the afternoon of 8 January 2017. The accused sent a correctional officer by the name of Merza to bring H to him. Merza brought her back to the SAPO office which was being used as the chief's office at that time. He said to Merza: "She'll be right, I will
20 call you when we're done."

Now, the officer left the door slightly open as he left the room. What was really happening is the accused had her summoned under the pretext that there was some problem and there was a disruption between the inmates. And he said,
25 she said to him: "Well, I've had no involvement, I don't know what you're talking about." He said: "I know you weren't involved, I just thought it would be a good opportunity just to catch up", just get her in for a conversation. But of course it wasn't just a conversation. He stood her up, kissed her; instructed her to kneel down on her, on his chair rather; approached her from behind, and
30 had penile intercourse with her. The chair was on wheels; it wasn't particularly stable. At that stage the accused told her: "Get down from the chair, lay on something else in the office", and she complied and he put his penis into her vagina and again had sexual intercourse with her saying: Do you like that? She said words to the effect of: "Yeah."
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It lasted for a short period of time. Again, after that he had a kneel down, put his penis in her mouth and ejaculated in her mouth.

5 Now, I'll come to the fact that - and there's some evidence that she was not in fact willingly a party to this. It wasn't voluntary, freely consenting to this at all. But she was operating under the fear of threat and intimidation, which absolutely characterised the relationship, given his position as her gaoler.

10 Count 20. On 27 January 2017 H is doing her normal cleaning duties in the SAPO area. The accused let her into the SAPO area to clean, because there were none of those officers on duty that day to unlock the doors. He followed her as she cleaned. She's using a backpack. He got her to remove the backpack, had penile intercourse with her as he stood behind her. Her pants were halfway down. He asked, "Is it good? Do you like it?" He ejaculated into
15 her underwear, and she later made an entry on a calendar, marking a "W" on the calendar.

20 That was 27 January. From that day H made a concerted effort, she'll tell you, to avoid the accused.

25 She came to be housed in the behavioural intervention unit, H, at Dillwynia. She was there from 29 June 2018 to 6 October 2018. So this is a segregated part of the gaol, and the protocol is for two officers to be present when a cell is unlocked in that unit.

30 The record will show that from 5 to 9 August 2017 the accused was rostered on as the chief of a particular sector. This goes to count 21. It's sector 1B. And it was an evening between 4 and 8 August 2017 when the accused went to the behavioural intervention unit, which I'll call the BIU, unlocked the door to the cell of H, sometime between 6.30 and 8.30 in the evening, and said to her - because she'd been away. She had to go up to Port Macquarie to a court case so she was housed in a different gaol, so she'd been away.

35 He came in and said to her, "I heard you were back. I've come to see you. I've missed you." She said, "Yeah, I'm back" and he inquired about her court case. He asked if her cell was monitored by closed circuit CCTV cameras. He kissed her on the mouth, she was freaked out - her words. He had penile-vaginal intercourse while standing behind her, as she was pressed against the cell wall. He ejaculated into her underwear, and he said, "You can
40 think of me and play with it later." He said, "I've missed you. It's been too long. I'll come back and check in on you later." He said, "I'll have to get going, and give the keys back."

45 Just as an aside, members of the jury, it's curious that comment about the CCTV because when he was speaking to one of his fellow officers, not knowing that he was being recorded by the police, he was talking about a particular female inmate referred to as being "a good sort" and said to the effect that "he wouldn't mind having a go at her if there was a place with no
50 cameras." His words.

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Count 22 on the indictment. I'm getting there so far as H is concerned. There was a day in September 2017 where the accused told H he wanted her to go to the bathroom and put a Lebanese cucumber into her vagina. He said something similar to "I love the thought of you walking around with it inside
5 you." She did so. She went into a nearby bathroom, and put it into her vagina. When she went back to his office he asked her to go with him to the SAPO office and show him the cucumber. She lowered her pants and showed the accused the cucumber, which was protruding from her vagina. That's count
10 22, inciting and encouraging an act of indecency while she was under his authority.

Count 23 is this. The accused reached out and touched the outside of the complainant's vagina. He told her to manipulate it in and out. This is count 23,
15 which is the indecent assault: touching the outside of her vagina. And he said, "I want you to come." She'll tell you that she faked an orgasm, because she thought it would be the quickest way to get out of there. And he did allow her to leave, telling her to keep the cucumber inside her. She went to the bathroom and got rid of it, and he later asked her if she'd eaten it.

20 Now, count 24 he's pleaded guilty to, members of the jury, but it is relied upon, as I say, amongst other evidence to show - and his plea of guilty to that, to show his tendency to behave in ways that I've outlined earlier. The whole relationship, the sexual acts aside, of course grossly inappropriate: a gross
25 breach of the public trust, gross abuse of her, gross betrayal of his colleagues, betrayal of the cause of Corrective Services and the gaol authorities in this state, and in that way harms and intends to harm the public interest, and in such a way as to warrant punishment, in such a way as to be wilful misconduct of such a kind.

30 Your Honour, that concludes the H counts.

HER HONOUR: Ladies and gentlemen, just go and have a stand up. If you
35 need to go to the bathroom, do so. Just outside. Just so that you're able to concentrate for the next 50 minutes. Thank you. Just be five minutes, thank you.

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IN THE ABSENCE OF THE JURY

HER HONOUR: How are we going? There's no rush.

5 CROWN PROSECUTOR: My instructor doesn't think we will finish this afternoon. Did your Honour say you gave them five minutes or thereabouts?

HER HONOUR: Five minutes. Usually it stretches to 10, though, with bathroom visits and the like.

10

CROWN PROSECUTOR: I think I'll get through it by 4, but then Mr Tyler-Scott--

15 HER HONOUR: I think I'd just take your time, if I were you, Mr Crown. No use rushing it, because we won't get through Mr Tyler-Scott's in any event, and I'd like both done. I think it's only fair, if we're going to have a break, to have both done. So we can finish that off tomorrow at 10. And we'll be finished by 11 really, by the looks of it then, comfortably.

20 TYLER-SCOTT: Yes, I think so.

HER HONOUR: And then I can start the other day's sentence, so that's fine.

25 I'll bring them back then for tomorrow, unless something happens between now and 4 o'clock. I'll let them know today as well that Friday we won't be sitting, and the evidence will commence then on Monday morning.

SHORT ADJOURNMENT

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IN THE PRESENCE OF THE JURY

HER HONOUR: Thank you, ladies and gentlemen.

5 Yes, Mr Crown?

CROWN PROSECUTOR: Members of the jury, I'm now going to tell you what I expect the evidence will be in respect of counts 25 and onwards. O features in counts 25 through 32. She was an inmate at Dillwynia from 4 January 2016
10 until after the accused came to be suspended from his duties in February 2019 following this investigation in relation to that. She was housed in the J unit, except for a period when she was in the BIU - behaviour intervention unit - from 28 December '16 to 19 January 2017.

15 She was a Schmack inmate, which is a special management area part of the gaol. In late March 2017 O, and another inmate by the name of T, saw the accused with H in the office area while she was doing the vacuuming. She will say that she saw the accused touch H on the backside, on the buttocks, and that O and T made a report about it but no action was taken.

20

The accused called O to his office and said this: "I know you put in a complaint about me." He showed her a document in the inmate application register with her name on it. And he said to her, "If that happens again, there'll be consequences for you" - words to that effect. She was worried she'd be
25 transferred to another gaol. She apologised and said it wouldn't happen again.

He showed her a handful of her mail and personal items. It might be a reminder, members of the jury, of the power a Corrective Services officer has over prisoners. Necessarily it would be a good thing, but the power that's
30 there is a power which can be abused.

She formed the view then, when she saw there were birthday cards for example she'd never received, that he'd been intercepting the mail. Now, what's the significance of this? Because again it might shed some light on
35 what in this case this woman was thinking, so far as whether she'd be willing to come forward and complain, speak up. Whether that's realistic in this atmosphere of a gaol, in that situation.

A few days after that, the accused told her that he had a lawyer and a police officer "who could help you or hurt you." Another week later he called her to
40 his office and said that he'd arranged a lawyer for her appeal. She had an appeal against - for her court case. "Free of charge, just to be a friend." He said he'd helped J, another person you'll hear from, with a court matter before. He asked her to bring some paperwork to do with an appeal. Of course none
45 of this is any of his business. Any of this is grossly inappropriate.

A few days later there was a muster, which is a meeting, where he's told O to see him in the office the next day. And she did so. She went in, and it was around lunch time. He closed the door behind her, told her to come over to
50 him, asked her if she had the paperwork and she told him she did not, that is,

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the court paperwork. He stood up from his desk, walked over to her, touched her hand and she pulled it away. She said that she was being called and had to go and get some tablets, and she left.

5 This is a move now to count 25, some background to bring into context what's happened, the prosecution says. Count 25 is: a couple of days later there was a lockdown - an expression long in use in the gaol before it became utilised in the COVID era. But in any event, after the lock-in there was a lockdown, which was at 3.30pm. The accused came to where O was to start
10 at 4pm. She recalls it was still light outside. She was in a single cell. She had a towel covering the window. The accused knocked at the door, she moved the towel. He told her to come and see him the following day.

The following day after the lunch time muster, she went and got her pills and
15 then went to his office and closed the door. He said, "Let's talk." He said to her, "What do you want to do?" And she says, "It doesn't matter what I do. I don't have a choice." And he said, "There's always a choice. It depends on what you want to do." She didn't answer him and he moved towards her, started to touch her hair, her hands, trying to kiss her.

20 He moved her face, and instead of kissing her mouth he kissed her cheek. He said, "It's okay, you'll get used to it." And she said, "Never." Members of the jury, she'll tell you she did not consent to him touching her at all. And he said, "Don't say that. I want you to enjoy it as much as I do." She didn't say
25 anything. He kissed her, he touched her breasts.

She didn't allow him to touch her any lower on the body than the breasts, tried to push him away and he said, "Don't worry, there's no-one here and no-one will know, don't be scared." She said, "That's enough for today. I'm not
30 comfortable." And she left shortly after. He said, "Don't tell anyone about it; make sure no-one knows." He said, "Or make up a story as to why you're here. Fix yourself, be happy and go." That's count 25.

Count 26 relates to an incident about a week later. This is another count
35 alleging assault where he acted indecently in aggravated circumstances. About a week later O is again told to go to the case manager's office at lunch time, and she did so. She arrived at the office. The accused asked her how she was feeling, and she said, "Like shit."

40 He said, "You should feel happy." She said, "You know, you're my grandfather's age." And he said, "Why should that matter? We're not going to have a relationship after this." He came over and hugged her, told her to relax, started to kiss her, touched her on her breasts, none of which she was agreeable to or consented to. He tried to move his hands down to her waist.
45 She said, "Don't. Let's move slowly. I'm not comfortable."

He said, "It's okay, I'll do what you like." He took it slowly, indeed moved his hands down below the waist despite his having been told not to. Expressly
50 told, "Don't do it." He does it.

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He touched her on the vagina, on the outside of her clothing. Being an assault; being an act of indecency, being an unwelcome act. She ends up pushing him away. She said, "That's it. I can't do more than that today. I have to go, I can't do this. Leave it for next time." And he said, "What do you think I should do with myself?" - indicating, you might think, the fact he'd been aroused and was left in that state. She said, "That's your problem, not mine." And that touching in those circumstances is what's relied upon for count 26.

Count 27 relates to O as well. It's another assault, indecent act and aggravation. This is a few days - perhaps a week - later. You'll hear the accused told O to come to his office the next day. She said she couldn't come and gave an explanation that she was having her period, which, as it happened, was not the case.

About a week later he came to the cell and asked her to come to the office the next day, and she said to the effect she was still having her period. But he said, "Come anyway, to talk" and he told her that he wanted to talk about a lawyer he'd arranged for her. She went to his office the next day. He closed the door and said, "Take a seat."

He said he spoke to his friend, the lawyer. He asked what's the information worth to her? She said, "Nothing. There's nothing in it to be worthwhile for me." He said, "Why are you saying that? At least there's hope everything will be okay." And she said, "I'm already paying the price," to which he said - Mr Astill says to her, "Don't say that. We're both having fun. That's not paying the price." She said, "Are we finished now? I'm going."

She stood up to leave, and he's standing in front of her. He said, "Not so quick." She said, "I told you my period is not finished yet." And he said, "You're lying, it's been over a week and I want to go." He started touching her around the hips. She pushed his hands away and he said, "Relax." And she said, "You can't touch me today." He took hold of her arm and told her to sit at the table. She begged him, "Let me go."

He said, "I know you're lying, let me check." And he took her pants and underwear off and checked her. He looked and said, "Open your legs." He came to the view, from what he saw, that she was not having her period. She was crying. Members of the jury, she will tell you she did not consent to him touching her, let alone removing her clothing, but that he said, "You lied to me. I understand you're scared. Don't ever do that again." She said, "I'm sorry, I'm not comfortable." He said, "You shouldn't be scared, but if you do it again there'll be consequences. Just be a good girl and listen." She ended up leaving his office.

Count 28, members of the jury, is another account of sexual assault, being rather - more accurately - sexual intercourse without consent, this being a form of intercourse and this being penile-vaginal. This is about three days after that other incident where he looked between her legs.

There was a muster at the gaol. The accused told O to follow him into his

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office. She went, and they had conversation back at the office. He kissed her, and touched her all over her body including her legs and breasts, made comments about her, that he'd "never seen someone with such a smooth body." He removed her pants, pushed her on to the desk facing down. She
5 will say that she was shaking; she was frightened.

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5 She knew there was no point pushing him away effectively because of the position he held and what had gone before. She'll tell you that he bent her over the desk, had penile/vaginal intercourse with her while standing behind her and he ejaculated into a bin. He said "fix your clothes up, go have a shower. Don't let the girls think there's something going on". She didn't consent to any of that, members of the jury.

10 Count 29, sexual intercourse without consent. About two weeks later, the accused asked O to go to his office at lunch time. At that time she in fact was menstruating. She went to his office and said "I've got my period, you can't do anything today". He said "that's okay, we can do something else." She said "there's nothing to be done, you can check". He said "no, I don't need to check". Got up and started kissing and touching her which she did not consent to. He took his pants off. She said "we can't do this, this is not what you said".
15 He said "it's okay, just test it a little bit". At that stage his penis was erect. He told her to get on her knees and suck his penis, believing she had no other option, she did so.
He grabbed her hair, pulled her towards him, put his penis in her mouth and she sucked his penis. He ejaculated in her mouth, she started vomiting in a
20 bin, he gave her some tissues. He said "there's sink there, fix yourself and go." That's count 29.

25 Count 30 was another occasion between the dates on the indictment. O will tell you that she went to his office, he offered her some grapes that he was eating, he took her pants and underwear off, kissed her and took a grape, put it inside her vagina which she did not consent to. She pushed him and said "you're crazy". He said "no, let's have some flavour on the grapes". He let her sit on the desk to take the grape out of her vagina and then he ate the grape.

30 Members of the jury, I don't want to sound like a broken record but I remind you that the Crown case is this, that the actions of the complainant in being there and complying, and I emphasise, has to be seen in the context of where she's at mentally in the circumstances on what has gone before and in
35 circumstances of that, there's no better way to put it, power of imbalance, a massive imbalance of power, members of the jury. You might she's down there and he's up there. That's the way you've got to look at it, the Crown says.

40 It may, for some of us more than others, be very difficult to put ourselves in that position. I will say more about that in the closing address but context is important.

45 That's count 30, the inserting of the grape into her vagina. I told you earlier today that sexual intercourse can be inserting objects - fingers and other objects - it's the grape in this case.

Count 31, following straight on from taking the grape out and eating it, he had penile/vaginal sexual intercourse with O which he ejaculated into the bin.

50 He later went on a holiday, the accused, to the USA and you'll hear more

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about that, what was said on that holiday, to another colleague of his, Mr Brumwell, and we'll come to that. But he said things to Mr Brumwell, his friend and colleague at that time, in a trip overseas. But in any event, he went on his holiday in the USA and, after returning, he asked O to meet him in a room next to some offices. He told another officer that he needed to speak to O and once O was alone with him in the office, he shut the door, tied to kiss her but she didn't consent. She pushed him away.

She was concerned that if the other officer found out, that she'd then be punished because of course the evidence about this is inmates can be punished for misconducting themselves as well. I've already said something to you about that. There's rules about how they conduct themselves, internal discipline, over and above, quite rightly you'd think, people in the general community. There's punishments for doing all sorts of things like having cigarettes, certainly you can't make phone calls and the like. I mean, there's serious restrictions on a person's liberty once you're in gaol apart from not being able to go outside the walls of the gaol. So they're at some peril themselves insofar as being disciplined.

In any event, the accused wrote down her phone number saying it was the number of a lawyer he'd arranged for her. She put it in the bin and he let her leave and took her back to her unit.

Other inmates, you'll hear, had seen that the accused would give O special favours, not only to her, such as glitter pens and paint, and let them go to the low needs area with him, which is a more preferable part of the gaol. And there will be evidence from other inmates that O would spend time with him alone in his office which, obviously enough, what I've said to you, the evidence will show, was completely inappropriate.

Count 32 is a count to which he's pleaded guilty on which I'm relying as part of that tendency of his behaviour. He's admitted before you today to misconducting himself with O and I won't go through again. But the sexual comments and the like, abuse of trust, are grossly at odds with the public interest such as to merit punishment.

I come now to count 33 and this is in relation to a woman by the name of G Her name is G-G-G-G and it's pronounced as "G". She was at inmate at Dillwynia Correctional Centre from 5 August 2016 to 15 May 2017; she returned to Dillwynia on 8 December 2017; she was there until 10 February 2018; she was back at Dillwynia on 24 March 2018 - and in each occasion was housed in this "J" unit.

Where G was housed, Wayne Astill worked as chief of the high needs area, that is where she was. She regularly needed to speak to him to get stationary, to make phone calls. Inmates were allowed to make phone calls, they're recorded, as inmates are told, and the persons who's called are told, and they're of a short duration but they're allowed to make calls, it's can be something of a privilege as one might expect.

Wayne Astill told G that he'd gone to the police academy with a person with

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the same name as her grandfather. Again, sort of ingratiating himself, you might think there's more of this behaviour. In late 2016 G wanted to contact her stepdaughter.

5 H said she could try asking Astill for help. And Astill said he'd look up the stepdaughter at home on Facebook.

10 A few weeks later he told her that he had some police friends who he could ask to look her up on a police computer. That's unlawful in any event. He also said he friends who were private investigators. He said, if he got the stepdaughter's name, he could pass it on to the police to look for her. She gave the name. She was aware or believed that Wayne Astill was also helping another woman, J who I have referred to with some family issues.

15 Roughly two weeks later the accused called Ms G into the high needs area and told her that her stepdaughter was safe and that she was pregnant and he had some more information. He said to the effect "I've got some more information but you've got to do something for me." And she effectively queried, what's this about, and he said "Well go ask C and ask H and they'll tell you". He said something to the effect of "You're not 18, you're not fresh to the game." He said to her "What about a hand job?" Being a request for her to masturbate him, perhaps obviously enough, but in any event.

25 Members of the jury, you'll hear that she declined to do that and there was some persistence over the following weeks to do that. G will tell you that she used the fact that he had propositioned her to get some favours herself from him. So there was something of a mutual deterrent there, about behaving against the other's interest, if you like. But in the end he asked for something more, he already asked for fellatio. He said to her, at one stage, "it only takes a bad case note and you won't get parole and who's going to believe you, you're nothing but a putrid dirty criminal". Members of the jury, that might resonate with you as a very good reason why women in this situation might not come forward.

35 G had a fight with another inmate by the name of P. The accused had arranged to have P moved to another part of the gaol. After that he called G to his office alone and said "The more you please me, the more I'll push" this government authority, which deals with people's custody and how their status in the community, their status as an inmate, with respect to their custody. In other words, members of the jury, he was offering to push her interest, push her agenda, corruptly, with this authority if she pleased him. No other way to interpret that. Gross misconduct in high order.

45 This is where, after this a few days later, he called her to talk and said "You know I've done you a favour by keeping you and K together", that's K. "Things don't come for free. Everything has a price and the price has gone up."

50 Later that day he called her into the office again, offered her lollies and then said words to the effect of "You've knocked back the first favour", a reference

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to the "Hand job" "and now it's a head job", a reference to oral intercourse. She deferred it, if you like, she said "I don't want to deal with this now, I need to prepare myself for that." So she kept the favour going, you might think. She was able to leave the office but she effectively needed to prepare herself to do
5 the acts that he asked her to do. Postponed, at best, of perhaps what might happen and allowed her to leave the office is a better away way of putting it. And after that tried to avoid her.

10 So this was an inappropriate relationship, he attempted a sexual relationship, he didn't manage to have a sexual relationship in this case as you've heard. But inappropriate relationship for the reasons which might now be obvious to you as to how the prosecution is putting its case that the action towards her, the exchange of favours, the offer to make this advance on her behalf to the government authorities about her custodial status as a prisoner. Whether or
15 not he intended to do that, the fact that he would say that to an inmate can only grossly undermine the confidence of an inmate that the gaol authorities are honest and that the system is one of integrity.

20 I now move to count 34 on the indictment. It may be obvious to you, members of the jury, that I'm not going to finish today but we have to go through this so don't take that way by of an apology but rather by an explanation if you please bear with me.

25 Count 34 on the indictment relates to an inmate by the name of M between April and May of 2017 as set out on the indictment at the gaol again. Count 34 is an assault with an act of indecency, again, in circumstances of aggravation.

30 M, members of the jury, was an inmate at Dillwynia between 6 May 2016 and 27 May 2017. She was away going to a court case between 10 and 22 September 2016 and there will be evidence as to where and how she was housed.

35 Count 34, M was called by the accused to go with him to his office. At that stage she was working in the buy-ups area. "Buy-ups" is gaol lingo for privilege that prisoners generally have to make purchases of particular items. Traditionally shoe polish and that sort of thing, but basic living needs which are uncontroversial in nature; they have a small allowance for buy-ups.

40 M was working in the buy-ups area at this stage and having been asked by Mr Astill to go to the office, she knew he was a senior officer, she was unable, she felt, to refuse his request. She was happy at that stage with her accommodation such as it was and didn't want to put that in jeopardy by getting the accused off side.

45 When they went into the office, the accused, she'll tell you, reached out and took hold of her left arm. He leant in to kiss her. She could feel that his penis was erect, albeit inside his pants, he was pressing into her as he tried to kiss her. She didn't consent to that and he had absolutely no reason to think that she was.
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- She'll tell you that at that stage she was nervous, she was scared, she was trying to get out of the situation and the accused was saying things like "You're so beautiful, I can't stop thinking about you". "You're nothing like anyone else in here". She moved around, she squirmed, to avoid being kissed. She
- 5 pushed past him, tried to leave the office but the door was locked. The accused unlocked the door, she was able to leave, she was too scared to report it for fear of not being believed and what might happen. She told R, another witness, about the accused trying to kiss her.
- 10 Count 35; between 8 and 12 May 2017, M had to speak with the accused in his office about a request to have family photographs taken. She brought that friend, R, to the office and left the door open so that R could see her, R was outside. The accused took hold of her left arm, leaned in towards her face and tried to kiss her. She gave him no indication that that's what she wanted to do,
- 15 she was not consenting to this. She pulled away from his grasp and R walked into the office and the accused stopped making any further advances and they left the office. There will be evidence as to who was told about these things and when they were told but they'll come out in due course.
- 20 Further evidence as to, and evidence which is relevant to those tendencies to behave in particular ways that I was talking to you about before lunch and one of those tendencies, you'll recall, is about intimidation. This relates to B, another inmate. B had been told by M about Wayne Astill trying to kiss her and a report was made about that to the Governor's office and the Governor
- 25 was, at that stage, Shari Martin. B had told another correctional officer, Pamela Kellett also about the accused intimidating her. After that report was made, the accused continued to work at Dillwynia. At one stage you'll hear he threatened B by telling her he was an ex-police officer and a member of a bikie gang.
- 30 Now, he was formally a police officer, as you've heard, but there's no suggestions that he was a member of a bikie gang but a motorcycle leisure club and he told B that he could get her family and friends no matter where they were.
- 35 He also made comments to inmate, Witness V after there had been this meeting with the Governor about this other behaviour. He'd sniff and say things like "smells like dogs in here". Now, a dog, you'll hear, is a reference in the world of criminal milieu, if you like, or in the world of criminals, a dog is
- 40 likely to be a reference to somebody who is an informer, someone who gives up other people for misconduct. So if one prisoner, for example, turns and gives evidence against another prisoner, they'd be referred to in the gaol as a "dog". It's an extremely insulting thing to say to an inmate, to a person in that sort of world, and it could be a very dangerous thing to say because, if word
- 45 gets around that you are a "dog" or informer, it may be a case of woe betide you. So in any event "it smells like dogs in here" is not a reference to smelling like a dog, but rather, that somebody has spoken up about something you've done. He also made threats, you'll hear, to V, to move her to a different section of the gaol.

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Count 36, members of the jury--

5 HER HONOUR: Mr Hughes, I note the time. Before you move on, I think it's been a big day for the ladies and gentlemen of jury from this morning.

10 So what we'll do, ladies and gentlemen, just let me fill you in on a couple of things on the rest of this week. As I indicated to you, I have been allocated other matters before I got this so I have to deal with those this week but then, apart from an odd one or two, we'll be right for the rest of the trial.

15 So we'll finish off the Crown opening address and Mr Tyler-Scott will open to you tomorrow morning and then we're going to call it a day because, before we get into the evidence, I already have a matter listed tomorrow that's going to go the whole day so I'm just pushing that back so we can conclude the opening addresses for you. So we'll do that tomorrow so it will be an early mark tomorrow. On Friday we won't be sitting because I have numerous other matters and I want them all done and dusted so I can basically pay closer attention to this.

20

25 So after tomorrow when I send you away, we'll reconvene back on Monday morning and that's when the evidence in the trial is going to commence at 10am. So just so you know and you can plan your week, that's how it's going to proceed this week. But that will be quite unusual, it won't proceed like that in the following weeks so just so that you know.

30 Anyway, if you'd like to go now. Please, as I said to you before, you've heard a bit about what the Crown case is or anticipated it to be. Please don't discuss it with anyone, except yourselves when you're all together. Other than that please have a great night and we'll see you for a 10 o'clock start so if you can get here at 9.30 tomorrow morning. Thank you very much.

Does anyone have any issue with those written directions?

35 CROWN PROSECUTOR: No, your Honour.

TYLER-SCOTT: No, your Honour.

40 HER HONOUR: I'll give them to the court officer to give to the jury and they'll be marked MFI 6.

MFI #6 WRITTEN DIRECTIONS

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IN THE ABSENCE OF THE JURY

5 CROWN PROSECUTOR: Your Honour, there's an application to vary bail. I must say I haven't played a direct part on this. I understand it's for the duration of the trial. Could I have a moment?

TYLER-SCOTT: We can perhaps sort that out tomorrow, your Honour.

10 HER HONOUR: What is it? To basically be here and in attendance with legal practitioner by 9am?

CROWN PROSECUTOR: Yes, your Honour. There's others but perhaps we can could do deal with those tomorrow.

15 HER HONOUR: Okay, we'll have a bit of time tomorrow, sort of. Let's deal with it all then, it will give you time to discuss it.

CROWN PROSECUTOR: Yes, your Honour.

20 HIS HONOUR: At this stage then bail to continue, same terms and conditions, and we'll continue the opening addresses tomorrow at 10.

25 TYLER-SCOTT: What time would your Honour like the accused to leave the Court precincts?

HER HONOUR: Give it a good 15 to 20 minutes now at this stage so he's not running into anyone. They shouldn't be too long tonight because they filled in all their paperwork so say at least 20 past 4.

30 TYLER-SCOTT: Yes, your Honour.

HER HONOUR: Anything else? No.

35 CROWN PROSECUTOR: No, your Honour.

HER HONOUR: Can you advise my Associate of the current orders from Judge Yehia?

40 CROWN PROSECUTOR: Yes.

HER HONOUR: Because the media is already asking. So just if I know what ones are in place at the moment.

45 CROWN PROSECUTOR: Yes, we'll forward a copy of that to your Honour.

HER HONOUR: Okay. Thank you.

ADJOURNED PART HEARD TO THURSDAY 28 JULY 2022

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IN THE DISTRICT COURT
OF NEW SOUTH WALES
CRIMINAL JURISDICTION

5 JUDGE O'ROURKE SC
AND A JURY OF FIFTEEN

WEDNESDAY 27 JULY 2022

10 **2019/00056907 - R v Wayne Gregory ASTILL**

STATUTORY NON-PUBLICATION ORDER

Mr S Hughes as Crown Prosecutor
15 Mr J Tyler-Stott for the Accused

20 PROCEEDINGS BEFORE 12.43PM RECORDED BUT NOT TRANSCRIBED

CROWN PROSECUTOR: Members of the jury, as you can see I'm at an angle here and please don't think if at some stage I tend to focussing one way that I'm trying to address some of you more than others, you are all equal as jurors as you've been told and I'm addressing you all of course equally in
25 accordance with that.

Members of the jury, her Honour has already told you that the addresses of counsel are not the evidence. What I hope to achieve in part this afternoon is to give you an overview of what I expect the evidence will be. The evidence
30 will be obvious to you in the sense that it will obvious what the evidence is, it will come primarily from the mouths of various witnesses in the case and there'll be some diagrams I expect, some photographs and the like and there'll be some audio recordings. There'll be an interview the accused had with the police. Then at the end of the case as you've been told, her Honour will give
35 you those directions, those all-important summing-up of the case and give you directions of law that you apply. So please don't feel overcome or intimidated by your role because you are the judges of the facts, that is a big task but you are not the judges of the law.

40 The strength of the jury system is in part that you are drawn from all walks of life, different ages, different genders and different backgrounds and it's no disrespect to this or any other judge to say that necessarily that all that hundreds of years of life experience in the jury box impowers you to set about your task diligently and effectively weigh up the evidence at some stage,
45 perhaps say "that doesn't sound right to me or yeah that sounds right, that couldn't be so" because really when you think about it members of the jury what you're asked to do when you're listening to witnesses, when you're weighing up the evidence is what you do from the time you wake up in the morning, now you might turn on the radio and listen to some politician talking, I
50 don't want to give them a bad reputation but some people suggest that they tell

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porkies at times, now that is they tell fibs, they exaggerate. Now you might make an assessment when you hear a politician on the radio or the TV that's not true or that doesn't sound right, it might be somebody at work, somebody at university who says they went fishing on the weekend and they caught the biggest fish, whatever. Now what you're doing is you're saying "well does that sound right, is it completely implausible or having regard to everything I've heard in the case in the context of this case, do I accept that".

And there are matters which I'll come to which have to be proved beyond reasonable doubt with respect to each of those charges, those counts on the indictment, matters which have to be proved beyond reasonable doubt before you could return a verdict of guilty with respect to that particular charge or that particular count. That said, not every matter in the prosecution case has to be proved beyond reasonable doubt.

Now in another case it might be that one witness says a car is red and another witness says the car was maroon. And if it was a case about how the car was being driven you might think well that's not so important that might be a good example where it doesn't really matter if it's red or maroon, it's the car how is the car being driven for example. Now it'll be made very clear to you what those essential ingredients or essential elements that is those essential matters which must be proved beyond reasonable doubt as I say before guilt is established and which would entitle you and only then entitle you to return a verdict of guilty with respect to that particular count.

I will shortly - just watching the time but I will shortly have handed to you a copy of the indictment that's a copy of the document which was read out to the accused this morning and to which you heard him respond variously to some of the charges, not guilty to most of them and there was a number of which he pleaded guilty. You'll get a copy of that shortly. It's a formal document, it sets out the charges where they're referred to as counts which is the formal name for them, you might think of them as charges or allegations but they're the matters which the prosecution has set out, particularised and has accused Mr Astill of.

Now there is necessarily some I suppose jargon that we use in Court, it's important jargon. One is the word "the accused". He's accused of crimes, we don't call him the offender because that's for you, you're the only judges of the facts, you will determine whether or not the offences are proved. We refer to women who have complained to the police to the authorities of certain sexual acts that Mr Astill has inflicted on them, done to them, we refer to those women as the complainants and it stands to reason you might think we don't call the victims, the prosecution alleges that that's what they are but that is for you so we use the neutral terminology of the complainants.

Members of the jury before I come to the indictment I want to say this to you. Wayne Astill was a Corrective Services officer at all the relevant times and he was an officer of high rank. And he was based out at Dillwynia Correctional Centre out at Berkshire Park, it's a female prison. Now what you already heard from his own mouth he's admitted to a number of way of his pleas of

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guilty to a number of charges of having misconducted himself as a public official that he's employed by the public in that capacity and he's misconducted himself by way of inappropriate relationships for the most inappropriate sexual relationships.

5

Members of the jury, I suggest to you that that represents a gross abuse of the public trust. Why do I say that to you now? One, it's not about me as a barrister expressing any personal opinion, it has a relevance because one of the offences that you need, type of offences which you are going to be asked to consider is one of what we call in shorthand, public misconduct of a public official. Now whether or not the misbehaviour warrants criminal condemnation for its punishment the seriousness of the behaviour is something which you'd be asked to turn and as I say you'll note that he's pleaded guilty with respect to a number of the women to that.

15

But his misconduct the prosecution says went beyond the mere sexual touching in dealing with these women but rather his conduct as a pattern of dealing with them, trading favours. There's rules in gaol which you'll hear about that might be commonsense to you. There's protocols, there's laws, there's internal rules as to how inmates are to be dealt with. Inmates are owed a duty of care, their punishment is the deprivation of their liberty, that's some lawyer speak. It's to take them out of the community where they have been sentenced, a crime that's supposed to waiting for a trial. Taken out of the community they lose their freedom that's the punishment, kept away from their loved ones, that's the punishment. The punishment is not to have a person who owes them a duty of care, responsibility and care for them, to prey on them.

20

25

So the prosecution says the conduct admitted to and the conduct further alleged in those counts to which Mr Astill has pleaded not guilty were a gross breach of trust and by a public official and I will come to some of the detail of that and the elements of that offence shortly. Members of the jury, I said that I would give you copies of the indictment and what we've also presented - sorry try that again. What my solicitor has prepared I won't take the credit for it - is a one page summary it just sets out by short title the type of offence, the complainant in the one column to whom those particular charges, counts on the indictment relate. So it's a ready reckoner if you like of what's entailed in the indictment but importantly it does not replace the indictment, the indictment is the source document if you like, this is just to make it helpful as something as an aide memoir if you like. So I will hand those out now.

30

35

40

HER HONOUR: No objection Mr Tyler-Stott?

TYLER-STOTT: No your Honour.

45

MFI #4 SUMMARY

MFI #5 INDICTMENT

50 CROWN PROSECUTOR: Just as I see that you have received those can I

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just indicate to you, it may come as some relief that what I--

HER HONOUR: Does everyone have one of those? Yes.

5 CROWN PROSECUTOR: What I'm not going to be doing is going through every single charge on this indictment. I will come to after lunch what the evidence that I expect will be in support of those charges but for present purposes with not long before lunch, I just want to take you to some examples of the different type of offence that's alleged in the indictment. For example -
10 would your Honour tell me to pause at any time convenient for your Honour because I can just take it up after lunch.

HER HONOUR: Thank you.

15 CROWN PROSECUTOR: The counts you see there in counts 1 through 4 they relate to C. There are dates on the indictment, it sets out the particulars of what the prosecution said has taken place. Now you'll recognise the wording in each of those being alike and it says this, that between the particular dates "at Berkshire Park in the State of New South Wales, did
20 assault C" - that is the first element members of the jury, the first thing that needs to be proved beyond a reasonable doubt for this type of offence. "Did assault C, at the time of the assault committed an act of indecency on C" - that's the second ingredient, essential element you need to be satisfied of - "committed an act of indecency on C" and then the next one "in circumstances of aggravation, namely that at the time of the offence", that is doing those
25 things, "C was under the authority of the accused".

Now what is meant by those things? Well the assault, her Honour is going to give you directions but the assault is an unlawful touching so suffice to say if
30 you get onto a crowded bus and you bump someone as you walk past that's not an assault all right. Now a certain amount of commonsense might apply in this one would think but it's an unlawful touching. What is an act of indecency? It's an act which is indecent according to the standards of like thinking people, people like yourselves. Now if it's indecent will depend on the
35 circumstances, that happens between consenting adults in the bedroom might well be perfectly decent, what happens depending on the circumstances, ages of people and whether they agree to it or not, all sorts of factors, it might be indecent that's a matter for you as members of the jury as good folk of the community determined.

40

Now it may be that in this case there's no real issue, no dispute about these things but when you think they're matters that you need to be satisfied of beyond reasonable doubt. As to whether the person was under the authority of he accused you can see that that's a common theme you'll see as we go
45 through the indictment and as the evidence is led that's C as were the other women under the authority and perhaps that requires no more, nothing more to be said given the relationship between the prison officer well Correctives, Senior Correctives Officer and these charges these women who are in gaol in his custody and care. So those are those elements of that type

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of offence which you'll recognise as you go through the - look through the indictment.

5 Another example is count 5 - sorry another type of offence an example of this particular type of offence it's a different offence from the one we've just discussed is this. This one relates to C but there are others. Again those dates and Berkshire Park in New South Wales "did incite C a person above the age of 16 years, namely 44 years to commit an act of indecency" - terms with which you're now familiar - "towards himself in circumstances of aggravation, 10 namely that" - again she was under the authority of him.

You see that perhaps jumping out at you and some elements there "did incite C" - her Honour will give you directions about that but it includes encouraging by acts or deeds, acts or words right, encouraging a person to commit an act 15 of indecency. So there is it that he did, that the accused incited an indecent, an act of indecency towards him in circumstances of aggravation that they're under his control and care.

20 There is another type of offence in there an example of which is at count 15. This relates to a person by the name of H who you'll hear from. On this occasion it says "1 December 2016 at Berkshire Park did have sexual intercourse" - is the first element - sexual intercourse - "without her consent knowing that she was not consenting and in circumstances of aggravation" - again that she was under the authority of the accused.

25 Now sexual intercourse in the law goes a little beyond what might ordinarily be thought of as traditional sexual intercourse, that being penile/vaginal but it includes relevant to this case it includes penile/oral fellatio as acts, it also includes fingers, anal intercourse so it's a broad definition but it includes those 30 things. So sexual intercourse has to be proved for that type of charge, including count 15.

"Without consent" that now needs to be proved of course and consent has to be, to be consent it has to be given freely and voluntarily, freely in this case of 35 course they were Mr Astill's prisoners. There's a power imbalance there members of the jury, as ancient as it is obvious. The accused must have either known that the person did not consent freely and voluntarily or been reckless as to whether she did or she didn't and continues on regardless. Reckless as to whether she was truly consenting freely and voluntarily and 40 again so that's another element. Another element is the accused was in a position of authority. Your Honour, I wonder if now is an appropriate time?

45 HER HONOUR: Yes it is. So it's a bit after one, ladies and gentlemen go out and have some lunch, take your folders with you and we'll return at 2 o'clock for a continuation of the crown opening thank you.

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IN THE ABSENCE OF THE JURY

5 HER HONOUR: Now going forward just so that I'm in a position to tell them at the close of the day, what I was proposing is if you have not finished which you may well not have by four, we finish it off tomorrow and then I continue on with my one day sentence and Mr Tyler-Stott I'd like to get the openings done.

TYLER-STOTT: Yes your Honour.

10 HER HONOUR: I've been informed it's going to run tomorrow but it may not take the day so that we could roll over into that but then I think it might be once we finish we adjourn to Monday morning because all the sentences and all my legal argument on Friday is running and I think it would only be a matter of squeezing in an hour which I think is just not fair to bring them in for an hour.

15 TYLER-STOTT: Yes.

HER HONOUR: So do you agree with that?

20 TYLER-STOTT: Yes your Honour.

HER HONOUR: Does that suit both of you?

25 TYLER-STOTT: Yes your Honour.

HER HONOUR: Okay and then basically I can get all of that out of the way and then clear my diary for the remaining weeks.

30 CROWN PROSECUTOR: Your Honour could I raise something now if your Honour--

HER HONOUR: Yep.

35 CROWN PROSECUTOR: --pressing commitment but on 11 August I've got a pretrial call over before Button J at 3pm.

HER HONOUR: That'll be fine yes.

40 CROWN PROSECUTOR: The next day is--

HER HONOUR: The 11th what day of the week is that?

CROWN PROSECUTOR: Thursday.

45 HER HONOUR: Right so 3pm on 11 August. Yes?

50 CROWN PROSECUTOR: The next one is a taller order but it's this. I've been granted an interview for statutory - a higher statutory office on the following afternoon at ten past four. That would ordinarily that would not pose a great problem but the format of that interview will now require me to receive material

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the day before and prepare written submissions. That would suit no doubt those who are not in trial and wouldn't be troubling for me if I was not in trial but without knowing the complexity of that exercise I fear that if I was required to be in Court that day it would effectively rule me out from having a
5 meaningful go at that position.

HER HONOUR: Let's look at that closer to--

10 CROWN PROSECUTOR: Yes your Honour.

HER HONOUR: Yes okay. Anything else?

CROWN PROSECUTOR: No your Honour.

15 TYLER-STOTT: No your Honour.

HER HONOUR: Okay 2pm.

20 LUNCHEON ADJOURNMENT

PROCEEDINGS TAKEN OVER BY COURT REPORTERS AT 2PM

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IN THE DISTRICT COURT
OF NEW SOUTH WALES
CRIMINAL JURISDICTION

5 JUDGE O'ROURKE SC
AND A JURY OF FIFTEEN

SECOND DAY: WEDNESDAY 27 JULY 2022

10 **2019/00056907 - R v Wayne Gregory ASTILL**

STATUTORY NON-PUBLICATION ORDER

15 IN THE ABSENCE OF THE JURY

HER HONOUR: There is a jury note that I have received.

20 CROWN PROSECUTOR: The media applied for some access. I think your Honour alluded to this afternoon. I only raise that to remind your Honour of that issue.

25 HER HONOUR: What are the orders that are currently in force? Have you got a copy of them for me?

CROWN PROSECUTOR: Yes, your Honour. They were emailed through yesterday afternoon. I have got a copy of that.

30 HER HONOUR: They have been advised of the current orders and of course including 578A.

CROWN PROSECUTOR: I have got a copy here of it.

35 HER HONOUR: Thank you. We will just have that handed up.

MFI #7 ORDERS IN RELATION TO MEDIA ACCESS

40 CROWN PROSECUTOR: Your Honour will see there's some highlighting on that. As it happens, I highlighted those witnesses who I would ask that non-publication orders continue with respect to, in addition to those interest statutorily protected. I can address your Honour on those.

45 HER HONOUR: There's only one, isn't there? The other ones are all included in the indictment, the highlighted ones.

CROWN PROSECUTOR: They are but not as prescribed sexual offences.

50 HER HONOUR: Because of the misconduct one.

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CROWN PROSECUTOR: Yes, so it might be thought of as something of a technicality with respect to those three.

5 HER HONOUR: Yes, but those are still in force, is that the position?

CROWN PROSECUTOR: Still in force for the time being.

HER HONOUR: Okay.

10 MFI #8 JURY NOTE

HER HONOUR: The jury note is asking: "Could her Honour please ask counsel to speak into the microphone."

15 CROWN PROSECUTOR: I will keep that in mind, your Honour.

HER HONOUR: "Ask counsel", I am assuming both counsel, so please be advised of that. You both received the transcript?

20 CROWN PROSECUTOR: Yes, your Honour.

TYLER-STOTT: No, your Honour.

25 HER HONOUR: It's available if you haven't ordered it.

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IN THE PRESENCE OF THE JURY

5 HER HONOUR: Good morning, ladies and gentlemen. Thank you for your note, I've received it and I have passed your request on to counsel to ask them to speak into the microphone. Thank you very much.

Yes, Mr Crown?

10 CROWN PROSECUTOR: Thank you, your Honour.

Members of the jury, where we left off yesterday afternoon I said I had moved to count 36 on the indictment. That's the count of the accused having miscondacted himself in public office. He pleaded guilty to that. That, the
15 Crown says, arises not just from sexual conduct towards M that's been described in those earlier counts at 34 and 35. You might recall there was a lot of information you got yesterday as you know, but so far as 34 and 35 are concerned, these were incidents where the accused was said to have pressed himself up against, tried to force a kiss upon M and he has pleaded guilty to
20 count 36, as I say, insofar as he has admitted to engaging in an inappropriate sexual relationship with her. But that misconduct went beyond that, of course. He is said to have given her favours, including providing her stationery, extended family visits, a great privilege you would expect, and access to his computer, all of which are no-no, put simply, a big no-no as far as prison staff
25 affording those sorts of privileges to inmates.

I move now, members of the jury, to count 37 on the indictment. This is a count which involves two women, I and are J. You will hear evidence from I as to this. J, firstly, was an inmate at Dillwynia from September 2016 until 9
30 November 2018. I was at the same gaol from 15 May 2017 to 9 November 2018.

Now, dealing with this count 37, I will tell you that initially she had a poor relationship with the accused and she had made a complaint about some
35 conduct she had seen him involved so far as H was concerned. She later on apologised to the accused with respect to that and the relationship improved, and I say improved but in the sense that there was not the hostility shown towards her from the accused. He would disclose personal information to her about his family, he would show photos, he told them of his past as a police
40 officer, at least told I that is, he regularly made sexual comments to I.

Now, you will hear that throughout that time he would often brush past her and put his hands over her buttocks and that sort of thing and there was one
45 occasion where he asked I to write him a letter, you might think it's a dirty letter, about a threesome, presumably you might think for the purpose of titillating him and she did so. She will tell you, I expect, that she was a person who had very low self-esteem at that time. She was somewhat made to feel special by that attention and both her and J ended going to Wayne Astill and they agreed to, indeed it was a suggestion I will say of J, to have sexual
50 dealing with him, what might be thought to be in the colloquial vernacular as a

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threesome with him. This, bear in mind, is a charge of him misconducting himself in public office. It is not a charge that this was done without consent but I will move to this now.

- 5 Witness I will tell you that Witness J said to the accused, "We want to have a threesome with you", and the accused said, "Leave it with me", at a point where obviously enough his duty was, one, not to go ahead with it, two, to report it. Instead he said, "Leave it with me."
- 10 A week or two later the accused called both of those women over the loud speaker in the office of the high needs area. The accused had covered the window of his office with cardboard so that nobody could see inside. Inside you will hear that he pulled down Witness J's shorts just above her knees and put his finger into her vagina, unzipped his pants, told I to suck his penis. She
- 15 gave him that oral sex for one or two minutes. She said she felt pressured to do it but, as I say, it's a different thing, it is not suggested here it was done without consent, it is misconduct. The act, having done it at all is what the prosecution says he is liable for, along with his dealings with these women generally. He then had penal vaginal intercourse with J standing behind her.
- 20 At a later time he apologised for his poor sexual performance, saying he had problems with his erection due to the medication he was on.

- I already told you yesterday that during his conversation, which was recorded covertly or secretly but lawfully recorded, he had said, well, effectively he
- 25 couldn't have sexual relations with anyone because he had this erectile dysfunction, and the evidence shows and his pleas of guilty certainly support that was a lie, as I said yesterday.

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CROWN PROSECUTOR: Count 38 is another misconduct of public official charge to which the accused has pleaded guilty thousand. This involves F. I won't go into the detail of that, but it is an admission again, that is by his plea of guilty, Mr Astill has told you that he engaged inappropriate and, indeed,
 5 sexual relationship with an inmate F. He had a particular interest in her and a woman by the name of GG and made reference, as I will come and I alluded to yesterday, about his thoughts towards them in a sexual way.

10 I will come now to the offences relating to a woman by the name of N. These are counts 39 and onwards. Witness N was an inmate at Dillwynia from 14 March 2014 onwards. There was one occasion and she worked in several roles including as a cleaner. She would regularly visit the accused's office. He engaged her in considerable conversation and arranged for her to
 15 have favourable treatment, so extra buyups, as I told you about yesterday. They got a small allowance to buy things, in the form of housing, make up and that sort of thing. She also had tobacco, that she will tell you about.

20 She will also tell you this that on one occasion she saw the accused with this inmate, GG. GG was seated on his lap. She was using his computer. As I said contrary to the policy obviously enough. He was kissing GG with his hands on her body. At one stage, she will tell you, GG had her top off. The accused said to N, "It's all right, you didn't see anything".

25 He intimidated N, at one stage putting his forearm against her throat and said, "Don't ever think about betraying me". That's got that extra importance or significance as evidence in the case because you will remember yesterday that there is aspect of tendency evidence. Tendency to intimidate. Favours,
 30 threats, that form of coercion to create this atmosphere, 'You'll do as I say', if it is even needed in a gaol setting, members of the jury.

It's count 38 intimidation. I'm sorry, I do apologise but that is intimidation which is that tendency evidence.

35 Count 39. The accused on this occasion has touched her breasts and has said that he liked women with, his words, "big boobs". Then he let her go. This is N. He then asked her if she shaved. She didn't answer and he said, "Fucking answer me" and she said, "Yes, I do". Her took her left hand and made her touch his penis. This is count 40, aggravated indecent assault. He
 40 said, "Once you've had this you won't say no again." She said, "No, no" and tried to pull her arm away.

45 He puts his hands between her legs, moved it around and she began to cry. This is still N. This is count 41. Another assault of indecency. She began to cry and she said, "Please don't" and he said, "You'll fucking do what you're told". She was upset and obviously so. Eventually he received a call and she left.

50 There were further dealings between them, but count 42 of course on the indictment relates to - this is a count to which he has pleaded not

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(CROWN PROSECUTOR)

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guilty - misconduct by engaging in inappropriate personal relationship with N whilst he was a senior correctional officer in the Dillwynia Correctional Centre. The Crown says this is more of the same, members of the jury.

5 With respect to that count he had unscheduled and unaccounted meetings with N. There will be evidence, members of the jury, that may not surprise you that when there is movements through the gaol things are highly documented. So you know where prisoners are. One for their safety because you have got a duty of care for them as the prison authority. And also security so that you
10 know they are not getting in, climbing a fence or being lifted out by helicopter or something. So there is very good reason for movements of prisoners and it is well documented. That's not something Mr Astill was too concerned about, but it may be by the end of the case the reasons for that are obvious.

15 E. Count 43, you have heard the accused plead guilty to that, that he admitted to, members of the jury, with E he engaged in an inappropriate sexual relationship. I won't go into the detail of that, but it went beyond sexual. There were favours done there as well outside so far as privileges were concerned and there was sexual conduct. Again relied on as part of that tendency
20 evidence, that is the case with these various women.

D. Count 44 on the indictment. This is a count that he had sexual intercourse with D without her consent, knowing that she was not consenting to the sexual
25 intercourse in circumstances of aggravation that again she was under his authority.

D was an inmate at Dillwynia from 18 June 2018 until September 2018. She was again an inmate from 20 August 2020 until 19 February 2021. There was an occasion when she wanted to make a phone call to her partner, whose
30 name is Mr John Hill, who I expect you will hear some evidence from. She went, at another inmate's recommendation, to go and see the accused. She went and saw him. The accused assisted her to call John Hill from the accused's office phone.

35 Now I said to you yesterday that gaol calls are, one, recorded. At the beginning of the call there is an audio recording saying, 'This is, calls will be recorded' and there is a limit, which is a six minute limit placed on calls. The accused allowed her, however, D, to talk to her partner for longer than six minutes. Favouritism.

40 Count 44. That, which I just spoke to you about was on 25 July 2018.

About two weeks later she was on the phone to her partner. The call cut out. She was upset. She went to see the accused to see if he could let her call her
45 partner again, may be for longer than six minutes. He agreed to help and give D some privacy and she spoke for about 10 minutes. N was in the area doing some cleaning at the time.

50 After the call N left the area and D thanked the accused. She said, "Sir, can you let me out" to which the accused said, to the effect of, "Pretty girls like you,

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I still don't know how you end up in gaol. How smart, how pretty you are, I don't know how you end up in gaol." She said, "Sir, can you please let me out." He said, "I've done you two favours. I'll let you have a 15 minute call with John. You won't get that anywhere. Now you have to do me a favour".

5

She said, "What do you mean?" He got up and walked around near her. He took her by the arm, turned her around and pushed her down on the desk. He said, "There's no point fighting. It's only going to take five minutes." She tried to move away. I remind you not that she was required to, members of the jury, his hand was on hers. He held her down. He said, "It's only going to take five minutes. There's no use fighting, mate, you can't get out the door without me." Eventually she stopped trying to fight. He pulled down her pants, lent over and put his penis in her vagina.

10

15 She wasn't consenting and he knew this. He absolutely knew she wasn't willing to do it. She was crying, repeatedly saying to stop. He said, "Don't worry, I get a lot of pretty girls like this, they all let me do it". She said, "John, John Hill, he'll probably get you for this. I'm pregnant with his child, he'll shoot you." To which the accused said, "John can't do anything. I'm an ex police officer and I'm affiliated with bikies. He won't do anything because no-one will know about it." He ejaculated inside her vagina. Members of the jury, all those threats and intimidation are relied upon, as I have said repeatedly, for a tendency. This theme, thread throughout the evidence.

20

25 Count 45, misconducted himself. Favours, sexual conduct, among other things, breaches of the policy, acting contrary to her placement rules, for example, having her even in the office for no legitimate purpose.

30

A was an inmate at Dillwynia from September 2016 until March 2017. Again from 1 November 2017 to 14 January 2019.

35

Count 46. In late 2018 A went to the accused's, Astill, office to discuss something with him. Before she could tell him about what she wanted to report he started rubbing his penis on the outside of his pants. She asked him to stop doing it. He said, "Do you want have sex?" She said, "No, no way".

40

He walked around to where she was standing, grabbed her breasts with both hands on the outside of her clothes and she said, "Stop doing that" and pushed him away. This is count 46, an assault by the grabbing of the breasts. It being an indecent act, members of the jury, in all of the circumstances and again whilst she was under his authority.

45

From that point the accused wrapped his hands, this is count 47, around A. He grabbed her buttocks with both hands. Again she did not consent to this. She gave no indication that she was. He knew she wasn't consenting. She was frightened. She pushed him away and ran outside. At that stage she didn't tell anyone else as to what had happened. She was scared that it would create problems for herself. The Crown case, members of the jury, she had good reason to think so.

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Count 48. Another count of the misconduct in public office. That relates to an inappropriate sexual relationship with inmate A. A relationship is one of a prison officer and inmate. It is made sexual albeit not with her approval. It goes without saying it was a relationship which took on a sexual character by virtue of that offending.

S. I'm getting there, members of the jury. Counts 49 through to 51. She was an inmate at Dillwynia firstly from 31 March 2016 to 6 August 2016 and again from 25 June 2018 to 28 December 2018 and again from 28 September 2019 to 3 October 2019.

Members of the jury, you will hear that some of these women were in and out of gaol and it is not going to be suggested by me or anybody that any of these women will pillars of virtue, outstanding great members of the community for whatever reasons. It is not going to be suggested. You will look, of course, impartially at all of the evidence, the Crown says.

S worked in the buy-ups section. Sometimes the accused would call her and also N down to his office. He gave her compliments about her appearance, blew kisses at her and winked. Already of course misconduct, misbehaviour, gross inappropriate behaviour.

He gave her cigarettes in return for sexual favours. Sometimes at muster he would make sexual comments to her in front of others and say, "Hi sexy" and "Nice legs". On one occasion, count 49, S was in the office with Wayne Astill alone, his office. N had left. He was sitting on a desk. She was in a chair. She got up to walk away because she felt uncomfortable. He pulled her back and starting rubbing against herself.

This is count 49, members of the jury, the assault, touching, rubbing her body whilst having an erection because she could feel his erect penis rubbing up against her buttocks. She was wriggling, but could not get away. He had firmly held her what might be described as a bear hug. To this she didn't consent. He had no reason to believe that she was consenting. After she went back to her wing. She did that at that stage know what had happened.

A few days after that first incident, we move now to count 50, N and S were called by the accused to clean his office area. He said things like, "You look good, turn around so I can look at you". While N was outside cleaning the accused pulled S back inside. He said that he had some White Ox tobacco. He showed her a pouch of tobacco sticking out of his boot. She did not accept the offer. She turned to leave. He grabbed her arm. He pulled her close towards him. Held her with both arms around her body firmly. Kissed her neck. Rubbed his hands over her body. Rubbed his body against hers. She could feel he had an erection being rubbed up against her buttocks, her breasts, vagina, over the top of her prison greens, her tracksuit. She said, "Stop, stop".

N will tell you that she saw the accused go into the SAPO office and the door was shut behind them while she kept a look out. She will tell you, N, that she

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saw the accused kiss S and touch her on the backside.

Count 51 relates to that relationship, members of the jury, with S again. He did her favours and the sexual contact formed part of the behaviour, the sexual
5 comments again unscheduled, unaccounted for meetings without a legitimate proper reason, acting completely contrary to his duties amounts, again the prosecution says, to erase this public trust. He is a public officer. He is in the course of his duties and he is behaving in a way which is, the prosecution says, so serious as to warrant condemnation of criminal punishment. That
10 being a requirement for that offence of public misconduct.

That concludes, members of the jury, the various counts that I have spoken to, but can I just say this very quickly turning to a couple of things, of other things that you will hear in the trial and to remind you that what I have done, and I am
15 required to do, is go through - and for the accused's benefit so he can hear what I am saying and what I rely upon for the particular charges.

It is also to tell you, importantly, what sort of things you would expect to be hearing in the coming days. As witnesses will give there may be some
20 variation, you might expect, from what witnesses have said and what I have forecast their evidence to be. That's why it is so important to bear in mind as to what her Honour and when I first said when I stood up yesterday, that what I say is not evidence. I'm describing what I expect the evidence will be. The evidence will come from the mouths of witnesses from audio recordings or
25 photographs and other sources that you will be well aware is the evidence.

I referred yesterday to a trip. One of the inmates had referred to the accused going on an overseas trip to the USA. This is September 2018. The accused went on a holiday to the United States with his partner, Tania Hockey. There
30 was a correctional officer by the name of Ron Brumwell and his wife. They are colleagues and at that stage friends.

Whilst on holiday, the accused told Brumwell that he shared a can of coke with C and nothing else happened with C. He told him that he slapped K on the
35 backside, not precise words, but that was the effect of it and that she said nothing and walked away. He told Ron Brumwell that H had sucked his penis and let him have sex with her in the BIU, the Behaviour Intervention Unit. That he had sex with H on multiple occasions.

40 He told Brumwell, again forgive me but this is unfortunately the subject matter of the trial, that he had "fisted" an inmate by the name of [REDACTED] in a cell in the BIU on top of the sink. This being, if you don't know, a practice where one person puts their fist into the vagina of another person.

45 He said this that he had sex with three, he said South American inmates, GG, F and another. He told Brumwell he had sex with O saying, "I had her across the table with her legs apart and licking her snatch. She then had one of the best pussies I've ever seen, soft and smooth". He said, "We almost got caught when Giles came in, a colleague of theirs. He said to Brumwell that he had
50 sex with I and another inmate in the SAPO office and closed the blinds. One

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of them gave oral sex and the other had to show her vagina to him.

5 At the arrangement of the police, who came to receive information, as you will hear, about various complaints being made about Wayne Astill, the police had a couple of high ranking officers at the gaol, effectively wired up. They had surveillance. They call it a surveillance device. They have got a warrant, which of course is all lawful, and secretly recorded him basically.

10 In that he denied having sexual intercourse with any inmate or intimidating any inmate. He said that he had ED, erectile dysfunction. He said, "I've been on this medication for years now since 2002, I think it was, about the last five or six years, mate, and unless I pop a pill I can't get it up so no-one has been sucking my dick".

15 Number of lies, members of the jury, that is about his ability to get an erection. There was a good deal of other conversation that he had, about which you will hear, including a further recorded meeting with the then Acting Governor Schreiber. There was a conversation that there had been rumours, the Acting Governor said to him. So the Acting Governor knows it is being recorded. The
20 accused did not obviously perhaps.

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He said this, that GG and F used to spend a lot of time with him. He said, "GG was a very pretty girl, drop dead sort, and we would gladly have a go at, in a big enough office with no hidden cameras." That's what he's on tape, as it were - that's what he's recorded as having said. "No hidden cameras." Not
5 much else was said.

Members of the jury, I hope that gives you an outline of what the case is about, of what the various counts relate to. Obviously there'll be considerably more detail as the evidence comes. I thank you for the attention you gave me
10 yesterday and today. Yesterday in particular was obviously a very long day, and I think the number of charges just required the opening address to go longer than it might ordinarily go. But I thank you for staying with me and paying that attention. I've no doubt, when I sit down and Mr Tyler-Stott addresses you, that you will pay him the same attention and courtesy.

15 Members of the jury, thank you for listening. Thank you, your Honour.

HER HONOUR: Yes, thank you, Mr Crown. Yes, Mr Tyler-Stott?

20 TYLER-STOTT: Thank you. Ladies and gentlemen of the jury, my task right now is not to tell you why you should find the accused not guilty, because you haven't heard the evidence yet. My task right now is just to tell you where there is agreement with the Crown case and where there is disagreement, where you're likely to hear conflicting evidence or conflicting theories.

25 Now, the last conversation to which my learned friend referred, a holiday in 2018 in September, is largely consistent with the defence case, that is, that he did have sex - or at least sexual relations - with a number of inmates. But that was with their consent, their willing consent. There were no threats. There
30 was no violence.

Ladies and gentlemen, you've heard the accused plead guilty to a number of counts on the indictment. That should give you a pretty good indication as to the matters where it is said - or the complainants where it is said there was
35 some sort of sexual relations having taking place, but that it was with consent.

For example, C. Yes, we pleaded guilty to misconduct in public office, that there was an inappropriate sexual relationship. There was an inappropriate sexual relationship, but that did not extend to the criminal offence of
40 aggravated sexual assault. It was purely and simply sexual relations, in many forms, with her consent. The same applies to H. H. It was a lengthy and enduring relationship.

45 He's pleaded guilty to misconduct in public office, that he had inappropriate sexual relations with an inmate. He did breach his duty to his office. It is worthy of condemnation and punishment, and he will be. He has pleaded guilty to that which he has done, and he's pleaded not guilty to that which the Crown sets out to prove against him.

50 O. We've pleaded guilty to misconduct in public office. Yes, we did have

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sexual relations, we shouldn't have, and that's why he's pleaded guilty to that particular count. He did it with her consent. The same applies to M. We pleaded guilty to misconduct in public office. But we didn't indecently assault her. Whatever took place was with her consent.

5

And as far as the complainants K, N, D, A and S, there was no sexual relations at all. These ladies - or inmates - were housed together. Information travels like wildfire within the prison system. You'll hear that H came forward, and then there was a cascading effect. There were a number of complaints that followed thereafter.

10

Mr Astill did place himself in stupid positions, one which allowed him to have allegations made against him, and here he is. One might think that that's why there is that policy to which my learned friend referred earlier. It is there to protect not only the inmates but also the guards from blackmail, or accusations. And we'll get into that throughout the course of the trial, and it's going to be a long trial so I won't take too much of your time.

15

What I'd ask you to do, or not to, is not to judge him based on the allegations. That's all they are at this stage. Judge him on the evidence. Keep an open mind. And at the end of the trial, after you've heard all of the evidence, all of the submissions from the Crown, myself and her Honour, as far as the directions of law which she is required to give you, then make up your mind. Give this man a fair trial. Don't judge him on the quantity of the complainants but the quality of their evidence. Thank you for your attention.

20

25

HER HONOUR: Yes, thank you.

So, ladies and gentlemen, you've heard the opening addresses of both the Crown and the defence now, Mr Tyler-Stott on behalf of the accused, so you are more aware of what is anticipated the Crown case will be and the issues that are going to be relevant to this trial and effectively the defence that Mr Astill is raising.

30

What we will do now - as I said, I have some longstanding matters I need to attend to today and tomorrow. So now that you have both of those addresses and you have some understanding of what's going to go ahead on Monday, I'm going to let you go and release you. Go and have morning tea, take your time with the tea and coffee and then you're free to go. But, please, if you can return on Monday morning at 9.30 so we can kick it off with a 10am start, with the first witness who'll be called to give evidence.

35

40

Again please don't discuss the evidence or the matter with anyone. No evidence has been called yet, but please don't discuss what you've heard with anyone. Please just remember my direction to tell anyone who asks that you've been directed not to discuss the matter, and we will see you on Monday. And have a great weekend. Thank you very much.

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IN THE ABSENCE OF THE JURY

HER HONOUR: Mr Crown, can you have sent to me or have available on Monday the tendency notice, so I understand the tendency you're seeking to prove. And also the judgment by Judge Sweeney in relation to - I think there was the decision on the audio material, or any other pretrial decisions that were made, just so I have some understanding.

CROWN PROSECUTOR: Yes, your Honour. If it please the court.

HER HONOUR: Was there anything else that needs to be raised?

TYLER-STOTT: Your Honour, just to the extent it may be required and perhaps for the abundance of caution, he's reporting on Monday, so I'd just ask that that may be suspended.

HER HONOUR: During the course of the trial. So are there any other bail variations that are sought.

TYLER-STOTT: No, your Honour.

HER HONOUR: Well, I would ask, if the court is sitting at 10 o'clock, that he be here within the court precincts by 9am each day to avoid any contact with any jurors. And also that he is to stay for half an hour after the jury has been sent home for the day, each day that the court is sitting. And during the time of the trial and the course of the trial there is no requirement to report.

TYLER-STOTT: Thank you, your Honour.

CROWN PROSECUTOR: Only to remind your Honour - I have a hard copy. I will send you a soft copy.

HER HONOUR: No, it's all right. A hard copy is fine. I'll have that marked for identification. You may approach, if you like.

MFI #9 ABOVE-NAMED DOCUMENT

HER HONOUR: And just a copy of the judgments on Monday would be appreciated.

CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: Anything else?

CROWN PROSECUTOR: I know your Honour has the other matter. Did you need to deal with the non-publication order issue now?

HER HONOUR: I don't think so. It can stay in force until the evidence commences, and just remind me on Monday morning. But the first witness, I take it, will be C on Monday morning?

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(TYLER-STOTT)

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CROWN PROSECUTOR: A prisoner office, by the name of Barry, setting the scene, and then--

5 HER HONOUR: Yes. AVL or in court?

CROWN PROSECUTOR: That officer will be in court. And the women will all be AVL.

10 HER HONOUR: So then the complainants will commence.

CROWN PROSECUTOR: Yes. Could we have a s 77 order for C, your Honour?

15 HER HONOUR: Well, we just need to have either her date of birth or MIN number in relation to that available to us, or in relation to each of them. So if that can be sent through to us, I'll order a s 70 via AVL. Will that be the only one required for that day?

20 CROWN PROSECUTOR: Yes. I've told my friend that will well and truly see out Monday.

HER HONOUR: Yes, okay.

25 ADJOURNED PART-HEARD TO MONDAY 31 JULY 2022

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IN THE DISTRICT COURT
OF NEW SOUTH WALES
CRIMINAL JURISDICTION

5 JUDGE O'ROURKE SC
AND A JURY OF FIFTEEN

THIRD DAY: MONDAY 1 AUGUST 2022

10 **2019/00056907 - R v Wayne Gregory ASTILL**

STATUTORY NON-PUBLICATION ORDER

CLOSED COURT FOR EVIDENCE OF COMPLAINANTS

15

HER HONOUR: Good morning, ladies and gentlemen. Are we ready to proceed?

20

CROWN PROSECUTOR: Yes, thank you.

<JUDITH BARRY, SWORN(10.20AM).

25 <EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

Q. Is your name Judith Barry?

A. That's correct.

30 Q. Are you employed by Corrective Services New South Wales?

A. Yes.

Q. What rank do you hold within that organisation?

A. Currently I am a Principal Correctional Officer.

35

Q. Is that higher than a Chief Correctional Officer as that rank used to be?

A. Yes.

Q. Does the rank of Chief Correctional Officer still exist?

40

A. It does; not in name, it doesn't.

Q. During the period of 2014 through 2019, did that exist at that time, Chief Correctional Officer?

A. It finished at the end of 2019. That rank was cancelled, or gotten rid of.

45

Q. I am going to show you a number of documents, (Shown). I want you to look at the cover sheet, with a number of items contained in the bundle indexed?

A. Yes.

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Q. The second page, does it set out the hierarchy of the senior management at the Dillwynia Correctional Centre?

A. At the time, yes.

5 HER HONOUR

Q. What years are we talking about?

A. Up to the end of 2018, when they deleted this rank.

CROWN PROSECUTOR

10

Q. The jury will get with a copy of that shortly, but does it essentially show this; that the Governor at the top of pile, as it were?

A. Correct.

15 Q. Securely Manager?

A. Yes.

Q. Two principals?

A. Yes.

20

Q. And that is the rank that you currently hold, now?

A. Yes.

25 Q. During the period 2014 through 2018, did you hold the position of Chief?

A. Yes.

Q. Was your role as Chief, as an intelligence officer?

A. At the time I was doing some intel.

30 Q. What does that refer to, intel?

A. Intel refers to the intelligence gathering of the centre, watching inmate, see what contraband, and so forth, is coming in and sometimes we deal with staff issues.

35 Q. Just bearing in mind that the jury don't come from that world, contraband is that stuff that is smuggled in?

A. Yes, drugs coming into the centre, and so forth.

40 Q. Intelligence gathering, does that relate to information received, anonymously or otherwise, about behaviour of inmates and in some cases officers?

A. Yes, that's correct.

45 Q. That is stored for the purposes of future investigations, to ensure the safe keeping of those in the gaol?

A. Yes.

HER HONOUR

50 Q. When you say contraband, Ms Barry, inmates cannot have that brought in

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to them?

A. No, that's correct.

Q. Anything that has basically been checked by security and passed?

5 A. That's correct.

CROWN PROSECUTOR

10 EXHIBIT #A - ABOVE BUNDLE OF DOCUMENTS TENDERED; ADMITTED
WITHOUT OBJECTION

15 HER HONOUR: Ladies and gentlemen, you are about to get a bundle of documents. Don't go fast forward. I am sure Mr Crown will be taking you to the ones he wants to take you to. So we will go to the ones as they are progressing. If you want to, because we mark the items that are tendered, mark this as exhibit A so you know which one is being referred to during the trial.

20 COPY OF EXHIBIT A DISTRIBUTED AMONGST THE JURY

CROWN PROSECUTOR

Q. After the page with that flow chart of hierarchy, you have got a document titled Glossary?

25 A. Yes.

Q. For the jury's benefit, BIU - I will refer to some of the terms that will be referred to during the trial - is behavioural intervention unit?

30 A. Yes, that's correct.

Q. And it is isolation cells?

A. Yes.

Q. There are five of those at the gaol?

35 A. Yes.

Q. They are for punishment or monitoring?

40 A. Yes, obvious if they are in protection and they can't mix with the others, any management or problems or issues.

Q. So if they are a security risk from other inmates, they would go to the behaviour unit?

A. Yes, if they can't be in the SMAP house.

45 Q. Now the SMAP house is referred to further down the list, Special Management Area Placement?

A. Yes.

50 Q. That could be to house people who are need of protection from other inmates?

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A. Yes.

Q. And it is indicated in the glossary, that that may be, for example, because of the nature of their crimes?

5 A. Correct.

Q. If it is a situation that an inmate has become an informer, that is given evidence for the police or the prosecution or given information to them, and that is known, would they likely go to the SMAP?

10 A. Yes, that's correct.

Q. Further down the glossary list we see overseer?

A. Yes.

15 Q. They are a correctional officer, but they have a role of assisting inmates doing skills and living skills?

A. Yes, industry, hygiene, mowing the lawns. May get paid to do that.

20 Q. There are some photographs which the jury will see shortly of the SAPO office within the gaol - yes?

A. Yes.

Q. And you are the SORC, the Serious Offenders Review Council in the gaol?

A. Yes.

25

Q. And they make decisions about the classifications of prisoners and, therefore, the various privileges they may have or the manner in which they are housed?

A. Yes.

30

Q. I want to move now through a series of photographs--

HER HONOUR: Are you going to classification of inmates, Mr Crown?

35 CROWN PROSECUTOR: Not now.

Q. I will move somewhat quickly through these, Ms Barry, but you have, down the bottom of the page, as you hold it up in portrait mode, I will be using those numbers, number 4, do you understand?

40 A. Yes.

Q. Does that show the entrance to the Behavioural Intervention Unit?

A. Correct.

45 Q. I think you said there were five cells in there?

A. Correct.

Q. Page 5, using the same numbering, is that the same doorway that is shown, to the left of that photograph?

50 A. Correct.

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- Q. Page 6, what does that show so far as the Behavioural Intervention Unit is concerned?
A. That is the door on that and that goes into the reception room where we receive inmates from other centres.
- 5
- Q. With that reception process, is that to do as screening of them, both physically, to ensure they are not bringing in any contraband?
A. Yes, at that time they were strip searched in there and we do a tick and flick about any issues or concerns they have.
- 10
- Q. And medical needs?
A. Yes, a medical will see them, yes.
- 15
- Q. If you go to page 7, is that from inside the BIU?
A. Yes, correct, looking into one of the cells.
- Q. Page 8, is that likewise?
A. That's correct.
- 20
- Q. Where the door is open on the left, and you can see a steel looking toilet, the door to the right, is that a separate cell?
A. Correct.
- 25
- Q. Page 9, does that show the same doors to which we just referred?
A. Yes, it shows you all five cells.
- Q. That is looking out to an open area. Is beyond that the reception area?
A. To the right of that, if you walk out and straight ahead, that is the reception area.
- 30
- Q. Page 10, what does that show?
A. That shows, behind the picture to the back, if you are looking at that are the cells and that is the common area where the inmates get their coffee and lunch.
- 35
- Q. And that area to the left hand side of the photo, there appears to be a partitioned office?
A. Yes, that's where the prison officers sit. It's an office.
- 40
- Q. Would there be a Chief Correctional Officer seated in there?
A. Yes, that used to be one. The Chief Correctional Officer, that used to be one of the areas they would oversee. Their subordinates sit in that area.
- 45
- Q. There during the period, 2014 through 2018, do you recall whether there were cameras in that area - in that office?
A. I don't believe so at the time.
- 50
- Q. Go now to page 11 please?
A. Yes.

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- Q. Does that show a different area of that - an angle of that common area?
A. Yes, showing the toilet and behind again is where the cells are.
- 5 Q. Page 12, is that the end toilet, another angle?
A. Yes, the toilet is on the left. Yeah, it's just another angle.
- Q. Do they all have their own toilet in their cell?
A. Yes, correct and a shower.
- 10 Q. Is that the case in the BIU or the mainstream?
A. Some of the areas have showers and toilets in their cells and others, that are in common areas, they share them. It depends if they are locked in their cell of a night.
- 15 Q. Page 13, that is looking out to the common area?
A. Yes, that's right, from inside the cell.
- Q. You note that these photographs, there is an inset photograph and an aerial shot?
A. Yes.
- 20 Q. And there will be evidence about what that means. Page 14, again from inside the BIU cell - yes?
A. That's correct.
- 25 Q. Photograph 15, inside the cell - yes?
A. Yes.
- 30 Q. Did they look all look like that?
A. In that area, yes.
- Q. In the BIU?
A. Yes.
- 35 Q. 16, likewise?
A. Same thing, yes.
- Q. In that photograph you see, in the top right hand corner of that room, in the ceiling, there a silver dome?
A. Yes.
- 40 Q. Is that a camera?
A. No, when we do our checks, and they are locked in, we open the little flap at the top and we look in and it's is a mirror, so you can see them sitting on their bed, lying on their bed, because there is actually a wall where the toilet is so you can't see them. So, it's just a mirror.
- 45 Q. Page 17, is that the case management room?
A. That's what it is called now. It used to be called the hub, where we used to
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all sit.

Q. When you say we all sit, is that a particular rank?

A. Chief Correctional Officers.

5

Q. And I think some of the Principals?

A. I can't remember who else sat there.

Q. During the time that you were Chief Correctional Officer, was Wayne Astill every a Chief Correctional Officer as well?

A. Yes, Acting.

Q. Was his substantive position, or his rank otherwise, as a Senior Corrections Officer?

A. That's correct.

15

Q. Page 18, that is outside the hub?

A. Correct, the entrance is to your right.

Q. What does page 19 show?

A. It just shows if you were standing inside the doorway of the hub and looking out.

20

Q. So is that another building, another part of the case management room?

A. No, that is the IDEPT. It is a separate building.

25

Q. What happens in there?

A. IDAPT, Intensive Drug Treatment.

Q. What is that about?

A. So it helps inmates to address their drug problems whilst in gaol and they do programs and they talk about their crimes, and so forth. If they admit to using drugs in gaol, they help them.

30

Q. So, rehabilitation, is it fair to say is a key part of the gaol - it is the aim?

A. Correct.

35

Q. Is that made clear to all corrections officers that that is the function of the correctional services system?

A. Yes.

40

Q. Page 20, another photo of you outside the hub?

A. Correct.

Q. At page 21, you see a desk?

A. Yes.

45

Q. Who would sit there?

A. The Chief Correctional Officer.

Q. Who was the Chief Correctional Officer who would sit there at that time or

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would they rotate?

A. Depending what post we were filling for the day, we all sat there at some stage.

5 Q. Did that include Wayne Astill, do you remember?

A. Yes, that's correct.

Q. Were there cameras, to your knowledge, throughout that period 2014 to 2018, cameras in that area?

10 A. No, there were not. It is an admin building, so, no.

Q. Page 22, does that show the same desk?

A. That one, I'm afraid, I'm sorry, I can't get my bearings on that one.

15 Q. But that is within the case management room as well or you can't say?

A. I'm sorry. I am assuming, yes, it is, but I can't say a hundred percent.

Q. You don't know?

A. No - the second picture actually clarifies that first picture. Yes, it is.

20 Q. So between 22 and 23 they are of the same area?

A. Correct.

Q. At page 24 is that a different angle?

A. That's correct.

25

Q. So where, during that period I have referred to, 2014 through 2018, where would be the closest cameras to there, to your memory?

A. Look, they would be out in the compound. I couldn't tell you. I don't know.

30 Q. Is it the case that that was the - it was a staff only area?

A. Well, you would bring in inmates in there if you doing charges, and stuff, but generally, no, it is an admin area.

Q. When you say doing charges and stuff, what do you mean?

35 A. I mean misconduct. So institutional misconduct.

Q. That could be things like having contraband?

A. Yes, definitely; fighting.

40 Q. If they have done urine testing or blood testing?

A. Just urine, correct.

Q. 25, do you recognise that?

45 A. Yes, that is another room. There are two rooms off the hub and, from memory, I believe that the principals used to sit in there, from memory. So there is a room either side of that table that we used to sit at.

Q. 26, is the same but a different angle?

A. Correct.

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Q. Do you recognise 27?

A. Yes, that is one of the rooms off the - within that building, at each end.

Q. It appears to be an office. Who would sit in there?

5 A. The Principal Correctional Officer at the time, from memory.

Q. Would a Principal Correctional Officer be a higher rank than the Chief?

A. Correct.

10 Q. Would here be Principals 24 hours at the gaol?

A. No, 8 to 4.

Q. Does 28 show the same desk but a different angle?

A. Correct.

15

Q. Coming to 29, J-BLOCK?

A. Yes.

20 Q. What was the situation in J-Block? What sort of inmate of level of security did it have?

A. Yes, it had all classifications. They were the inmates put there either to do with their crimes; if they are being threatened from other inmates. They were basically there for protection for themselves and they are never mixed with the main population.

25

Q. I will not go through them now, and the jury would see at page 3 of the documents there are various classifications. That is what you are referring to, where prisoners are classified?

30 A. Yes, and because we only have one SMAP area as such, we would have maximum and minimum in there.

Q. And the prisoners would refer to that as their "classo" being their classification within the gaol?

A. Correct.

35

HER HONOUR

Q. What does maximum mean?

40 A. Maximum means security inmates. So, the higher - yes, murder, things like that.

Q. It depends on their crime?

A. Yes.

45 CROWN PROSECUTOR

Q. Is there a reference in the gaol, Dillwynia, to low needs, medium needs and high needs?

A. Correct.

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Q. What does that denote - what does that mean?

- 5 A. So, high needs is the high inmates. The SMAP area is in high needs and I refer to it as the naughty girls. We put them in there and manage the, and so forth and some inmates who might not be able to progress - they might be intellectually bit off and we keep them up there to protect them a little bit more because it is also behind the fence. Then medium needs is your general scale population inmates and low needs is where we progress the inmates as they go through the system.

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Q. Would it be typical as they become more settled in the gaol?

A. Yes.

Q. They go--

5 A. Correct, yes.

Q. Is it fair to say then, you were speaking about the high needs, that would sometimes be people with needs arising from, say, cognitive impairment, intellectual impairment?

10 A. When I was up there, yes, I used to try to keep the girls like that up there, so they were safe.

Q. Is it fair to say that where they were housed would not necessarily reflect their behaviour, if they were misbehaving?

15 A. Correct, that's true.

Q. It may be other subjective matters, you know, how intelligent they were, medical condition, otherwise?

A. Yes, correct.

20

Q. You see there there's the reference, the caption, to the SAPO officers? Page 29 we were on.

A. 29?

25 Q. Yes, up to 29.

A. 29 is the units.

Q. 29 (shown).

A. Yeah, yeah, that's the SMAP house, Special Management Area Place.

30

Q. Just so we are looking at the same page, 29 down the bottom, and it's got up the top "J Block" and "SAPO offices".

A. No, that's just J block.

35 HER HONOUR

Q. So they're not SAPO offices?

A. No, no, that's the actual inmate's accommodation area. The SAPOs are actually behind that, where the officers are stationed.

40

CROWN PROSECUTOR: We will come to that later, I'd rather make that evidence later, your Honour.

Q. Page 30 is that just J block?

45 A. Yes, that's J right. We have J left and J right, and that's the entrance to J right.

Q. 31, likewise?

50 A. Yeah, there's units to your right (indicated), yep. If you see in the left-hand corner that white-ish building that's part, that's one of the SAPO rooms.

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- Q. I think you've identified what the name of that was earlier for the transcript, yes. Page 32, what's that?
- 5 A. Okay, so the left-hand side where the windows - the doors and that are, the full glass, that's where the inmates go to - just to sit, it's like a common area, where they can have a coffee and so forth. They do some training and so forth, the SMAP is in there and then the next little bit is the officer's station. And then you will see a gap in the building three-quarters of the way across - or two-thirds of the way across, and then to the right of that is where
- 10 the chief correctional officer used to sit--
- Q. Was there anything--
- A. --and the SAPOs.
- 15 Q. Sorry. All right. In the SAPO area, around the middle of that building, did that have cameras in it during that period I referred to?
- A. Inside the building?
- Q. Yes.
- 20 A. No, it didn't.
- Q. Right. What about the chief?
- A. No, we don't have cameras inside the officer's stations.
- 25 Q. Were there times when inmates would go to the chief correctional officer?
- A. Yes.
- Q. And that was supposed to happen for appropriate purposes?
- A. Look, if - depending on the situation, you know, we are going to be
- 30 charging them or so forth sometimes we would take them in. Just depends on the individual as to whether we would take them inside, and there's nothing wrong with just doing your charges or if you choose to do them outside of there, or you need to talk to an inmate in confidence, they've got intel.
- 35 Q. 33, just a duplicate of the same one?
- A. Same one.
- Q. 34, that shows a SAPO office to the right, yes?
- A. Correct.
- 40 Q. What's to the left?
- A. The left is J unit.
- Q. 35, J unit again.
- 45 A. Correct.
- Q. What does 36 show, inside a building, what's that indicate?
- A. Okay, so that's standing in the - what we used to call the old smoke outs, when inmates used to smoke they used to sit in there. So they've taken the
- 50 picture from in there into the inmate accommodation common area.

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- Q. You said, they used to smoke; when did they stop being able to smoke in gaols?
- 5 A. Look, I couldn't tell you the exact date, I'd be lying if I - I couldn't tell you, I'm sorry. I mean, there is a policy in that and it goes back to when we did.
- Q. We will come to that.
- A. Okay.
- 10 Q. At some point there was decision made that throughout New South Wales gaols that inmates would not be able to smoke and it would be a smoke-free area?
- A. Correct.
- 15 Q. Did smoking continue to be a problem at Dillwynia? Were there ever incidents of people being caught with cigarettes after that?
- A. Of course, definitely.
- Q. Fairly common?
- 20 A. They have been caught, yes, yes.
- Q. And that's one of those misconduct charges, internal charges?
- A. Correct.
- 25 Q. Page 37, what does that show?
- A. That's just basically taking a picture of the end wall of the smoke out. So that's what we refer that area as, as a "smoke out".
- Q. That's where they used to smoke?
- 30 A. Yeah, yep.
- Q. Page 38?
- A. That's looking out of the smoke out onto the verandah area of the J unit.
- 35 Q. Page 39, is that inside of a cell?
- A. Correct.
- Q. Now that appears to be rather more decorated than the ones in the BIU, is that typical?
- 40 A. Yeah, because of the BIU is generally not long-term.
- Q. Right.
- A. These are long-term.
- 45 Q. The women are allowed to decorate?
- A. Within reason.
- Q. Yes and who makes that decision as to whether they can obtain stationery and all that sort of thing to--
- 50 A. Generally speaking, you know, the senior or the chief or principal of the

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area police that along with the staff.

Q. On what basis was that decision made, to allow them to have stationery and the like?

5 A. Well, there are rules and regulations that we have to abide by, but if they've got an extra pen or an extra picture on the wall we are not going to say, you can't have it.

HER HONOUR

10

Q. Is J block a high need, medium need, low need area?

A. So J unit is all the SMAP inmates and they can be all category. So they could be maximum, murderers, down to petty theft, but because we only have one area we have to house them all together, in their cell, like, they have their
15 own cells.

Q. So they are all just one in, one out, whatever?

A. Well, one of the cells in each side is a three out, but most of them, yes, are a one out.
20

CROWN PROSECUTOR

Q. There may be reference to it during the trial, but just to make it clear, I think it is in the glossary, Mulawa that's another main female prison in the Sydney metropolitan area?
25

A. That's the reception centre for the females, yes.

Q. And that's at Silverwater?

A. Correct.
30

Q. So people with their charge, and they don't get bail, and they're going to go into the gaol, they would go via Mulawa often?

A. Yes.

35 Q. Page 40 of the photographs, that's inside that same cell?

A. Same cell, yep.

Q. There's a reference to being "one out" or "three out" in the gaol, what does that mean?

40 A. So what happens is some of our inmates are what we call a "green card". So whether it be for medical reasons, they will be put as two out, because if they have an episode when they're with someone in their cell that can knock up, press the button, and say, look, they're having a seizure or - so, yes, some inmates - and medical make that decision, not us.

45

Q. Another layer of oversight, if you like, is that right?

A. Sorry?

Q. Another layer of oversight?

50 A. Duty of care, duty of care, yes.

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- Q. You mention "duty of care", is that an important feature of the Corrective Services' obligations as is impressed upon all staff?
 A. It's one of the main ones.
- 5
- Q. That duty of care being a duty to provide care for those whose freedom is taken away by the fact that they are in gaol?
 A. That's right and we have to make sure that we care for them in a safe, humane environment.
- 10
- Q. Page 41, is that from inside that cell, the features--
 A. It is inside a cell, I can't confirm, but looking out into the common area, yes.
- Q. Page 42?
 15 A. Oh yeah, it's another cell.
- Q. In J block again?
 A. Yes - well, it's hard to tell.
- 20 Q. All right. Page 43, you see there's a toilet in the centre of the page?
 A. Yes.
- Q. Is that for inmates, staff?
 A. No, no, that's inmates, because the SMAP inmates in J unit are locked in of
 25 a night-time, so they have to have a toilet.
- Q. Page 44, there's a cap hanging up, the colour is known as "prison greens", yes?
 A. Yep.
- 30
- Q. The women would generally wear tracksuits, shorts and the like, but all in the colour dark green, that colour?
 A. Correct, in bottle green, yes.
- 35 Q. Page 45, what does that show?
 A. That shows the common area. It looks like to me J right, that is where the inmates all congregate, watch TV, cook their meals - sorry, prepare their meals, play games.
- 40 Q. 46, different angle of the same thing?
 A. Correct.
- Q. The cells behind the lounges, behind that wall--
 A. Yes.
- 45
- Q. --partitions. 47, likewise?
 A. Yes.
- Q. 48, same area?
 50 A. Correct.

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- Q. 49. Then 50, from the opposite angle?
A. Correct, from the kitchen, looking down.
- 5 Q. Same common area. 51, same?
A. Yes.
- Q. 52?
A. Is looking back at the kitchen and a couple of the cells.
- 10 Q. Was there cameras in this area during the time?
A. No.
- Q. In the common areas where the prisoners would go?
15 A. Not in that one, no. Not all accommodation areas have cameras.
- Q. But do all common areas?
A. No.
- 20 Q. Not all common areas have cameras either?
A. No, no, sorry.
- Q. I'm just asking you.
A. Yeah.
- 25 Q. Page 52, what does that show?
A. That shows looking back at the kitchen, with cells at the back.
- Q. 53, same kitchen?
30 A. Yep.
- Q. 54?
A. Is another cell, and again that thing up the top is a mirror.
- 35 Q. You see there's a blue sheet off to the right, do you know what that is?
A. To the right?
- Q. Yes.
A. Yeah, it's a blue plastic garbage bag that they've covered one of the
40 pinboards, for what purpose I don't know.
- Q. 55, inside the cell of J block?
A. Yep, looking at the toilet.
- 45 Q. Does 56 show the view from inside a cell--
A. That's correct.
- Q. --from the outer area. Now where there's checks to be done on inmates, is
50 that a regular thing that's got to be conducted to ensure that inmates are not
trying to harm themselves?

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A. Not in that unit, no. We move them into observation cells where they've got 24 surveillance camera. The only thing that we have on these is outside the unit where we put a buzzer on, just to say that we've done our checks outside the units, but we don't go into the units, unless there's--

5

Q. All right, I'm sorry, that may be my fault, but when I say "check" on them, you see there is a window in that cell at 56?

A. Yep - no, that used to be an old observation cell, but we don't use them. We've never used them since I've been at the centre.

10

Q. Just for the jury clarification, the bars that they may have seen in movies and the like, the bars in gaols, they got rid of those a long time ago now, didn't they?

A. They are more so windows with sort of bars going across, (indicated) especially in the female institutions, they're not as in your face, so to speak, yeah.

15

Q. It is also a hanging risk, people hanging themselves from bars?

A. Yes.

20

Q. So, in the J block were there scheduled observations to be made by officers looking through the windows to see that the women were in there and were okay?

A. (Witness shook head).

25

Q. No? You have to answer.

A. No. I'm sorry. No, the only time that we would go into the units, say, we're locked in, we're short staff--

30

Q. I'm sorry, but I'm asking about looking in.

A. Sorry. No.

Q. Okay, so people would never look?

A. The only time we would do checks through the daytime only is if they're locked in, because we're short staffed. So we'd lock them in their cells and we'd just do our welfare checks.

35

HER HONOUR

40

Q. Is this just for SMAP or is that generally over the whole prison?

A. Well, mainly for the inmates that are locked in their cells, so generally high needs, which is where J unit is. If they're locked in we would go around and check inside at muster times, morning - yep.

45

Q. Just to check everyone is okay?

A. Yes, so the muster is of a morning, lunchtime and night.

Q. So you're meaning, looking through the window?

A. Opening up and checking - yeah, or just looking through window, but that's only between the hours of 8 and 4.

50

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CROWN PROSECUTOR

- Q. All right. Now 58, what does that show?
5 A. That's just looking out from the SAPO/offices/common room looking at J unit.
- Q. 59, is that a different angle, the same thing?
A. Correct, that door to your right there is the officer's station.
10
- Q. The jury would see it says "Officer Post", doesn't it?
A. Yep.
- Q. Who would sit in there? Would it be a chief, would it be--
15 A. Well, it depends on - as I said, our office is opposite that in an area, like, opposite that door (indicated), yeah, but the main staff that would sit in there would be the senior correctional officer and the first class correctional officers, so the baggies.
- Q. Sorry, the?
20 A. We call them baggies, anyone who is not a senior or above we just call them "baggies".
- Q. Baggies, all right. Are there cameras inside that room, the officer's post there?
25 A. No.
- Q. Page 60, what does that show?
A. That shows the - looking - so you've got J behind you (indicated) and that just shows you that tunnel between - on the left-hand side is the officer's post and on the right-hand side is the chief/principal/SAPO office (indicated).
30
- Q. Page 61, you see to the left of that photo on the door there is a colourful poster?
35 A. Yep.
- Q. Which can be seen in photo 60, so that's a different angle of the same scene?
A. Hang on - yes, correct.
40
- Q. 62, where is that taken from?
A. Okay, so this one is taken from the office where generally speaking the chief would sit and the principal would sit around the corner in there (indicated).
45
- Q. If the principal is on duty?
A. Yes.
- Q. Page 63, is that the same office?
50 A. Yes, it is.

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- Q. A filing cabinet in the corner, yes?
A. Correct.
- 5 Q. 64, what does that show?
A. That shows the chief's office again.
- Q. 65?
A. The same.
- 10 Q. 66, shows?
A. Okay, so 66 shows a picture where the principal used to sit and that's up the corridor, and those other two doors are where the SAPOs sit when they're there.
- 15 Q. 67?
A. Is the same room.
- Q. 68, same room?
20 A. Correct, just different set-ups.
- Q. Have a look at 69, what does that show?
A. To me it looks like the same office, but the desks have been move around or it's just the way the picture has been taken, maybe.
- 25 Q. Is that in SAPO?
A. Well, that's one of our offices, but, yeah, SAPOs are there too and they're like welfare officers.
- 30 Q. Welfare officers?
A. Yep, yep.
- Q. Page 70, do you recognise that or not?
A. That looks like one of the SAPO offices.
- 35 Q. 71, you see on the door it says, OS and P?
A. Yep, SAPO's office.
- Q. Different angle at page 72?
40 A. Yep, they have a double, the two desks in there, that's a SAPO office or a welfare office.
- Q. 73?
A. Welfare office.
- 45 Q. Now the welfare officers are they on 24/7 around the clock?
A. No, they're on flex hours, so they can be there - they're not there all the time either.
- 50 Q. Page 74, same room?

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- A. Yes.
- Q. 75, looking out the hallway from that room?
A. That is actually the other SAPO's office.
- 5 Q. 76?
A. SAPO's office, welfare office.
- Q. 77?
10 A. Welfare office.
- Q. 78?
A. That's looking down the corridor out towards the officer's post.
- 15 Q. 79, from outside the SAPO?
A. Correct.
- Q. Who would do the cleaning at the gaol in these sections?
A. Inmates with the supervision of staff.
- 20 Q. As far as inmates having employment, were most of them employed at various jobs?
A. Not all of them are employed, we don't have enough jobs to employ all of them. But there are - I couldn't tell you the percentage, but there are quite a few that work.
- 25 Q. Now the role of the sweeper--
A. Yes.
- 30 Q. --what work does that task involve?
A. So basically the sweeper is supposed to be in a trusted position where they clean the staff's office and the toilet and the SAPO's office and all the other - they're still supervised, you don't leave them alone, but they're more trusted or supposed to be.
- 35 Q. Is that a job that they like to get?
A. In the male system definitely; but in the female system they do like it, but there's other areas that they like to work in too depending on where the money is.
- 40 Q. They're paid a modest - not stipend - but a modest salary for their duties?
A. Yes.
- Q. And they can use that towards buy-ups?
45 A. Correct.
- Q. I think we got to page 80.
A. Yep.
- 50 Q. That's looking at down the hall, towards the SAPO?

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- A. That there is looking straight into the custodial office.
- Q. What's meant by the "custodial office"?
- 5 A. Chief/principal, it's changed over the years, but, yeah, that's the one that's around the corner and in the end.
- Q. You say "changed over the years" you mean the person who sits in it has changed?
- 10 A. Basically, yeah, and the roles - you know, sometimes the chief is sitting there, sometimes the principal, depending on - you if you're acting into that position or - the roles have changed, so it's just thinking back then to now.
- Q. Page 81, what does that show?
- 15 A. That shows - it is actually condensed it is a lot longer than that, but it shows the custodial office, again, to your right - oh, sorry, to the right and then to the right of that there's the SAPO office there and then there's another one further this way (indicated). And then to your left it's just walking out, there's a photocopier room there to your right, and then just straight ahead is the staff office (indicate to jury).
- 20 Q. Page 82, appears to be a stores area, is that right? It says "photocopier room", but there's stores in there to the left, stationery and the like?
- A. Yes, I'm just trying to picture where it is, but, yes.
- 25 Q. Who is allowed to go in there?
- A. Well, at that time most of the execs would be able to go in there. That is where admin used to sit, yes, I know where it is now. The admin staff sit in that area. Sometimes we just walk in and get the stores. You know, later on down the track we were given a red key, which allowed us to go into any of the
- 30 areas, like a master key type thing that would open a lot of the doors.
- Q. When you say "execs"?
- A. Sorry, executive staff, meaning principals and chiefs.
- 35 Q. Okay.
- A. And if the staff on the ground, the baggies and the seniors, had that same key they could get in there too.
- Q. Page 83, is that the same photocopy room?
- 40 A. Yes, it is.
- Q. And 84?
- A. The same.
- 45 Q. 85?
- A. The same.
- Q. You go now to 86, which should be the last page in that pile, that sets out the site plan with an index of the various parts of the gaol, is that right?
- 50 A. Yeah, I'm just trying to get my bearings on this.

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- Q. Take your time.
A. Because the centre has now expanded, so I'm just seeing if this is before the expansion or back before.
- 5 Q. Can I indicate that the date on it is July 20, 08.
A. Oh sorry, yes, this is the whole area.
- 10 Q. Is that how it was during - just take your time.
A. Yeah, I've got it now, I know exactly what I'm looking at, yep.
- Q. Take your time, does that set out the gaol site, as it was during the time that period of 2014 to 2018?
A. Yep.
- 15 Q. There's an indication there on the index on the right-hand side of, for example, J block?
A. Yes.
- 20 Q. And where is the behavioural - the BIU?
A. Okay, so just give me a moment. So if you look - if you hold it sort of like that (indicated to jury), it's around here (indicates on exhibit), I can't tell you exactly where, but it's around in this area.
- 25 Q. So you hold the plan with the caption "Site Plan Dillwynia Correctional Centre" at the bottom, the behavioural unit is to the right of the site plan?
A. About halfway down, somewhere in here, yes.
- Q. Over on the right-hand side, in there?
30 A. Yes.
- CROWN PROSECUTOR: That exhibit might be returned. (Handed up).
- 35 Q. Ms Barry, there has been, hasn't there, a number of Codes of Conduct and ethics which bind the behaviour of correction staff over the time that you've been working with Corrective Services?
A. Correct.
- 40 Q. You started with Corrective Services in 1995, didn't you?
A. That's correct.
- Q. You have seen over the years various Codes of Conduct, there's also Commissioner's instructions that is particular instructions from the Commissioner for Corrective Services to officers under his or her command?
45 A. Yes.
- Q. Including smoke policies, when that changed, and including movements of staff in accommodation areas, those topics have been covered in those documents, yes?
50 A. The movements of staff is done, generally speaking, by the governor and

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the MOS to where they want to put us in areas, and then rosters just goes from there.

5 Q. So the Commissioner would set down general guidelines, Conduct of Conduct and then the governor of a particular gaol would have particular local rules, if you like?

10 A. Correct, local operating procedures, yes. The Commissioner - we would get all those Commissioner's and Deputy Commissioner's memorandums via broadcast on our email system. Then if they're important pertaining to the centres and that the governor would print them off, sign them, and then get the PA to distribute them with the signed signature, copy.

15 Q. I show you a number of documents (shown to witness). Do you recognise, just looking at them quickly, there's Codes of Conduct there and some Commissioner's instructions and memorandum?

A. Yes.

EXHIBIT #B CODES OF CONDUCT, COMMISSIONER'S INSTRUCTIONS
AND MEMORANDUM TENDERED, ADMITTED WITHOUT OBJECTION

20

COPIES OF EXHIBIT B DISTRIBUTED TO JURY AND HER HONOUR

25 Q. (Exhibit B shown to witness). Ms Barry, is it fair to say, and correct me if I've got it wrong, but the Code of Conduct that is something that every Corrective Officer is to be provided with and acknowledge that they have seen and read, yes?

A. Correct and we sign it.

30 Q. And agree to be bound by it?

A. Correct.

35 Q. Where there's some update of the Codes of Conduct is that, generally speaking, to reflect changes in language and where there's been particular problems highlighted to make it even clearer what can and cannot be done?

A. Correct.

40 Q. I'm not going to go through these documents page by page, every page, but if you go to page 40, the very first line under "Introduction" it says this:

"The people of New South Wales have a right to expect the business of the State to be conducted with efficiency, fairness, impartiality and integrity."

Yes?

45 A. Yes.

Q. Is that something that is impressed upon staff at all levels?

A. Oh yes, yes.

50 Q. Constantly?

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A. Yes.

Q. Bottom of that page there's a line that says this, this is the first page:

5 "You are required to follow the principles listed below when carrying out your duties, place the public interest and integrity above private interests."

A. Yes.

10

Q. It goes on to say this at page 5, under "Respect and Protect the Dignity and Human Rights of All Person":

15 "You must treat members of the public, public officials and persons in the custody of or under the supervision of the Department fairly and with proper regard for their rights and obligations."

Yes?

A. Yes.

20

Q. Page 9 of the documents, you see there's a section there on "Safework Practices"?

A. Yes.

25

Q. And there's a subheading "Reporting Incidents", it says: "You must assume responsibility for working safely to avoid risks to yourself and to others."

A. Yes.

30

Q. Now is there a particular concern that's raised with officers, generally, about them putting themselves in a position where they are compromised?

A. Yes.

35

Q. Further down that page, same page, "Conflicts of Interest" you see this, it says:

40 "Conflict of interests exists when it is likely that you could be influenced or could be perceived to be influenced by a personal interest in carrying out your public duty."

A. Yes.

45

Q. It goes on, "Examples of personal interests may include but not limited to" and gives one example: "Having a close personal relationship in a work environment, be it with another employer or an offender." That's an example given of a personal interest that a person might have which may give rise to a conflict of interest?

A. Yes.

50

Q. Over the page, page 10, you see there is a specific reference to a section

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on "Gifts and Benefits":

5 "You must not take advantage or attempt to take advantage of your position by seeking or demanding" - goes on - "any reward, payment, gratuity, gift, donation or other benefit for yourself or for any other person or organisation."

A. Correct.

10 Q. Ms Barry, during the time that you've been in the Corrective Services employment and as Codes of Conduct have changed has there ever been a time when it was appropriate to have personal relationships with offenders--

A. Never.

15 Q. --or inmates?

A. Never.

Q. What about, same question, but with respect to favours, giving arbitrary or personal favours, to particular inmates?

20 A. Never.

Q. I want to take you now to page 91 of that exhibit, you see there's an update as to making the gaol a smoke-free environment?

A. Hmm.

25

Q. In your experience in the gaols, do inmates ever have items which are used as currency like de facto money?

A. Yes.

30 Q. What sort of thing?

A. So they used their buy-ups to trade.

Q. What do you mean? What do they do? Tell us what that's all about.

A. Sorry, can you?

35

Q. What's that all about? What do you mean, they use their buy-ups to trade?

A. Okay, because they don't have money in gaol they - you know, families put money into their accounts or they get money from working in the gaol. So they buy - it's like a shop and there's certain things that they can buy: Lollies, chocolates, you know, razors, tampons, like just all sorts of things that they can buy, if they're not happy with what we provide them. So, you know, if I want - say, you've got some Bup or something and I want it--

40

Q. I'll just stop you there, Bup, do you mean--

45

A. Buprenorphine, which is a drug to - they give the inmates for their drug habits, so it's a bit like methadone. So basically then what I would do is, you know, I want the drug, I will buy - I think it is a \$100 buy-up, I can't remember exactly off the top - and I just buy the buy-up, you'll give me that and I'll give you my buy-up.

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- Q. So that's an illegal practice, but common within prisons?
A. Yep or family will put money into their account, there's different ways.
- 5 Q. So when you said initially they can't have money; they can't have cash money?
A. Correct.
- 10 Q. But they have money in an account?
A. Into their gaol account, if the family put it in or with their working money, yes.
- Q. Which is debited, when they go to the buy-ups?
A. Correct.
- 15 Q. Go to page 94, the last page, is that an example of one of those local orders from the gaol?
A. Correct.
- 20 Q. That was Dillwynia in August 2016?
A. Correct.
- Q. You see there it indicate this: "No staff member, contractor or visitor is to enter an accommodation area alone, unless the area has all inmates locked out."
25 A. That's correct, you must go in pairs at least.
- Q. You must go in?
A. Pairs.
- 30 Q. Thank you. Now you see the second paragraph:
"There have been several instances where staff have entered a unit where the situation has ended up with a disturbance between inmates or allegations."
35 A. Yes.
- 40 Q. Now, did you understand that as the Acting Governor in that order was concerned to protect the officers from allegations being made, people putting themselves in a position where those sorts of allegations could be made?
A. Correct and those local orders are generally put out, if something has come to their attention.

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CROWN PROSECUTOR

Q. By 2016 Wayne Astill was in a relatively senior position in the gaol, wasn't he?

5 A. Correct.

Q. Who would distribute local orders in your gaol? How were you notified of those orders, was it an email straight from the Governor or a general manager or what?

10 A. No, generally the Governor would sign them, give them to the PA. Whether they put them into our pigeon holes to read or whether they sign them, which he has and then sent it by email. Generally speaking it's by email if it's important.

15 Q. As a chief, is part of the role of a chief or chiefs to ensure that staff are aware of and adhere to those very sort of directives?

A. Correct.

20 CROWN PROSECUTOR: Your Honour, I note the time. I'm not asking for a break now but I'm just conscious of it.

HER HONOUR: Another 10 minutes. We did start a little bit later by the time the jury got in. We will just go for another 10 minutes. Is everyone o'clock?

25 (Jury replied yes.)

CROWN PROSECUTOR

30 Q. I asked when you first starting giving evidence Ms Barry about your employment and you rose to the rank of Principal, didn't you?

A. Correct.

Q. When did you get that promotion?

35 A. In 2000 - the end of 2018.

Q. During this 2014 to 2018 period throughout that period were you chief?

A. Correct.

Q. I think you told us that doing intelligence gathering, intelligence?

40 A. Yes, as well as looking at accommodation areas. There were different roles throughout that time.

Q. Do you recall what rank Wayne Astill was during that period?

45 A. Yes, throughout that period he was a senior correctional officer, but he was given an opportunity to be chief correctional officer by the Governor.

Q. Did you come to make some notes about Wayne Astill at different times?

A. Yes.

50 Q. Was there an occasion where he brought in a picture of himself?

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A. Correct.

Q. Did you ever see that picture?

A. I did.

5

Q. What did that picture show?

A. That showed Astill in full police uniform, a picture from top to toe.

Q. Did you see where he carried it?

10 A. In his top pocket.

Q. On how many occasions did you see that photograph?

A. Only once.

15 Q. Do you remember roughly when it was that you saw that photograph?

A. I couldn't tell you.

Q. Do you remember the photograph, so far as how old he looked and how long ago it depicted him, roughly?

20 A. It was a while ago, but I couldn't tell you exactly.

Q. Did you become aware of an investigation in relation to the sharing of a can of Coke Cola as between Wayne Astill and C?

A. Yes.

25

Q. Did you make a note of that on 8 January 2016?

A. I don't recall the date, but yes I did.

Q. What are rules say of that, sharing drinks with inmates, what's that?

30 A. You just wouldn't do it. You wouldn't share a can of Coke with your offsider either. You just don't do that sort of thing.

Q. Well you say you wouldn't share with the offsider, but is there any difference between sharing it with your offsider and sharing it with an inmate?

35 A. Putting it that way, yes.

Q. What's the difference?

A. Well, you just wouldn't do it. It's, you know, code of ethics.

40 Q. Was there anything said to corrective staff about fraternising with or becoming too familiar with inmates?

A. Yes. It has always beaten into us that, you know, you don't cross that line.

Q. Did you become aware on 13 February 2016 of C having a wedding ring being confiscated from her?

45 A. Yes, I do.

Q. Do you know a person by the name of Leanne O'Toole?

A. Yes, I do.

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Q. What rank did she hold in the gaol, do you remember?

A. She was a manager of security.

Q. Was she friends with the accused?

5 A. She was or is.

Q. I want to ask you now about some inmates K and B?

A. Yes.

10 Q. Were those women inmates during your time at Dillwynia?

A. Yes.

HER HONOUR

15 Q. How do you spell the last name, B?

A. B-B-B-B-B-B-B.

CROWN PROSECUTOR

20 Q. Do you recall having a particular conversation with K about Wayne Astill?

A. Yes, I do.

Q. Firstly, where did that conversation take place?

25 A. In the reception, the old reception room referred in those photos near the BIU she used to have a little table at the back of reception because she was the reception room sweeper. It was right near her desk that we had the conversation, if that's what you're referring to.

Q. What did she say to you?

30 A. She said to me that Wayne Astill slapped her on the bottom.

Q. Did you say anything back to her when she said that?

A. No, I didn't.

35 Q. Why is that?

A. The reason why I didn't is because you don't talk to an inmate about another officer. You just don't do it, regardless of what's happening.

Q. Did you make a report about that complaint yourself?

40 A. I don't believe I did.

Q. When did that conversation take place?

A. I couldn't tell you when it took place.

45 Q. Did you speak to B as well?

A. I did.

Q. About Wayne Astill?

50 A. Well, we didn't speak about him, but she - there was one incident that she spoke to me about in regards to him, yes, and she was quite upset. Like I said

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I didn't - very rarely, you just don't talk to inmates about it.

Q. What did she say to you about Wayne Astill?

5 A. Okay. At the time what happened was she told me, because I was one of the managers, so she told me that she believed that Wayne was shredding her mail. So I said to her to try and protect her and I didn't get permission, I just said to her, "Bring your, send your mail in via legal and one of us would then" - even though it wasn't legal mail she would have to open it in front of an
10 officer. So legal mail we can't open. They open it in front of us to check that there's no contraband or anything in there. And I believed her at the time with things that were going on.

Q. I'm not asking you about that?

15 A. Sorry.

Q. That's all right, I'm asking you about what she said to you, all right?

A. She said that her mail was being shredded, she thought.

20 Q. You have told us about legal mail, you're talking about correspondence from lawyers to inmates which is likely to be confidential and privileged?

A. Correct.

25 Q. At some point at the end of 2018 to move from Dillwynia to another centre, didn't you?

A. Mm.

Q. Yes?

A. Yes.

30 Q. Did you speak to B towards the end of that stay at Dillwynia?

A. Yes.

Q. Your stay I should say?

35 A. I did.

Q. What did she say?

A. She was concerned at that time because--

40 Q. What did she say, Ms Barry?

HER HONOUR.

Q. "I said", "she said", what were the words that she used?

45 A. She basically said words to the effect that, you know, she was sorry to see me go because she couldn't have someone to talk to. Even though we didn't discuss the situation, she just spoke to me when she was upset.

CROWN PROSECUTOR

50 Q. With respect to that photograph of the accused in police uniform did you

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make a note of that on 29 August 2018, you have seen that photograph?

A. The dates I can't confirm, but yes definitely made notes.

5 Q. I want to ask you now about an inmate by the name of D?

A. Yes.

Q. Do you have a memory of that inmate as being indigenous and pregnant?

A. Yes, I do.

10 Q. You remember her?

A. I do.

HER HONOUR

15 Q. Is that D?

A. D, yes.

CROWN PROSECUTOR: Yes, she is pronounced as D as well, but it is spelt B-R-I-A-N-N-A.

20

Q. Was there a time in mid to late 2020 where you went down to the hygiene section?

A. I was called down, yes.

25 Q. Was that with Officer Renee Berry?

A. Correct.

Q. Was overseer Tony Baker there?

A. Yes.

30

Q. Overseer being a term referred to in the glossary the jury have, and I think there is some evidence about that, but these are people who are helping inmates and the like with tasks?

A. Yes.

35

Q. When you went down to see Officer Baker was D in there?

A. She was.

Q. Did D say something to you?

40

A. Yes.

Q. What did she say?

A. She spoke about an incident she had with Wayne Astill and I told her to stop right there, that I didn't want to discuss it any further with her and then I would make contact with the investigating officer so that she could make a statement.

45

Q. How did she appear to you so far as her demeanour?

A. She was upset.

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Q. What made you think she was upset, what was it that you saw in her to make you think that?

A. Well you could see tears in her eyes. You could just see her face was so - it was sad.

5

CROWN PROSECUTOR: That is the examination-in-chief.

HER HONOUR: We might take the morning tea now. Ladies and gentlemen, go out with the Court officer and have some morning tea and we will back to reconvene at 12.

10

If you would like to step down, Ms Barry, and just return at 5 to 12.

WITNESS: Can I leave this all here?

15

HER HONOUR: Yes, leave it all there.

WITNESS: Thank you.

HER HONOUR: You can leave or take your folders, ladies and gentlemen, it's up to you. They are not the best chairs, I know, but perhaps just leave it on the floor or whatever.

20

SHORT ADJOURNMENT

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IN THE ABSENCE OF THE JURY

CROWN PROSECUTOR: Your Honour, thank you for that time. We have saved time, but I thought it appropriate to bring your Honour in on it.

5

Your Honour will recall that it was proposed that C, the next witness, gives some evidence absent the jury, but we have come to an agreed position that in cross-examination we can do it such in a way that leave is not required so. That has been avoided. She may yet ask for a section 28 certificate. She has had advice about that. That's a matter for her of course.

10

HER HONOUR: On what area?

CROWN PROSECUTOR: At that stage on the area I thought she would be asked about as to statements she made to authorities and the like. And also internal misconduct, breach of prison regulations and the like.

15

HER HONOUR: I don't know if 128 would cover that any way.

CROWN PROSECUTOR: Civil liability including criminal liability. She has got independent advice for that reason. It was advice that she wanted to obtain and she has got. I'm just alerting your Honour that she make that claim. I'm not going to be raising it, but I expect it will come up in cross-examination more likely.

25

HER HONOUR: Okay, but not in relation to the charges that she has been convicted of.

CROWN PROSECUTOR: No.

30

HER HONOUR: It is a bit late for that.

CROWN PROSECUTOR: It doesn't get any worse for her so far as that is concerned.

35

HER HONOUR: Very well get the jury in.

CROWN PROSECUTOR: The Court officer has indicated to me that the AVL is from Clarence and it takes about 15 minutes to get her up.

40

HER HONOUR: From where?

CROWN PROSECUTOR: From Clarence to get her into the suite.

HER HONOUR: How long will you have in cross-examination now with Ms Barry?

45

TYLER-STOTT: 5 to 10 minutes, not long.

HER HONOUR: Let's start getting her into the suite. I need to finish at 3.30

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today. I also have a sentence on later in the week at 2 on Thursday, but I am going to move that until 3 on Thursday so that we can go through to 3 o'clock at least. That's it for this week.

- 5 You can ask the witness, if you don't mind, Mr Crown, to come in. She might as well get into a position and take a seat.

CROWN PROSECUTOR: Yes, your Honour.

- 10 HER HONOUR

Q. Just come forward, Ms Barry. Just take a seat. You are on your former oath to tell the truth?

A. Yes.

- 15

HER HONOUR: We are just waiting for the jury to come back.

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<CROSS-EXAMINATION by MR TYLER-STOTT

- 5 Q. Does each of the cells within the gaol have an intercom?
A. They do.
- 10 Q. What is that for?
A. If they need to lock someone up if they have a medical condition. Just if they a medical issue and alert staff in the control room that they need help for an officer.
- 15 Q. Where is the control room?
A. It used to be up the top of the gate we were talking about.
- 20 Q. Once the control room found out, I presume they would radio out?
A. Yes.
- 25 Q. And some medical attention--
A. Yes, whatever the issue is.
- 30 Q. And that is in every cell?
A. Yes.
- 35 Q. How many cameras are the J-Block?
A. I couldn't tell you. We had an upgrade, so I couldn't tell you.
- 40 Q. Was there one at the time - two?
A. No, there was more than two. There was a few at the time, but not covering all areas of the gaol.
- 45 Q. I am just talking about J?
A. J-Unit? No, there wasn't anything that covered the door of J-Unit.
- 50 Q. Were there any cameras at all in J-Unit?
A. Not that I recall, especially not in the unit.
- Q. The hygiene centre, where was that?
A. If you walk out of J, of the high needs area, you walk along the wall, and it is to the right.
- Q. What is the next nearest unit that is on the map? Was it K or--
A. To the hygiene store?
- Q. Yes?
A. The nearest one would be J-Unit.
- Q. What does the hygiene store look like?
A. Basically the hygiene store has racks where they have the sheets and the towels and the linen we give to the inmates and they have tubs where they put bags - in 23 you put it in tubs where it is distributed to the centre and there were other things like toothbrushes, toothpaste. So, it is basically hygiene
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stuff.

Q. Are there walls?

A. There is an office within that building. So, it has got walls.

5 Q. Are they glass?

A. Only the front one.

Q. How many walls are there?

A. Four.

10

Q. It is not a trick question--

A. Three walls and at the front there is a small entrance, which is glass.

15 Q. So if someone is approaching the hygiene store, the internal area of the hygiene store is visible?

A. I believe so, yes.

Q. Ma'am, if I can have you handed exhibit A. Would you go at page 75, (Shown). It has 57 down the bottom and 47?

20 A. Correct.

Q. That depicts the view from the far end of J-Unit back to the compound?

A. No, this depicts - standing in one of the welfare offices, looking out towards the staff office.

25

Q. The area at the end of the hallway, you can see a doorway and there are a couple of people there.

A. Yes.

30 Q. Is that where the principals are normally housed?

A. No, that's the staff who were - that's where the staff sit. That's there office.

Q. Beyond that, is that where the prisoners are?

A. No, if you walk outside the door and to the left, that is J-Unit.

35

Q. If you go down the hallway and exit where the people are to the left, that is J-Unit?

A. Yes.

40 Q. That doorway, is that often open or locked?

A. Which doorway are we talking about?

Q. Where the people are?

A. No, it's always locked, because inmates can't have access to that.

45

Q. Are you sure about that?

A. Yes, that door is always locked.

Q. Even when the Chief is in the office?

50 A. You can't see the door from their office because it is down that corridor.

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That door is, yes, locked because inmates can't just walk in there. If we left that open they could come straight in from the compound.

Q. So, if an officer opens it up--

5 A. If the SAPO calls them in - there is another door here to the left, (Indicated) and they come and get them.

Q. Just walking down that corridor, I want to be clear for my own benefit, on the left hand side what offices are on the left hand side, if anything?

10 A. Nothing. That's a wall and a door leading outside and some windows.

Q. And on the right hand side there?

15 A. There is a bit of a corridor. That's another SAPO office and hallway. The Chief and the Principal sit in that area, depending on what position they are holding on the day and then down the corridor those offices, there is a, like, little kitchen behind the door and there is a photocopying room and a table.

Q. If we come out of that office and turn immediately right?

20 A. When we come out in the breeze way, we turn right?

Q. Yes?

A. If you look to the right, I just see a fence.

HER HONOUR

25

Q. You said earlier that is where the principal's office is?

A. Yes. Sorry, I thought you meant out the door.

TYLER-STOTT

30

Q. I am talking about the office with the yellow chair, and you turn right what do you see?

A. That's a custodial office.

35 Q. What is the purpose of a custodial office?

A. That's where we sit and do our admin work.

Q. Do you see prisoners in this office?

40 A. Occasionally I have, yes.

Q. What about the other offices, is there any restriction in seeking prisoner - SAPO officers?

A. Yes, they have to see them in their office, yes.

45 Q. Is the ILU, where is that?

A. If you were to walk out of the gate of the gaol, it is to the left and down the path a bit to the left.

Q. So it is outside?

50 A. It is outside the correctional centre but inside the complex.

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- 5 Q. The map we were provided, being page 86, (Shown)?
A. Yes, if we hold it like I said before, like this, (Indicated), you would walk out the gate here somewhere, (Indicated), and that is the Independent Living Unit there to the left.
- 10 Q. For the purpose of the record, I think you are indicating up the top right of the diagram, is that correct?
A. If you hold it like that, (Indicated), it's there, (Indicated).
- Q. Around the centre of the diagram?
A. Yes.
- 15 Q. Does that actually show the Independent Living Unit, is that what that is, the houses there?
A. Yes, and then the officers' station is there, (Indicated).
- 20 Q. And that is on the right hand side of those perhaps four buildings?
A. Yes. The officers' station is along that top small bit and the three inmates units, P1, P2, P3.
- 25 Q. That is all trusted inmates?
A. Inmates that have progressed through the system and they either go to work. Sometimes, before COVID, they went out into the community to work or they would work on the complex.
- 30 Q. Was N one of those, have you any idea?
A. I think she did go out there at one stage. Don't quote me, but I think she may have.
- Q. K, she was a sweeper at some stage?
A. She was a reception room sweeper.
- 35 Q. Was she one of your sweepers?
A. I did not work in the reception room.
- 40 Q. When someone is received at Mulawa, are they a little bit more loose, as far as the property and contraband is concerned?
A. Well, I used to work there as a baggy and I can only talk for when I was there and when I worked there. I would do my strip searches thoroughly. I would take off the jewelry they shouldn't have and put it in their bag, which we store in a safe and we record it on the Intergrated Management System under the property. I can't speak for other people, but that's how I would do it.
- 45 Q. It depends on the approach of the particular officer receiving the prisoner?
A. I suppose, yes.
- 50 Q. C, when she - you dealt with her concerning that wedding ring or the ring on her finger?
A. Yes.

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Q. She said she brought that with her from Mulawa?

A. Yes, she said that, yes.

5 Q. Did you investigate that?

A. Yes. There was nothing written on the property card to say that was hers. So the Department's protocol and procedure is that it gets confiscated, but I believe at the time the Governor put it in her property.

10 Q. What were your inquiries?

A. What do you mean?

Q. As far as establishing that it was not on her list of property?

15 A. I went through the Integrated Management System or my staff did and they looked into her property just to report that it is on there. We do that all. It has all the property recorded on it and what is in the records and what is not, and it was not recorded.

Q. Was that completed by someone at Mulawa?

20 A. Yes, it should have been. Yes, when they get picked up by the police and then come into Corrective Services Custody and then into court. They take all their jewelry off and they itemise it. Then they get it itemised. From the court it comes into the gaol and then we itemise it again. Generally, technically, it goes through three hands, their jewellery; the police, Corrective
25 Services and Court staff that have custodial cells and then the gaol.

Q. Did you check the police list of property that was seized?

A. I couldn't tell you whether we checked that, I'm sorry.

30 Q. Because there was no entry on the OIMS - what does that mean?

A. It is the Offending Integrated Management System. It is just like a program that Corrective Services use. I did not check the police document because we only go by - once they get to our place we only go by what's on their property within the OIMS system and their sentences.

35

Q. Because there was no list on her property that she had a wedding ring?

A. Correct.

Q. You determined that it needed--

40 A. No, I did not determine. It is a Department policy. Policies and procedures. It was not on her property card so we confiscated it and the Governor made a decision at the time to put it in her property, which is not something we do.

Q. What do you mean?

45 A. We keep it for three months. If it is not claimed, it goes to the property of the State. So it goes back to the Government and they - I believe they auction stuff.

Q. So, it was able to be retained by C?

50 A. She has got it. I believe it is in her property.

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Q. That was at the discretion of the Governor, was it?

A. Correct.

5 NO RE-EXAMINATION

<THE WITNESS WITHDREW

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CROWN PROSECUTOR: The next witness is C. She is giving evidence remotely from the correctional services institution.

5 HER HONOUR: Do you say that requires a closed court?

CROWN PROSECUTOR: Yes, your Honour.

10 HER HONOUR: We will close the court and it is a section 57A matter?

CROWN PROSECUTOR: Yes, non-publication.

HER HONOUR: Yes, it is a closed court.

15 Ladies and gentlemen, in relation to all complainants evidence in relation is a non-publication. It is just standard for matters of this type

AUDIO VISUAL LINK ACTIVATED

20 HER HONOUR: Can you see and hear me? I take that as a "no." Ms C, can you see and hear me?

C: No, I can't see anything.

25 HER HONOUR: Can you see and hear me now?

C: I can hear you, but I can't see you.

30 HER HONOUR: Just give us a moment. I think they will change rooms for you because it is not working. So just stay there and someone will get you and change rooms.

AUDIO VISUAL LINK DEACTIVATED

35 AUDIO VISUAL LINK REACTIVATED

HER HONOUR: Now can you see and hear me?

C: Yes.

40 HER HONOUR: Would you prefer to take an oath or affirmation?

C: Oath.

45 <C, SWORN(12.32PM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

50 HER HONOUR: Ms C, stay where you are now, because when you come forward we lose half your face. That is perfect where you are now.

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CROWN PROSECUTOR

- 5 Q. Can you see me and hear me, Ms C?
A. Yes, I can.
- 5 Q. Is your name C?
A. Yes.
- 10 Q. How do you spell your first name, Ms C?
A. C-C-C-C.
- 15 Q. From February, 2014 till December, 2016, were you being housed at the Dillwynia Correctional Centre?
A. Yes.
- 15 Q. You are there, and continue to serve a term of imprisonment, is that right?
A. Yes.
- 20 Q. And during your time at Dillwynia, did you become friends with a woman by the name of U?
A. Yes, I did.
- 25 Q. Was she also an inmate at the gaol?
A. Yes.
- 25 Q. Did you become aware that there was an officer at the gaol by the name of Wayne Astill?
A. Yes.
- 30 Q. When you first become aware of him, did you note that he was often working within the high needs area?
A. Yes, he was.
- 35 Q. Did you and he establish a bit of a rapport, that is, did you get on alright with him - talk to him initially?
A. Yes.
- 40 Q. Did he speak to you about your situation so far as you coming to be in gaol, among other things?
A. Yes, he did.
- 45 Q. Did he mention that he had been in the Police Force?
A. He made a point of ensuring I understood he was in the Police Force for a period of years, yes.
- 45 Q. You had some family connection with the Police Force yourself, didn't you?
A. My father was in the Police Force.
- 50 Q. Was that something that he mentioned to you, or was aware of?
A. He did. He had met my father on visits and after one of the visits he made .01/08/22

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a point of saying to me that he was a police officer as well.

Q. On 4 February, 2015, did you receive a new case officer by the name of Ms Hockey?

5 A. Yes, I did.

Q. Do you know her first name?

A. I don't remember.

10 Q. Did you know whether she had a relationship with Mr Astill?

A. At the time of her being allocated to me, I didn't know that.

Q. Did you come to learn that?

15 A. I did, approximately mid year.

Q. Did you keep - in your time in custody, have you kept a diary?

A. I have kept a diary every year I have been in custody.

20 Q. Did the topic of your discussions with Mr Astill, did there ever come up the topic of your tan - your skin tan?

A. It did. After I came back from a visit, he approached me and spoke to me and spoke to me about my tan.

Q. What did he say, to the best of your memory, to you?

25 A. He said that he wanted to know how I could have an all-over tan and that he was surprised I didn't have tan lines and he would like to see my tits with tan lines.

Q. Did you make any note of that in your diary?

30 A. Yes, I did?

Q. Was there ever any topic about going on a boat that Mr Astill raised? Was there a discussion involving a boat?

35 A. Yes, not long after the original comment, he mentioned that he had an ability to get a boat, that he liked boats, and that he would like to see me on his boat, preferably topless.

Q. Did you make any diary entry with respect to that conversation?

40 A. Yes, I did.

Q. At some stage did you and other women at the gaol start doing some regular exercise?

45 A. Yes, in our common area we had a DVD and we would do aerobics and sometimes exercises and yoga.

Q. Do you remember when that was?

A. We did it probably towards the end of 2015 and all the way through 2016.

50 Q. Was anything ever said to you about your appearance by Mr Astill with respect to that?

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A. He made regular comments to me in regards to my arse. He liked seeing my tight arse. He liked the positions I was in. He liked how I looked in my leggings.

5 Q. Do you remember, with respect to any of those comments, where he was and where you were when that was said?

A. Generally the comments were made to me, said to me, in passing. So if I was being released out of the unit he might say something to me in passing or he called me to an area that was attached to the unit, called a smoke-out, which had a door that divided it from the unit into the smoke-out area and he would often stand on the outside of the smoke-out and talk to me through the grill.

10 Q. Did you make a diary entry with respect to comments about him talking about how you described it, your arse?

A. Yes, I did.

15 Q. Where there ever occasions where you were called to Mr Astill's office?

A. There were many occasions, yes.

20

Q. I want to ask you about that now. Are you able to recall any particular occasions when you were called to his office and what happened thereafter?

A. There were many occasions when I was called over the PA to his office and on those occasions they were times we would have interactions, yes.

25

Q. With respect to U, was there a time when you realised she was going to be leaving the gaol soon?

A. Yes.

30 Q. Did you make any diary entry with respect to that fact or alluding to that fact?

A. Yes, I did, because U and I were very close and I had some conversations with her in regard to Astill and I was getting concerned her release date was approaching and I was going to be left by myself.

35

Q. Did you make that note on 11 January, 2016?

A. I believe that was the date. I would have to check, but I believe it was early January, 2016.

40 Q. I want to ask you now about the 21st or 22nd January, so far as interactions with Mr Astill. Do you have a particular memory of being with him on that particular day.

A. I would have to refer to my statement to have the order. But, I am wondering if you were talking about being called to his office.

45

Q. Tell us about that?

A. So, Astill would call me over the PA because I was in a protection unit, I couldn't move around the gaol freely, so I had to be escorted everywhere. So what he would do is, he would call me over the PA, generally in the lunch break that we got the one hour to do our exercise. At each area there was a

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manager's unit attached to the main office and he would call me to that manager's unit.

5 Q. What happened on that occasion? There was a particular occasion, was there, when there was contact with him?

A. When I was called to his office generally he would talk to me quite intimately and then there would be some form of touching or some form of approach towards me.

10 Q. In your diary, did you ever note "A-X"?

A. Am I refer to the document?

HER HONOUR: Not at this stage.

15 WITNESS: "A-X" means attempting to kiss or he kissed me: "A" meaning Astill.

Q. As meaning Astill?

A. Correct.

20

Q. Did you make that note in your diary on the occasions that happened?

A. Yes, I did.

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CROWN PROSECUTOR

Q. Do you remember the first time that he made physical contact with you?

5 A. It was very soon after U left in January, I would say within days of her leaving.

Q. What happened then?

10 A. He used to press himself up against me, generally from behind at first, when I was unprepared.

Q. I will just stop you there. You said, he would do that. I want you to focus on that one particular such occasion, all right? On a particular occasion when that happened, all right?

15 A. Are you asking me from the very start--

Q. No--

A. --the physical contact with him or that particular date?

Q. The particular occasion, you've said he pressed up against you?

20 A. Yes.

Q. I want you to tell us about this occasion you're talking about when he pressed up against you, tell us about that, when did that happen?

25 A. The very first time?

Q. Yes.

A. So, he pressed up against me and he would try and touch my breasts and he would also try and touch between my legs.

30 Q. That first occasion where he pressed up against you, where did that take place?

A. In the manager's office.

Q. Was anybody there, apart from you and Mr Astill?

35 A. No, there was not anyone else there.

Q. When you say, he pressed up against you; how did he do that?

A. Generally when I entered the room almost like a hug.

40 Q. I'm going to stop you, Ms C. I'm asking you about the particular occasion, not generally what would happen, but that particular occasion you were referring to the first time, the first time that he has done that to you, pressing up against you, so just focus on that occasion. How did he do that?

45 A. So I would be - it was a cuddle action (indicated).

HER HONOUR: "A cuddle action"?

CROWN PROSECUTOR: Yes, your Honour.

50 HER HONOUR

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Q. Is that from the front or from behind?

A. On the first - on the day that you're asking me, from the front.

5 CROWN PROSECUTOR

Q. What did you feel when he's done that?

A. I could just feel that he had an erection.

10 Q. Was anything said during that time? Firstly, in the lead up to it was anything said between you two?

A. Well, he would call me into the office and then as I said there would be - he would make generally intimate conversation about my appearance; what he thought about me; that he would like to do things to me of a sexual nature.

15

Q. Do you recall after he's given you this hug you said the first time it was from in front, did he say anything during or after that?

A. He was talking constantly during the interaction, so it was generally things about my body or about wanting to do things to me.

20

Q. How did that come to an end?

A. In that particular occasion--

Q. Yes, in that occasion I'm talking about.

25 A. Yep, on that particular occasion I stepped back and sort of brushed him away and I found myself almost trying to, like, laugh, laugh it off, like, in almost like a nervous-type of laugh and requesting to be taken back.

Q. Now was there an issue at some stage about a wedding ring that you had?

30 A. Yes, there was.

Q. Where did you get the wedding ring? Did you have that when you first went into custody?

A. Correct.

35

Q. Did anybody speak to you about handing it over or that you couldn't bring it or what happened?

40 A. I had it on for the previous five years at another facility. I had it on almost a year in this facility and after a visit with my family four or five officers approached me and demanded I take the ring off. I refused to, because I knew that I'd had it on the entire time. They then took me to a holding cell where they left me for a period of time where one after the other they would come in and threaten me and demand to take the ring off me. In the end I was sent across to the segregation unit and placed in segregation, because I
45 wouldn't remove the ring, and then management would come and see me and demand the ring be taken off me.

Q. Did you personally ever have any discussion with Wayne Astill about that ring or not?

50 A. I don't recall having a conversation with him as that was occurring but

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certainly afterwards.

Q. On 23 February were you called up by--

5 HER HONOUR: What year are we are talking about?

CROWN PROSECUTOR:

10 Q. 23 February 2016, were you called up by Senior Officer Leanne O'Toole and Shari Martin.

A. Yes, I was.

Q. Now did that arise from some media coverage, you had dealings with the media?

15 A. Yes, it did.

Q. Did you raise then the issue of staff being inappropriate?

A. Yes, I did.

20 Q. Did you name names?

A. I didn't name names, but I did use the term "managers".

Q. Did you come to know another inmate by the name of H?

A. Yes, I did.

25

Q. She was at the Dillwynia Correctional Centre during the time that you were there, some of the time that you were there, yes?

A. Some of the time I was there, yep.

30 Q. Did you ever see H interacting with Mr Astill?

A. Yes, I did.

Q. When did you first notice that, what year was that?

A. That was in 2016.

35

Q. Right. What did you notice? Tell us about the interactions, what did you see when you saw them interacting?

40 A. I noticed that he was behaving in a similar manner to what he was doing to me. He had called her to the - he would call her to the smoke out for, like, one on one type conversations that went longer than what a conversation should with an officer. She seemed to be quite flirtatious with him and would spend periods of time hanging around outside his office or just talking to him in the compound and I noticed that at times he was hanging around her cell area, which to me - because I had experienced it - I could identify was inappropriate.

45

Q. Now I just want to go back, you said they talked for longer than - I think you said - was appropriate, is that right?

A. Yeah.

50 Q. How long are we talking that these discussions went on for?

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A. Well, discussion with an officer generally would last, you know, one to two minutes tops. This I'm talking about ten, 15 minutes.

5 Q. When you say she appeared to be "flirtatious" what sort of thing did you see happen?

A. I had seen her body language - yeah, her body language was quite flirtatious. She would pose herself in a way that looked inappropriate between an officer and an inmate and she would flick her hair and she would be really giggly. Yeah, my opinion was that it was openly flirtatious-type behaviour.

10

Q. You told us that he had kissed or tried to kiss you on a number of occasions?

A. Yes.

15

Q. How many occasions would you say that was?

A. I would say it was more than three, but less than six.

Q. Just to be clear, is that attempts or actually kissing you?

A. Both.

20

Q. I want to ask you about one occasion where you were called to reception area office where Mr Astill was working, all right?

A. Yes.

25

Q. And you sat down and you spoke with him, did something happen when you stood up to leave?

A. When I stood up to leave he lunged straight onto me (indicated) and his hands were on my body and he pulled me in towards him and his face, his mouth, was coming straight for me and he just kissed me directly on the lips.

30

TYLER-STOTT: Might the hands be described for the record?

HER HONOUR: Yes. The hands, you will need to describe the actions of the witness.

35

CROWN PROSECUTOR: I must say, I had my head down.

HER HONOUR: Basically she said the hands were on her and she indicated both her shoulder areas.

40

Q. Is that right, Ms C?

A. That's correct (indicated), so he sort of lunged onto me and as I was sort of pulling back his face and his mouth came straight onto my mouth.

45

CROWN PROSECUTOR

Q. Did his tongue enter your mouth?

A. Yes, it did.

50

Q. What were you doing during that time?

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A. I was kind of pinned - my back was against - as he lunged onto me I sort of moved back and my back was on a filing cabinet. I was just trying to pull away and then it stopped.

5 Q. Did you report that to anybody at that stage?

A. No, I did not.

Q. Why is that?

10 A. I had lots of concerns about the position I was in, being an inmate. The officers were already treating me differently and quite poorly, because of the rumours. And I was worried I was going to be punished by them, segregated again from my unit. And I was also worried about the inmates finding out, because in gaol those sort of behaviours, anything that's seen to be a connection with the officers can get you attacked, ostracised, bullied. And I
15 was really worried that if I told somebody that there would be really harsh consequences for me from both sides.

Q. Now that occasion that you've just told us about, the office where he has come at you and forced the kiss on you; did you make a diary entry on that
20 occasion, A-X?

A. I believe I did, yes.

Q. Is there a reason why you wrote down in your diary "A" instead of the word "Astill"?

25 A. I wrote "A", because when we get ramped and our rooms get searched the officers go through all of our belongings, and I was worried that if they saw his name that they would take the diaries off me or they would destroy the diaries. And I wanted to be sure that it was something that I had that they didn't have.

30 CROWN PROSECUTOR: I'm about to move onto another count, which may go a little past--

HER HONOUR: Okay, we will take lunch now?

35 CROWN PROSECUTOR: If it is convenient.

HER HONOUR: Yes. We will take lunch now, Ms C, it's nearly 1 o'clock, so we will resume back at 2. So if you could just be there or get them to be there before 2, so we can go straight into it.

40

WITNESS: Okay.

HER HONOUR: Ladies and gentlemen, would you like to go with the court officer and he will take you out and we come back around 2.

45

LUNCHEON ADJOURNMENT

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IN THE ABSENCE OF THE JURY

HER HONOUR: Ms C, can you see and hear me?

5 WITNESS: Yes, I can.

HER HONOUR: We will continue once the jury has come back in.

WITNESS: Okay.

10

HER HONOUR: As I said, Mr Crown, we will need to stop at 3.30 this afternoon.

CROWN PROSECUTOR: Yes, your Honour

15

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IN THE PRESENCE OF THE JURY

HER HONOUR: Yes, thank you, ladies and gentlemen. We will continue with the evidence of Ms C.

5

Yes Mr Crown.

CROWN PROSECUTOR:

10 Q. Ms C can you see and hear me all right?

A. Yes, I can.

15 Q. Ms C, I was asking you questions before lunch and I will continue to ask you questions about occasions where Wayne Astill had intimate physical contact with you. Did you ever agree to him doing that to you?

A. Never.

20 Q. I want to ask you now about a particular occasion where you were unpacking stores and there were some other inmates around also unpacking the stores?

A. Yes.

Q. Whereabouts does that take place?

25 A. The room was on our wing. It was opposite my cell and it was a room probably about five metres by five metres that holds all the toilet paper and soaps and the things for the gaol.

Q. When you say your wing at this stage which part of the gaol? The jury have heard about a J Block and the BIU?

30 A. Yes.

Q. Where was it?

35 A. I was in J Block and I was in a back unit of J Block, I think it is J left. My cell was opposite the storeroom.

Q. I have asked you this, on one occasion where you were with others unpacking stores, did something happen with Wayne Astill on that occasion?

A. Yes, it did.

40 Q. What happened?

45 A. The stores would come through the back door, which was about three metres from the actual storeroom and the girls, we would be asked to wheel in the products and put them into the storeroom, unload them up on shelving. And occasionally it would one or two girls, sometimes three or four, depending on who was asked. And on this particular occasion he asked me to do it. He followed me in while the girls were removing the things off the truck. He--

Q. --who asked you?

50 A. Astill asked me to help remove the things off the truck and place them in the storeroom. When the girls were retrieving some things off the truck out the

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back of the unit, when I was loading things up onto the shelves he would hot slice me or run his hand between my legs and touch my vagina. And was very physical when the girls were outside of the room. And then there was a section where shelving was back to back so you could be behind the shelving.
5 And there was one moment when a girl walked in front of the shelving and I was behind the shelving and he was behind there still attempting to do that.

Q. This particular occasion you referred to, did you say, "hot slicing"?

10 A. Hot slicing, yeah. It's a common term used when someone runs their hands between your legs and they reach up to your vagina and then pull their hands through so they feel your vagina and your bottom.

Q. You said there were other times when he tried to do that, but that particular occasion you are speaking where he has "hot sliced you", do you remember--

15 A. Yep.

Q. --what clothing you were wearing at that stage?

A. I believe I was wearing a t-shirt and a pair of shorts.

20 Q. Just so far as the clothing worn by inmates, it is fair to say it is not an extensive wardrobe, is it?

A. No, it is not. You can wear shorts and a t-shirt, track suit pants and a t-shirt or a jumper and you can - at that stage we had like a legging-type track suit pant that were quite firm on the leg.

25

Q. So far as undergarments were you provided those by the gaol, underwear?

A. You could be, but at that stage my mother bought my underwear for me.

30 Q. It was allowed to be brought in, buy as a gift, but it would have to be checked by the prison staff before it came into the gaol?

A. Correct. It went through the reception area and it was checked by the lady who ran that area and then it was allocated to us through the wings.

35 Q. Going back to that occasion where you say he has "hot sliced you" did he say anything before, during or after he did that to you?

A. I believe on that occasion when his hand went through he said, "That feels good".

40 Q. Were there ever occasions where he did something by grabbing your hand?

A. On multiple occasions. Particularly if he called across the office and it was just the two of us he would grab my hand and put it on the front of his pants, on top of his penis.

45 Q. I want to ask you about a particular occasion on 19 March 2016 when your brother had an operation?

50 A. Yeah, I've been to visit with my mum and dad and they told me that my brother was having a serious operation at RPA in the city. I left the visit and I went immediately to the high needs office. And there were multiple staff there, but Astill came out to meet me and he said, "I've heard that you're upset" and I

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explained to him that my brother was having an operation or had had an operation and that I would like to speak to him. And because my number, that hospital number wasn't on my phone list I asked if I could have phone call to the hospital.

5

Q. Did he allow that or did anybody allow that, what happened?

A. He took me into the room behind the high needs office. It's a smaller room. It had some, like white goods and a desk and a couple of chairs in there. We sat down and I was crying. I was very upset. And he was just talking to me about the situation and I was asking him, "Do you think I would be able to get a call in" and he was kind of making me work for it and he ended up rubbing my leg.

10

Q. I just stop you there, Ms C. What I need from you is to tell us what you saw and what heard rather than what you think he might have been thinking, all right?

15

HER HONOUR.

Q. Ms C, if you could just slow it down a little bit because we are recording it and there is a lady here trying to record it. Just take your time in giving your evidence, okay?

20

A. Okay.

25 CROWN PROSECUTOR

Q. Just before I interrupted you, Ms C, just to take you back to where you were. You told us that you were upset. You were asking him whether you could call. Yes, what happened then?

30

A. So Astill took me into the room behind the main high needs office. It was a smaller room and we sat down at the desk. There were two chairs facing each other on the edge of the desk. And I explained to him why I wanted to make the call and he was quite sympathetic towards me about it. But he was asking me a lot of questions and as he's asking me the questions he started to rub the front of my leg, like over the top of my knee and up my thigh.

35

Q. What happened from there, did anything happen on that occasion or did that extend?

A. Well I was so upset that I kind of just stood up and then we walked out and Astill asked another officer, Clarke, to make the phone call for me.

40

CROWN PROSECUTOR: Your Honour at this stage, I tender a series of documents. There is a covering sheet and an index. To identify for the transcript there are three items on it. The title of the document is Astill trial C. I tender that.

45

TYLER-STOTT: There is no objection, your Honour.

HER HONOUR: Could I have a look first please.

50

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CROWN PROSECUTOR: Yes, your Honour. There is a tender copy and a working copy. (Handed up.)

5 HER HONOUR: Do you want this marked all as one exhibit?

CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: You said no objection, did you not, Mr Tyler-Stott.

10 TYLER-STOTT: Yes, your Honour.

EXHIBIT #C DOCUMENTS MARKED ASTILL TRIAL C TENDERED,
ADMITTED WITHOUT OBJECTION

15 CROWN PROSECUTOR: There are jury copies.

HER HONOUR: Does the witness need to see them?

20 CROWN PROSECUTOR: The witness has the documents although not in the same bunch but has all the documents.

HER HONOUR: She has them with her?

25 CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: Yes hand them out, thank you. Just mark this series of documents exhibit C, ladies and gentlemen.

30 COPIES OF EXHIBIT C DISTRIBUTED TO THE JURY

CROWN PROSECUTOR: The jury appear to all have a copy of that.

35 Q. Ms C, were there ever occasions where you, usually in the evening, would get a visit from Mr Astill at your cell?

A. Yes.

Q. What was that about?

40 A. Every evening staff would come around to deliver pills. It's called the pill parade and often staff would come out and do like a door check or security check. On numerous occasions Astill would come up the corridor to my cell, which was towards the end of the block, and I would just look up and he would be looking through the small window. It's only a very small window in the door or he would knock and get my attention. I would look up and he would be looking through that small window.

45 Q. I asked you earlier about undergarments in the gaol. Did you ever receive a gift of underwear whilst you were in gaol and I'm not talking about from your mum?

50 A. Yes, I did.

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Q. From whom did you get the gift?

A. From Astill.

Q. When did you get that gift?

5 A. I'm not sure of the date.

Q. Do you remember whether that was in 2016?

A. It was in 2016.

10 Q. What was the circumstance of that, how did he give them to you, what was said?

A. A few days prior he asked me if I wanted anything, if there was anything I needed and I said, "No, I didn't". And he said, "I'd like to see you in sexy underwear." I kind of laughed it off and it was just - when he would talk like that I would get really uncomfortable and try and close the conversation out or I would laugh it off. I thought nothing more of it. And then a few days after that he came on to the wing and I was in my cell and he came up to my cell, my door was open, and he came in and he had the underwear in the side pocket of his work pants.

20

Q. Were these black lace underwear?

A. There was three pairs. There was a grey with pink. There was a black pair and I think the third pair was black and red.

25 Q. What was said, if anything, when he gave you those?

A. That he'd like to see me in them, that I'd worked hard to get a tight arse, that he can't wait for me to put them on and show him.

Q. Did you receive a note at one stage - page 1 of the exhibit - that said this, "Sorry I startled you last night, nickers look hot! Love yesterday. You feel beautiful under your shorts". Did you receive a note to that effect?

30

A. Yes, I did.

Q. Where did you get that note from?

35

A. Mr Astill gave it to me.

Q. Did you know what that was a reference to "startled you last night"?

A. Yeah because in the cell you're by yourself. There was a bed and a chair. The TV would face away from the door so you would have your back to the door and I believe that I just turned around to do something and he was just peering through the door and he frightened me.

40

Q. The reference to "nickers look hot", what was that a reference to, to your understanding earning?

45

A. That was - to my understanding it was - he'd been hassling me to show him the underwear. And I had them on. The grey ones they had a pink lace bottom in them. I had a t-shirt on and a blue fluffy robe on. And when he was hanging over the door he kept like blowing kisses and trying to talk to me, but in a whisper because other inmates can't see necessarily in the corridor. They can only see the opposite door. So I was afraid the girls on the other side of

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me would see him at my door. He was whispering and gesturing to me. And I just sort of lifted up my--

5 Q. I just stop you before you say you lifted it up. When you said he whispering and gesturing, what was his gestures and if you need to, with her Honour's leave, just show us how he was gesturing?

A. He was like blowing kisses (witness indicated.) And he going like that (witness indicated), like "lift it up, lift it up".

10 Q. Just pause there because we need to agree on a description.

CROWN PROSECUTOR: Your Honour, would this be fair to say that the witness had both hands outstretched to her front, palms open and facing upwards with a flipping motion in an upwards direction.

15

HER HONOUR: Yes.

CROWN PROSECUTOR

20 Q. So you told us that he was gesturing as you have just indicated?

A. Yep.

Q. What happened after he did that and the kisses and the like?

25 A. At first I like shooed, like do a shooing action like (witness indicated) to shoo him away and like whispering, like to be quiet because I was so afraid the other girls would hear him at the door. And he just remained there and he was still doing this (witness indicated) and I just turned and flipped up the back of the robe (witness indicated).

30 Q. When you flipped up the back of your robe was it high enough such that he would have been able to see your undies?

A. I would think so, yes.

Q. Why did you end up doing that?

35 A. I did it hoping that he would go away, that he would be satisfied with that and that he would stop coming to the door at night.

Q. Do you remember which of the undies you were wearing on that occasion?

40 HER HONOUR: The witness gave evidence, the grey ones.

WITNESS: Grey with pink, yeah.

CROWN PROSECUTOR: Thank you.

45

Q. Did you end up providing those underwear to the police?

A. Yes.

50 Q. When he came around and you have ended up lifting up your robe what time was that?

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A. It would be between 7 and 8.30pm.

Q. In that note, page 1 of that exhibit, where he said, "Sorry I startled you last night. Nickers look hot. Love yesterday. You feel beautiful under your shorts". That last line, "you feel beautiful under your shorts" did you know what he was referring to there?

A. Yes, I did.

Q. What happened?

10 A. The day before he called me across to the high needs office. We went into the manager's room to the right-hand side. We talked very briefly. I was standing up directly opposite him and just as I was about to leave he stuck his hand up the front of my shorts. And the tips of his fingers were searching for the edge of my underwear and he was probing, trying to like get in under my
15 underwear.

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CROWN PROSECUTOR

Q. How long did that go on for?

5 A. It was just a few seconds; it was very brief, but--

Q. How did that come to an end, Ms C?

A. I brought my hand down like in a sweeping action and went "Oi" and I said "I've got to go back. "

10 HER HONOUR: Take your time.

WITNESS: Then he had to walk me back to the unit.

CROWN PROSECUTOR.

15

Q. When you say he had to walk you back to the unit, just explain why that is?

20 A. In protection we're not allowed - at this stage I was in protection - we were not allowed to move anywhere unescorted and the office was approximately 20 metres across from J-Unit. So we didn't have actually offices on our wing permanently. They were stationed opposite the unit.

Q. On that occasion, where he has put his hand into your shorts, was the door - was there a door in his office and if so, was it open?

25 A. Yes, there was.

Q. Was it open or closed when you were in there and that happened?

A. When that happened it was closed.

30 Q. You have told us that there was that occasion when he put his hand inside your pants. Did it go past - on that occasion that you have been telling us about, he has gone under your shorts, did he make contact with your underwear or not?

A. Yes, he did.

35 Q. Did his fingers go under the underwear or not?

A. His fingers went in an upward motion, up my shorts, and up under the elastic of my underwear.

Q. Did he touch your genitals?

40 A. Briefly.

Q. Was there another occasion where he put his hands under your underwear?

45 HER HONOUR: When did the last occasion occur?

CROWN PROSECUTOR: The best she could remember was 2016.

50 HER HONOUR: She said it was a day before. I might have missed it, but I don't recall her saying that for this count.

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CROWN PROSECUTOR: I will clarify that, your Honour.

5 Q. When did that incident, when you went into the high needs office - and I am talking about that first time he has done that - when did that happen?

A. That was the day before he startled me and came to my door that particular night. That was in 2016. It would have been after March - after my brother's operation.

10 HER HONOUR: That count preceded the other count?

CROWN PROSECUTOR: Yes.

15 Q. I had asked you was there another occasion, and I think you said; yes, there was another occasion when he put his hands inside your underwear. When did that take place?

A. That was in the low needs manager's office.

20 Q. When did that happen? Relevant to the first time, this other occasion was after that first time?

A. Yes.

Q. Tell us how you came to be in the low needs office on that occasion?

25 A. He called me over the loud speaker in the lunch break. My friend and I were running around the compound. I did hear it and I ignored it. Then a group of girls came up to me and said: "You've been called to low needs," which was very unusual because I was a high needs inmate. I knew instantly that it was him. I tried to avoid going.

30 Q. When you said you tried to avoid, what did you do after being called?

35 A. I just didn't go. I avoided the area. I moved back towards the high needs area, with the person I was running with and then he just continually called to the point where every inmate that passed me from my unit said, "You're being called to low needs." Eventually I went across. I went with the inmate that I was running with. Both of us went across to that office together.

Q. What was that inmate's name?

A. Z.

40 Q. Z?

A. Yes.

Q. When you got there, who was at the low needs office by way of staff?

45 A. The only person I was aware of was Astill in that manager's office.

Q. What happened when you arrived?

50 A. We both got to the door. He said, "I've been calling for you." He said, "Come in, C," and he indicated to Z that she was not required and then she remained there and he said, "I don't need you." So she just went around the corner of the building.

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Q. Where did you go from there?

A. I stepped into the office and there were two chairs basically facing each other on the edge of the desk and I sat on the chair opposite to where he was sitting.

5

Q. Did you feel you had any choice but to go in the office?

A. No, I had no choice.

Q. What happened in there?

10 A. He was just talking to me, asking me what I had been doing. I believe he had been upon our wing, that is possibility why he was down in that area. He said, "I haven't seen you in a while. What have you been doing?" There was some small chatter like that. He said he missed me and then just asked me what had been going on in the wing.

15

Q. What happened after that?

A. As I was about to go, he was encouraging me to say, "You should stay here a bit longer," and I said, "There was people watching, there's people outside," and I knew Z was just around the corner. I said, "Someone's going to catch us out. You're going to get into trouble. We're going to get into trouble," and as I was going to stand, he put his hand up. I was still seated but I was moving forward and he put his hand and slid it up the front of my shorts and again was trying to get in under my underpants.

25 Q. Did his hand go in your underpants?

A. Yes, it did.

Q. Did he touch your genitals?

30 A. His finger tips were on the top of my vagina.

Q. Were there occasions, after he had touched you or kissed you, that he would come in and check in on you?

A. Regularly, especially after that incident, because by this stage I was clearly frustrated and angry and upset each time he called me across and he said, 35 "Why are you angry? What I have done?" And I would make it very clear that he was putting me in this position of causing problems, because the girls were asking me questions. The staff were treating - the staff were bullying me and treating me very badly and it was a really stressful period of time and I was trying to take it in, "Why are you constantly calling for me and bringing me into 40 this situation?" It is rippling out into everything else, causing me a whole lot of problems.

Q. You say you tried to say that to me. Did you say that to me?

A. I said it to him numerous times. I also said to him that people are watching, 45 people are talking and it's going to cause problems; someone is going to get into trouble and it's going to cause a lot of problems across, not only the wing, but across the entire gaol because other girls I knew from another centre, they would be saying to my, "Why are you always at the office? Why are you always being called across?" And I would have to try to make up excuses of 50 why I was going there and then when I would go there, I would make excuses

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to get out of there.

5 Q. Did you receive a note which said this, (Page 2 of the exhibit recently
tendered), "Lay in bed tonight. Close your eyes and remember what I said like
never before"?

A. Yes, I remember that note.

10 Q. You received a note with those words written on it?

A. Astill handed it to me.

15 Q. When did that happen, and if you can compare it to other events that you
have described afterwards or whenever?

A. I believe that note happened prior to the incident of him putting his hands in
my pants. I remember that because I had mailed it home to my partner.

20 Q. Is his name Patrick Cogan?

A. Yes, it is.

25 Q. Why did you mail it back to your partner?

A. I mailed it back because at first, when Astill was talking to me in that way, I
thought I was being set up. I thought I was being tested. Gaol is a place
where it is so unpredictable and so many things happen and change quickly,
and being an inmate that has a profile where everybody is aware of who I am,
and what I am in gaol for, it puts me in a very different position to a lot of other
inmates. I just felt that may be I was being set up by the staff or tested by the
staff and I just sent it home to him to cover my bases, really.

30 Q. You have made diary entries, you told us before lunch, every year you
have been in custody - yes?

A. That's correct.

35 Q. I want to ask you about a number of diary entries now. But, is this the
situation, that you could narrow down an event as to when something had
taken place, you would write it in the exact day. But if you were not sure what
day it specifically was, some time had passed but you believed it was within
that week, you would write it on the page that covered that whole week?

40 A. Yeah, or to me, if I was upset or it was a significant event, I was angry, I
would go and put it straight in. If something was happening over a period of
days, I might put it at the bottom of the page. But it was never outside of the
week. It would have been within that week. If it is clearly right in the date,
then, from memory, that is because it happened on that day.

45 Q. Do you have your diary entries there?

A. I do, yep. Unpack them?

Q. Yes.

50 CROWN PROSECUTOR: I don't understand there will be any objection to
this, your Honour.

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- Q. Do you see, firstly, there is - if you go to February 2015?
A. Yes.
- 5 Q. On the date, 4 February, page 3?
A. Yes.
- Q. You have got there an asterisk under the 4th and it says, "New case officer, Hockey"?
A. Correct.
- 10 Q. If you go now to the entry starting 10 August, 2015?
A. Yep.
- Q. And under the entry Wednesday, 12th, you have written, "A. It was all over tan"?
A. That's correct.
- 15 Q. The what was that a reference to?
A. That was when Astill said to me that he was aware that I had an all-over tan and he was surprised and how did that occur and he would love to see my tan lines and he would love to see my boobs without tan lines.
- 20 Q. If you go to the entry starting 14 August, 2015?
A. Yep.
- 25 Q. Right down the bottom of that page, really at the bottom of 27 August, it says, "Picture picture you on boat"?
A. Correct.
- 30 Q. What was that a reference to?
A. So when I look at those dates, on the 27th I've got "cardio 80 minutes," and, "Yoga 60 minutes, "DVD 20 minutes." So the conversation I remember about the boat happened over those two days.
- 35 Q. If you go over now to entry starting 31 August and then into September?
A. Yep.
- Q. Right up the top it says, "Roe. More threats re moves. All red lighted"?
A. Yes, it says "Roe," meaning Officer Roe. "More threats for move," et cetera, being Barry. That was another officer around all red lighted. "Red lighted" means that we were all being assessed and observed, our behaviours on the wing and that trouble was coming, basically. There were going to be moves, people moved to centres or within the wing.
- 40 Q. If you go now to the entry starting 16 November, 2015?
A. Yes.
- Q. There is an entry there on 21 November?
A. Yes.
- 45 Q. And right up the top is a love heart and does it say, "Ali"?
A. Yes.
- 50 Q. And right up the top is a love heart and does it say, "Ali"?
A. Yes.

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- A. Yes, that indicates when I have got a love heart and a name and "am" or "pm", that visits - I had a visit at that time.
- 5 Q. Was there any conversation as between you and Wayne Astill about this person Ali?
A. There was.
- 10 Q. When did that take place?
A. I would suggest - I think it was either the next day, or the day after, that visit.
- Q. Where did that conversation take place?
A. It took place outside the high needs office.
- 15 Q. What did Astill say to you about that?
A. He told me that another officer, Brown, had been Googling my visitors regularly and that he had Googled this Ali who was going of come to see me and he didn't think it was right and he was telling, in the way that we were, like friends, that he was going to do me a favour about it or help me about it.
- 20 Q. What did he say to you about helping you?
A. About the other officer Googling my visits and he made it out to be an issue resolved by him, to be in my favour - to help me out.
- 25 Q. Would you go now to the entry starting 30 November, 2015?
A. Yes.
- Q. Right up to the top, "Ask comment, DVD"?
A. Yes.
- 30 Q. What is that a reference to?
A. That is in regards to when we would do training or doing yoga. He would often call me to the smoke-out or as I was coming out for lunch or coming in from lunch. He would make comments like, "Your arse looks tight," or, "I can't wait to get my hands in your arse," something to do with my arse in my shorts or my training pants - my tights.
- 35 Q. Before lunch you told us about an entry, "LOU-A too much"?
A. Yes.
- 40 Q. If you go to the entry of 11 January, 2016?
A. Yes.
- Q. Around 3 pm?
A. Yes.
- 45 Q. Is that the entry that you made?
A. Correct.
- 50 Q. Would you now go to the entry for 26 January, starting with the Monday?
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A. Yes.

Q. Have you noted there, under the entry for the 21st, right down the bottom, "A" with a circle around it and then "X" and then does it say, "Push up"?

5 A. Yes.

Q. What is that a reference to, Ms C?

A. That is a reference to - the "A" stands for Astill. The cross stands for either he kissed me or attempted to kiss me. I noted that he pushed me up against something, either up against the wall or the filing cabinet.

10

Q. On how many occasions would he have pushed you up against a wall or a filing cabinet? Was it once or more than once?

A. Well, without trying to kiss me or attempting to kiss me, he often pushed up against me.

15

Q. But pushing up against the filing cabinet or a wall, how many times did he do that? Was it more than once or--

A. Yes, much more than once.

20

Q. Would you go now to the entry starting 16 January, 2016, stating on the date the 25th?

A. Yep.

25 Q. If you go down under the entry for the 29th on that page. You see, "LOU"?

A. Yes.

Q. And does it say, "Home"?

A. Yes.

30

Q. What is that a reference to?

A. That is U's release date.

Q. Would you go to the entry starting 14 March, 2016?

35 A. Yep.

Q. Under Saturday 19th, it says there, "ML"?

A. Yes, correct.

40 Q. "RPA, hip op."

A. Yes, that is in regards to my brother, C C.

RPA was the hospital that he was at and he had an operation on his hip and under that I have got, "Call".

45 Q. Is that the call you were asking to have, you told us about earlier, with Mr Astill rubbing your knee?

A. Yep, correct.

50 Q. Ms C, do you have with you some still shots of your cell search where you retrieved some underwear?

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A. Yes, I do.

CROWN PROSECUTOR: I tender four pages of still shots.

5 EXHIBIT #D - ABOVE FOUR STILL SHOTS TENDERED; ADMITTED
WITHOUT OBJECTION

COPIES OF EXHIBIT D DISTRIBUTED AMONGST THE JURY

10 Q. Was there an occasion where, after the police became involved
investigating Mr Astill, that you made a phone call in their presence to Wayne
Astill?

A. Yes, I did.

15 CROWN PROSECUTOR: Your Honour, I would ask that that now be played?

HER HONOUR

20 Q. I think you said you have the got the still shot from your search

A. Yes.

Q. Just hold those up?

A. (Witness complied).

25 CROWN PROSECUTOR

Q. Do those show the underwear, pink and black underwear?

A. Yes, the first shot is the pink and grey underwear and the second show and
third are the black pair of underpants that he gave me.

30

CROWN PROSECUTOR: Your Honour, we have a recording of the phone call
to which the witness has just referred. I tender that recording.

TYLER-STOTT: No objection

35

HER HONOUR: Dated?

CROWN PROSECUTOR: 14 May, 2019. There is a transcript for the jury as
an aide memoire.

40

HER HONOUR: There is no issue as to voice identification as between the
accused and Ms C?

CROWN PROSECUTOR: No.

45

HER HONOUR: How long does that go for?

CROWN PROSECUTOR: Five minutes.

50 EXHIBIT #E - CD OF PHONE CALL BETWEEN THE WITNESS AND THE

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ACCUSED DATED 14 MAY, 2019, TENDERED; ADMITTED WITHOUT
OBJECTION

5 EXHIBIT #E-1 - TRANSCRIPT OF EXHIBIT E TENDERED AS AIDE
MEMOIRE, ADMITTED WITHOUT OBJECTION

10 HER HONOUR: Ladies and gentlemen, what you are about to hear is a phone
call that has been conducted between the witness and the accused on 14 May,
2019. There is a transcript that has been made in relation to that phone call,
but can I just warn you in relation to this. The evidence is the actual phone call
that has been tendered, not the transcript. There is obviously always room for
error in a transcript and so the words written down, use it as an aid or guide,
but listen actually to the phone call. If there is a difference to what you hear
and what is on the transcript, it is what you hear is the evidence not what is in
15 the transcript

Copies of exhibit E-1 distributed amongst the jury

20 TYLER-STOTT: Your Honour, may I briefly be excused. I have listened to it. I
just need a comfort stop.

HER HONOUR: Any objection?

25 CROWN PROSECUTOR: No objection.

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EXHIBIT E PLAYED TO COURT

CROWN PROSECUTOR

5 Q. Ms C, during the phone call and towards the end you referred to being "ramped four or five times", it was in this context, "Like, I have been ramped four or five times, I've been strip searched on video, I have lost my job." What is "ramped" mean?

10 A. Ramped means when officers come in, they toss your cell, they go through everything, they pull things apart and they pretty much destroy your stuff in your cell.

15 Q. Ms C, throughout these incidents that you've referred to today, was there ever any occasion where you did or said anything to Mr Astill to give him the impression that you were happy to be touched in the way that you've described?

A. Never.

20 CROWN PROSECUTOR: That concludes the examination-in-chief.

HER HONOUR: We will make a start. 3.30.

<CROSS-EXAMINATION BY MR TYLER-STOTT

25 Q. Ms C, you gave some evidence about H, did you speak to H?

A. When?

Q. Well, about Mr Astill at any point in time?

30 A. When I was at Dillwynia?

Q. Yes.

A. I did speak to her on one occasion about Astill, yes.

Q. What did you say to her?

35 A. I said to her that, he's not the person you think he is, that it's a game she shouldn't be playing, that everybody on the wing is watching her behaviour and it causes problems. And I spoke to her from the way that - without telling her exactly what had gone on - that I had experienced and I was struggling to manage him myself and I didn't want that for her.

40

Q. Did you talk about her flicking her hair and sticking her arse out?

A. Did I say that to H?

Q. Yes?

45 A. Possibly.

Q. Was that based on observations?

A. Correct.

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Q. Where did you make those observations?

A. Outside her cell, when she was in the smoke out, during the lunch break - when we got out for our lunch break - outside the high needs office, yeah, in those places.

5

Q. There's not so much a law within the gaol, but you stay away to some degree from the Corrective Service officers, is that right?

A. Yeah, correct, if you're seen interacting with them too much or if you're getting favourable treatment you get called a "dog", "scrim" and that causes further problems amongst inmates, inmates get attacked for that, they get ostracised and left out of things, bullied, yep.

10

Q. Did you see or witness any of those sorts of consequences for H?

A. Yes, I did.

15

Q. Okay, who were the perpetrators?

A. I would say that the girls that lived on my side of the wing certainly didn't mingle with her due to her behaviours towards officers.

20

Q. When you say "didn't mingle" is that as far as it went?

A. Yes.

Q. It wasn't being called a "dog" or assaulted?

A. Possibly, but - not assaulted, but possibly called names, yes.

25

Q. The diary that you've kept notes in--

A. Yep.

30

Q. --when you were first approached by the police did you tell the police that you had made extensive notes of your interactions with Mr Astill?

A. I believe in the first conversation I had with them when they came to the gaol I did say that I had made notes, yes.

35

Q. Did you using the word "extensive"?

A. I can't remember the term I used.

Q. Was it in around February 2019?

A. That they first visited me?

40

Q. Yes.

A. I believe so.

Q. Then a couple of months later you provided a statement?

A. It was sometime afterwards, yes.

45

Q. Sure. If I can just ask you to explain some of the references, do you still have your diary entries there?

A. Yes, I do.

50

Q. Which is exhibit C. If you can, please, turn to page 3, which is a

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photograph of "Diary of C: 4 February 2015", are you on that page?

A. So that's my number 1, so 2015, February, number 2 (shows document to court).

5 Q. Yes.

A. Okay, yep.

Q. Then I think it's over on the 4th, there's a little asterisk it says "new - Case Officer Hockey"?

10 A. Yes, yes.

Q. So that was the day on which that occurred, you got a new case officer on that date?

A. Yes.

15

Q. Did you request Ms Hockey?

A. No, I did not.

Q. You say at that time you weren't aware that Mr Astill and Ms Hockey were in a relationship?

20

A. When she was allocated as my case officer I did not know they were together as a couple.

Q. How long had you been at Dillwynia at that stage?

25

A. Possibly 12 months.

Q. Twelve months and you hadn't heard a word about Ms Hockey being with Mr Astill?

A. Not that I can remember, no.

30

Q. The next page, if you wouldn't mind, I have it as 12 August 2015?

A. Yep.

Q. "A = all-over tan" and that is under 12 August 2015?

35

A. Yep.

Q. Is that because that's the day on which it occurred?

A. From what I'm looking at I'd assume so, yes.

40 Q. If you go to the next page, please, 27 and 28 August 2015, I think it is

down the bottom is a dash, it is very faint, but it is a "picture", is it, "on a boat"?

A. "Picture you on boat".

Q. What date was that said?

45

A. I believe it was over the 27 and 28 August.

Q. Why didn't you make these sorts of notations immediately or on the same night?

50

A. Well, sometimes you know my days are pretty stressful, I had a lot going on. Sometimes I would note things, sometimes I wouldn't. If I thought they

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were significant. Sometimes, you know, during the week things had gone on and I'd remember and pop them down in the diary, whether it was something at the gaol or something in my home life and I believe that's at the bottom of the two dates, because I believe it went over two days.

5

Q. Okay. What time did you ordinarily get locked in?

A. It varied, but 3.30 was one of the lock-in times and the other times were about - between 5 and 5.30.

10 Q. When were you released?

A. Oh, from memory, I think it was about 8.30 in the morning.

Q. So either from 3.30 or 5.30 you're in your room, no-one else, is that correct?

15 A. No-one else, I was in a single.

Q. You didn't, it would seem, think to note it on the day that it occurred, at least as far as the "boat" comment was made?

20 A. Well, as you can see from the other days I'm quite busy. I'm trying to parent a child at home, I have a partner, elderly parents. I'm not just sitting thinking about Astill, there are a lot of other things going on in my life at that time too. And it might have been something that when I was watching television or writing letters that I just noted in my diary for future use.

25 Q. So do I take it, at least looking at the 27th, which is the Thursday, you've got an entry at 7am?

A. The times don't - the times are irrelevant, I don't line things up against the times, the times are irrelevant.

30 Q. Okay, but was that entry made on the day?

A. I can't say it was, no.

Q. The next entry, "cardio 80 minutes", is that--

35 A. Either I made it the day before, hoping that I'd be motivating to do the cardio or I did it that morning, or I would have done it after I had done the session to indicate what I had completed.

Q. Okay. So you can't really tell us if you made those entries on the day?

A. No, because it's in 2015, I can't remember, sorry.

40

Q. If we can go to the next page, please. This relates to Roe, "Roe - more threats, the moves, et cetera, all red lighted"; who is Roe?

A. Correct, Roe was Officer Roe he worked up in high needs.

45 Q. What was his position at the time?

A. Just an officer, just a high needs officer.

Q. Did he hold any position of power that would cause you to be red lighted and searched?

50 A. Well, they all hold positions of power when you're in the gaol. They all

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have a say and they all dictate what we do each day. So, he was a regular officer in the high needs area at that time.

5 Q. Why did you think Roe was - I presume he was the cause of the threats for moves?

A. He was vocal about the threats for moves. He was very clear when he was yelling at us what was happening at that time, yeah.

10 Q. And Mr Astill, he was a sort of much calmer approach than Mr Roe around that time, would you agree with that?

A. I would agree that he had a calmer approach, yep.

15 Q. And he didn't make those threats, did he?

A. He made other threats though.

Q. Did he make those threats, ma'am, that is what I asked you?

A. He has made threats along those lines, yes.

20 Q. Okay, but you just said that "he made other threats"?

A. Threats about movements, yeah, but not at that time, I'm not aware of him making threats at that time.

Q. Okay. Mr Astill, you had a reasonable rapport with him around this time, is that correct?

25 A. He was reasonable, yep.

Q. He was more trusted than Officer Roe, for example?

30 CROWN PROSECUTOR: I object to that.

WITNESS: No.

HER HONOUR: When there's an objection don't answer.

35 CROWN PROSECUTOR: I withdraw it.

HER HONOUR: It is withdrawn.

40 TYLER-STOTT

Q. Did you go to Mr Astill more often than Mr Roe, by your own choice?

A. No.

45 Q. No? Who did you go to, if you had a complaint?

A. Whoever was on.

Q. All right. Anyone spring to mind?

A. Well, if the issue occurred on that day then I would go to whoever was in the office on that day. I didn't have preferred officers.

50

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Q. I suggest to you, you had a pretty good rapport with Mr Astill around this time, you agree or disagree?

A. I would say it was reasonable, yeah.

5 Q. If we can go to the next page, 21 November 2015.

A. Yep.

Q. There is a note, I think about Ali, does this have anything to do with--

A. Correct.

10

Q. --Mr Astill and are you able to tell us on what day this occurred?

A. The visit was on Saturday 21 November, it was in - it appears to be the afternoon, PM, and down the bottom it says, "Visit put Ali and I out the front with officer on top of us".

15

Q. Does that mean you at least were trying to have a private conversation with Ali and you had an officer in close proximity, is that what that refers to?

A. Well, usually in visits you sit opposite your visitor and the staff, like, walk around the perimeter (indicated) and they stay at the front desk. I was placed right up the front right, right in front of the front desk. And what was unusual about the visit was one officer was placed directly on our table, so it was like a third person was on the visit.

20

Q. Did that have anything to do with Mr Astill?

25 A. Well, I'm not sure whose decision it was to do that.

Q. Next page, if you wouldn't mind, 30 November 2015.

A. Yep.

30 Q. 30 November 2015, "Asked comments - DVD".

A. Yes.

Q. At the top there above "Nov/December" does that indicate that it occurred on the 30th or are you unsure?

35 A. I'm unsure.

Q. That was something that you would have noted on the day that it occurred?

A. No, because by that stage it was happening so regularly that perhaps I hadn't recorded it every single time, that's just a general recording for my own - my own notes, my own memory.

40

Q. Did it happen in that particular week?

A. Yes.

45 Q. All right. If you can go to the next page, 11 January 2016, this is within the 11th, "U - A too much", "A" I presume relates to Mr Astill and "U" is U, your friend?

A. Correct.

50 Q. Did you talk to her about what was taking place with Mr Astill when she

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was still in custody?

A. I did talk to U about some of his behaviours, yes.

Q. Like what?

5 A. That we thought he was sleazy, that he had made inappropriate comments to me, that I thought that at visits he was really inappropriate with her mother and she agreed with me.

Q. Had he touched you or kissed you at this point in time on 11 January?

10 A. He certainly hadn't kissed me by this stage, no, and I don't think he would've - I don't think he touched me inappropriately at this stage, no.

Q. If you move to the next page, this is the 21st, it starts off on 18 January, there's a note down the bottom, "A" in the circle, "X" and "push up"?

15 A. Yes.

Q. Does that mean that he kissed you or attempted to kiss you?

A. That's what the note indicates, yep.

20 Q. Is this the first time that it occurred?

A. The attempt to kiss, from the dates, I would say, yes.

Q. Is it aligned with a particular date or not?

25 A. It appears to be for the 21st, but as I said to you, I can't remember that far back, I can't remember why I placed it in that position.

Q. But you knew your methodology, didn't you, you put it in a position to indicate that it could have been in a week or occurred within the day--

30 A. Correct, it never was outside of the week, I would never go back into another week and write it two weeks back or four weeks back or five weeks back. It would be within that week.

Q. This was the first time that it occurred, wasn't it?

35 A. Possibly, by that stage my interactions with him were quite regular.

Q. Yes, but that's the first "X" that we've seen in your diary next to an "A"?

A. So it would be significant, yes.

Q. Yes. So can you tell us whether or not you put it in on the day or not?

40 A. As I said to you, I'm assuming it is on the 21st, because it is directly under it, but it could possibly be the following day, the 22nd.

Q. So you're unsure and you could have put the entry in the following day, is that what your evidence boils down to?

45 A. I can't remember in 2016 when I made these notes, but I am confident that if I wrote it near or on the date that it was probably near or on that date.

HER HONOUR: I'll stop you there, Mr Tyler-Stott.

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Ladies and gentlemen, I just have to cease today at 3.30. I'll let you go now. Please, you've heard a bit of evidence today, as I indicated to you before, please, don't discuss the evidence with anyone and only discuss it amongst yourselves when all of you are together. If you would like to go outside and have a great evening. We will see you tomorrow for a 10 o'clock start.

5 Ms C, you are in cross-examination. Obviously do not discuss your evidence with anyone. We will see you tomorrow for a 10 o'clock start.

10 WITNESS: Thank you.

<THE WITNESS WITHDREW

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IN THE ABSENCE OF THE JURY

HER HONOUR: Anything arising? (Counsel indicate in the negative). Any order required for tomorrow for which inmate?

5

CROWN PROSECUTOR: Perhaps, it's C and K. Do we have those MIN numbers? We should have. Thank you.

ADJOURNED PART HEARD TO TUESDAY 2 AUGUST 2022

10

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IN THE DISTRICT COURT
OF NEW SOUTH WALES
CRIMINAL JURISDICTION

5 JUDGE O'ROURKE SC
AND A JURY OF FIFTEEN

FOURTH DAY: TUESDAY 2 AUGUST 2022

10 **2019/00056907 - R v Wayne Gregory ASTILL**

STATUTORY NON-PUBLICATION ORDER

CLOSED COURT FOR EVIDENCE OF COMPLAINANTS

15

IN THE ABSENCE OF THE JURY

20 HER HONOUR: There's a note from the jury. Get the jury. There's a couple of questions. I'll mark it, but I'll read it out first:

25 "1. Your Honour, could you please ask the barristers to confirm which charge, charges, the evidence they are raising relates to?"

25

2. Your Honour, could you also please clarify whether the phone was tapped with C's knowledge?"

I'll leave that with you, Mr Crown, they seem reasonable questions.

30

MFI #10 JURY NOTE

CROWN PROSECUTOR: There's evidence about the second one.

35 HER HONOUR: There is some evidence about it, yes, obviously not enough to clarify to the jury what the position was. Sometimes we just assume they know how things operate, when they don't.

40 CROWN PROSECUTOR: I may be guilty of that. As to the others what I will do there is with the remaining counts is as I'm leading the evidence, if your Honour is content with this, I know particularly other judges have asked me to do this, I would say, "Your Honour, that is the evidence that is relied on for this count."

45 HER HONOUR: That is the normal way, really, in relation to a matter that has so many counts on the indictment, just so they know in relation to it. I asked myself yesterday as to which one was relating to which one. So that would be helpful. I'll just let them know that really in your closing address and within my summing-up they will be made certain as to what evidence the Crown is relying upon to prove each count, and from going forth the Crown will be indicating to

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you which evidence relates once it has fallen.

CROWN PROSECUTOR: Yes.

5 HER HONOUR: In relation to the second one, I'll leave that with you.

CROWN PROSECUTOR: I've finished with her in-chief.

10 HER HONOUR: If you need leave I'm sure it is not going to be opposed.

TYLER-STOTT: I can clarify, your Honour.

15 HER HONOUR: It might be clear in cross-examination anyway. How long have you got to go with this witness?

TYLER-STOTT: Half an hour, maybe.

20 HER HONOUR: You may or may not need leave, but if you need leave you can ask for leave to ask in-chief.

TYLER-STOTT: I don't mind asking.

25 CROWN PROSECUTOR: Not to hold the jury up, just a couple of things, we are agreed that as far as errata we will have a table for your Honour.

30 HER HONOUR: Yes, I've been going through it myself. There's a few because there's some corrections, for example, saying "arse" not "ask", which is pretty significant in relation to this matter, and a few other ones. Yes, if we could do it probably after each complainant's evidence on the following morning we might just do that or just update me with a table and I can mark with a MFI, if you both can agree with it, and I will just check it to see if there is anything further that I can add to it.

35 CROWN PROSECUTOR: One other thing, just to remind your Honour the issue of 128 may arise today, if your Honour needs to have it at hand that section, I'm just raising that now.

HER HONOUR: I'll just get it up, just in case, to remind myself.

40 CROWN PROSECUTOR: The witnesses have had the opportunity or have taken the opportunity to get advice.

45 HER HONOUR: Yes, they have, yes, I'm aware of that. Okay, we will see how it goes, but so far it doesn't seem to be any need.

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IN THE PRESENCE OF THE JURY

HER HONOUR: Yes, good morning, ladies and gentlemen. I have received your note, I've marked it MFI 10 and it reads that:

5

“Your Honour, could you please ask the barristers to confirm which charge or charges the evidence they are raising relates to?”

10 In relation to that, I've spoken to the Crown and Mr Tyler-Stott, what will happen is at the end of the evidence there is a closing address by the Crown and the defence and a summing-up by myself. If you have any concerns by that stage I'm sure it will be a lot clearer to you, but by that stage things are explained to you. No doubt Mr Crown and myself will both be saying the evidence that relates to each specific count. Going forward in relation to this, 15 Mr Crown for the other complainants that are giving their evidence may indicate to me at the end of a particular part of the evidence that that relates to a count on the indictment being that allegation, so that it makes it a bit clearer for you.

20 In relation to the second aspect of your note:

“Your Honour, could you also ask, please, to clarify whether the phone was tapped with C's knowledge?”

25 There is some evidence of that, in any event, in relation to the police being there with her, but I'm not going to give evidence here from up here. Mr Tyler-Stott is in cross-examination, the evidence of this witness has not concluded yet. So I'm sure that both Mr Crown and Mr Tyler-Stott are aware that you seem to be unaware or not quite certain as to that status, so just wait 30 and see what the evidence reveals. Yes, thank you.

We will turn over to the witness, Mr Tyler-Stott?

35 TYLER-STOTT: Yes.

AUDIO VISUAL LINK TO CLARENCE CORRECTIONAL CENTRE
COMMENCED AT 10.15AM

40 HER HONOUR: Ms C, can you see and hear me?

C: Yes.

HER HONOUR: I'll just confirm, Mr Court Officer, is it being recorded?

45 COURT OFFICER: Yes.

HER HONOUR: Let's commence, thank you.

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<C, ON FORMER OATH(10.15AM)

<CROSS-EXAMINATION BY MR TYLER-STOTT

- 5 Q. One question before I move onto another topic, the phone call that we heard yesterday in which you were recorded, do you remember hearing that?
A. Yes, yes.
- 10 Q. You had knowledge that was being recorded by the police, is that correct?
A. At the time I didn't know it was being recorded, they told me they were just taking notes.
- 15 Q. I understand. Ms C, can you go back to the documents that I was taking you through yesterday, we had one final document within exhibit C related to 19 March 2016.
A. Yep.
- 20 Q. Was this the date that you were informed that your brother was having an operation, is that correct?
A. That's right.
- 25 Q. You made a note concerning your brother and the operation on that date, is that right?
A. That's right.
- 30 Q. Do you have a particular memory of this date, because of the fact that your brother was having an operation?
A. If you look underneath it has a love heart "Zara AM" that means that my family came to visit me and my daughter and, yep, the date that I wrote in there, because they gave me the information then and then I wrote in there about my brother "Morgan C RPA hip op", yep.
- 35 Q. So, it was a significant date because your brother was having a hip operation?
A. Absolutely.
- 40 Q. Is that why you link this to Mr Astill having touched your leg, as you have described in your evidence?
A. Because I remember when I went to make the call that's what happened.
- 45 Q. What if I was to suggest to you that he wasn't at work that day, what would you say to that?
A. I would have to disagree with you.
- 50 Q. Okay. What about if I can go back to the 21st and the 22nd?
A. Of?
- Q. January, I'm sorry. Page 10 on exhibit C.
- 50 HER HONOUR: 2016?

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TYLER-STOTT: Yes.

5 Q. The 21st, yes, and I think I asked you some questions about this yesterday, whether it was the 21st or 22nd, are you able to now, looking at that document, say whether it was either of those dates?

A. No, I'm not going to - I'm not going to commit to either date, because it is not clearly under either.

10 Q. It was one of those dates though?

A. I would suggest it is in that half of the week, the Thursday, Friday, Saturday, Sunday.

15 Q. You've expanded now, I think, when I was asking you questions yesterday I was asking whether or not it was the 21st and 22nd and you wouldn't commit to either date now.

A. Correct.

20 Q. And now you say it is perhaps the whole week, is that right?

A. Well, it appears from the document that I'm looking at that it is under the 21st and the 22nd, more towards that end, but I'm not going to commit because it's so long ago, I can't remember.

25 Q. This was a significant day?

A. Well, it was significant too because if you look further along, down the bottom under the 23rd it says, "Brown looked up visitors = A", so Astill must have told me that Mr Brown was still looking up my visitors.

30 Q. And that's under the bottom line as opposed to above it which is where "A X push up", is that correct?

A. The line doesn't mean anything, it's just where I would've written it.

35 Q. Who is Mr Brown?

A. He was an officer that worked in high needs as well as in visits.

Q. Was he the one you complained about to Ms Martin?

A. He was one of the officers, yep.

40 Q. So you did name officers, did you?

A. Not in the meetings with O'Toole and Martin or Martin and Paddison, no, I didn't.

45 Q. Right. So, you didn't name Brown then?

A. Not from my memory. I think I said, "The officers from high needs and the managers" because of the rumours that were being spread about the managers.

50 Q. But one of your problems around this time or subsequent, I think it was around 13 February, was when you had your ring confiscated off you, is that correct?

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A. The 17th, yes, that's correct.

Q. Is that the ring you're wearing today?

A. Correct.

5

Q. Were in BIU for a number of days, because you wouldn't surrender the ring?

A. Correct.

10 Q. And you had also, I suppose, some fears or suspicions that your communications with Ali were being intruded upon, is that correct?

A. They were, an officer stood directly in between us at our visit.

15 Q. Well, that was what you were complaining about, wasn't it, it was the combination of the ring, the BIU and the very close scrutiny you were having with Ali?

HER HONOUR: When?

20 TYLER-STOTT

Q. When you met with Ms Martin and Ms O'Toole.

25 A. Originally when I met with Ms Martin and Ms O'Toole it was their concerns about media coverage that I was having in regards to my personal legal case and during that conversation I brought up the conversation of officers being inappropriate towards inmates.

Q. Ma'am, at the "A" cross "X" "push up" was there ever an occasion where Mr Astill lifted you to obtain a game from the storeroom by the hips?

30 A. Can you please repeat the question?

Q. Was there ever an occasion where Mr Astill lifted you by the hips to reach a game in the storeroom?

35 A. Reach a game?

Q. Yes.

A. To my understanding there were no games in the storeroom.

40 Q. Well, you came to see him on an occasion when he was in high needs and you requested games.

CROWN PROSECUTOR: I do ask that the question be--

45 WITNESS: I don't think so.

TYLER-STOTT

Q. Do you remember a time where you went and you requested games from Mr Astill when he was in high needs?

50 A. No, I don't remember. I don't think I would ever ask for board games, that's

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not my gig, I'm not into them.

Q. No, that was a pretence for seeing him.

A. Absolutely not.

5

Q. I'll just suggest to you that it was after you got the game that you turned around and you both kissed?

A. Absolutely not.

10 Q. You provided a statement to police on 7 May, do you have that in front of you?

A. Yep.

HER HONOUR: 7 May, what year?

15

TYLER-STOTT: 2019.

Q. Do you have that in front of you?

A. Yep.

20

Q. Within that statement you talk about the existence of your 2014 Salvation Army diary, is that right?

A. As the exhibit?

25 Q. Yes.

A. Yes.

Q. Your 2015 Salvation Army diary?

A. Correct.

30

Q. And your 2016 Salvation Army diary?

A. Correct.

35 Q. You've talked about at paragraph 4 in that statement that you've made notes in those diaries, is that correct?

A. That's correct.

Q. And those notes relate to activities both inside and outside the gaol?

A. That's right.

40

Q. And you've reviewed your notes to help you make your statement, is that correct?

A. If that's what I - yep.

45 Q. You've reviewed your diaries, I take it, in an attempt to provide an accurate statement to Detective Cambridge, is that correct?

A. I didn't look at the diaries until they took them.

50 Q. Right. So when you say, "I have reviewed my notes to help me make my statement" what are you referring to? At paragraph 4 of your statement?

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A. So when I had the three diaries in front of me, as we were discussing the issues then I would flick through and earmark examples of where I've written in things about Astill in my diaries.

5 Q. The only occasion where you found an "A" with an "X" was on 21 January 2016 for the purpose of preparing your statement, is that correct?

A. I don't know what the police did. They took the diaries and they created that document, I didn't select those items.

10 Q. All right. Have you not referred to that in your statement, the "A" and the "X"?

A. Yes, I have referred - I referred to what the "A" indicates and the "X" indicates in my statement I believe in paragraph - paragraph 22.

15 Q. At paragraph 16 you refer to "21 or 22 January 2016"?

A. Yes, I do.

Q. And that's an occasion where you say, "Mr Astill pressed his body into me"?

20

CROWN PROSECUTOR: I object. I would ask that that part of the paragraph be read, including the opening words of the paragraph.

TYLER-STOTT: Sure.

25

Q. "Around 21 or 22 January 2016 Mr Astill pressed his body into me", is that correct?

A. That's what it reads, yep.

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TYLER-STOTT

- Q. "I know this because I made a note beneath these dates"?
- 5 A. Correct.
- Q. You referred to your diary, didn't you, for the purpose of the creation of that paragraph?
- A. For the statement?
- 10 Q. Yes?
- A. Yes.
- Q. You have referred to other dates as well, haven't you, like 21 November 2015?
- 15 A. Yes.
- Q. You have referred to 31 August 2015 at paragraph 10?
- A. Yes.
- 20 Q. You have referred to 27 August 2015 concerning the statement about a picture of you on a boat?
- A. Correct.
- Q. You have referred to 12 August 2015, "A awes all over town", correct?
- 25 A. Correct.
- Q. You have looked at your diaries when you were making the statement?
- A. Correct.
- 30 Q. You would have known that you were going to provide a statement for some time in advance of providing it, wouldn't you?
- A. I knew about providing this statement prior to going there?
- Q. Yes?
- 35 A. It was only a matter of hours. They just came and picked me up and took me.
- Q. You had spoken to the police back in February 2019, correct?
- A. Yes.
- 40 Q. They enquired whether or not you were interested in providing a statement, correct?
- A. Yes.
- 45 Q. You said you needed time to think about it, is that right?
- A. Correct.
- Q. You said you had notes, is that right?
- A. Yes.
- 50

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- Q. Leading up to providing the statement you would have had other conversations with them, wouldn't you?
A. With who?
- 5 Q. With the police to ascertain if you were willing to provide a statement?
A. Not that I'm aware of.
- Q. Just go to the statement please. Just have a at page 6, a continuation of paragraph 27?
10 A. Yep.
- Q. About half way down that paragraph it commences with the sentence, "I gave the underwear to Detectives Cambridge and Palmer on 2 May 2019, do you see that line?
15 A. Yes, I do.
- Q. I just want you to read the rest of that paragraph to yourself?
A. Yes.
- 20 Q. That relates to an occasion where you say Mr Astill was putting his fingers under the elastic of your underwear, correct?
A. Correct.
- Q. You don't within that paragraph say that he touched your vagina, do you?
25 A. Well as his hand moved under the elastic it's on my vagina.
- Q. You didn't say that in your statement, did you?
A. Well, if my vagina is not under my underwear I don't where it would be.
- 30 Q. Would you confirm please that you don't say that he touched your vagina?
A. I do not say that he touched my vagina when his fingers were under the elastic of my underwear, no I don't.
- Q. Can you move to paragraph 29. It is a similar incident, fingers under the elastic?
35 A. Yes. Correct.
- Q. You don't in that statement or that paragraph say that he touched your vagina or the lips of your vagina as you said in evidence yesterday, is that correct?
40 A. I said top of my vagina. And when - I don't use the word "vagina" in that statement again. But I say his fingers under the elastic of my underwear which is on top of my vagina and I pushed his hands away.
- 45 Q. Just to confirm you do not say that he touched your vagina in that paragraph, is that correct?
A. I don't use the term "vagina", no.
- Q. Did you can make any notes within your diary of those two occasions?
50 A. I don't remember. I haven't look at the diaries for - since 2019.

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- Q. What about the provision of the underwear, did you make any notes in the diary about Mr Astill giving you underwear?
A. I didn't because I kept the underwear.
- 5
- Q. You said you threw one pair out, is that right?
A. I think I did or it was taken. I don't know where the third pair went.
- Q. Can I suggest to you that Mr Astill only gave you two pairs of underwear?
10 A. That would be incorrect.
- Q. Why did you keep the underwear?
A. For this very reason because I have in prison been a targeted inmate. I've always had to justify my position. I always think they're out to get me and I've
15 been protecting myself since the day I entered custody.
- Q. So makings notes and those kinds of things?
A. Correct because I don't want to be accused of doing something I haven't
20 done.
- Q. You have been anticipating this day, have you?
A. Well of course because the police came to see me in 2019.
- Q. Have you made any claims for compensation?
25 A. I have received victims compensation.
- Q. I'm not talking about that. Have you engaged a lawyer to seek compensation on your behalf other than victims compensation?
A. Yes, I have.
30
- Q. Is that why we are here, Ms C?
CROWN PROSECUTOR: I object.
- 35 WITNESS: No, because I'm not successful--
HER HONOUR: --please listen. I don't allow the question.
- TYLER-STOTT
- 40
- Q. Ms C, I suggest to you that you are making this up as a means to get some money from the system?
A. No.
- 45
- Q. The same system that found you guilty of something you say you didn't do?
A. I don't reach the threshold regardless, so no not correct.
- Q. You didn't know that at the time, did you?
A. No, I didn't.
50

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CROWN PROSECUTOR: I object to that. Vagueness, your Honour.

TYLER-STOTT: Well she has answered the question.

5 HER HONOUR: Yes, it has been answered.

Q. Ms C, if there is an objection don't answer until it's sorted out?

A. Okay.

10 TYLER-STOTT

Q. You have had plenty of time to sit and contemplate how you would frame Mr Astill, haven't you?

A. Absolutely not.

15

Q. No?

A. It's far more embarrassing and humiliating for me to be here today from what I've been through and the years I had trying to keep him away from me so no.

20

Q. Far better to be a victim as opposed to a willing participant in the eyes of your fellow inmates?

A. Absolutely--

25 HER HONOUR: --what's the question in relation to this? You might phrase it as a question.

TYLER-STOTT: Yes, your Honour.

30 Q. It is far better for you to appear as a victim than a willing participant and a lover of a correctives officer, is that correct?

A. Absolutely not.

Q. The comment about the boat you introduced that topic, didn't you?

35 A. No, I didn't.

Q. You told Mr Astill that it would be nice to be sunbaking on boat?

A. That's his words.

40 Q. Mr Astill said that he doesn't even like boats to you and he had no money for one?

A. No, he said that he had plenty of money, that he could afford a boat and that he would love to buy a boat and see me sun bake topless on it.

45 Q. The "tan" comment did that take place on - if you can just bear with me - 12 August?

A. It's directly under that date.

TYLER-STOTT: Sorry, your Honour, 2015, I will get there one day.

50

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Q. Did it take place on that day or you're not sure?

A. Again it's a long time ago. It's directly under that date. I assume it was on that date.

5 Q. If I could move to page 8 of exhibit C, which is 30 November 2015 and it says, "Arse comments - DVD". That's up the top of that page?

A. Yep.

Q. When did that comment take place?

10 A. They were so regular. It could have been every day that week, that day, both days. You can see underneath it says, "DVD 60 minutes". The next day it says, "DVD 60 minutes". So that was usually when the comments were made when we'd been training.

15 Q. Can I suggest to you Mr Astill wasn't at work for two weeks commencing that day, 30 November 2015?

A. I don't agree with you.

20 Q. I take you had your diaries with you, they're not kept in a special place after you finalise each year?

HER HONOUR: When?

TYLER-STOTT: All of your diaries, 14, 15 and 16.

25

HER HONOUR: When, now, back in 2014, 2015, 2016 or 2019, when are you taking about?

TYLER-STOTT

30

Q. Leading up to their seizure from the police in 2019 they weren't kept in any special place other than your cell, is that correct?

A. Correct.

35 Q. You have had plenty of time to go through your diaries, if you wished?

A. If I wanted to.

Q. To make additional notes if you wished?

40 A. I wouldn't - no, I wouldn't take additional notes because that year was done. I was making notes in the year that it was.

Q. Ms C, can I suggest to you in 2015 you voluntarily provided Mr Astill with a strip dance whilst you were in your cell?

45 A. Absolutely not. No, I didn't.

Q. Can I suggest to you that on the occasion that he touched your leg you had shaved your legs and presented it to him?

A. No.

50 Q. You put it up on the desk and he felt your shin up to your knee?

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A. No, I never put my leg up on a desk.

Q. Once he taken his hand away you turned and pulled your shorts and underwear down exposing your right buttock?

5 A. No.

Q. And Mr Astill touched that?

A. No.

10 Q. Ms C, did you ask someone, whether it be Patrick Cogan who is your partner, is that right, or fiancé?

A. He's my partner.

Q. Did you ask him to approach Mr Astill for a fee of \$50,000?

15 A. I would like to ask for a certificate 128 in regards to these questions, your Honour.

HER HONOUR

20 Q. Have you received some independent legal advice?

A. Yes, I have.

HER HONOUR: Is there any objection?

25 CROWN PROSECUTOR: No, your Honour, not for my part.

TYLER-STOTT: No.

HER HONOUR: This should really be done in the absence of the jury now.

30

Ladies and gentlemen, if you would just like step out for just five seconds. It won't take long, but I just need to ventilate something with the parties. There is no need to go back to the jury room.

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IN THE ABSENCE OF THE JURY

HER HONOUR: There are a series of questions in relation to this topic?

5 TYLER-STOTT: Yes, your Honour.

HER HONOUR: Yes.

10 Q. Ms C, you said you have received some legal advice in relation to it?
A. Yes, I did.

Q. Are you willing to give this evidence if I do grant you a certificate?
A. Yes, I am.

15 Q. You understand the purpose and the legality of the certificate that it basically prevents any answer that you give, if I give you the 128 certificates it means that any answers you give cannot be used by the prosecution authorities in any prosecution against you, do you understand that?

A. I do understand that, yes.

20

HER HONOUR: I do find that there may well be, without really knowing every answer to the question that is about to be asked, the topic may well cover some criminal activity of Australia under Australian law.

25 In the circumstances where the witness is prepared to give that evidence if a certificate is granted then I am prepared to grant the section 128 certificate in relation to this topic.

Mr Tyler-Stott, is there any other topic that may invoke this?

30

TYLER-STOTT: No.

HER HONOUR

35 Q. Ms C, I will grant you the 128 certificate. That means your answers, if you give them willingly and truthfully, then they will not be used, your answers cannot be used in any prosecution against you under Australian law, do you understand?

A. Yes, thank you, I understand.

40

LAB:CAT

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IN THE PRESENCE OF THE JURY

HER HONOUR: Yes, thank you, ladies and gentlemen.

5 Yes, Mr Tyler-Stott.

TYLER-STOTT

Q. Did you ask your partner to try and seek \$50,000 from Mr Astill?

10 A. The figure I'm unsure of, but it was more financial assistance to receive legal advice to receive the solicitor.

Q. What for?

15 A. Because I didn't trust what the police were telling me. I don't trust the system. I was concerned I was going to be accused and charged with something that I hadn't done and he always offered me assistance and that was the time I felt that I really needed it.

Q. What did you think you were going to get charged for?

20 A. Well beside internal charges for misconduct I was suspecting that I would be charged with something by the police for inappropriate relationships within our gaoling system.

Q. You've had plenty of contact with lawyers throughout your time, Ms C, haven't you?

25

A. Yes.

Q. You had lawyers, I would suggest to you, that could provide you with advice free of charge?

30

CROWN PROSECUTOR: I object, your Honour. The vagueness and timeframe. There is no timeframe.

TYLER-STOTT

35

Q. Around this time that you made the demand for \$50,000?

HER HONOUR: Put the question again to her please.

40 TYLER-STOTT: Yes, your Honour.

Q. Around the time that you made the request for \$50,000?

45 HER HONOUR: She didn't say she asked for \$50,000. He answer was that she wasn't sure of the figure.

TYLER-STOTT: Sure.

50 Q. Around the time that you asked for money for legal assistance you had plenty of lawyers who you could call upon that would provide you with advice,

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is that correct?

A. No, that's not correct.

5 Q. What about the Innocence Project have you had plenty of contact with them?

A. That's in regard to my personal legal situation. Not in regards to something that's happened at prison.

10 Q. Yes, but you had built up quite a rapport with the solicitors there I would imagine?

A. They're two completely different situations.

Q. I suggest to you that you were in effect trying to see how much you could get out of Mr Astill because you could see the writing was on the wall for him?

15 A. No, I don't agree. I was seeking legal support because I was afraid I was going to end up in Court.

Q. You constructed a non-consensual relationship with Mr Astill?

20 HER HONOUR: You mean falsely constructed.

TYLER-STOTT

Q. Falsely constructed a non-consensual relationship with Mr Astill?

25 A. No.

Q. Just going back to your statement. Do you refer to the phrase "hot slicing" anywhere in there?

A. The actual term or the description of it?

30

Q. The term?

A. The term, no. Not that - no.

Q. You describe it as a grabbing between the legs from behind?

35 A. Yeah, in paragraph 24.

Q. And you felt him touching your vagina?

A. Correct.

40 Q. You say "a grabbing" or "he grabbed". Would you say a little bit different to the evidence you gave yesterday?

HER HONOUR: Is that a submission or a question?

45 TYLER-STOTT: If I'm going to make a submission I thought I would give her the opportunity to comment, your Honour.

Q. Is that different to what you have said yesterday?

50 A. He would grab between my legs and then he would run his hand up between my legs to my vagina and my bottom (witness indicated).

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Q. You said at the conclusion of that paragraph that he groped your vagina through your clothing on a number of occasions?

A. True, yes.

5

Q. Is that what you are trying to describe as "hot slicing"?

A. That's a separate thing. Hot slice is the action of going between someone's legs and running them up between their legs through, past their vagina through their bottom. The other one groping is just reaching forward or brushing up against, you know grabbing at my vagina.

10

Q. Ms C, I'm just going to put a series of propositions to you. You can agree or disagree or qualify whatever you would like. On around 21 or 22 January 2016 Mr Astill did not press his body up against you, what do you say, did that happen or not?

15

A. Yes, it did happen.

HER HONOUR: What date did you say, Mr Tyler-Stott?

20 TYLER-STOTT: I just read it from the document from the Crown. Around 21 or 22 January.

HER HONOUR: Just be reminded that the indictment is not that specific.

25 TYLER-STOTT: Yes, your Honour, but I believe this is what is relied upon for count 1.

HER HONOUR: Yes, but the indictment dates, the dates not being an element of the offence. I am just saying it for your sake.

30

TYLER-STOTT: Yes, your Honour. I was just hoping to clarify it for the jury.

Q. Around the 21st/22nd you say that he pressed himself up against you without your permission?

35

A. Correct.

Q. That's count 1. Count number 2, you say he kissed you on several occasions without your permission?

A. Correct.

40

Q. Can I suggest to you that he kissed you twice and it was with your permission?

A. It was more than twice and the times that he did kiss me and attempted to kiss me were all without my permission.

45

Q. I will move on to the next count, count 3, where you have said that Mr Astill - and I think I was just questioning you about that - grabbing you on the vagina or hot slicing, as you may have described it, that didn't happen?

A. It did happen.

50

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Q. Do you agree or disagree?

A. I disagree, it did happen.

5 Q. Count number 4 where you have said he put his fingers under the elastic and touched your vagina, I suggest to you that didn't happen?

A. That did happen.

Q. Count 5. I suggest to you that any flashing or strip that you performed for Mr Astill was completely free and voluntary, do you agree or disagree?

10 A. I disagree.

Q. Count 6, a further count where you have said that he has put his fingers under the elastic of your underwear. I suggest to you that didn't happen?

A. It did happen.

15

Q. I am almost finished Ms C. You don't trust the system, do you?

A. No, I don't.

Q. You have been put in gaol for 18 years for a murder you say you didn't commit?

20

A. That's correct.

Q. You are also serving a sentence for three counts of make false statement which you say you were truthful, is that correct?

25

A. I pled not guilty, that's correct.

Q. You say that you didn't commit those criminal acts, is that correct?

A. That's correct.

30

Q. You don't like Corrective Services officers generally?

A. That's correct.

Q. Mr Astill was showing you some form of favouritism, would you agree or disagree?

35

A. His attention towards me caused me more trouble than any favouritism. He never did me one favour. He never assisted me in anything. In fact all he did was cause trouble for me.

Q. What about phone calls. Did he make it easy for you to make phone calls?

40

A. No, he did not.

Q. Ms C, I will just suggest that you have made this appear as if, and falsely, that Mr Astill was engaging in sexual acts with you without your consent?

A. I have not made up any of my evidence. I have been truthful and those events did occur.

45

Q. When you asked for the \$50,000 - I beg your pardon, when you asked for the money did you give a time by which the money needed to be in your account or anything of that nature?

50

A. Not that - I don't remember having a conversation like that, no.

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Q. How was the conversation, was it at the gaol with Patrick?

5 A. I believe it was a phone call. I don't know the evidence - I don't know anything in regards to what's been put forward to the Court. All I know is that I had a conversation with Patrick in regards to seeking financial assistance for legal representation.

Q. I suggest to you that you are just trying to set yourself up financially for when you are ultimately released?

10 A. I don't need to. And Mr Astill was constantly offering me things, even in the phone call I had with him, on the recording, he was still offering me assistance, legal assistance and to send somebody out to see me.

Q. Did you say something like that in your statement?

15 A. About receiving - about seeking legal assistance?

Q. For him offering you money or anything of that nature?

A. I believe - not in the first statement. I don't clearly say anything about legal support.

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TYLER-STOTT

Q. In that statement of eight pages and 34 paragraphs?

A. Yes.

5

Q. Is there anything else you wish to add, Ms C?

A. I believe it's just in the phone call.

<RE-EXAMINATION BY CROWN PROSECUTOR

10

Q. Ms C, it was suggested to you just now that the accused did not put his hands under your underwear, under the elastic of your underwear, that that simply did not happen. Do you remember being asked that?

A. I do.

15

Q. As to exhibit C, item 1, being a note received by the witness, that you were asked about earlier, "Sorry I startled you last night. Nickers looked hot. Loved yesterday. You feel beautiful under your shorts." Do you have any knowledge about what that might have referred to other than what you have described as feeling under the elastic of the undies?

20

A. Astill used to - afterwards he would say, "Your pussy feels great," or, "You feel so warm." He would make comments particularly about my private area.

Q. When you say afterwards, what are you talking about?

25

A. Immediately, the next day, the week later.

Q. After what?

A. After his hand was inside my shorts and inside my underwear.

30

Q. You were cross-examined about the statement that you made and specifically about paragraph 13 of your statement with respect to a note you made in your diary above 30 November?

A. Yes.

35

CROWN PROSECUTOR: I seek leave to ask what was included in paragraph 13.

TYLER-STOTT: No objection.

40

CROWN PROSECUTOR

Q. Did you say this in that statement, "Throughout 2015 we, as an inmate group, began doing regular exercise that consisted of yoga and walking. When we did yoga we did it to a DVD in the common room of our accommodation unit. After a few of these sessions Mr Astill would call me into the smoke-out out of house and say things like, 'Your arse looks good in those tights. I made a note in my diary on 30 November, 2015, about these exact comments. I wrote this only once but recall it happened on a number of occasions." You go on to say other things which I can read it out if my friend requires it, but did you say that in your statement?

45

50

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A. Yes, I did.

5 Q. Did you say at any stage in your statement that that comment, "Your arse looks good in those tights," was definitely made, the comment itself, was made on 30 November?

A. No.

10 <THE WITNESS WITHDREW

HER HONOUR: Ladies and gentlemen, you heard the reference - and I will mark it MFI 11--

15 MFI #11 - STATEMENT DATED 20 MAY, 2019

20 Statements are taken by police when they investigate a matter. So, they are taken from the witness. If there is a question from the witness and unless the statement is tendered it does not become evidence. It is just a statement. The prosecution will call a witnesses in their case to give the evidence that is in the statement. So, the statement does not become the evidence unless for some particular reason it has been tendered. It has not been here, but you have heard references to it but those references are evidence, but the statement itself does not become evidence.

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<U, SWORN(11.05AM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

5

Q. Is your name U?

A. Yes.

10

Q. Were you, for a time, an inmate at the Dillwynia Correctional Centre?

A. Yes.

Q. Were you there from 2011 through 2016?

A. Yes.

15

Q. Did you become friendly with another inmate by the name of C?

A. Yes.

Q. And to your memory did you meet her around 2014?

A. Yes.

20

Q. Did you come to know an officer at that gaol by the name of Wayne Astill?

A. Yes.

Q. How did you find him so far as your dealings with him initially?

25

A. Friendly.

Q. Do you recall that at a point in late 2014, or early 2015, he became Chief Correctional Officer?

A. Yes, within the high needs unit.

30

Q. And that unit included the J unit?

A. Yes.

Q. And the K unit?

35

A. Yes.

Q. As an inmate did you have occasion, or a need, to speak to a Chief, including Mr Astill?

A. Yes.

40

Q. What sort of things would that involve? What sort of the topics would require discussions with him?

A. Generally inquiries with the house, room moves, to speak to psychologists, clinics, general inquiry nature.

45

Q. Was it administrative?

A. Yes.

Q. Was there a time when you would exercise together with C?

50

A. Yes, most lunch times.

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Q. And what about an inmate DD, did you know her?

A. Yes.

5 Q. Did she exercise with you?

A. Yes.

Q. Was there another inmate, Kayla Janes?

A. Yes.

10 Q. Was there ever an occasion where you would hear C's name called out in the public address system?

A. Yes.

15 Q. Did you ever go with her, after her name was called out, to an office?

A. Yes.

Q. Who did you go and see and there?

A. Whoever called over the system would be where you would be reporting to.

20 Q. Did you ever go with C to see Mr Astill?

A. Yes.

Q. I want to ask you about a particular occasion when you went to the medium needs office and saw Mr Astill with C?

25 A. Yes.

Q. Do you remember that particular occasion?

A. Yes.

30 Q. When you got there, was there anybody else in the office?

A. No.

Q. So, at that stage just Mr Astill, you and C?

A. Yes.

35

Q. What do you remember taking place there? Was there something significant you remember seeing?

40 A. I don't remember the specifics of the reasons for the call, or being called to that office, but there was a touch of C's arm by Mr Astill. That stuck in my mind because it was not a normal, sort of, behaviour by an officer to touch an inmate, in that friendly, flirtatious type of manner, I would call it.

Q. How did he touch her arm? Was it by way of gesture?

45 A. Yes, just, sort of, on the arm but it was softly and it seemed to me flirtatious in manner, (Indicated). That's the best way I can describe it.

CROWN PROSECUTOR: For the record the witness has indicated with her right arm running across her left upper arm near the shoulder.

50 Q. Do you recall which hand he used?

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- A. No, I don't recall.
- Q. Do you remember, once his hand made contact with her, whether it moved on her skin or was it just on and off?
- 5 A. I do not recall.
- Q. Do you remember how long, roughly, his hand remained on there?
- A. A few seconds.
- 10 Q. Do you remember if he said anything before he did that?
- A. No, I did not recall.
- Q. Do you the remember the tenor or the discussion? Was it a disciplinary thing, an administrative discussion?
- 15 A. More friendly, I would say, in nature.
- Q. Did you see, when he did that, was there any physical reaction from C when that happened?
- 20 A. More just a brush off. I guess the movement of the arm to, sort of, pull back from the arm, but not recoiling as such, but just a gentle moving back of the arm.
- Q. How long after he leaned in did she do that?
- A. A few seconds.
- 25 Q. After that meeting, did she say anything to you about what had happened? Did C say something to you?
- A. Something along the lines of, "I did not like that."
- 30 Q. How often, to your knowledge, from what you observed, not what you were told by other people, how often would C be called to an office that Wayne Astill was working?
- A. About three times on average a week.
- 35 Q. Did you accompany her on those meetings?
- A. Yes.
- Q. Is there a reason why you went with her?
- 40 A. Generally I would say most of the calls were during lunch time and during lunch times we could walk the compound and that was our exercise and I was usually with her and because of the number of incidents that she was called, I think the impression from other inmates, or officers, was that it was happening quite often.
- 45 Q. I will just stop you there, just to have you focus on what you observed rather than what other people might have said?
- A. She had made mention she was a little bit uncomfortable by the calls.
- Q. This is C speaking to you?
- 50 A. Yes.

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- Q. On those occasions do you recall what was discussed? Was it as administrative matters you spoke of earlier?
- 5 A. Administrative and just friendly. It could be just to say "hi", it could be a left over piece of fruit, it could have been for the purpose of an administrative purpose.
- Q. When you say just friendly, were there meetings where it was just friendly and not administrative?
- 10 A. Yes.
- Q. How commonly would that happen?
- A. Two of the three per week.
- 15 Q. What sort of things were discussed when you say they were friendly?
- A. How is your day? How is the family? How is the exercise going? Yep.
- Q. Did this discussion, as come from the Astill side, did it involve you? Did he direct conversation to you?
- 20 A. Yes, I would say predominantly towards C, but we were both there and so the conversation was sometimes directed towards me, but predominantly to C.
- Q. And the fruit, what was that about?
- 25 A. Just in terms of - if there was something left over, a punnet of strawberries. We didn't get a lot of fresh fruit in there, and it might have been a friendly discussion that the strawberries would you thrown out.
- Q. Who did he offer to?
- 30 A. Both of us.
- Q. Was there ever any discussion when, including Astill, anything was said while you saw C exercising?
- 35 A. There might be some, I would deem as not appropriate remarks, like, "Looking good, C; is there another way to get sweaty?" Those sorts of things.
- Q. Who was saying that?
- A. Mr Astill directed to C.
- 40 Q. On how many occasions? Was it just the one occasions that he said that?
- A. There was probably a number of occasions. I would not put a number on it.
- Q. I want to ask you now about the accommodation area. Are you familiar with what is being called the pill parade?
- 45 A. Yes.
- Q. Is that where medications are dispensed or made available to inmates?
- A. Yes.
- 50 Q. Did that happen typically at 6 pm, to your knowledge?
- A. Yes.

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- Q. Was it always 6 pm?
A. It was generally around that time, yes.
- 5 Q. Following these pill parades, did you ever see Wayne Astill after the pill parade was administered?
A. More heard than saw.
- 10 Q. Was his voice something you would recognise?
A. Yes.
- Q. How long after the pills were dispensed would you hear his voice?
A. It would generally be directly after or during.
- 15 Q. How long would that go on for? You could hear him?
A. Yes; five, 10 minutes.
- Q. Did you hear him talking to anyone in particular?
A. Generally C, yeah.
- 20 Q. What would you hear him say to her? What sort of things would he say?
A. Generally we would put things up in our window to stop the light coming in the door, so it might be, "Remove that thing from your window, C." He might say, "Open the door," in what I would perceive as a friendly chat.
- 25 Q. You say he would say, "Remove that thing from your window, C"?
A. Yes.
- 30 Q. Why would people put things up?
A. Generally, firstly pill parade, to get a bit of privacy. The window, you could see directly to the toilet in the cell, so you put things up there so they could go to the toilet and not to get disturbed during pill parade and the light that would shine through the hallway into the room directly.
- 35 Q. When you say, "Put things up"--
A. It might be a piece of paper or cardboard. It might be a towel or a dressing gown, yes.
- 40 Q. So was that something that only C did or other inmates did it?
A. Yes, other inmates.
- Q. Did you hear him say it to anyone other than C?
A. Yes, I guess a safety reason. If they were going to open somebody's door up, to give them pills. It is to remove what is on the door or the window so we can see you before we open the door.
- 45 Q. Was that ever said after the pills had already been administered?
A. Generally, no.
- Q. What about to C?
A. Yes.
- 50

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- Q. Was there some difference in what he was saying to C on that topic that you could hear from the other women?
- 5 A. Yes, particularly C did not generally get pills. So, pills would be - medication that was dispensed that you had not been able to get during the day. So stuff that had to be supervised and C did not get medication.
- Q. You were released from Dillwynia in January, 2016, weren't you?
- 10 A. Yes.
- Q. You became aware, in 2019, that Mr Astill had been arrested and was charged with some offences?
- A. Yes.
- 15 Q. About March 2019 did you visit C?
- A. Yes.
- Q. Did she say something to you about Astill's dealings with her?
- 20 A. Yes.
- Q. What did she say?
- A. Things, I guess, had progressed in nature from comments that I was aware of during my time to a lot more touching. She mentioned a time when she was grabbed on the breast, brushed on the thigh, and conversations that were a lot
- 25 more sexually explicit.
- Q. Did she say who had done those thing?
- A. Mr Astill.
- 30 Q. Where did that visit take place? Was that still at Dillwynia?
- A. That was at Silverwater.
- <CROSS-EXAMINATION BY MR TYLER-STOTT
- 35 Q. Ma'am, were you very good friends with C nearing the end of your time at Dillwynia?
- A. Yes.
- Q. Can I confirm what office you were called to? Was it a medium needs office that you were called to at lunch time?
- 40 A. Yes, if you are referring to the incident with the arm touching, yes.
- Q. At lunch time, which is when, I think you said, you were mostly called, was that at the medium needs office?
- 45 A. It would depend where Mr Astill, I guess, was in this regard - was stationed for the day or was doing his shift.

NO RE-EXAMINATION

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<THE WITNESS WITHDREW

EMU:CAT

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IN THE ABSENCE OF THE JURY

(Discussion continued as to witnesses to be called)

5 HER HONOUR: In relation to Mr Cogan, in the light of the questioning of Ms C, is there a need for a section 128?

CROWN PROSECUTOR: I understand he does not need to obtain that, but we have raised that with him.

10

SHORT ADJOURNMENT

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IN THE PRESENCE OF THE JURY

<DD, AFFIRMED(11.50AM)

5 <EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

Q. Is your name DD?

A. Yes.

10 Q. Did you meet and become friendly with a woman by the name of C whilst you were in gaol together?

A. Yes.

15 Q. Would you keep your voice up nice and loud. It's not a criticism, it's just so that everyone in the courtroom can hear you. Did you meet her initially at Silverwater, a gaol in Silverwater?

A. Yes.

20 Q. Did you come to be housed at Dillwynia Correctional Centre with her?

A. Yes.

Q. Did you become quite close friends with her?

A. Yeah.

25 Q. And also her partner, a fellow by the name of Patrick Cogan?

A. Yes.

Q. Were you released on 30 December 2015 from gaol?

A. Yes.

30

Q. Did you remain in contact with C after that?

A. Yes.

Q. Did you speak to her on the telephone as part of that contact?

35 A. Yes.

Q. Did you know Patrick Cogan as Pat or by the initial P?

A. Yes.

40 Q. Is that how you refer to him as P?

A. Yes.

Q. After you got out of gaol, did you catch up with P as well?

A. Yes.

45

Q. And did you become quite good friends with him as well?

A. Yes.

50 Q. Did you meet whilst you were at Dillwynia a Correctives Officer by the name of Wayne Astill?

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A. Yes.

Q. Did you have any issues with him?

A. No.

5

Q. When you got out of gaol, did you get a job out at Penrith?

A. Yes.

10 Q. Was there an occasion when you ran into Wayne Astill on Henry Street at Penrith?

A. Yes.

Q. That's near the courthouse there, isn't it?

A. Yes.

15

Q. Would that have been, to your memory, late 2016 or early 2017?

A. Yes, from memory, yes.

Q. When you caught up with him, was it just a short of chitchat conversation?

20 A. Yes.

Q. At the end of that conversation did he ask you for your number?

A. Yes.

25 Q. And he suggested you would catch up another time, just coffee, that sort of thing?

A. Yeah, just to see how things were going.

Q. Did you give him your phone number?

30 A. Yes.

Q. Did you ever catch up with him in person?

A. No.

35 Q. Did you tell Pat or P at some stage about that conversation, that you had run into Astill?

A. Yes.

40 Q. Did you get a call from Pat quite a while after that, perhaps in 2019, where he told you that the police had visited C in gaol at Silverwater?

A. Yes.

Q. Did he say things to you about Wayne Astill and did he say words to the effect of "It's all going to blow up"?

45 A. Yes.

Q. What was said around that, what was the context of that comment, what was he saying to you, that is P or Patrick?

50 A. Just that the police had spoken to C and things were going to blow up. He didn't give much detail.

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DD XN

NAL:CAT

D4

Q. Did you ask him "What is this about?"

A. Yeah, I did ask him and he said the less you know the better.

5 Q. Did he ask you to make contact with Mr Astill?

A. Yes.

Q. What did he say, what did he ask you to do? As best you can remember, what did he actually say to you, that is P when he was talking to you?

10 A. He asked me to send Mr Astill a message, text message.

Q. Did he say what to put in the message?

A. Yes.

15 Q. What did he tell you to put in the message?

A. He asked me to say to put 50,000 into C's account and she'll keep her mouth shut.

Q. When you say C, is that how he referred to C?

20 A. Yes.

Q. Did you send Wayne Astill a text at 6.29pm on 13 February 2019?

A. Yes.

25 Q. When I give you that time, have you seen--

HER HONOUR: What date was that?

CROWN PROSECUTOR: 13 February 2019.

30

Q. When I've given you that date, do you know because you have seen a text message and a series of interrupted phone calls?

A. Yes.

35 Q. Did the message say this, did you then send Astill a message with these words at that time: "Hi, I just got a message from P saying \$50K by Friday. I have no idea what is going on but that was the msg. I asked for more information but he said that was the message to him. What the fuck is going on?"

40 A. Yes.

Q. Did you receive a phone about 8 minutes later?

A. Yes.

45 CROWN PROSECUTOR: There is a recording now and I tender a disc with three phone call because the calls dropped out effectively. I tender that disc and ask it be played.

50 EXHIBIT #F DISC CONTAINING FOUR PHONE CALLS TENDERED,
ADMITTED WITHOUT OBJECTION

.02/08/22

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DD XN

NAL:CAT

D4

MFI #F1 AIDE MEMOIRE FOR EXHIBIT F

COPIES OF MFI F1 PROVIDED TO JURY

5

HER HONOUR: Again, this is an aide and what I said to you before about the transcripts, the evidence is contained in the call itself and the words not in the transcript, but it is there just to assist you.

10 CROWN PROSECUTOR: Could I query, was the other transcript marked?

HER HONOUR: Yes, E1 or whatever was connected to it. Is this all the same phone call effectively?

15 CROWN PROSECUTOR: Effectively, yes.

HER HONOUR: So it's four phone calls.

CROWN PROSECUTOR: Yes.

20

EXHIBIT F PLAYED TO THE COURT

TJH:CAT

D4

CROWN PROSECUTOR: Your Honour, as your Honour told the jury the document they've been handed is only an aid to their memory. Can I indicate this, I understand it is agreed that the time of those calls was as follows, 13 February 2019: 6.28pm; the next call being at 6.36pm; the next call is
5 6.38pm; and the final call 6.40pm all on that same day.

HER HONOUR: The 6.28 one was a text, was it not?

CROWN PROSECUTOR: I'm sorry, that was a text and the three calls, quite
10 so.

Q. Ms DD, you heard that recording, can you confirm that is your voice and Mr Astill on that call?

A. Yes.
15

Q. Is it the situation that when you made that phone call you were not aware that it was being recorded?

A. Yes.

20 <CROSS-EXAMINATION BY MR TYLER-STOTT

Q. When did you enter Dillwynia?

A. Oh, um, I think late 2013 from memory.

25 Q. Did you know a person or officer by the name of Tania Hockey?

A. Yes.

Q. Did you know that she was in a relationship with Mr Astill?

A. Not at the beginning, no.
30

Q. When did you find out?

A. Oh, um, I couldn't tell you to be honest. I just found out through the grapevine. I think I actually asked someone if they were in a relationship.

35 Q. One of the prisoners?

A. Yeah, one of the other girls, yeah.

Q. But you can't place a date--

A. Oh no, I couldn't tell you.
40

Q. Was it long after, are you able to say that you entered--

HER HONOUR

45 Q. Don't guess.

A. No, I couldn't - yeah, I couldn't tell you, sorry.

TYLER-STOTT

50 Q. Did you see any interactions between the accused and H?

TJH:CAT

D4

A. No.

NO RE-EXAMINATION

5 <THE WITNESS WITHDREW

TJH:CAT

D4

<PATRICK COGAN, SWORN(12.24PM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

- 5 Q. Is your name Patrick Cogan?
A. Yes.
- Q. You spell your surname C-O-G-A-N?
A. Correct.
- 10 Q. Are you the partner of C?
A. Correct.
- Q. Have you been in a relationship with her since 2009?
A. Correct.
- 15 Q. Since she's gone into custody you have visited her, exchanged letters with her and had phone calls with her?
A. Yes, I have.
- 20 Q. Do you recall there was a time when she was moved to the Dillwynia Correctional Centre?
A. Do I recall?
- 25 Q. Do you recall at one stage she was moved to Dillwynia?
A. Yes, I do recall that.
- Q. Did she ever mention that she had received assistance from a particular senior officer?
A. There was a point where I was told about an officer who was taking some liking to her, yes.
- 30 Q. How soon or how long after she went to Dillwynia was that first mentioned by C to you?
A. I find that difficult to put a time frame on.
- 35 Q. Are you able to put an estimate on it?
A. No, because of the duration of C's incarceration and she had several moves.
- 40 Q. All right. Now at that stage, when she first raised that, did she tell you the name of that officer at that stage?
A. No, she did not.
- 45 Q. Did she say what exactly he had said or done, so far as his contact with her?
A. In the early stages it was small things such as an extra phone call, perhaps some extra time in an exercise yard, things that perhaps lay people may not understand, but meant a lot to her at that time.
- 50

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COGAN XN

TJH:CAT

D4

Q. Did she say to you at that stage her attitude towards those offers, the attention she was receiving?

A. She said it was difficult, at the start there didn't seem to be any problem but through the duration it seemed to be making her life within prison more difficult.

5

Q. Did she say as to how she dealt with that extra assistance early on, the extra phone calls, that sort of thing, how she dealt with that?

A. She said that she was very stand-off-ish and didn't like the attention.

10 Q. Did she ever mention anything about there being an advantage to those benefits and how she dealt with that?

A. Yes.

Q. What's that about? What was said?

15 A. A little bit of how I referred before, whether it was an extra phone call. At this time C was in the tos and fros of a court case. It was as simple as sometimes being able to get letters posted at particular times or on a particular day.

20 Q. Did she say to you whether or not that those sorts of benefits or advantages - what her attitude towards that was, if that changed her approach to Mr Astill or not?

A. As - her approach changed as Mr Astill's requests became more of C.

25 CROWN PROSECUTOR: Excuse me, your Honour. Mr Tyler-Stott, is there any objection to the last line of paragraph 4?

TYLER-STOTT: No.

30 CROWN PROSECUTOR

Q. Did you indicate this, you made a statement to the police on 12 May 2020, didn't you?

A. Yes, I did.

35

Q. Did you say this, "C said to me that she working with him, so that she could take advantage of the benefits."

A. Yes, I did state that.

40 Q. What did you mean by that?

A. Again, she was able to - Mr Astill would allow her to make an extra phone call or perhaps around that time photocopy a document that would be mailed, something along those lines.

45 Q. Was there ever any mention of a boat?

A. Yes, that was very vivid to me, there were mentions. Mr Astill had told C - I didn't know it was Mr Astill at this stage - but the officer had told C that at the conclusion of her incarceration that they would buy a boat and sail off together and that is a very strong memory of mine.

50

TJH:CAT

D4

Q. Was there ever any mention of money?

A. Yes, all the time, mainly to do with his wealth and the money that he had, but, again, making reference to C's court case that he would have money to assist.

5

Q. Just so we are clear, going back, is that what C told you that Mr Astill had said?

A. C had told me money - the boat definitely. I think, there was some reference to cars sometimes and money, personal wealth.

10

Q. I raised the name Mr Astill, but, in any event, an officer had--

A. That's correct, I later found out to be Mr Astill.

15 CROWN PROSECUTOR: Would your Honour excuse me? Excuse me, Mr Cogan, I just want to check a note.

Q. So far as mentioning money to assist with C's court case were any figures mentioned, sums, particular sums?

A. I believe it was 20,000 was thrown around and up to 50,000 on occasions.

20

HER HONOUR

Q. Thrown around by whom? C or?

A. C through - from Mr Astill to C and C relayed it onto me.

25

CROWN PROSECUTOR

Q. Let's just button that down. What did C say to you so far as that, as though you were C speaking?

30 A. Yes, sure, "He's offered money", "He's offered me money, again."

Q. Was there ever any mention by C to you about underwear?

A. Yes.

35 Q. What was that?

A. That Mr Astill had bought her underwear and asked her to put it on, so he could look at her in it at his need or want.

EXHIBIT C SHOWN TO WITNESS

40

Q. Would you go to page 2, they're numbered at the bottom of the page, do you see there's a caption up the top, "Photograph of note provided to C by Astill"?

A. Yes.

45

Q. You see the photograph of the note there and the plastic sleeve?

A. Yes, I do.

Q. Do you recognise that note?

50 A. Yes, it was something that was sent to me through C.

TJH:CAT

D4

Q. Do you remember when that was sent to you?

A. I don't recall when it was, but I have all the letters chronologically ordered from C. I'm looking at the date on this.

5

Q. Just looking at the note, do you have any memory, forget about the caption--

A. Do I remember the date?

10 Q. Forget about the caption. Yes, do you know when, even roughly when, you received that note?

A. No, I do not, I don't recall.

CROWN PROSECUTOR: That exhibit might be returned.

15

Q. Did you ever speak to DD about Wayne Astill?

A. Yes.

Q. When was that?

20 A. That was I believe after the detectives had spoken to C--

Q. All right.

A. --in regards to what we are dealing with today.

25 Q. Was that a phone call?

A. Yes.

Q. What did you say in that conversation to her?

A. "Can you get Mr Astill to call C?"

30

Q. Was there ever any mention of a sum of money that he should pay?

A. Not to my recollection.

35 Q. Did C ever say to you anything about arranging for or making contact with Wayne Astill for money to be paid by him?

A. Yes.

Q. When did she have that conversation with you?

A. On that same day.

40

Q. You say after the police had spoken to her?

A. Correct.

Q. Are you able to be any more specific about that or not?

45 A. I'm sorry, I can't in regards to dates, no.

Q. Did you have a conversation with DD where you said to the effect of, I can't tell you anything more about it, but I'm passing on a message?

A. Correct, yes.

TJH:CAT

D4

Q. What was the message that you were passing on?

A. "Could you get Mr Astill to call C?"

5 Q. Did you ask DD to ask for a specific amount of money?
A. Not to my recollection.

HER HONOUR

10 Q. Any sum of money?
A. Not to my recollection, no.

CROWN PROSECUTOR

15 Q. Did you say to C at any time - did you speak to her about whether she should ask for money?

20 A. Yes, I suggested that if she was ever going to - after being offered it so many times call his bluff, if he really is as wealthy as he says he is now would be the time to accept one of these offers, given that I felt he would be in a lot of trouble and probably not in the job for too much longer.

Q. Did C ever speak to you about anything that Astill had physically done with her?

A. Yes.

25 Q. When did she first speak to you about that?

A. Would've been - things seemed to escalate and there was increased pressure over the duration of this, and I would say somewhere in 2017 at a guess. It seemed that the behaviour was quite minor to begin with.

30 Q. I'll stop you there. I'm asking you, what she actually said to you, so as though you were her, what did she say to you about any physical contact?

A. "He's touched me, again" is the thing that I remembered, "He's touched me, again."

35 Q. Was she at any stage more specific about that?

A. No.

Q. Did she say who it was, who had touched her again?

40 A. At this point, no, I had no - just the same person, I knew who she was referring to.

Q. By that stage did you know his name?

A. No, I did not.

45 Q. Did you ask his name?

A. No, I did not.

<CROSS-EXAMINATION BY MR TYLER-STOTT

50 Q. When did you find out the name?

TJH:CAT

D4

- A. When did I found out?
- Q. Yes.
- 5 A. The name? I believe the day that the police became involved.
- Q. So in February 2019?
- A. If that's the date, yes, that's when I found out the name.
- 10 Q. So the name prior to February 2019 of Mr Astill was not raised specifically with you?
- A. No, it had no meaning to me.
- Q. Sir, did you ask DD to contact Mr Astill and say, ask to "provide \$50,000 by Friday and C will keep her mouth shut"?
- 15 A. I don't recall saying that.
- Q. You don't recall?
- A. No.
- 20 Q. What do you mean you "don't recall"?
- A. I don't think there was any - the main thing was to get Mr Astill to call C, because the police were involved.
- Q. So, I mean, that's something fairly significant, isn't it, if you said those
- 25 words you would remember it?
- A. I would've - my memory is asking her to call his bluff with his wealth that he offered her.
- Q. Right. Did you say the words and "she'd keep her mouth shut", did you ask
- 30 that to be conveyed?
- A. I don't recall.
- Q. You don't recall?
- A. No.
- 35 Q. A sum, you don't recall a sum?
- A. I believe the sums that were - that were common were 20,000 or 50,000 that's what Mr Astill used to offer.
- 40 Q. Did you convey that to Ms DD?
- A. Not to my recollection.
- Q. You don't remember whether you asked for a specific sum?
- A. No, I do not.
- 45 Q. How did you communicate with DD?
- A. Telephone.
- Q. Was it a phone call or a text?
- 50 A. I would say a combination of both, but it would be a guess.

TJH:CAT

D4

Q. The note that you received and you provided to the police that was in May, 12 May, is that the time you provided it to them?

A. I believe so, yes, from what I just saw then.

5 Q. You kept it chronologically in order with all the letters?

A. When I received it it had no meaning to me whatsoever, it was - it was stacked in a pile of letters that I received.

10 Q. Okay. Why did you then refer to the chronology, that all the letters were chronological?

A. So the police would be able to date it within a very close proximity.

Q. Did you assist them in that regard?

15 A. Absolutely.

Q. Did you direct them to when it was sent?

A. They had to - I had to ask a time frame from them. I had to go to the letters that I have in order and it was then that I found them, while the police were in my presence.

20

Q. Right. Did you identify what time or year or date it came from?

A. I would've at the time, yes.

25 Q. When you provided it to the police did you provide your statement on the same day?

A. No, I did not.

NO RE-EXAMINATION

30 <THE WITNESS WITHDREW

CROWN PROSECUTOR: Your Honour, the next witness is K. We've moved a little quicker to her than I thought, but she's available, but she needs to come on screen, she is in custody.

35

HER HONOUR: How long will that take to get her up? Should we have an early mark and return a bit earlier?

CROWN PROSECUTOR: I think that would be wise.

40

HER HONOUR: What we might do is have an earlier lunch, ladies and gentlemen, but we might come back a bit earlier, so let's say for you around 10 to 2 we will come back. So that we will have time to have a bit of lunch and we will get the next witness up on screen and organised. So just go out now with

45

TJH:CAT

D4

IN THE ABSENCE OF THE JURY

HER HONOUR: Let's just say a quarter to, so we can organise the AVL before we get the jury in for 10 to 2.

5

LUNCHEON ADJOURNMENT

LAB:CAT

D4

IN THE ABSENCE OF THE JURY

5 CROWN PROSECUTOR: Your Honour, I have just got K ready to go. That was all the witnesses we had. We have spoken about trying to get AA on. We emailed your Honour's associate, this is only very late in the day, about perhaps getting a section 77 to get her on. She's in custody.

HER HONOUR: Do you think you will be finished K this afternoon?

10 CROWN PROSECUTOR: That's the concern. I think we may well.

HER HONOUR: We can try to get AA.

15 CROWN PROSECUTOR: It is only to use the time. We are tracking well at this stage.

HER HONOUR: Yes.

20 CROWN PROSECUTOR: We can use the time this afternoon with the witness, H, there are matters that we can discuss I think fruitfully. If we could have that time this afternoon it wouldn't trouble the parties.

25 HER HONOUR: Yes. We will see how we go. If we can complete K then we are heading in the right direction.

CROWN PROSECUTOR: Yes, your Honour.

30 HER HONOUR: You need a 77 for her and for H tomorrow or just H or what do you want?

CROWN PROSECUTOR: Ordinarily we would have done H next.

HER HONOUR: If you don't get AA today.

35 CROWN PROSECUTOR: We will need her tomorrow. I don't want to tie Mr TylerStott on the spot, but do you think Ms H will be enough for tomorrow? Perhaps AA tomorrow, your Honour, as well. H is a significant witness in terms of how much time.

LAB:CAT

D4

IN THE PRESENCE OF THE JURY

5 HER HONOUR: Good afternoon, ladies and gentlemen, the next witness I understand is K who is in a correctional facility. We have tried to get her up 10 minutes ago, but we will see how we are going.

Ladies and gentlemen, just take another 5 to 10 minutes. What do you want to do, Mr Crown?

10 CROWN PROSECUTOR: We don't have enough witnesses to move onto to.

HER HONOUR: Have you spoken to her?

15 CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: Ladies and gentlemen, just so that I can speak to counsel, I might just have you step out for a moment, just to stand outside.

LAB:CAT

D4

IN THE ABSENCE OF THE JURY

HER HONOUR: I understand from the Court officer that she is expressing some unwillingness to attend, but she has been brought up?

5

COURT OFFICER: No. She in her wing. She is anxious and she is not willingly coming. They have said they have sent a senior officer to talk to her and bring her in.

EMU:CAT

D4

HER HONOUR: Are they going update us?

COURT OFFICER: Yes.

5 CROWN PROSECUTOR: I don't know how quickly I could make phone contact with her in those circumstances. It may be that there is no phone near her if she is in a cell, for example. I am not quite sure--

10 HER HONOUR: Let's give it five minutes to see if she is being brought up.

SHORT ADJOURNMENT

HER HONOUR: Ms K, can you see and hear me?

15 K: Yes.

HER HONOUR: Do you have someone there with you as a support person?

20 K: Yes, I do, Angela Syme.

HER HONOUR is there any objection to that, Mr Tyler-Stott?

TYLER-STOTT: No, your Honour.

25 HER HONOUR: Mr Crown?

CROWN PROSECUTOR: No.

30 HER HONOUR: I will allow you to have a support person and the person is not to say anything or do anything but just to be present there behind you. Do you wish to give your evidence by oath or affirmation, Ms K?

K: Oath.

EMU:CAT

D4

IN THE PRESENCE OF THE JURY

5 HER HONOUR: Ms K is on the screen. You will see she has a support
person with her. Because of the nature of the charges and the allegations the
complaint is allowed to have a support person with them, as she chosen here.
It does not make give her evidence any greater or lesser weight. It is simply
something that is allowed and Ms K has asked to have that support person
10 with her and, of course, nothing adverse is to be drawn in relation to the
accused in relation to that.

<K, SWORN(2.50PM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

15

Q. Is your name K?

A. That's correct, yes.

20 Q. Ms K, you are currently an inmate in Corrective Services New South Wales
custody, aren't you?

A. Yes, I am, yes.

Q. Have you previously been at the Dillwynia Correctional Centre?

A. Yes, I was at Dillwynia for seven years.

25

Q. Is that from 2014?

A. Yes, I think it was actually 2015 I went there.

30 Q. When you were at Dillwynia, did you get work at one stage in the reception
area as a sweeper?

A. That's correct, yes.

Q. When did you start that job?

35 A. So, I think I started there about 2016. I worked there a while and then I left
and then I came back.

Q. Do you recall at one stage making a comment about an officer who was of
Italian background, a Corrective Services officer of Italian background?

40

A. Yes.

Q. Is it the situation that you made a joke and it was a joke which was in poor
taste?

A. Yes, it was.

45 Q. Did you later hear that there was some complaint about that and that you
may be in some trouble about that?

A. Yes, I did hear. I thought I might have been charged.

50 Q. Did you speak to any officers at the gaol about a potential charge relating
to that?

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K XN

EMU:CAT

D4

5 A. Yes, I spoke to Mr Astill, who was a senior officer at Dillwynia Correctional Centre. I told him of my concern regarding what I said and I thought I might lose my job and I was not sure if I had been charged or what had happened. He came back later and told me at reception, when I was working, that I had been charged internally and if I came and saw him later in his office he could see if he can help me with the charge and what could be done about it.

Q. Why did you go to Mr Astill in the first place? Was that at the suggestion of anybody?

10 A. Yes, it was another inmate--

Q. Who--

A. Her name was JJ and she mentioned to me that he might be able to help me.

15

Q. So did you end up going and seeing Mr Astill as his office?

A. Yes, both JJ and I went to see Mr Astill at his office that afternoon, after work.

20 Q. Was that an area in the gaol known then as the hub?

A. Yes, it was an office that was in the middle of the compound area - in the middle of the gaol, I guess - at the time.

Q. When you went to see Mr Astill with JJ, was that at the hub?

25 A. Yes, that's correct.

Q. What happened when you got there? Did you and JJ go to his office?A. Yes, we both went in. You walk in, it's an open area and there is an office on the left and I think there is one on the right. He was in the office on the left sitting behind a desk. We both walked in and I believe he had some paperwork on the table and he said that I was internally charged regarding what I had said so this officer, which I guess was rude at the time. Yeah, so, you know, I was concerned that I was going to lose my job and that it would be an issue. I explained what I had said and he - I noticed there was paperwork on his table. I was not sure what it was and he picked it up and read some facts, and things, that this officer had said in regard to what I had said. So, yeah.

30

35

Q. When you went into the office, was there anybody there apart from Mr Astill, as so far as staff are concerned?

40

A. No, not that I saw, there was no one.

Q. What happened to the paperwork?

A. So, it stayed on his desk and it just looked like, what I could see, was typing and he picked it up and said that he could actually get rid of it and he could shred it and that he would shred it.

45

Q. Did he do that?

A. Yes, he did. At the end of the conversation we had, we discussed other things, he said, "Well, I can get rid of this. I will shred it." So, I was confused

50

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K XN

EMU:CAT

D4

whether it was a charge, because if it was a charge, usually I have to sign off on it and you get to read what the charge is against you. So, yeah, I was confused. I didn't know if it was a charge. I was not sure if it was a charge. I didn't think it was a charge.

5

Q. What happened when you left his office?

A. Yes, as we were leaving JJ walked out ahead of me and I walked out behind JJ and Mr Astill came behind me and as we walked out of the office, when I was at the doorway, he grabbed me on the backside and
10 pinched my bottom.

CROWN PROSECUTOR: Your Honour, the evidence being given now is a reference of what is relied on in count 8 on the indictment.

15 Q. Do you remember what hand he used to do that?

A. No, I was not looking behind. I just felt it and I was shocked.

Q. Did you react in any way physically to that or not?

A. I didn't say anything. I was in shock. I kept walking and as I got out of the
20 office he walked a few steps away from the office and I said to JJ, "He just pinched me on the backside." Yeah, I was shocked. I couldn't believe it.

Q. Did you ever hear anything after that about any charge, internal charge, with respect to the comment you made about the Italian officer?

25 A. Yes, I spoke to another officer the following day and I was not charged. He told me that the officer had only case noted it and that's where you go onto the file and you just make note remarks. He said, "So, there was no charge," yep.

Q. After that incident, did you continue to work at the reception area?

30 A. Yes, I did.

Q. Did you, at one stage, find something written on a paper towel?

A. Yes.

35 Q. What did that say?

A. So, there is a desk area at the back of reception. He was where all the clothing was kept, and what have you, where you work. I came to work one morning and written on a piece of paper towel was, "Hi, K-bear. You weren't
40 here. I dropped here to see how you're going."

Q. Was it signed or not?

A. No, it was not signed.

45 Q. I want to ask you now about, as you continued on working at reception, did you have contact with Astill, Mr Astill, in terms of chit chat and small talk and that sort of thing?

A. Yes, yes, numerous times he came through. Yes, he would talk to me while I was out the back working.

50 Q. Was there a laundry area?

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175

K XN

EMU:CAT

D4

A. Yes, there was a very small room with a washing machine and dryer in it, where I often worked, because I often used to have to wash the inmate's greens and court clothes. So I would often be in that room.

5 Q. Was there any contact with Mr Astill in that room?

A. Yes, he came in one day to speak to me. It's a small room, so he was at one side of the room and I, sort of, was at the other and he was talking to me. I can't recall the conversation, but I felt uncomfortable because it was a very small room, yeah, and other officers don't come in there and talk to me in that way.

10

Q. Was there any officer accompanying him when he was in that room talking to you?

A. No.

15

Q. Was there anybody else in that room apart from you and Mr Astill?

A. No, just myself and Mr Astill.

Q. Now your work as a sweeper, does that include cleaning?

20

A. Yes, that's part of my duties, yes.

Q. Is it the situation that as a sweeper there is a broad range of duties and it is somewhat of a trusted position?

A. That's correct, yes.

25

Q. I want to ask you now about an occasion where you are kneeling down with a dust pan and broom. Do you recall such an occasion, having some contact with Mr Astill during such an occasion?

A. Yes.

30

Q. How long after the laundry incident would that have been, roughly?

A. I don't recall how long after that incident. I really can't recall. Maybe a few weeks, a couple of months.

35 Q. What happened when you were kneeling down with the dust pan and broom?

A. I was in the main area--

Q. When you say main area, was that the reception area?

40

A. Yes, in the reception area.

Q. Go on?

A. I think my boss was in the office at the time. Anyway, I was on the ground. I just swept and I was using the dust pan and broom. Mr Astill walked in from behind the large desk, came out into the area where I was. He walked up to me and he put his hand on his fly area - one hand on his fly area. So, when I looked up I was in line with his crutch and he said to me quietly, so only I could hear, "That's where I like you." I was not that shocked actually. I was not happy, but I didn't know what to do, really.

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Q. Did you ever have discussions with Mr Astill, apart from sort of administrative things to do with the gaol and your business to do with the gaol?

A. Yes.

5 Q. What did you discuss with him, apart from those sorts of things?

A. So I remember a conversation he had with me regarding what I did for company in the gaol; that he had never seen me with a girlfriend. He asked me what do I do for company; how did I look after myself in that respect, I guess. I felt uncomfortable discussing that and I really tried to cut the

10 conversation off, if I remember rightly. I do recall saying things to him to the effect that I'm a grown woman and don't really worry about those sorts of things. Yeah, I tried to guide the conversation somewhere else, I think.

Q. I want to ask you now a period where you were working in hygiene, because you lost your job at reception at some stage, didn't you?

15 A. Yes.

Q. So, is hygiene in different parts of the gaol - the hygiene area?

A. Yes, there's a hygiene store area, yes.

20 Q. Is that the work you were doing, working in hygiene in different parts of the gaol?

A. Yes, I think I was at some stage, yeah.

Q. Did you manage to return to your job at reception?

25 A. Yes, I did.

Q. Did Mr Astill--

A. Three times.

30 Q. Did Mr Astill ever tell you about the fact that you had returned or how that had happened?

A. Yes, he told me that he helped get my job back at reception.

Q. Do you remember an officer by the name of Mr Brumwell?

35 A. Brumwell?

Q. Yes?

A. Yes, he used to work in IOU - No, in Segro. That's out the back of reception there.

40

Q. Was there an occasion where Mr Astill that you remember and came and saw Mr Brumwell?

A. He would often go in to speak to Mr Brumwell. I think they were friends. They were good friends at the time.

45

Q. I want to ask you about an occasion when you were standing at the reception counter when Mr Astill came in wearing his jacket over his left side, all right?

A. Yes, I recall.

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Q. When did that happen in relation to this conversation about him getting you your job back. Was it after that?

A. Yes, I think it was after that.

5 Q. Do you remember roughly how long after that?

A. No, I don't. It was sometime.

Q. What happened on that occasions where he had come in and he has got his jacket on his left side?

10 A. I was standing at the desk, at the large desk, laminating. My boss was at the computer, which is at the other end of this big desk. Mr Astill walked from out the back, where I usually work, and came through with his jacket over his shoulder and he walked past me and said, "Hi," and as he walked past me he grabbed my backside and I was shocked because there's a camera above me
15 and I had officers there. I was shocked. So, yeah.

Q. When you say there were officers there, which officers were there?

A. I think Ms Berry. She didn't see it happen, but officer Berry was at her computer.

20 Q. Is that officer Renee Berry?

A. Yes, I think that's her Christian name.

Q. Did you, at some stage, tell Ms Berry what Mr Astill had done to you?

A. Yes, I did. I did - she was my boss so I did tell her what had been going on.

25

Q. So when you said earlier that there were - in relation to that incident where you were laminating - you said your boss was there. That is Ms Berry you are talking about?

A. Yes, Ms Berry.

30

Q. You said you were shocked because there were other officers there. Was there anybody else there apart from Ms Berry?

A. I can't remember, but I think there was another officer, but I think he was on the other side of the desk. I actually think it was Mr Riddles might have been
35 there.

Q. How do you spell that?

A. R-I-D-L-E-S, I think.

40 Q. Was he in a position, in relation what you could see, to have seen that, seen what he had done?

A. No.

45 Q. Was there anybody that you could see, staff-wise or otherwise, who would have been in a position to see him grab you on the bottom?

A. No, because the way he did it, his jacket was over his left shoulder and he walked past - you wouldn't even have - his hand was under his jacket, so it would have been hard to see, I guess, because no one saw it, but I felt it.

50 Q. What did you feel when he grabbed you?

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A. I felt a hand on my cheek, my buttocks; my left or right buttock, I can't recall.

5 Q. Are you able to describe further the sensation that you felt when you say he touched you? Is there any way to describe it further?

A. I suppose it was pinching my flesh on my buttocks. He had a hold of my flesh between his fingers.

10 Q. What did Ms Berry say to you, if anything, when you told her what Mr Astill had done?

A. So, Ms Berry said to me to - when he comes around, for me to stay close to her office and if I am out the back, to come around to the office area and be close to her.

15 Q. What rank was Ms Berry?

A. She was a three striper.

Q. Do you know what rank that is?

A. It is a senior, but she - Mr Astill was higher rank.

20 Q. You are aware of officers known as Senior Correctional Officers, or is SCOs.

A. Yes.

25 CROWN PROSECUTOR: Your Honour, I note the support person is nodding in the background.

HER HONOUR: Just make sure you do not make any head movements in relation to the questioning.

30 CROWN PROSECUTOR: It was not a criticism, but so no one is distracted in the courtroom or otherwise.

Q. So Senior Correctional Officers, is that what you mean by senior?

A. Yes.

35

Q. In late 2018, you had an occasion where you had a relapse and you used some heroin while you were in custody--

40 HER HONOUR: That evidence concerning the pinching of the bottom, is that related to count 9?

CROWN PROSECUTOR: Yes, it is, your Honour. That is relied on as count 9. I do apologise.

NAL:CAT

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CROWN PROSECUTOR

Q. Now, did you, as a result of using that, you admitted using that drug in gaol, yes?

5 A. Yes, that's correct.

Q. As a result of that, were you sent to a segregation area, the BIU, the Behavioural Intervention Unit?

10 A. Correct, yes.

Q. As you walked into the BIU were you in the cell at the back right ahead; there's a number of cells on the right, isn't there?

15 A. So I was the middle cell around, I think, the middle cell, and there was maybe two, three other cells to my left looking at the doors, looking at the cells, and maybe one to my right.

Q. Do those doors open outwards from the outside of the cell? Do the doors open outwards or inwards?

20 A. Outwards. So if I am standing in the cell, the door opened from the left out to the right.

Q. I want to ask you now about not long after you arrived in the BIU, an occasion where you were preparing to go to sleep having showered and changed into your pyjamas, right?

25 A. Yes.

Q. Did you receive a visit at that stage that you weren't expecting?

A. I did, yes, from Mr Astill.

30 Q. Was it nighttime?

A. Yes, I think so, getting dark, yes.

Q. What happened during that visit, what was said or what did you see?

35 A. I was in my cell. I had a shower and I put my pajamas on and my cell door opened and it was Mr Astill. And he said that he was disappointed in me and a few other things he mentioned. I think he said he was going on holidays or something to that effect. Yeah, I can't remember a lot of the conversation, but I do remember that first night I was tired. I was actually going to bed. And I said to him, "I'm tired, I'm going to bed now" and he went.

40

Q. After saying "I'm disappointed in you", did he say anything to you of a personal nature after that?

45 A. I think he said something like "look after my arse, look after that arse of yours".

Q. When you say you think he said something like that, are you not sure whether that was said or you're not sure it was said on that occasion?

50 A. I'm not sure if it was said on that occasion because he came the following night to my cell.

NAL:CAT

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Q. I want to ask you now about that following night. What happened on that occasion?

A. So I recall not having a shower and getting into my pyjamas because I was concerned he was going to come back and there's no officers down there. I
5 knew there was another girl in the cell next to me, and that's it; there's nothing. He opened my cell door again. I think it was probably around the same time, probably around 7, and he was standing at the door with the door sort of closed on to him. I can't recall what he was saying, but I do recall he moved
10 sort of forward, but didn't come into the cell, but was at the door and he actually came forward with his hands and went to grab me, and I think he tried to pull me in a bit and I went back, lent back, and then as that happened another officer turned up and opened the door further, and I think he said "What's going on? What's happening? What's going on here?" And I can
15 recall Mr Astill turned to him, and I don't know what he was saying, something about my clothing that was in the tub. He made some excuse like she wanted to ask me about her clothing, which I hadn't. And it was Mr Clark was the officer and I think I recall saying "stay" or something to that effect, "stay" or "help". I sort of mimed it to him. He saw me. He didn't hear me. And so I think he stood there for a bit and then Mr Astill closed my door and walked
20 away and they went.

Q. Would you go back for us, you told us about him pulling at you, whereabouts?

A. He went for my waist, so he went to grab my waist but I've stepped
25 backward and he moved his head in as I was stepping backwards so I assume he was trying to kiss me.

Q. Was it at that point that Mr Clark came in?

A. Yes.

30

Q. Whilst you were in the BIU, were you aware that an inmate by the name of H was in another cell in that area?

A. Yes, she was down there also, yes.

35 Q. Did you ever hear anyone speaking to her during a visit to her cell?

A. Yes, I recall Mr Astill, I'm sure it was his voice I could hear.

Q. What did you hear him say during that visit?

A. I can't recall, I can't recall. It's muffled voices but the same time, you know,
40 it was about 7, it was late.

Q. Are you able to say whether during that contact between Astill and H whether her door was open or not?

A. Yes, if I stood at my door I can hear the door being opened.

45

Q. On how many occasions; it was it just the once or more than once that you saw her door was open when Mr Astill was there?

A. I didn't see it, I heard it. And it was just the one time I recall hearing it because I was at my cell door.

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NAL:CAT

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Q. You made a statement to the police on 18 September 2018, didn't you?

A. Yes, yes, I did.

5 Q. Is there any particular reason or reasons why you didn't come forward before then? Take your time.

A. I was scared to. I was scared to say anything. It's a gaol. It's an officer.

<CROSS-EXAMINATION BY MR TYLER-STOTT

10 Q. When you were in the BIU, and you say that Mr Astill attempted to kiss you, was that toward the end or beginning of your stay in the BIU?

A. Beginning.

Q. Was that a time you were coming down off the heroin you had taken?

15 A. No, I had already been in segro isolation at the clinic for two days, so two nights I had spent there in a dry cell.

Q. How were you feeling physically, emotionally and mentally in the BIU?

20 A. I was okay, I was fine.

Q. After having taken heroin and detox for two days you were fine?

A. I had only took the heroin once, it was the one time and I hadn't taken heroin prior to that for a long time and that one time the officers knew that I was under the weather and something was going on and yep.

25 Q. At the same time Mr Astill saw you in the BIU and said "I'm disappointed in you", did he also tell you that he was going on leave for an operation or something of that nature?

A. Yes.

30

Q. Was that the first time he saw you?

A. I think it was maybe the second night. He said he was going for an operation and then going overseas.

35 Q. Was this in the presence of Officer Clark?

A. No, Officer Clark wasn't there at the time.

Q. This is before he grabbed you or during?

40 A. Before.

Q. How long was he talking to you before he grabbed you?

HER HONOUR: I thought the evidence was that he didn't, he went to grab her around the waist.

45

Q. Did he actually grab you around the waist or--

A. No, he went to grab me around the waist and I stepped backwards. As he went to grab me he came forward, I assume kissing me, it looked like that, and I stepped backwards.

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NAL:CAT

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TYLER-STOTT

Q. Did you say anything when this was happening?

5 A. No, I didn't get a chance because Mr Clark turned up.

Q. Didn't you say in your statement you said, "What are you doing?"

A. I might have said that, yeah.

10 Q. It would make sense if someone was coming towards you unexpectedly, you would say something?

A. Yeah.

Q. Mr Clark followed closely to the cell after you said those words, is that your evidence?

15 A. Yes, he turned up, yeah.

Q. What was Officer Clark - do you know his first name?

A. No, I don't.

20 Q. Mr Clark said, "What's going on" or words to that effect?

A. I think so, yeah, yeah, he did. He said, "What's going on" or something like that.

Q. Did you make a complaint about Mr Astill's conduct at that point in time?

25 A. No, I didn't say anything.

Q. Why?

A. Because the cell door was shut and they both left.

30 Q. But he asked you "What's going on here?"

A. That is what he said. I didn't say anything.

Q. When he said those words your door was open, I take it?

35 A. Yes.

Q. You could have said something at that point in time but you didn't?

A. So when Mr Clark said "What's going on", Mr Astill turned around and said something that she wanted her clothing or something regarding my clothing that was in a tub that was outside my cell.

40

Q. You knew that to be untrue?

A. Yeah because I didn't ask for my clothing.

Q. You didn't say "Mr Astill just tried to grab me"?

45 A. No, I didn't say anything.

Q. On the occasion where you were - I think you said Mr Astill had his jacket over his left shoulder and he had his hand on your buttock, is that accurate?

50 A. Yes, that's accurate.

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Q. And Ms Barry was in close proximity?

A. Yes, she was a few feet further down from the desk at the computer.

5 Q. After you were touched in the manner you described, did you tell Ms Barry what had just happened?

A. I didn't tell her straight away, no.

Q. That area was under camera or surveillance, is that correct?

10 A. Yes, that's why I was shocked that he would--

Q. I spoke over you, were you going to say something?

A. No, that's okay.

15 Q. I presume you winced or reacted in some bodily way when you were touched in that fashion.

CROWN PROSECUTOR: I ask that be put as a question.

HER HONOUR: Did you.

20

TYLER-STOTT?

Q. Did you wince or move when you were touched in that fashion?

25 A. No, I didn't. I didn't wince and I didn't move. I was just shocked.

Q. It took you by surprise?

A. Yes.

Q. You described it as a squeezing of the buttock, is that accurate?

30 A. That's accurate.

Q. It was in an area where there were other officers, correct?

A. Correct.

35 Q. And are you saying, and you remember this, you did not react by moving?

A. I did not because I was fearful. At the time I wasn't sure if I could actually say anything to other officers because when you are in a gaol officers are officers and inmates are inmates, and I wasn't sure who I could go to. But I did eventually speak up and tell my boss Ms Barry and another officer as well.

40

Q. What did you tell Ms Barry?

A. I told Ms Barry, that Mr Astill had - "I feel uncomfortable when he comes around" and I said he had grabbed me on the backside a few times. And I also told her an incident - the incident when I was on the floor with the dust pan and broom, what he had said, and what he had done. And she believed me, but

45

she really - gave me the impression that she couldn't do a lot about it.

Q. What did she say?

A. She told me to keep close to her when he comes around. "If I'm out the back to come into the office" where she is, if she's in there, and to stay near

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her. That's what she told me to do.

Q. And to stay under cameras, I take it?

5 A. Yeah, not that that really made any difference because, like I said, it didn't bother him.

Q. Were you encouraged by other inmates to use your relationship with Mr Astill to gain benefits for them?

10 A. JJ had said to me once, the time I walked out of the office and he grabbed me on the backside, I told her what had happened and she did say something to the effect like "don't worry about it, he can help you with stuff" and my friendship JJ after that dissipated. We didn't stay friends for much longer.

15 Q. I will go to the first time you say he pinched you on the backside, that was at a time you were discussing some remark that you had made in poor taste about a Correctives Officer, is that correct?

A. That's correct, yes.

20 Q. He told you, didn't you, that it was purely a report and not a charge?

A. No, he didn't. When he came back into reception, he said to me that I had been charged and that he would see what he could do for me, to come back to the office that afternoon.

25 Q. When you were in custody around this time, what block were you housed in?

A. M-right.

Q. Were you friends with Ms V?

30 A. I wouldn't say V and I were friends but I lived with her.

Q. What about Ms B?

A. Yes.

35 Q. And Ms R?

A. R. I don't know who that is.

Q. M?

40 A. Yes, she lived there for a while. I lived there for three years. There were a lot of girls that came and went.

Q. Was there an occasion when you were in that block where you were talking about Mr Astill with those people I mentioned, perhaps the exception of Ms R?

45 A. Where I was talking about Mr Astill?

Q. Yes.

A. There might have been an occasion, yeah.

Q. And you were all sharing stories?

50 A. I didn't share my story because I was embarrassed.

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Q. What did you understand the relationship with Ms V to be with Mr Astill?

A. I don't think she was fond of him.

5 Q. Would hatred be an accurate description?

A. I don't know if it was hatred, but I knew he didn't like her and she didn't like him.

10 Q. How often would you see Ms V on a day-to-day basis when you were in the same block as her?

A. We'd see each other in the afternoon when we finished working. I worked at reception and sometimes I would work late, so we would have muster at 3.30 and we were in the wing. I usually cooked my meal, went into my room. Yeah, we lived in the same wing with 11 other women.

15

Q. Did Ms V put you up to making false complainants about Mr Astill?

A. No, Ms V did not. I haven't spoken to Ms V for years.

20 Q. On the first occasion, and this is the discussion about the charge which you said, can you describe with particular detail the nature of his touching your backside, give as much detail as you can?

A. The first incident when I was in the office?

Q. Yes, that is right?

25 A. So I was walking out, Mr Astill was behind me and he - I felt a hand grab me on the cheek of my bottom.

Q. Would you describe it as a slap?

30 A. No, it wasn't a slap, it was two fingers squeezing my flesh together, or fingers squeezing my flesh together.

Q. Can I read to you from your statement Ms K, paragraph 9. "As we started leaving, Astill got up and followed us out. He was directly behind me as we walked out the door and he grabbed me on my bum as I walked out the door. He did this by slapping with his hand on my bum and gripping and gripping my bum with his fingers"?

35

A. Yes, that's correct.

Q. I just asked you whether it was a slap and you said no?

40 A. He didn't slap me, he put his hand on my backside and grabbed. I interpret a slap is a slap on the bottom.

Q. I suggest to you that did not occur; do you agree or disagree?

45

A. I don't agree with you, it did occur.

Q. As far as him touching you in the reception area, I am going to suggest to you that also didn't occur, do you agree or disagree?

A. I don't agree with you and it did occur.

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Q. Ultimately when he saw you in the BIU I am going to suggest to you he only saw you on one occasion, do you agree or disagree?

A. No, he saw me on two occasions, different nights.

5 Q. I suggest to you on the first occasion he expressed his disappointment and said to look after yourself and said he would be going on holidays; you can agree or disagree or clarify if you wish?

A. No, I'm - he might have said that on the first occasion but he came back the following evening.

10

Q. Leading up to the end of 2016, were you having difficulty with an officer with the surname Avery?

A. I wouldn't say I had particular difficulty with her. She was a tough officer.

15 Q. You were having many accusations made against you, weren't you, and Ms Avery was acting on them?

CROWN PROSECUTOR: May I ask the relevance?

20 HER HONOUR: What is the relevance?

TYLER-STOTT: I suppose her emotional state around the time. That's all, your Honour.

25 NO RE-EXAMINATION

HER HONOUR: The conversation that was led, was that with Ms Berry or Barry.

30 CROWN PROSECUTOR: Barry. So Judith Barry gave evidence yesterday.

HER HONOUR: So is Ms Berry under s 66?

CROWN PROSECUTOR: Yes, Renee Berry will be giving evidence.

35

<THE WITNESS WITHDREW

AUDIO VISUAL LINK DISCONNECTED

40 HER HONOUR: We will just take a short break. It takes a while for the Corrections Officers to get them out of where they are and bring them into the unit.

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IN THE ABSENCE OF THE JURY

5 HER HONOUR: I raised that, Mr Hughes, because I understood Ms Berry gave evidence she had a conversation with K and that was led under s 66. It is on page 77 of the transcript. "Do you recall having a particular conversation".

10 CROWN PROSECUTOR: What I was leading from her, I led evidence from this witness about a prior representation from Renee Berry that she should stay under the cameras. This is what Renee Berry will say.

15 HER HONOUR: Isn't the conversation you led from Ms Barry under s 66, that is admissible because the two people are being called to give evidence about the conversation?

CROWN PROSECUTOR: 77, I think your Honour said?

20 HER HONOUR: Yes.

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5 CROWN PROSECUTOR: There's also a conversation with Ms Berry. This witness's statement complicates it, because there's various misspelling of names in there, but Ms Berry will say that, she's the boss. Ms Berry will say that, she was told of problems with Astill by this witness, although it doesn't nominate the slapping. But then Berry says to this witness, "Stay near me" and, "She's the boss" and, "Stay near me" and, "Stay near the cameras" so that was what I was referring to,

10 HER HONOUR: I understood that, but I'm wondering why there was no reference. I just assumed that it was a section 66 admission for Ms Barry to give evidence about a conversation she had with this witness that she said, but no evidence was led from this witness. Anyway, I'll leave it with you. There's no objection. I'll adjourn.

15 SHORT ADJOURNMENT

20 CROWN PROSECUTOR: Your Honour, with respect to AA, it is my friend's application in due course, I suppose, to cross-examine AA as to her criminal history - if "application" is the right way to put it - there remains a dispute about that.

HER HONOUR: What does she say, AA, why are you calling her?

25 CROWN PROSECUTOR: She is to give evidence that she observed things about H, in particular, she observed misconduct towards H, so she is a material witness, she is not a complainant. I don't know if your Honour remembers the AA case.

30 HER HONOUR: Yes, yes, hard to forget.

CROWN PROSECUTOR: Indeed. Perhaps my friend should take the lead on it, but we have got her criminal history here.

35 HER HONOUR: I've got it up here anyway it's in the MFI that you provided before. What page on that big folder is her statement?

CROWN PROSECUTOR: 206.

40 HER HONOUR: What do you want to raise?

TYLER-STOTT: She's never to be released, she has committed one of the most heinous crimes.

45 HER HONOUR: What do you wish to ask me?

50 TYLER-STOTT: I was just about to get there, I'm sorry. If she can do that, lying in the witness box isn't too much of a stretch, that's effectively the nub of my reason for wishing to cross-examine her. I don't intend to go into excruciating detail, it would just be really but bare facts and that will enable me to make the submission at the end of the case, your Honour.

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HER HONOUR: What do you say, Mr Crown?

5 CROWN PROSECUTOR: I oppose it. Heinous though it is, section 103 of the Evidence Act has implication, it says this:

10 "Subsection (1) The credibility rule does not apply to evidence adduced in cross-examination of a witness if the evidence could substantially affect the assessment of the credibility of the witness."

VISUAL LINK TO CLARENCE CORRECTIONAL CENTRE
COMMENCED AT 3.05PM

15 HER HONOUR: That's not AA, is it?

COURT OFFICER: I can call them.

HER HONOUR: Is that AA?

20 CROWN PROSECUTOR: She does have very short grey hair.

HER HONOUR: It may well be then. Ms AA, can you hear me? (No verbal reply). No.

25 CROWN PROSECUTOR: Subsection:

30 "(2) Without limiting the matters to which the court may have regard for the purposes of subsection (1), it is to have regard to:
(a) whether the evidence tends to prove that the witness knowingly or recklessly made a false representation when the witness was under an obligation to tell the truth;"

The Crown says that has no application:

35 "(b) the period that has elapsed since the acts or events to which the evidence relates were done or occurred."

40 Now we have got a copy of the case there somewhere, but it's the late 1990s, she was convicted and sentenced in 2000. It is not even so much the lapse of time, it's the lack of relevance of the criminality. Heinous though it is she has pleaded guilty to that heinous act. I should say - I say of no moment, but for completeness - the only matter of dishonesty on her record is for stealing in the Children's Court in 1968, which is of no moment.

45 HER HONOUR: Again, though, Mr Tyler-Stott, I'm not saying you are being vague, but what are the questions, what do you propose to do?

50 TYLER-STOTT: Ultimately I would be saying that she's lying about her evidence and her observations.

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HER HONOUR: I understand that, but on what are you wanting to ask her in cross-examination about her prior convictions?

5 TYLER-STOTT: For the jury to understand the character of the person giving evidence and that lying in the witness box--

HER HONOUR: I understand that, but what do you want to ask her?

10 TYLER-STOTT: Just that she's never to be released.

HER HONOUR: That will be one of your questions: She's convicted of a crime where you've been ordered never to be released.

15 TYLER-STOTT: Yes.

HER HONOUR: Yes?

TYLER-STOTT: That may well be sufficient.

20 HER HONOUR: Okay. In those circumstances is the objection still pressed?

CROWN PROSECUTOR: Yes, it is, because it doesn't come within 103.

25 HER HONOUR: I am going to allow that question in that limited capacity.

30 CROWN PROSECUTOR: So that I'm not wasting Court's time, I raise this now because there may be some objection to it and I best raise it in the absence of the jury, now I'm proposing to raise in re-examination as to whether she has received any benefit at all, given that she is never to be released, if she has received any benefit for having provided the evidence she has provided.

HER HONOUR: I don't think there would be an objection to that, if there is an objection we can deal with it.

35 TYLER-STOTT: No, my friend can probably call that in-chief, if he wishes.

HER HONOUR: Okay. Let's get the jury. I think it is Ms AA on the screen.

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IN THE PRESENCE OF THE JURY

HER HONOUR: Yes, thank you, ladies and gentlemen, Mr Crown, you call the next witness.

5

CROWN PROSECUTOR: Yes, your Honour, I call AA.

AUDIO VISUAL LINK TO CLARENCE CORRECTIONAL CENTRE COMMENCED AT 3.10PM

10

HER HONOUR: Yes, Ms AA, can you see and hear me?

AA: Yes, I can, but I apologise for the mask, somebody in our wing had COVID yesterday, so I'm wearing a mask. I can take it off to show you my face.

15

HER HONOUR: Okay. Can you just sit back a little bit, so that we can see you with the camera and just take your mask off, if that's okay.

20 AA: Is that enough?

HER HONOUR: Yes, that will be fine. Thank you. And no objection to that, gentleman? (Counsel respond in the negative).

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<AA, SWORN(3.11PM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

- 5 Q. Is your name AA?
A. Yes.
- Q. Ms AA, are you currently an inmate in the Corrective Services of New South Wales?
10 A. Yes.
- Q. Are you up at Clarence near Grafton?
A. Yes.
- 15 Q. When I say "Clarence", that's the name of the correctional centre, is it?
A. Yes.
- Q. Were you previously being housed at Dillwynia Correctional Centre?
A. Yes.
20
- Q. Did you go there in late 2015, around then, or the beginning of 2016?
A. Yeah, I think so--
- Q. All right.
25 A. --cause I was at Silverwater for 16 years.
- Q. Okay. When you went to Dillwynia were you initially in the high needs area?
A. Yes.
30
- Q. Did you end up being moved from there into an area in the J unit, as you describe it?
A. Yes.
- 35 Q. J block, is that right?
A. J K.
- Q. Thank you. Did you meet somebody in there by the name of H?
A. H, yes.
40
- Q. And do you know her otherwise to be H?
A. Yes.
- Q. Did you get on well with her?
45 A. Yes.
- Q. Do you remember that she had a job at Dillwynia working in the stores section?
A. Yes.
50

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- Q. I want to ask you about a man by the name of Mr Astill, do you remember him working at the gaol?
A. Yes.
- 5 Q. Where was he based? Where did he sit in the gaol, so far as which block and part of the gaol was he when you first went there?
A. Well, he was mostly up in high needs.
- 10 Q. All right. I want to ask you about one day in 2016 when you went up to Mr Astill's office, was there an occasion you went there and you saw H there?
A. Yes.
- 15 Q. What happened on that occasion, do you remember why you went there?
A. No, I went there just to talk to Mr Astill.
- Q. Do you remember why you went to talk to him? Were you called there or did you just go up there to see him or what?
A. I just went up there to talk to him, I must have wanted something.
- 20 Q. So what sort of things would you go to see him for, Ms AA?
A. Sometimes just to talk, sometimes it could be over wanting a phone call, something like that, in that effect.
- 25 Q. So when you went there you say H was there?
A. Yes, she was.
- Q. And where was she? Was she standing, was she seated, where was she exactly?
A. She was standing behind him, doing a garbage bin.
- 30 Q. Did she have some cleaning duties at that time, as well?
A. Yes, she did, he asked her to clean his office.
- 35 Q. All right. So this is his office that you went into?
A. Yes.
- Q. How was he positioned; was he seated, standing up, what was he doing?
A. He was seated.
- 40 Q. She is behind him doing the cleaning?
A. Yes.
- 45 Q. What happened then?
A. When she finished there she come back around near the window to wipe it down. It is a very, very small office.
- 50 Q. Yes, what did you see happen?
A. Well, while she was wiping the window I seen him put his hand on her leg, her buttocks; and looking at me, smiling. He looked at her once when he had his hand there, it was his right hand and just a couple of fingers going up and

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down and then a pinch (indicated). He looked at her once doing that and then the rest of the time he was just looking at me smiling, smirking.

- 5 Q. What was H wearing at that time?
A. Tights.
- Q. And on top?
A. A T-shirt.
- 10 Q. You've described that touching of her, how long did he do that for on that occasion?
A. Seemed like forever, but I'd say at least five minutes, four minutes.
- 15 Q. What, four or five minutes of rubbing her, four or five minutes?
A. Yeah, he just went - well, two minutes roughly, yeah (indicated), no less than two minutes though.
- Q. Did you see H's face or facial expression at that time?
A. Yes, I did.
- 20 Q. What was her facial expression?
A. Horrified. She put her - she pushed herself up against the wall, I thought there was a table there, but it wasn't, it was the wall.
- 25 Q. You've described this might have gone on for two minutes, but how soon after he touched her did she push herself against the wall?
A. It was practically straightaway.
- 30 Q. How did that come to an end? How did it end? Was anything said or did he stop?
A. No, he didn't say a word, he just stopped and then she left and I left with her.
- 35 Q. Did you say anything and did H say anything when you left the office about what had happened?
A. I tried to talk to her about it, but she told me not to talk about it. She was very stressed and so was I.
- 40 Q. When you say, "She was very stressed" what made you think that she was stressed?
A. Her tone of voice to me, begging me not to say - and begging me not to say anything.
- 45 Q. Did you report what you had seen at that time, Ms AA?
A. No.
- Q. Would you just explain to us why didn't you report it at that time?
A. I was scared and I have reported things before and nothing's been done.
- 50 Q. Did you ever see any other of those sort of actions or inappropriate sort of

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actions from Mr Astill towards H apart from that or towards any other inmate?

A. Not towards H.

5 Q. Did you know another inmate by the name of N?

A. Yes.

Q. Was she in K block?

A. She was in K, yeah.

10 Q. Now is there a K right and K left?

A. Yes, we were in K right.

Q. You were there with her, is that right?

A. Yes.

15

Q. Did you ever see Mr Astill speaking with N?

A. All the time.

20 Q. When you say, "All the time", did you ever hear what they were talking about?

A. No, I wasn't interested.

Q. Where did you see them talking?

A. In different parts of the gaol, mostly in his office.

25

Q. For how long would they talk, what was the longest you saw them talking together?

A. Oh, a long time. I went out - we get locked out the gate and then when we get let back in she was still there talking. She's a good talker.

30

Q. Did you know of her, did you see her go up to Mr Astill's office?

A. Yes, she used to clean that too for him.

Q. How long would Ms N stay up there in Mr Astill's office?

35 A. It got to that stage we just didn't look anymore. We used to just laugh - we used to just laugh and talk about it.

Q. All right, but I'm asking you of these occasions where Ms N - you said that they talked all the time?

40 A. Yeah, well over half an hour, easy.

Q. In the office?

A. Yes.

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<CROSS-EXAMINATION BY MR TYLER-STOTT

- Q. Ms AA, have you overstated the two minutes that he was touching the leg?
A. No, I wouldn't have done that, because as I said it was longer.
- 5
- Q. No less than two minutes?
A. No less. No way was it less than two minutes.
- Q. What were you talking about in that two minutes?
10 A. I didn't talk and he didn't talk at me, he was just laughing at me, smiling at me.
- Q. Was any discussion taking place at the time?
A. No.
- 15
- Q. So you stood there for two minutes whilst this was happening?
A. No, I sat there for two minutes.
- Q. You sat there for two minutes watching this?
20 A. Yes.
- Q. And did nothing?
A. Yes, yes, I was in shock.
- 25
- Q. Why didn't you say anything to either H or Mr Astill?
A. Well, H looks very, very frightened; and Mr Astill was laughing at me like when I've seen other people do that, so I was paralysed, I'm sorry.
- Q. Ms AA, I'll just suggest to you that you are wrong about the duration, it was
30 nowhere near two minutes.
A. No, no, I'm not, I'm sorry.
- Q. Could it have just felt like an eternity to you?
A. Well, it could've, but as I said I was in shock with it happening and he went
35 up and down her a few times (indicated), he pinched and went back to touching again.

NO RE-EXAMINATION

40 <THE WITNESS WITHDREW

AUDIO VISUAL LINK CONCLUDED AT 3.24PM

45 CROWN PROSECUTOR: I must say I don't have any other witnesses today.
We have moved efficiently, I would say, but that's all we have for today.

HER HONOUR: Good. So, we are basically, as you would appreciate the Crown needs to organise witnesses, particularly in these circumstances. It has gone quicker than we'd imagine, there you go that is a good sign, running

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ahead of schedule.

- Ladies and gentlemen, just again a reminder, please, don't discuss the evidence. You are obviously hearing evidence from people that are in
- 5 correctional facilities. It is very important that you don't discuss the evidence and talk about this case with other people outside of yourselves. Please, just refrain from doing that, advise them and tell them that you are directed not to discuss anything.
- 10 Have a good night tonight and we will see you tomorrow morning to commence at 10. Thank you.

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IN THE ABSENCE OF THE JURY

5 HER HONOUR: Tomorrow, it might be a good idea to have more section 77s than may be necessary, but just in case it does go quicker than expected. So, who are tomorrow?

10 CROWN PROSECUTOR: We will have H, who we will have for most of the day. We don't need a 77 for her. She will give evidence from AVL from Coffs Harbour.

P, we need a section 77 for her.

Y, we will have her, if we get a 77 for her.

15 We will have from Villawood Detention Centre, so we don't require an order, but another witness for whom we need a Hindi interpreter.

20 HER HONOUR: That won't happen overnight. We need to be given a heads-up with some of those, Mr Crown. If there are any other interpreters or the like we need a few days, it is not that easy. Okay.

If we do then H, Y and P for tomorrow.

25 TYLER-STOTT: I think that will take the bulk of the day.

HER HONOUR: The bulk of the day. If we are heading ahead of schedule I'm not that overly concerned, but we obviously want to utilise the time that we have, if there are other people who perhaps you don't need a 77 that could be on standby, Mr Hughes, that might be helpful.

30

CROWN PROSECUTOR: Could we order a Hindi interpreter for, say, Thursday?

35 HER HONOUR: We will order it to today and we can see how we go anyway. We will let you know tomorrow when one is going to be available.

40 CROWN PROSECUTOR: We are organising an Arabic interpreter, the only other witness requiring one is O. She is not far down the indictment, but we are a few witnesses away from her. There's plenty of Arabic interpreters around.

HER HONOUR: Yes. Anything else that needs to be discussed or raised?

45 TYLER-STOTT: No, your Honour.

HER HONOUR: I will adjourn then to 10am tomorrow.

ADJOURNED PART HEARD TO WEDNESDAY 3 AUGUST 2022

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IN THE DISTRICT COURT
OF NEW SOUTH WALES
CRIMINAL JURISDICTION

5 JUDGE O'ROURKE SC
AND A JURY OF FIFTEEN

FIFTH DAY: WEDNESDAY 3 AUGUST 2022

10 **2019/00056907 - R v Wayne Gregory ASTILL**

STATUTORY NON-PUBLICATION ORDER

CLOSED COURT FOR EVIDENCE OF COMPLAINANTS

15

IN THE ABSENCE OF THE JURY

20 HER HONOUR: Anything need to be raised this morning? No?

CROWN PROSECUTOR: Technology is working.

25 HER HONOUR: Yes, I can see Ms H.

CROWN PROSECUTOR: From Coffs Harbour police station.

HER HONOUR: Okay.

30 CROWN PROSECUTOR: There is one thing - it's not going to hold off the jury
- I'm seeking leave to amend count 1.

HER HONOUR: Count 1?

35 CROWN PROSECUTOR: Count 1.

HER HONOUR: Yes.

CROWN PROSECUTOR: Should read between 17 January and 25 January.

40

HER HONOUR: So from 29 January 2016 and 23 December 2016?

CROWN PROSECUTOR: Should read - according to the evidence - between
17 - and other evidence coming - between 17 and 25 January.

45

HER HONOUR: 2016 both years?

CROWN PROSECUTOR: Yes.

50 HER HONOUR: Is there any objection to that amendment?

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TYLER-SCOTT: No, your Honour.

HER HONOUR: And 25 January, did you say?

5

CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: 2016 amended. Yes, I'll grant you leave seeing though there's no objection to it. Can you amend that there on the indictment itself and just initial it, please?

10

CROWN PROSECUTOR: Yes, your Honour.

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IN THE PRESENCE OF THE JURY

HER HONOUR: Yes. Good morning, ladies and gentlemen. We are ready to proceed, Mr Crown?

5

CROWN PROSECUTOR: We are, your Honour.

HER HONOUR: Yes. Okay, we'll just have the witness brought up. And you're calling as a witness?

10

CROWN PROSECUTOR: H.

HER HONOUR: Yes, thank you. And she's giving evidence by AVL?

15

CROWN PROSECUTOR: She is, your Honour. She is from a police station in northern NSW.

HER HONOUR: Yes. Thank you.

20

AUDIO VISUAL LINK TO COFFS HARBOUR POLICE STATION
COMMENCED AT 10.10AM

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<H, SWORN(10.10AM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

- 5 Q. Is your name H?
A. Yes, it is.
- Q. You were previously an inmate in Corrective New South Wales' custody and care, weren't you?
10 A. I was. Yes.
- Q. At one time, were you at Dillwynia Correctional Centre?
A. Yes, I was.
- 15 Q. In fact, there are a couple of occasions because there was some movement during your time in custody between various gaols, weren't there?
A. Yes, that's correct.
- Q. And some of that would take place because you had court commitment at a
20 distant location, you need to move to a gaol temporarily to be closer to the court?
A. Yes, that's correct.
- Q. In late November 2015, where you transferred to the Dillwynia Correctional
25 Centre?
A. Yes, on November the 19th.
- Q. When you went there, did you go into a cell at the J unit?
A. Yes, I did.
- 30 Q. Is that a protection part of the jail?
A. That's protective custody. SMAP.
- Q. SMAP. Thank you.
35 A. Yeah.
- Q. That's a high needs area?
A. That is correct.
- 40 Q. Now, during your time at Dillwynia, was it only there that you were kept apart from the BIU?
A. That's correct.
- Q. After moving to Dillwynia, did you come to meet an officer by the name of
45 Wayne Astill, a corrective services officer?
A. Yes, I did.
- Q. How long after you arrived at Dillwynia - even roughly - did you first meet
50 Mr Astill?
A. I think it was some months after arriving. He didn't work in our area that

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much at that point.

5 Q. Now, when you first met him, did you have - not just necessarily the first occasion - but during the first period after you meet him, did you have any conversation with him?

A. Yes.

Q. And initially, at least, what was the conversation? What was the tone of the conversation?

10 A. Relatively normal. He seemed like a - a genuinely nice officer.

Q. Was there any change after that time in the tone of his conversation or the topics of conversation with him?

15 A. Yeah. It - it progressively got more inappropriate and sexual.

Q. Now, just progressing through that. How did that first take shape when you say inappropriate and sexual? How did that start out?

20 A. Initially, it was just smart little jokes. Sly little comments. Inappropriate bumping into and touching.

Q. When you say there was bumping into and touching, when was the first time you experienced that from him?

25 A. It probably would have been almost 12 months - I guess - after arriving at Dillwynia. So somewhere around towards the end of 2016.

Q. I want to ask you about an occasion where you were in the common room of the J unit.

A. Yeah.

30 Q. Near one of the lounges. And there was something on television.

A. Yes.

Q. Did something happen on that occasion?

35 A. Yes, it did. There was a few of us girls in what we call the lounge room of our unit watching something on TV - I can't recall exactly what it was. Mr Astill had been standing in commenting with the girls. Had one foot up on the corner of the lounge in a very dominant sort of position. On the TV, there was an older gentleman, and Mr Astill made the comment to the effect of - what - sorry - one of the girls actually said something about the man being older. And then
40 Mr Astill came back with, "Us old guys go all right," and then turned and commented to me, "You don't mind an old fella, do you, H?"

Q. Did you see him leave that area?

45 A. Yes, I did.

Q. And what happened as he left - if anything?

A. He brushed against me and grabbed my arse as he left.

50 CROWN PROSECUTOR: Your Honour, we're dealing here with count 11 on the indictment.

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HER HONOUR: Yes, thank you.

CROWN PROSECUTOR

5

Q. You say he grabbed your arse. Are you able to describe, firstly how you were positioned - that is, standing, kneeling, sitting, lying--

A. Standing. I was - I was standing sort of almost next to him.

10 Q. Do you know which hand he used to grab you?

A. I think it was his left.

Q. Do you remember which part of your bottom he grabbed?

A. My - it would have been my right cheek.

15

Q. Did he say anything immediately before or during that grabbing?

A. Possibly something to the effect of, "Oh whoops, did I bump into you?" or something like that. But I'm not entirely certain.

20 Q. Are you entirely certain that he said anything? What is your memory?

A. Right now, I don't remember him saying anything.

Q. And when you describe him grabbing, what sensation did you feel when you say he grabbed you? That is, how do you know he actually grabbed you?

25 A. I could feel his hand clasp my bottom.

Q. Did you say anything to him before, or do anything to him to suggest that you were up for that?

A. No.

30

Q. At that time did you report that to any staff at the gaol?

A. No, I did not.

Q. During that incident, were there any other staff in the vicinity?

35 A. I'm pretty sure there was another officer in the unit with him when this was going on, but he wasn't directly in the conversation.

Q. Are you able to say whether that officer was in a position to see what he did?

40 A. No, he wouldn't have.

Q. You referred to some of the other girls. Do you remember who the other women were, who were there at the time?

45 A. I don't remember exactly, but from what my - what my head's saying - I think P might have been there. Z and maybe Y.

Q. You don't remember? You say "maybe". Do you have a memory or not? I'm not asking you--

A. Only a vague - only a vague recollection of - of those three being there.

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- Q. Do you have any memory of whether or not he said anything after he grabbed you on the buttocks? On that occasion.
A. No, I don't have any memory.
- 5 Q. Whilst you were at Dillwynia, did you work as an inmate sweeper?
A. Yes, I did.
- Q. Was that in the visits area and the admin area?
A. Yep, that's correct.
- 10 Q. And the visits area - is that an area for either legal visits - that is, lawyers - to come and see their clients or other professional people?
A. Correct.
- 15 Q. And then there's visits for family members and loved ones, and that sort of thing to visit?
A. That's correct.
- Q. Did that job as a sweeper include you doing some cleaning?
20 A. Yes, but the majority of it was cleaning.
- Q. Was there any ordering of stores?
A. Yes, I had the control of ordering stores for the gaol for the girls on a monthly basis.
- 25 Q. In November 2016, did you get some additional duties so far as your cleaning was concerned?
A. Yeah, we started cleaning the high needs chief office, normal officer's office, and the SAPO area.
- 30 Q. At that time, was Mr Astill in the high needs area?
A. Yeah, he was our acting chief most of the time, so the senior officer.
- Q. Did you say acting chief?
35 A. Yeah, senior officer.
- Q. Did performing your duties then involve you having more interaction with Mr Astill?
A. Yes.
- 40 Q. Do you remember any particular contact you had with him whilst cleaning the offices there?
A. There was a few occasions that - yes.
- 45 Q. I want to ask you now about a day when you were working in the admin building, and you went into the photocopy room.
A. Yep.
- Q. Why did you go into the photocopy room that day?
50 A. Mr Astill had beckoned me to come down to the photocopy room.

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- Q. You've told us that you got those additional duties in November 2016. How long - even roughly - after you started those extra duties did this occasion in the photocopy room take place?
- 5 A. The photocopy room actually may have taken place prior to getting the extra duties.
- Q. So you were called into the photocopy room?
- 10 A. Yes.
- Q. And you went in there?
- A. Yes.
- Q. What happened?
- 15 A. Mr Astill grabbed my hand and put it on his crotch.
- Q. I want to ask you, just leading into that, so you've gone into the photocopy room; what sort of size is the photocopy room; how big is that room?
- 20 A. It's not a huge room, I'd say the size of the room I'm sitting in right now, but you can't see that, so, it's probably three meters by two and a half.
- Q. So you both came to be in the photocopy room?
- A. Yes.
- 25 Q. Who entered the room firstly?
- A. He was already in there.
- Q. Was there a door on the room?
- 30 A. Yes, he closed it to almost - not quite completely closed, but enough that he could see out, and he checked the hallway just prior as I walked down, with my assumption was later that he was checking to see where the other inmates were and where my overseer was.
- Q. You've told us that he grabbed your hand, what did he do; just taking it slowly, what happened after he took your hand?
- 35 A. He placed it on his crotch and asked me "did I like that?" I pulled away because--
- Q. Did you say anything when you pulled away?
- 40 A. To be honest, I don't remember.
- Q. Did he say anything after he has done that?
- A. When I pulled away, at some point he had said "don't". Then--
- 45 HER HONOUR
- Q. He said don't, or you said don't?
- A. He said don't, as in don't pull away.
- 50 CROWN PROSECUTOR

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Q. Did he - sorry to interrupt you, Ms H, but did he--

A. You're all right.

5 Q. --at that time let go of your hand, or did he maintain hold of your hand through that time?

A. Briefly it had let go, but then grabbed it and replaced my hand.

Q. Were you able to feel his penis at that stage?

10 A. Yes.

Q. Are you able to comment on the state of his penis at that stage?

A. It was almost erect.

15 CROWN PROSECUTOR: I might have indicated, your Honour; that's count 12 relied on there.

Q. What happened after that; so you felt his penis, what - from outside the clothes?

20 A. From outside his - yep. At that point it was still in his pants, after that he undid his zipper and exposed his penis, told me to get on my knees and to suck it. I said no, he said something to the effect of "do you want a move", and he

25 Q. I'll just get you to pause there, Ms H - perhaps I'm interrupting you; what you were going to say - but when you say you heard "do you want a move", what did you understand that to mean?

30 A. At first it totally confused me; it didn't have really any context or - but after a moment of thinking, I realised that he was threatening to have me moved to another gaol.

Q. At that stage of your incarceration, what were your thoughts about being at Dillwynia as opposed to some other gaol; I mean, did you have some preference?

35 A. Yeah. Dillwynia - because there's only two SMAP gaols - or at that point, there was only two SMAP units in the whole of New South Wales for women, and I had been severely physically assaulted on the main compound at Silverwater, which is why I was put into SMAP in the first place, so I was terrified of being re signed to the main, and the girls that hurt me always had a very long arm.

40 Q. You mentioned there the main compound; in the gaol terminologies, reference to the main general population, or, mainstream--

A. Yes.

45

Q. --inmates.

A. Mainstream general population, yeah.

Q. So it's to be contrasted, or - it's very different than a protection?

50 A. Yes, extremely. Extremely.

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- Q. You were telling us - back to the photocopy room - he said to you "do you want a move", you'd already told us that you'd seen his penis at that stage?
A. Yes.
- 5 Q. Are you able to describe the state of his penis at that stage?
A. Erect.
- Q. Are you able to say whether or not his penis was circumcised?
10 A. Circumcised.
- Q. After he said, "do you want a move", did you answer him, once you realised what - or you came to an understanding of what that meant; did you answer him that question?
15 A. Once I realised what I assumed he meant by that, I said no.
- Q. What did he say after that?
A. Suck it.
- 20 CROWN PROSECUTOR: We're coming to count 13, your Honour. An allegation involving the form of intercourse.
- Q. What happened from there? He said, "Suck it." What happened from there, Ms H?
25 A. He had - he had a hand on my shoulder pushing me to my knees, holding me on my knees. I reluctantly took his penis in my mouth and sucked it.
- Q. Did you willingly agree to that? Is that something you were agreeing to doing?
30 A. No. No, not at all.
- Q. What was on your mind when you complied with it? Just tell the jury why you did.
A. Pure fear. He is a person of power and authority. My thoughts were if I
35 don't comply, my gaol time is going to be even harder than it already has been. And he could make my life a living hell, which - yeah.
- Q. So you did comply with this. And you perform this oral on his penis? Yes?
A. Yes.
- 40 Q. To the best of your memory, Ms H, but how long do you think that went on for?
A. It honestly didn't go for very long. It was only maybe maximum a half a
45 dozen sucks. There was a noise in the corridor which he reacted to and--
- Q. Go on.
A. Sorry. And panicked.
- Q. When you say "panicked," what did he say, if anything?
50 A. "That will do," or, "That's enough." Something to that effect. And--

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Q. What did you do at that stage?

A. I--

5 Q. After he said that.

A. I gratefully got up, grabbed my broom, mop, whatever it was that I had that I was cleaning with at the time, and made myself scarce.

Q. When you stood up, did his penis remain outside his clothes?

10 A. He put it away.

Q. Now, when he had his penis out during that incident, are you able to say what the state of his pants were? That is, was the zipper down? Were his pants down?

15 A. It was just his zipper down. He still had his button and belt on. Just had the zipper down and exposed through that.

Q. Did you know a person at that time by the name of Cheryl Douglas?

20 A. Yeah. She was my overseer for working, which is equivalent - they're sort of an officer, but not. They do the work duties with the girls. So they oversee them, supervise them when they're doing cleaning or whatever the job is that the girls have.

Q. And on this occasion, around this time where Mr Astill's asked you to suck his penis, did you have any contact with Cheryl Douglas on or around that occasion?

25 A. Yeah. She was overseeing us that day. And when the noise was heard and he put it away, Cheryl had actually come down, I'm assuming to see what - where I was at cleaning.

30

Q. At what time of day was this?

A. It would have been in the morning. We usually left the house at about 9.30ish, and we would do admin before we did visits. So it probably would have been somewhere 10, 10.30 - like that.

35

Q. During the time of that incident in the photocopy room, was there anybody there during the incident itself? Apart from you and Mr Astill?

A. No.

40 EXHIBIT #G FOUR ITEMISED ITEMS TENDERED, ADMITTED WITHOUT OBJECTION. SHOWN TO COURT

Q. Ms H. I'm referring now to a site plan of the Dillwynia Correctional Centre. Did you indicate on that, marked towards the upper centre of the map - or plan - the photocopy--

45

A. Yep.

Q. --storeroom, where that is?

A. Yes, I did.

50

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HER HONOUR: Does she have those documents with her, Mr Crown?

CROWN PROSECUTOR: She's had them previously, your Honour. She drew them out.

5

WITNESS: I do have with me.

HER HONOUR

10 Q. Can you see Mr Crown? What he's pointing to?

A. I knew what - yeah. Thank you.

CROWN PROSECUTOR

15 Q. At that stage, did you report that incident to anybody at that time?

A. No, I did not.

Q. Are you able to tell us why you didn't report it at that stage?

20 A. Again, the threats of being moved. Just fearful of retribution and - unfortunately, a lot of the time in the mentality of gaol, it's green versus blue.

HER HONOUR

Q. It's what, sorry?

25 A. Green versus blue. The blue being the officers, and they stick together.

CROWN PROSECUTOR

30 Q. I want to ask you now about soon after that incident. Were you in the clinic for a health issue?

A. Yes, I was.

Q. And where you walked there by an officer?

35 A. Yes.

Q. Who was that officer?

A. I was actually walked back to the unit by Mr Astill. Not to the clinic.

Q. Along with that officer, there was another inmate, was there?

40 A. There was another inmate and another officer.

Q. All right.

A. I can't tell you who they were though.

45 Q. As you were walking from the clinic, you were walking back to the J unit?

A. That's correct.

Q. How were the other officer and the other inmate positioned, with respect to--

50 A. They were slightly - slightly ahead of us. Slightly ahead of Mr Astill and

VIQ:SND

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myself.

Q. Did Mr Astill say anything to you at that time?

5 A. Yes. He seemed to be fishing for compliments--

Q. I'm sorry, but I just have to ask you just to confine it to what he actually said--

A. Okay.

10 Q. --rather than what you thought he was getting at.

A. Yes, yeah.

Q. All right.

15 A. He asked me did I enjoy the other day? And said that I shouldn't say anything to anybody, or he would have me moved. And - yeah, that's pretty much the gist of it.

Q. Did you reply to that?

20 A. I just - not - not really verbally, it was more of a - a nod and a sort of an agreeance through fear.

Q. Are you able to say when that took place, or when that might have been before, or when that was after that event?

25 A. It was after the November event. Because he was referring to that situation. And - but it was before the end of the year. So, I'm - again, I'm not entirely certain of dates of that. But it was somewhere between November and the end of the year.

HER HONOUR

30

Q. In 2016, is that right?

A. Yes.

CROWN PROSECUTOR: Yes. That's the evidence, your Honour.

35

Q. With respect to other contact you had, did Mr Astill make any other comments to you that you remember in particular? From that point onwards.

A. As in, threats, or as in inappropriate comments? Or?

40 Q. Did he make any particular inappropriate comments that come to your mind, now?

45 A. He - it was a daily basis. But, one of the - one of the ones that stands out, and has always stuck in mind, we were - myself, P, I'm not sure who else, but, were talking to Mr Astill through what was called the smoke out, which is an area that when smoking was legalised in gaol, you could smoke in that area, and it was like fly screened. And the girls often talk to officers through there as we didn't have an officer posted in our actual unit. But he was being questioned by the girls, what time we were being locked in, whether it was 3.30 or 5.30. He grabbed his crutch, moved his genitals around a bit, and made the comment, "I'll just check the crystal balls and find an answer for you".

50

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Something to that effect.

Q. Now, were there occasions when there was an afternoon muster?

A. Yes.

5

Q. Around 3.30pm or otherwise at 5.30pm?

A. Yep, that's every day.

Q. Did Mr Astill have any role which he played in any of those, to your
10 memory?

A. Yes. He would - he would - there would be about three or four officers that
would come and do lock in muster. He would always make sure that he was
the last to come through the unit. He would stand at - on our doors we have a
15 little peep window for the officers to check into the cells. He would stand there
and make out like he was talking to me, but wanting me to flash my breasts
and also my vagina.

Q. I want you to focus on a particular incident, there. Or a particular occasion
20 where he's, for example, you said wanting you to flash your breasts. So,
focusing on that particular occasion in your mind--

A. Yeah.

Q. --how did you know? What was it that made you believe he wanted you to
flash your breasts?

25 A. He motioned to the fact of doing so, this one and pointing at my breasts.
And saying, "go on, show us".

CROWN PROSECUTOR: Your Honour, if this is an appropriate description,
30 the witness has just indicated with her hands slightly out towards her front part
of it was facing down to just wait there if you would, I'm trying to describe what
you've done. And, down, clasping hands gently and then sharply raising the
hands in an upward motion to around shoulder level.

HER HONOUR: Yes.

35

CROWN PROSECUTOR: Your Honour, that is count 14 on the indictment.
An allegation of inciting an act of indecency.

Q. Now, on that occasion, did you comply with that request?

40 A. Yes, I did.

Q. Was that occasion that I've asked you to focus on, was that an occasion
where there was reference to your vagina?

A. Yes.

45

Q. What happened with respect to that? What was--

A. I didn't expose that.

Q. How did you know that related - that incident - related to your vagina? Was
50 anything said?

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A. Again, pointing in the region of and motioning like pulling your pants down to show me. Or him, sorry.

Q. I want to ask you, now, about 1 December 2016.

5 A. Yep.

Q. On that occasion, were you performing your duties as sweeper in the admin area?

10 A. No, it was in the chief's office. In the high needs office area.

Q. All right. Did you require access to the SAPO area?

A. Yes, I did.

Q. And what did you do to try to get access to it?

15 A. Had asked Mr Astill to unlock the doors to the SAPO unit area, which contained three offices and a kitchen.

Q. Now, where in relation to the SAPO area is the high needs chief's office?

20 A. The actual chief's office is part of that building, but you don't access it through the internal SAPO part. And the officer's office is directly across the little corridor.

Q. So, did Mr Astill get you into the SAPO area?

25 A. Yes, he did.

Q. And that was by getting the key? Yes?

A. He had the key on him, yep.

Q. Was there any other officer there before you went in on that occasion?

30 A. I think I'd asked somebody else, but they didn't have the key to allow me in.

Q. Did you go into the SAPO area for the purpose of cleaning in there?

A. Yes. Vacuuming and cleaning.

35 Q. And with the vacuum cleaning, what was that set up? How did that work?

A. It was a backpack vacuum, so it was one that you carried on your back.

Q. Did you have that on your back when you went into the SAPO room?

40 A. Yes.

Q. Did anybody come into the SAPO room with you?

A. Yeah, Mr Astill followed me around the SAPO area to just make sure that I wasn't doing anything wrong. Supposedly.

45 Q. Was there anybody working in the SAPO area that day?

A. No. It was closed that day.

Q. Was there otherwise anybody in the SAPO area after you went in and Mr Astill went in, apart from yourself?

50 A. No. He closed the door behind us, which meant that nobody else could

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enter.

Q. What happened after you went into the room?

5 A. Went into the first office, I was vacuuming, moving furniture around to vacuum properly. Mr Astill grabbed me and kissed me.

Q. How did he do that, Ms H? Just describe or - if you need - demonstrate how he grabbed you and kissed you. What did he actually do?

10 A. He just pulled me into him and open-mouth kissed me.

Q. Now, when you say pulled you in - was this from the front?

A. We were both in the office - yeah front on.

15 Q. What - if anything - were you doing during that time. After he's pulled you in and kissed you - you said?

A. I pulled away. I resisted. And he's told me not to.

Q. Did he say anything to you at that time - apart from telling you not to?

20 A. Not that I can recall.

Q. What happened after the kiss?

25 A. He told me to remove the vacuum off my back. But to keep it running. He undid his pants and told me to suck his penis again, briefly. Then he's told me to turn around. He's removed my pants and had sex with me.

Q. Did he say anything else to you before you got down on your knees, or not?

30 A. To the effect of: I remember the conversation the other day about not wanting to move.

Q. You've told us that he told you to suck his penis. Did you do that?

A. Yes, I did.

Q. How were you positioned when you did that?

35 A. On my knees.

Q. Was that something that you were willing and agreeable to doing at the time, Ms H?

40 A. No. It was not.

Q. Tell us why did you comply with that? Why did you do it?

45 A. Because of the threats that had been made on two previous occasions of having me moved. Also - in the meantime - we were very well aware that Mr Astill was an ex-policeman. And he had made comments to the effect of: he would be able to have more charges put on me because of his police friends. So, my thoughts were: I have to comply.

Q. On that occasion, how long did the sucking of his penis go on for?

50 A. Not very long. Just--

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Q. As best you can remember.

A. Not very long at all. It was just until it was hard.

Q. Once it became hard - did something else happen?

5 A. Yeah. I--

CROWN PROSECUTOR: Sorry, your Honour - that was count 15.

HER HONOUR: Yes.

10

CROWN PROSECUTOR

Q. Sorry I interrupted you, Ms H.

A. No, that's--

15

Q. After he became hard - I asked you if something else happened. Then I interrupted you.

A. Yep. He told me to stand up and turn around. He removed my shorts. But not all the way off. And told me to bend over. And he proceeded to have sex with me.

20

Q. Do you remember how - he stayed dressed at that stage? Were you able to see?

A. He had undone his belt and button just enough to have his pants down enough to be able to do what he did.

25

Q. Was he behind you when he had intercourse with you at that stage?

A. Yes, he was.

30

Q. When you say he had sex with you - was that vaginal?

A. Yes.

Q. Are you able to say how he was positioned - apart from what you've described? His hand-movements, that sort of thing.

A. Had a hand on my hip pulling me back. And I was supporting myself - it was either the table or the chair. I'm pretty sure it was the desk. Because he's a larger man - I'm not exactly a big girl.

35

Q. Were you on any contraception at that time?

A. No, I was not.

40

Q. Did that come up in conversation?

A. He asked if I could fall pregnant. And I said yes. Well, I said I was not on any contraception.

45

Q. How long did that intercourse continue for, Ms H? As best you can describe.

A. Not very long. He - a few thrusts - and then he told me to turn around and get on my knees again. And he came in my mouth and told me to swallow it.

50

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CROWN PROSECUTOR: Your Honour, the vaginal intercourse described is count 16. And what the witness has now moved to is count 17 - being fellatio.

5 Q. I just want to - Ms H, I'm just going to have to go back and go through that a bit more.

A. No, no. You're alright.

Q. You said that the vaginal intercourse where he was behind you--

10 A. Yes.

Q. --didn't go on for very long.

A. No.

15 Q. And then you told us that he - excuse me Ms H - it's important that I don't misquote you. You said that he told you after that to get on your knees again.

A. Yes.

Q. And to swallow it.

20 A. Yeah. He put his penis in my mouth. Ejaculated and told me to swallow it.

Q. Are you able to say for how long - even roughly - his penis was in your mouth?

A. No more than 30 seconds, I guess. I'm not sure. But it wasn't long.

25 Q. After he ejaculated. Did he say anything to you?

A. Asked if I was okay and did I like it.

Q. Did you answer him?

30 A. I didn't completely verbalise. But sort of nodded an "mm-hmm".

Q. Do you remember during that time where you were on your knees - the state of his pants?

A. They were down enough for it to be exposed.

35 Q. Was there ever a time where his pants were completely removed? That you saw.

A. No, no. Never.

40 Q. After that took place - so you're still in the SAPO room. Was there any further conversation with Mr Astill at that time?

A. Not that I can recall - other than him telling me to get dressed. No. Not that I can recall.

Q. Did you know an inmate by the name of Y?

45 A. Yep. She was a - she assisted me with the cleaning. And at that point - when he had finished doing what he was doing - there was a knock on the glass door. She was trying to gain access to help me clean the SAPO area.

Q. You kept a diary when you were in jail - didn't you?

50 A. Not as such, but I had a calendar.

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Q. I'm sorry, a calendar.

A. Yeah.

5 Q. Sorry - mistake - I use those words interchangeably. I shouldn't. But you kept a calendar. And it was one of the things you did - cross off the days.

A. Yep. Right up until the day I got out.

Q. I've asked you about 1 December.

10 A. Yep.

EXHIBIT G ITEM 3 SHOWN

Q. On 1 December you marked there "AW" in black texter.

15 A. That's correct.

Q. And you marked elsewhere in your calendars the initials "AW", haven't you?

A. Yes, I have.

20

Q. What does the "AW" represent?

A. The "AW" represents the times that Mr Astill had had sex with me. And I had put his initials around the opposite way - because the officers often - just being paranoid. But officers would often come and check your room. And I did not want to get into trouble. And him find out that I'd made a record of it, or--

25

Q. The incident that you've described - being on 1 December - the incident that you've just described - was that why you noted "AW" on that date?

A. That is correct.

30

Q. In exhibit G also - you've made a couple of diagrams for the police

A. Yep.

Q. In October 2018. Didn't you Ms H? Do you have those there? You should have your statement with you and--

35

A. Yes.

Q. Do you have one there which - you can see holding it up - you've got down the bottom - it says, "high needs chief's area"

40

A. Chief's office.

Q. And "SAPO area".

A. Yep.

45 Q. Over to the right of the bottom - I'm looking at it in landscape mode. Over to the right it says, "Plug where vacuum was plugged in."

A. That's correct.

Q. And "office 1".

50

A. Yes. That's where the incident took place.

VIQ:SND

D5

Q. That's the incident you described in the SAPO area on 1 December?

A. On 1 December. Yes, that's correct.

5 Q. Would you go to the next diagram, please? Same part of the same exhibit. Exhibit G, item 2. Is that a diagram you'd prepared on 10 October 2018 - and signed?

A. Of the photocopy room?

10 Q. Yes.

A. Yes.

Q. And it shows - does it - "WA" for Wayne Astill?

A. That is correct.

15

Q. And "me". And what do the positions of "WA" and "me" represent? What exactly are you referring to so far as the positions concerned there?

A. That's where he stood when he told me to suck his penis. And that's where I stood.

20

Q. I want to ask you now about the afternoon of 8 January 2017.

A. Yes.

25 Q. At a time - where you were in lockdown - or locked in the house - between 1.00PM - sometime after 1.00PM - up until possibly 5.30PM.

A. Yes.

Q. There's a reference to "lockdown" in the jail context. What does that refer to? If there's a lockdown of the jail.

30

A. There's a couple of different references to that. What I'm meaning at that point is from 1.30PM onwards we're just locked in our house. Being a special needs unit we only have access to the outside world for a little bit in the morning. And that was what that lockdown meant. But lockdown in general means locked in cell. And no access to anything.

35

Q. And could that refer to when the whole jail's locked down. For example--

A. That is correct.

40 Q. --because of industrial action by corrective services. That might be one reason the whole jail's locked down.

A. Yes, yep. Or COVID.

Q. Back to 8 January and you're locked in the house. Did you speak to a Mr Mirza, M-I-R-Z-A?

45

A. Yes, I did.

Q. Who is Mr Mirza?

A. He was one of our regular officers. Just a general officer. Very good man.

50

Q. Did he tell you that you needed to go and see Mr Astill?

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D5

- A. Yes.
- Q. Did you go there?
A. I did.
- 5 Q. Were you accompanied there?
A. Mr Astill--
- Q. Did someone go with you?
10 A. --Sorry, Mr Mirza - walked me across and delivered me to SAPO office 3 in the SAPO building to Mr Astill.
- Q. And that features in that SAPO diagram you just looked at, doesn't it?
A. That is correct.
- 15 Q. Did you go into that office?
A. Yes, I did.
- Q. Did anybody go in with you?
20 A. No. Mr Mirza then left.
- Q. Who was there in the office - apart from you?
A. Mr Astill.
- 25 Q. When Mr Mirza left - there's a door on the office - is that right?
A. That is correct.
- Q. Was the door closed or open?
A. Not completely. It was closed enough that people in the hallway could not
30 see in. But enough that Mr Astill had a bit of a scope out.
- Q. Putting aside Mr Astill - during your time in custody have you had occasions where you were with a male officer in a room with no other people there and a door closed?
35 A. Yes.
- Q. Is that someone that would happen frequently - just you and a male officer?
A. No. The only time that it could happen was if it was a senior male officer. But the majority of the time - if it was just a general officer - they would have
40 two officers. Or a female one as well. But not always a female was available. But usually it would have to be a senior officer. Because it's against policy for junior members of staff to be in a room unattended.
- Q. But you believed at least that if it's a senior officer that was alright.
45 A. That was acceptable. Yes.
- Q. So back at SAPO room 3 - the door is slightly open - you said?
A. Yep.
- 50 Q. Mr Mirza left.

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H XN

VIQ:SND

D5

A. Yes.

Q. What happened then?

5 A. I initially thought that I was there because there'd been some issues in the house. But I hadn't been any part of those issues. And was a little confused to why I was there. Mr Astill said he knew I had nothing to do with the stuff that was in the house. But he thought it would be a good a chance for us to catch up.

10 Q. What happened after he said that?

A. I'm not entirely sure of the chronological order, but he kissed me. And - honestly, at this point, I can't remember if I was made to suck his penis again. But he then instructed me to kneel on the chair with my pants down. And he proceeded to have sex with me from behind.

15

Q. Was anything said leading into him having you kneel down on the chair, apart from him telling you to do that? Was anything else said or not?

20 A. Reference to the other time - or times. Asking did I enjoy - always wanting - I don't know if it's affirmation or what you'd call it - but wanting reassurance that he was performing well.

Q. What clothing did you have on?

A. Just normal gaol greens. It would have been shorts and a shirt.

25 Q. Was that vaginal intercourse?

A. That's correct.

Q. Did you say or do anything when he instructed you to kneel on the chair?

A. No, I just complied.

30

Q. And just tell us - take your time - why did you comply with that?

A. Same as every other time; my fear of being moved. Fear of retribution. Fear of being punished. Fear of being bashed. Fear of having more charges put on me. Just outright fear.

35

Q. Did you actually consent to him doing that to you?

A. No, I did not.

CROWN PROSECUTOR: Your Honour, that's count 18.

40

HER HONOUR: Yes.

CROWN PROSECUTOR

45 Q. During that, how long did that go on for when you were kneeling on the chair?

50 A. Kneeling on the chair didn't last particularly long as the chair was on wheels, and every time he made a motion into me, I - the chair moved. So he instructed me to get off the chair, and I bent over, supporting myself on the chair on the desk. That - again - didn't go particularly long. And he instructed

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D5

me to - I'm not sure that was the time that he ejaculated into my pants, or - I'm sorry. I can't remember.

5 Q. Just going back a moment. The chair wasn't stable and you said you got off that and he had you move, before he put his penis in your vagina again.

A. That is correct.

Q. And where were your knees positioned? You told us that you supported yourself on the chair or the desk. Where were your knees?

10 A. I was standing - like I was standing but bent over.

Q. You said you can't remember whether that was the time that he ejaculated in your underwear.

A. Yes.

15

Q. On how many occasions did that take place?

A. There was once, in August of 2017, that I'm sure that that's what occurred. But, for the life of me I can't place whether this one was swallow or in my underpants.

20

Q. Did you see Mr Mirza again after that?

A. [STRIKEOUT BEGINS] Once Mr Astill had finished, I honestly thought the poor man was going to have a heart attack. He did not look well at all. Mr Mirza - when he heard Mr Mirza coming, Mr Astill panicked pretty badly. And then Mr Mirza came in. We were sitting back down by that time. Mr Mirza - sorry - Mr Astill said to Mr Mirza, "I'm almost finished with her." And the look that Mr Mirza had given to myself and to Mr Astill - he knew something wasn't right. [STRIKEOUT ENDS]

30 ABOVE PASSAGE STRUCK OUT AT HIS HONOUR'S DIRECTION

TYLER-STOTT: I object, your Honour.

CROWN PROSECUTOR: Your Honour, I don't--

35

HER HONOUR: Let's have that struck out.

CROWN PROSECUTOR

40 Q. Ms H, you told us that you thought the poor man was going to have a heart attack. What was it that made you think he might have a heart attack? What was it you saw or heard about him?

A. He was extremely red, breathing extremely heavy, and just looked very unwell.

45

Q. You said you didn't remember whether this was an occasion where he had ejaculated in your mouth. But when you saw his face, as you said, he was having intercourse earlier from behind you.

A. Yeah.

50

VIQ:SND

D5

Q. So does that help you as to whether or not, when you saw his face, he was having intercourse with you or there was something else going on?

A. Yeah, that leads me to remember, it was an occasion where I was on my knees and he was telling me to swallow one again.

5

CROWN PROSECUTOR: That's count 19, your Honour.

Q. And I continue; when you've told us that he told you to swallow it, did his--

A. Yes.

10

Q. --was his mouth actually any way into your penis or not?

HER HONOUR: I beg your pardon? Was his mouth anywhere into your penis?

15

CROWN PROSECUTOR: I'm sorry, your Honour. Under caffeinated, perhaps, or over caffeinated. I'm sorry. Sorry, Ms H.

WITNESS: You're all right.

20

CROWN PROSECUTOR

Q. Was his penis, to any degree, enter your mouth? Did it enter to any degree into your mouth? What I'm saying is, did he ejaculate from outside your mouth?

25

A. No, it was in my mouth.

Q. Do you remember--

30

HER HONOUR

Q. What was in your mouth? Sorry, we just have to be descriptive because of the law. When you say that it was in your mouth, what was in your mouth?

A. Sorry. He placed his penis in my mouth and then ejaculated, and told me to swallow.

35

CROWN PROSECUTOR

Q. Did you comply with that?

A. Yes, I did.

40

CROWN PROSECUTOR: That's count 19, your Honour.

HER HONOUR: Yes. It might be appropriate to have a break.

45

CROWN PROSECUTOR: Do so, your Honour. Please.

HER HONOUR: Ms H, we're going to give you a break now. Just have morning tea.

50

VIQ:SND

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WITNESS: Yep. Thank you very much.

HER HONOUR: Just have 20 minutes. Have a break, have a cup of tea and a stretch. And if you can be back there by about 20 to 12, please.

5

WITNESS: Okay. Thank you very much.

HER HONOUR: Thank you.

10 AUDIO VISUAL LINK DEACTIVATED

Yes, ladies and gentlemen, just to let you know as well; when there's been an objection and there was some evidence that's been struck out, what that basically means is that sometimes witnesses may say - and it happens a lot - about what someone else was thinking, or why someone did something.

15

Now, of course, you can only give evidence about what you did, what you observed, and what you heard. Not why someone else might have done something or why they did not do something. So, there is usually an objection taking place. And it's just a normal thing that people do talk about; they assume something, a reason for someone doing something, or why someone did something else. But it's not admissible as evidence for someone else to say that.

20

Okay, I hope that makes a bit more sense as to why there's objection and why there's certain evidence that we say is ruled out. Yes, thank you. Have morning tea and we'll be back in 20 minutes.

25

SHORT ADJOURNMENT

30

HER HONOUR: Yes, ladies and gentlemen; sorry for the delay, there was some hiccup at the IT.

AUDIO VISUAL LINK ACTIVATED

35

HER HONOUR: We're ready to continue. Thank you, Mr Crown.

CROWN PROSECUTOR

Q. Ms H, before the morning break you told us about the incident in the SAPO room where Mr Mirza had accompanied you - or had gone there; do you remember telling us about that?

40

A. Yes.

Q. You told us that that was on 8 January 2017; yes?

45

A. Yes.

CROWN PROSECUTOR: Your Honour, I'll refer to exhibit G item 4.

Q. Did you note the initials AW on your January 2017 calendar for the eighth?

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A. Yes I did.

Q. Before we continue, Ms H, in 2020 you were sentenced by another court for matters completely unrelated to this case, weren't you?

5 A. That's correct.

Q. Was that by Judge Ellis at Port Macquarie?

A. Yes, it was.

10 Q. In the hearing for your sentencing, did your lawyer tell the judge all about your personal circumstances, along with the circumstances of your offending, your personal circumstances - and they were brought to the judge's attention; is that right?

A. That is correct.

15

Q. Was part of those circumstances the fact that you had made the complaint that a correctives officer had sexually assaulted you; that is, without your consent; that was brought to the judge's attention; is that right?

A. Yes. Yes, it was.

20

Q. Is it the situation that Judge Ellis, when sentencing you, took into account that he expected that your time in custody as a consequence would be more harsh?

A. Yes.

25

Q. Is it the situation, however, that he did not give you any, sort of, quantified or particular discount or reduction on the sentence by virtue of that circumstance--

A. That's correct.

30

Q. --or by virtue of that fact.

A. Yeah, that is correct.

35 Q. As he did, for example, when you pleaded guilty you got discount - or as they call it - a discount of 25%. That was the only discount you received for your sentence; is that right?

A. Yes.

40 Q. I want to ask you now about 27 January. On that same page of exhibit G, the January 2017 calendar. You've noted the initials AW on 27 January, didn't you?

A. Yes, I did.

45 CROWN PROSECUTOR: Your Honour, I'm now moving to count 20 on the indictment.

HER HONOUR: Yes.

CROWN PROSECUTOR

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Q. On the morning on 27 January, were you at the SAPO area performing your duties as sweeper?

A. Yes, I was.

5 Q. Did your duties involve vacuuming on that occasion?

A. Yes, it did.

Q. Did something happen on that occasion at the SAPO area?

10 A. Yes, it did. This situation I'm not as clear on as the others, but I was in SAPO room 3 vacuuming, and Mr Astill was there once again. He instructed me to take the vacuum off and, once again, instructed me to take my pants down to about my knees and went ahead and had sex with me from behind.

15 Q. Now so far as stabilising yourself, did you use anything as support to stabilise yourself; do you not remember, or, did you not -

A. No, I had to stabilise myself, I'm just uncertain whether it was the table or the chair, but I would assume it was the desk that I lent on to and propped myself up.

20 Q. What form of intercourse was that; you said he had sex with you from behind?

A. Vaginal.

Q. On that occasion, was there anybody else within view of that happening?

25 A. No.

Q. Are you able to recall Mr Astill's state of address?

A. His pants were down no further than his knees; they never really went further than his knees for fear of being able to get them up quick enough.

30

Q. You say he instructed you to take the vacuum off and--

A. Yes.

Q. --kneel down; is that right?

35 A. No, not kneel down. I was standing and bent over.

Q. Did you say anything to him at that stage when he told you to do that?

A. It would have been just "uh-huh", and comply.

40 Q. Were you doing that willingly?

A. No.

Q. Was there any of these occasions that Mr Astill had any sort of sexual contact with you where you were up for it or agreeing to it?

45 A. Not in any way.

Q. How long, on that occasion - that occasion where he instructs you to bend over - how long did that intercourse continue for?

50 A. Not very long. Never did; it was very brief, and then pulled out and this time ejaculated into my underpants.

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Q. Was anything said by Mr Astill during that intercourse?

A. Not that I remember.

5 Q. Was there anything said after the intercourse; after he'd ejaculated into your underpants?

A. The usual "did I like it" and "was I ok".

10 Q. Was it following that occasion that you wrote down AW on the 27 January entry for the 2017 calendar?

A. That's correct.

Q. Did you tell anybody about that around that time?

A. No, I did not.

15

Q. Just tell the jury, Ms H, why didn't you; what was going through your mind at that time?

A. Once again, just pure fear, and he was in a position of power and, as far as I was concerned, could have me sent to another gaol at the drop of a hat, which would have put my life in danger.

20

Q. After that incident, was there a lessening of contact that you had with him for a period?

A. Yeah, I have a condition called endometriosis(?) and have chronic pain from that, also substantial bleeding, so I used that to my advantage in handing it up, if you will, a little bit, and also making myself as invisible as possible. The girls in the house knew I was not comfortable around him, they weren't exactly sure why, but they knew that--

25

30 Q. I'm sorry but I stop because I don't want you to - there's rules about what you can say, as you know, and--

A. Oh okay, sorry.

35 Q. --so I'm not asking what they knew or what they thought or that sort of thing.

A. Yep.

Q. Now endometriosis, just in case there's anyone that doesn't know, you refer to bleeding; is that a condition common in women?

40 A. Yes it is.

Q. The bleeding a vaginal - by virtue of a vaginal discharge, or by that means?

A. Yes.

45 Q. Did Mr Astill develop a - was he given a nickname or some nicknames to your knowledge that you used?

A. We had quite a few for him.

Q. I'm sorry?

50

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HER HONOUR: Quite a few for him.

WITNESS: We had quite a few nicknames.

5 CROWN PROSECUTOR

Q. What nicknames?

A. We had el gordo--

10 Q. I'll stop you there. El Gordo. What was that?

A. Yes. It's - from what my understanding was, it's "the fat one" in - I think it's Mexican or Spanish or something like that.

Q. Yes. Any other nicknames?

15 A. Fat cunt.

Q. Yes.

A. The don.

20 Q. What was don reference to, do you know?

A. At the - at the time, Don Burke had been going through - his sexual assault charges. And we've referenced--

TYLER-STOTT: Your Honour, I object to this line of questioning.

25

HER HONOUR: Well, a bit late. It's been asked and answered.

TYLER-STOTT: Well, she kept going, your Honour.

30 HER HONOUR: Yes.

CROWN PROSECUTOR: Can I just have a moment, your Honour? So I don't - in case your Honour should--

35 Q. Which women were you friendly with around that time, Ms H?

A. Z, X, CC.

Q. That's CC?

A. CC.

40

Q. Thank you.

A. Y.

Q. Were they in with you around this time?

45 A. Yes.

Q. That is, were they in the same part of the gaol as you?

A. That is correct.

50 Q. When you were in a particular part of the gaol - say, the BIU, or some other

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part--

A. Yes.

5 Q. Was there ever occasions where there was intermingling between women from different parts of the gaol, or was it very much segregated? They're all in there together, and there's no overlap between inmates?

A. You don't see the other girls, but they have conversations in the back pens to each other.

10 Q. In June 2017, you went up to the Mid North Coast Correctional Centre, didn't you?

A. That's - yes, that is correct.

15 Q. Now, up until that time, where you had less contact and leading up to that time, was there any contact - inappropriate contact from Mr Astill towards you?

A. There was still regularly occurring - if he was in the same area. But we - as I said - I did make myself as invisible as possible, and comments were made - the occasional inappropriate touching.

20 Q. I want to ask you now about 3 August 2017.

A. Yeah.

Q. Did you at that stage return to Dillwynia Correctional Centre from Mid North Coast?

25 A. Yes, I did.

Q. At that stage - when you went back into Dillwynia in the August - did you go into the BIU?

A. Yes, I did, as there was no rooms available at that point in the J house.

30

Q. So the SMAP was full, and that's why you went into the BIU at that stage; is that right?

A. That correct.

35 Q. I want to ask you about an evening, between around 6.30 to 8.30. Around the fourth to the eighth of August, when you were in the BIU. Do you remember something happening at that stage?

40 A. Yes, I do. I had recently come back - as you said - from my trial. The BIU - we were locked in, it was dark. I heard a knock on my door, and my door was opened. It was Mr Astill at my door, making a comment to the effect of, "I heard you were back. I had to come and see you," or "needed to come and see you." The area behind him was dark, except I could see the light from the reception, which is just beyond the BIU. He proceeded to tell me that he missed me. And kissed me, then proceeded to once again have sex with me.

45

Q. Was there anything - discussion about cameras on that occasion?

50 A. He made the comment, he looked around my room and made the comment, "These rooms aren't camera'd, are they?" And I replied, "I'm - I don't know. Not that I - I don't think so. Unless it's behind the mirror in the corner."

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Q. You said that he then - after kissing you - he then proceeded to have sex with you. Would you tell us, please, what that actually involved? What happened there?

5 A. Again, had been turned around, pants down to my knees. Him the same. And he took me vaginally from behind once again. This time was probably the shortest of all the episodes. And once he was ready to ejaculate, he pulled out and ejaculated into my underwear, and told me to think of him later when I was playing with it.

10

Q. When you say he had you turn around, how did he do that? When you say had you turn around, was it words or actions that had you do that?

A. Turn - yeah - him saying, "Turn around."

15 Q. Did you do anything apart from comply at that stage?

A. No, I just complied.

Q. Were you, in fact, agreeable to that happening? Were you consenting to that happening at that time?

20 A. No, not at all.

Q. After he said to you that, "You can think of me when you play with it later," or words to that effect, did he say anything else to you? Before leaving?

25 A. He told me that he had to return the keys to somebody, which gave me the impression that he'd borrowed somebody's keys to have access to the BIU.

CROWN PROSECUTOR: Your Honour, that incident of intercourse is count 21.

30 HER HONOUR: Yes.

CROWN PROSECUTOR

Q. Now, about five days after that, did you return to the J unit?

35 A. Yes. I returned to the J unit into what was called the three out.

Q. Why do they call it the three out?

A. It's called a three out because it has three beds for three inmates.

40 Q. And at that stage, how did you cope with sharing a cell with other inmates at that time?

A. Not particularly well, considering I'd just come back from trial and been found guilty, and I'd spent most of my jail time up to that point in a single cell.

45 Q. Did you speak to anybody about being moved from there, from J unit in that situation?

A. I - I did request that I be put back down in BIU for timeout so I could get my head around just everything in general, and that request was denied.

50 Q. Was there any contact from Mr Astill from this point?

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A. Intermittent, but again, I'd gone back into invisible mode, if you will, especially after the incident in the BIU.

5 Q. I want to ask you now about a day in September 2017 when Mr Astill called you over to the office.

A. Yes.

Q. Was that after 3pm to your memory?

10 A. Yes, it was.

Q. What makes you think that it was after 3pm?

A. Because there was no staff left at the high needs offices.

Q. The high needs offices, that where you were called to. Is that right?

15 A. Sorry?

Q. So it was the high needs office that you were called to?

A. That's correct.

20 Q. Were you accompanied to the high needs office?

A. Yes. I had an officer come to the wing and requested that Mr Astill needed to see me. So I was escorted across to Mr Astill's office, which was the--

Q. I'm sorry, I cut you off, go on.

25 A. Which is the chief's office. Which is directly across from the normal officer's office.

Q. This escorting officer who took you over there, once you got to Mr Astill's office, what did that officer do? Did he or she stick around?

30 A. They left.

Q. Did you speak with Mr Astill?

35 A. Yeah. I asked him why I was there, and he just said he wanted to - to catch up and he was being inappropriate, referencing my vagina, asking how it was, assuming on my behalf, because I had ramped up the endometriosis performance ..(not transcribable)..12.23.20 I thought he was referencing that.

Q. Did you answer him when he inquired about that aspect of your health, of your body--

40 A. I said that I wasn't well, bleeding a lot, and just wasn't in a particularly good headspace.

Q. Did he go somewhere after you had that initial conversation?

45 A. Yeah. He left me in his office briefly and went across - I watched him walk into the general office, general high needs office and then into the bathroom. He then returned carrying a white foam cup.

Q. What happened after that? He's come back with a white cup, what happened?

50 A. He gave me the cup and told me to swallow it.

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Q. Did you look in to see what it was before--

A. Yes, I did, and it was cum, ejaculation.

5 Q. Did you drink it?

A. I did.

Q. What was your thinking at that time when you did that?

10 A. Once again, just complying, but also thinking, well, this isn't as bad as him having sex with me.

Q. After you did that, did he say anything to you?

A. Not that I can recall.

15 Q. Was that the end of that contact? Was there any other reason for being there? Did the meeting end at that stage, or what?

A. Pretty much ended at that stage. There was no other reason for me being there. It was just all to say hello.

20 Q. I want to ask you now about another day in September 2017, in the morning between 8.30am and 11.30am when you're in the compound.

A. Yes.

Q. And you saw Mr Astill.

25 A. Yes.

Q. Did he ask you to go to his office?

A. Yes, he did.

30 Q. Did you do so?

A. Yes.

Q. So which office is this?

35 A. This is the chief's office.

Q. Which part of the jail were in at this stage?

A. High needs.

40 Q. When you went to his office, was there anybody, apart from you and he in the office?

A. No, just myself and him.

Q. Were there any other officers around at that time, any other staff, corrective staff?

45 A. There was, but they were in the general officer's office.

Q. Did you have some chit chat with Mr Astill?

A. Yeah, just the normal chit chat that he likes to have, inappropriate, and then told me that he had a present for me.

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Q. What did you say when he said that?

A. "Oh really".

Q. What did you see him do then, Ms H?

5 A. He then reached over on to the - the desk was like an L-shape, and he'd reached over to behind him where there was a lunch box, and retrieved a Lebanese cucumber.

Q. Did he say anything at that stage after he got the Lebanese cucumber out?

10 A. He did. I don't remember his exact words, but he made it very clear that he wanted me to go to the bathroom and put it inside my vagina, then come back.

Q. When you say he made it very clear, were they words to that effect?

15 A. To that effect. You couldn't be mistaken what he was wanting me to do.

Q. What did you do after that?

A. I complied.

Q. So you've gone to the bathroom, you've put the cucumber inside your vagina?

20 A. Yep.

Q. And where did you go after that?

25 A. I returned back to his office, but then we went into the SAPO area once again, and he felt my vagina to make sure the cucumber was there, and proceeded to instruct me to, excuse the language, but fuck myself with it.

Q. After you've gone from the bathroom, you've said you've come to be in the SAPO office, did you go initially--

30 A. Yes.

Q. --back to the chief's office?

A. Back to his office first.

35 Q. How did you come to be in the SAPO office, why did you go there?

A. By his instruction.

Q. When you say he felt you to see that the cucumber was there--

40 A. Yep.

Q. --how did he do that, and what was your state of dress when he did that?

A. My state of dress was, my pants were still on, but he's put his hand on my vagina and felt.

45 Q. So is this on the outside of the clothes that he was touching you?

A. To be honest, I can't remember.

50 CROWN PROSECUTOR: Your Honour, the count 22 relates to requesting the Lebanese cucumber be placed in her, and the touching, be it on the outside of the clothing or otherwise of that part of the body described, is relied upon as

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count 23.

HER HONOUR: Yes.

5 CROWN PROSECUTOR: Excuse me, your Honour.

Q. You've said that he told you to fuck yourself?

A. Yeah.

10 Q. What did you do after that? Once he said that to you, what did you do in response to that, if anything?

A. I complied with his request and moved the cucumber in and out of my vagina.

15 Q. Did you make any noise or outwardly show any signs of any emotion or otherwise when you were doing that? What were you doing?

A. I – I would have been making a few noises to make it look like I was actually enjoying it, and then I came to the conclusion that if I faked an orgasm, he would let me stop.

20

Q. And did you do that?

A. Yes, I did.

25 Q. After you did that, was anything else said about what might happen with the Lebanese cucumber. Was there any discussion about that?

A. He wanted me to eat the cucumber.

Q. Did he say that?

A. Yes.

30

Q. Did you take the cucumber away? Did that leave the office?

A. It was still in my vagina, and I went to the bathroom and removed it and disposed of it.

35 Q. Where did you dispose of it? Do you remember now or not?

A. No.

Q. Did you see him again about half an hour later, that is, Mr Astill?

A. Yes, I did.

40

Q. Did he say something to you at that point?

A. Yes, he asked if I enjoyed it and if I had eaten the cucumber. I said "Yes" to both counts.

45 Q. And was either the truth?

A. No.

Q. I want to ask you now about November 2017. Was there a meeting with the manager of security, Ms M?

50 A. Yes, there was.

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Q. So the manager of security, is that a very high-ranking officer?

A. Yes, it is.

5 Q. Did that involve a number of the other women from your part of the gaol?

A. Yes, it did.

Q. Did it include P, Z, I, Rebecca Giddings, Y as well as yourself?

A. Yes, it did.

10

Q. Did you tell Ms M anything in relation to Mr Astill's behaviour towards you?

A. Yes. I had said to Ms M that he was constantly inappropriate with his language, and - but didn't really go any further than that again, still being fearful of being moved or having something done to me, because again, it was another officer.

15

Q. After that meeting, was there any change that you could see in Mr Astill's - the frequency with which he was rostered as the chief in that area, in the high-needs area?

20 A. It was very limited after that how - how often we saw him, which was a blessing.

Q. In early 2018, do you remember an occasion where you were performing ground maintenance duties?

25 A. Yes.

Q. And you were directed to go to see Mr Astill in his office?

A. Yes.

30 Q. How did you become aware that he wanted to see you?

A. As somebody had come to me and said that Mr Astill wanted me at his office.

Q. Did you go there?

35 A. Yes, I did.

Q. Was this in the high-needs area, the chief's office or somewhere else?

A. Yes, it was.

40 Q. On that occasion, did you speak to Mr Astill?

A. Yes, I did.

Q. Was there any particular conversation you remember or was it just general conversation on that occasion?

45 A. Pretty much just general conversation.

Q. Is there an officer by the name of Mr Clarke, Glenn Clarke?

A. Yes.

50 Q. Did you speak to him later that afternoon?

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A. I did.

Q. And did he ask you - did he say something to you at that stage?

5 A. Yeah, he did. He asked me why – what my anxiety and that was with Mr Astill, why I got so anxious and uncomfortable around him.

Q. And what did you say to Mr Clarke in response?

A. That he was an – an – an inappropriate man, and I just didn't like him.

10 Q. Did you use any sort of language to describe what effect he had on you?

A. He made me sick and extremely uncomfortable.

Q. Did you say what it was in particular that he did or said that made you feel uncomfortable?

15 A. Only that he was inappropriate because I didn't want to go into detail and have to explain myself more to another officer.

Q. I want to ask you now about another point in early 2018 where Mr Astill called you to his office. All right?

20 A. Yep.

Q. Did any of the women go with you on that occasion?

A. Yeah, my closest friend at the time, Z.

25 Q. Were you aware of Mr Astill having been overseas at that stage, just been overseas?

A. Yeah, I think he'd been – I think he'd been to Bali.

Q. And how did you learn that?

30 A. Because he liked to tell everybody everything.

Q. And did he have something done when he was in Bali or around that time that he showed you?

35 A. Yeah, he had a tattoo done on his left upper arm of his dog and showed Z and I.

Q. Did he say anything in particular that you remember during that meeting when he showed you the tattoo?

40 A. Yeah, he said the only thing that doesn't wrinkle and sag on a man is his penis", well he didn't actually say penis, but we knew what he was getting at.

Q. As best you can remember, what words did he actually say?

45 A. "There's only one thing that doesn't wrinkle or sag on a man as they age", something to that effect.

Q. On 22 June 2018, did you return to the BIU at Dillwynia?

A. Yes, I did.

Q. Did Mr Clarke come and speak to you?

50 A. Yes, he did.

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Q. Did he ask you if had any - said if you had any concerns to let him know?

5 A. Yeah. He knew - he didn't know what was going on with Astill, but he knew that I was very uncomfortable and in extremely fearful of him, and had asked if I'd had any night-time callers or anything, and if I was at all worried or anything, to let him know.

10 Q. Having had Mr Clarke said that to you, did you tell him at that stage about what had happened as between Astill and you? The events I'm talking about that you've described to us?

A. No.

Q. On 5 October 2018, an officer by the name of Mr Vergo came to see you, didn't he?

15 A. Yes, he did.

Q. What rank was Mr Vergo at that stage, do you remember?

A. I think he was the new MOS. Master of Security. But he was very high up.

20 Q. Did he ask you about Mr Astill?

A. He asked if I had any information that I wanted to give about the girls in the unit. The - it was the second visit I had with Mr Vergo that he asked - well, he didn't ask, but I explained.

25 HER HONOUR: You explained what?

WITNESS: About Mr Astill.

CROWN PROSECUTOR

30

Q. What did you say about him? What did you actually say to Mr Vergo?

35 A. He - I said to him initially that there was a lot of inappropriate behaviour going on with other girls in the unit. As I was still unsure and - and scared to divulge the information that I had about myself, Mr Clarke when he came to get me to see Mr Vergo told me that I could trust Mr Vergo, and by the end of the conversation, I had told him that Mr Astill has had sex with me on a number of occasions.

40 Q. Are you able to remember any more detail of what you said when you told him about sex. That is what occasions and what actually happened. Any more detail?

A. I - I didn't go into a great deal of detail with him. But yeah, had said to him that it was not consensual and that I was put in a position that wasn't real cool.

45 Q. That wasn't real?

A. Cool.

Q. Yes, all right. Thereafter there became a point where you spoke to police about your dealings with Mr Astill, didn't you?

50 A. That's correct.

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- Q. On 24 January 2019, did you speak to some police, Detective Cambridge and Detective Joshua Palmer up at Grafton Correctional Centre?
A. Yes, I did.
- 5 Q. Did they ask you to handwrite a letter to an inmate by the name of V?
A. That is correct.
- Q. Did you know a person by that name?
10 A. Yes, I did. I'd met V – V when I'd first come into jail in 2014.
- Q. Were you close friends with her or not?
A. More acquaintances.
- 15 Q. Had you ever written to her before?
A. No.
- Q. Did Detective Cambridge give you some notes to help you structure a handwritten letter based on the notes?
20 A. Yes, he did.
- Q. Did he ask you to make reference to M?
A. Yes.
- 25 Q. Did you know who that person was? Did you know any M's?
A. No, I had no idea.
- Q. In the presence of the police, did you write that letter and also write on an envelope to send it via the inter jail mail?
30 A. Yes, that's correct.
- Q. Is inter jail mail, mail that can be sent from one inmate to another at a different correctional centre?
A. That's correct. At no cost to the inmate.
- 35 Q. Is it the situation though, is it the expectation by the inmate that that mail will be checked before it's handed to another inmate for security reasons?
A. Every letter that comes into the jail is checked.
- 40 Q. Is there some different handling, to your knowledge, though of legal correspondence? So if it's a solicitor's letter.
A. If it's got a "Private and confidential" tag on it, then it can't be opened by the jail, but it has to be opened in front of an officer.
- 45 Q. Did you leave parts of that letter blank where the date was, and where a mobile phone number could be put in the letter, and did the letter make clear that it was so that contact could be made with this person, M?
A. Yes.
- 50 Q. This was a letter that police asked you to send to V as though it was your

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letter, really being in your thoughts?

A. Yes.

5 Q. Did you at that time, and do you, get a particular rash, and I'm talking the upper part of your body?

A. Yeah, which is probably evident right now. I get - when I get anxious, when my anxiety goes up, I go extremely red from the neck up, and its very obvious.

10 Q. That's when you get anxious, was that something you ever made known to any other inmates, or not?

A. The girls were very aware of it.

Q. Did you ever have a conversation with Mr Astill about having a baby?

15 A. Yes, there was talk; in general chit chat he was asking me what I was going to do when I got out, and at that point my partner and I were still going to continue our relationship and try and have a baby.

Q. Did Mr Astill say anything about that idea of you having a baby?

20 A. Yeah, he offered to be the father.

Q. What'd he say?

A. "I can help you out with that".

<CROSS-EXAMINATION BY TYLER-STOTT

25

Q. The conversation about the baby - when did that occur?

A. That was close to my sentencing, I think, so the end of 2017. Sometime during--

30 Q. I'm sorry - where were you at the time; were you on BIU or somewhere else?

A. No, no, this was in his office.

Q. Did he say something like, "42, aren't you a bit old", or something like that?

35 A. Yes, he did make comment on my age and I was a bit silly for doing that.

Q. And it was you who asked him to father your child, I'll suggest to you.

A. I suggest you're wrong.

40 Q. The calendar that you've provided to the police - there are three notations on three separate dates. Why is there not a notation for the other occasions where you say something sexual happened with Mr Astill?

45 A. Well, the initial ones were listed, and then it became so prolific that I just gave up, and with the last one, the one in August, I didn't have all my property with me, so that was not a possibility anyway.

Q. So you didn't make a note somewhere of the date that it had occurred?

A. No, that's why I'm not sure of the date of that one in particular.

50 Q. Which you could've written the date on a piece of paper and then

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transposed that to a calendar, correct?

A. Yes.

5 Q. Please correct me if I'm wrong; there's no notation concerning the use of the cucumber; is that correct?

A. No.

Q. There's no notation of the cup filled with ejaculate--

A. No.

10

Q. --is that correct?

A. No.

15 Q. They would be pretty grotesque and horrific things to experience; would you agree?

A. Yes, they were.

Q. And there was no thought to make a note of that?

A. As I said, by that time I'd given up keeping note; it seemed fruitless.

20

Q. You also, at a point in time - in August, I think it was - had his semen in your underwear; is that correct?

A. Yes. That's what I was just talking about.

25 Q. What did you do with those underwear?

A. As soon as he left me, I took them off and threw them in the bin.

Q. You didn't think that that would be pretty conclusive evidence of sexual interaction with him?

30 A. Yeah, but at that point I - as I've said - I was too fearful to make mention to anybody about anything that was going on, and I still had quite some time to serve.

Q. Even with that compelling evidence, you were still reluctant to raise it?

35 A. Wasn't even a thought.

Q. It wasn't a thought to raise it with anyone?

A. No, because of the fear.

40 Q. You came to Dillwynia with that fear, did you?

A. I came to Dillwynia with the fear of being shipped out to SMAP, yes.

Q. Can I suggest to you, that's why you were very flirtatious with Mr Astill in the early stages?

45 A. And again, I will decline that.

Q. And you were trying to get in his good books, so to speak?

A. Yeah, no.

50 Q. No?

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A. No.

Q. Was there any reciprocal flirtatious behaviour between you and Mr Astill?

5 A. No. I mean, I'm a very open person, but never was flirtatious or - flirtatious in any way.

Q. In your entire time you were not flirtatious?

10 A. Not flirtatious, no. I speak very openly; for example, one time he was making reference to some of the girls having a relationship, and he asked me, and I said "no, I'm strictly dicky", but that's how I speak, and that's how I speak to everybody.

Q. Did C speak to you about Mr Astill?

15 A. C and I are not particularly good friends, and I have very little to do with her.

Q. My question was: did she speak to you about Mr Astill?

A. Not from memory.

20 Q. Did she say anything to the effect of "don't flick your hair and stick your arse out to Mr Astill"?

A. No. Not from memory, anyway.

25 Q. Did anyone else speak to you about your - and I understand you say you weren't flirtatious, but did anyone else raise with you or warn you not to be flirtatious with Mr Astill?

A. Not from memory, no.

30 Q. You were incredibly fearful of going back to Mulawa or some other jail; is that accurate?

A. That's correct. Particularly Wellington.

Q. I'll suggest to you, Mr Astill did not ever say that you would be moved.

35 A. And, again, I would say that that's not true, he did.

Q. Did you make a note of that anywhere?

A. No.

40 Q. Ma'am, you understood that, given your court case that you had in Port Macquarie, you understood the importance of documenting things, as far as evidence is concerned?

A. Yeah, it had no relevance. Like, my court case and that situation were two totally separate things and had no relevance to each other.

45 Q. No, I'm just saying that you would have learned through the way in which the police compiled the brief of evidence what's important, what's not; documenting things?

A. Yes.

50 Q. Isn't that why you put it in your calendar originally?

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A. Originally, yeah, it was.

Q. So why then didn't you do it subsequent?

5 A. As I said, because it became a futile effort of keeping record in the respect
that I had pretty much resigned myself to never coming forward about it
because of, as I've said, retribution from other officers, what he could cause
me - as in Mr Astill. I gave up; he broke me.

10 TYLER-STOTT: Is that a convenient time, your Honour?

HER HONOUR: Yes. Thank you, Ms H.

AUDIO VISUAL LINK DEACTIVATED

15 LUNCHEON ADJOURNMENT

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IN THE ABSENCE OF THE JURY

HER HONOUR: Yes, we're ready to proceed?

5 CROWN PROSECUTOR: Just trying to establish the link again.

HER HONOUR: Right.

10 CROWN PROSECUTOR: The court officer's gone--

HER HONOUR: There we go.

SPEAKER: She can't hear us right now.

15 CROWN PROSECUTOR: Just to remind your Honour, we've got this witness and we've got some agreed facts to tender, and we've got two other witnesses, P and Y, both currently inmates at Dillwynia.

20 HER HONOUR: Okay. Will we get through the three of those today?

CROWN PROSECUTOR: I think so, I think so.

TYLER-STOTT: Quite possibly.

25 HER HONOUR: Have you got long with Ms H?

TYLER-STOTT: I think, half an hour to 40 minutes, your Honour.

30 HER HONOUR: All right. And tomorrow the sentence has been adjourned so we'll have a full day.

CROWN PROSECUTOR: Thank you, your Honour.

35 HER HONOUR: So you just need to let my associate know about the s 77 orders for tomorrow, if there are any. Do you still need the Indian interpreter tomorrow?

CROWN PROSECUTOR: Yes, your Honour.

40 HER HONOUR: All right, that's been booked.

CROWN PROSECUTOR: Thank you.

45 HER HONOUR: Can you hear us, Ms H? No, that's okay. She can be muted until the jury come in.

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IN THE PRESENCE OF THE JURY

HER HONOUR: Yes, thank you, ladies and gentlemen. We'll just get the connection back with Ms H.

5

AUDIO VISUAL LINK ACTIVATED

TYLER-STOTT

10 Q. Ms H, you were transferred to Dillwynia in November of 2015. Is that right?
A. That is correct.

Q. Was it not long after that you met Mr Astill?

15 A. No, it was a little while after. I'd been there a couple of months prior to meeting.

Q. So a few months after November of 2015. When was the first time that he touched you inappropriately?

20 A. It probably wasn't until six to 12 months after being there.

Q. You were on cleaning duties from December of 2015. Is that accurate?

A. Yes.

25 Q. And throughout the time of your interactions with Mr Astill, you said he made you feel uncomfortable with certain jokes and those sorts of things?

A. Yes.

Q. Then was it the case that he'd brush up against you and pretend it was an accident?

30 A. That is correct.

Q. How did you respond to the occasions where he brushed up against you?
A. I would – I would uncomfortably laugh it off in fear of being in trouble for speaking up.

35

Q. What do you mean by that? In trouble for speaking up about what?

A. Well, if I pulled him up and said "Don't", or whatever, my fear was that I would have retribution from him.

40 Q. Did you ever ask to be transferred out of cleaning?

A. No, I did not, because it was one of the only jobs that the SMAP unit had at that time.

45 Q. What about gardening, that was something, wasn't it, that you could have done?

A. That didn't – that didn't come into play until the – towards middle of 2017.

Q. Were there any other jobs that you could have asked for in 2016?

50 A. No, there is not.

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Q. And 2017, the same position, other than gardening, you say, around the middle of the year?

A. Other than gardening at that point, yes.

5 Q. Was it better for you to have a job than to be – when you're thinking about being touched or inappropriate jokes being made?

A. The amount of time that I came into contact with him having that job was insignificant. The touching and the inappropriate behaviour happened more often when I was not cleaning.

10

Q. But quite often when you also were cleaning, weren't you, you were in the chief high needs office with the vacuum cleaner?

A. Yes, but he was also removed from that area after we had made our complaint.

15

Q. Isn't that late 2017 we're talking about?

A. Yes, that is.

Q. Yes, I'm talking about 2016?

20 A. Yes. Well, the incidents were still limited in respect to the cleaning in comparison to other inappropriate interactions that I had with Mr Astill that weren't due to me being in the cleaning area.

Q. When Mr Astill brushed you, or brushed past you and touched you--

25

A. Mm-hmm.

Q. –isn't it the case that you did the same thing to him?

A. No, it is not.

30 Q. On many occasions?

A. No, it is not.

Q. And 2016, you had also been engaged in consensual kissing?

A. No, that is not true.

35

Q. When was the first time that Mr Astill kissed you?

A. To be honest, I do not remember.

Q. Was it in 2016?

40 A. It would have been more than likely. That incident in the photocopy room.

Q. That was the first time you say?

A. Yes.

45 Q. Is that the occasion where he asked you to suck his penis?

A. That is correct.

Q. And you hadn't kissed before that occasion?

A. No.

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- Q. Who was the overseer on the occasion where you were in the photocopier room?
A. Cheryl Douglas.
- 5 Q. Who were the other inmates who were with you?
A. The crew that I worked with changed quite regularly, and at that point I think it was Y maybe, and yeah, I'm not sure who else.
- 10 Q. Did you say to Y – and this is before entering the photocopier room – did you tell her to go back to the unit to get some paper towels?
A. No, because you can't leave the admin building to get paper towel, because the admin building is not in the high-needs area, and we have to be escorted by our overseer.
- 15 Q. And your overseer at the time was Ms Douglas?
A. Cheryl Douglas.
- Q. So my question again is, did you ask her to go and get some paper towels?
A. No.
- 20 Q. And did she go with Ms Douglas?
A. I have no idea, because I don't remember asking her to go and get paper towel.
- 25 Q. And that's what allowed you to have the amount of time that you did in the photocopier room?
A. No.
- 30 Q. When you were in the photocopy – and can I suggest to you, it was your idea to go into the photocopier room?
A. I suggest you're wrong.
- Q. And you touched him on the penis with your hand?
A. Again, with his hand putting my hand there, yes.
- 35 Q. So you did rub his penis, but you say it was because he had hold of your hand?
A. That is correct.
- 40 Q. And was that on the inside or the outside of the pants?
A. Initially, on the outside of his pants.
- Q. Were you kissing also at this time?
A. There was a kiss at some point in that situation, but I really don't remember when or how that happened.
- 45 Q. Did you ask him to get it out?
A. No, I did not.
- 50 Q. It was only a brief – it didn't last very long, did it, before the sound startled

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you both?

A. That is correct.

5 Q. Did Mr Astill ask you - the following day - what you would have done if he had have ejaculated?

A. Not that I remember, no.

10 Q. Did you say - I'll just suggest this, you may well disagree that you said, "That would have been okay. I love the taste of it."

A. Well, I just said to you that I didn't. So, no.

15 Q. Were there occasions where you visited Mr Astill of your own volition. In any one of the offices?

A. Only if I had somebody else with me. But yes, I had. For - to have questions answered and things like that. But it was always with somebody else.

20 Q. Is this even in the initial stages? In 2016?

A. Yes.

Q. Who were the people who accompanied you in 2016?

A. Would have been Z.

25 Q. Anyone else?

A. There probably was but - I've known that many girls over my 8 years in jail that they all run into each other.

30 Q. And there wasn't an occasion where you went by yourself. Is that your evidence?

A. Not that I remember, no.

35 Q. I'll suggest to you there were occasions where you went by yourself. Not at the request of Mr Astill. What do you say?

A. No.

Q. And I'll suggest to you on those occasions - many occasions - you initiated sexual play. If I can put it in that way.

A. And I'll say no again.

40 Q. Did Mr Astill ever provide you with medication?

A. Yes. On a couple of occasions he had given me Panadeine. And he'd also tried to give me Panadeine Forte and Endone. Or what he said was.

45 Q. And was that in relation to your endometriosis?

A. Yes. I believed he was giving to me to try and have my pain reduced so he could do what he wanted.

50 Q. Mam, I'll suggest to you he did not ever say, "Let me consult my crystal balls," whilst grabbing his crotch.

A. Well, I say ask the other girls that were there and they'll tell you that he did

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say that.

Q. I take it once Mr Astill's actions came to light, you spoke with a number of other inmates, correct?

5 A. No. There was very few inmates that I spoke to in detail about this situation. Purely for the fact that it - one - was embarrassing that I had allowed myself to be put in that position. And - two - it wasn't something that was to be openly discussed.

10 Q. Have you spoken to Z since she was released?

A. Yes, I have.

Q. By telephone?

15 A. A couple of times on the phone. And she visited me twice. Once. Twice.

Q. What about since you have been released?

A. No. I have not seen - I've had no contact with Z since 2019.

20 Q. Can I suggest to you you only had penile and vaginal intercourse with Mr Astill on about three occasions. Is that consistent with your memory?

A. No. There was more than that. But the dates and times and things aren't as clear.

Q. Was the final occasion when you were in the BIU?

25 A. Yes, it was.

Q. And that was the occasion where he ejaculated into your underpants. Is that correct?

30 A. That is correct.

Q. Can I suggest to you that that was at your request?

A. No.

35 Q. On how many occasions - whilst you were in custody - did you expose your breasts to Mr Astill when you were in your cell.

A. A number of times. Too many to count.

Q. Did you say words to the effect of, "Not bad tits for a 40-year old, hey." On any occasion?

40 A. No.

Q. Was there ever an occasion where you saw Mr Astill as a result of some disharmony in the J unit?

45 A. Yes.

Q. And did Mr Astill speak to many people in J unit about the disharmony?

A. Yes. Yes.

Q. Was it the case that everyone came through and spoke to--

50 A. No.

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Q. --Mr Astill.

A. No.

5 Q. How many people did - if you can recall? To your knowledge - how many people went to see Mr Astill?

A. It would have been less than half the house.

Q. Which is how many people?

10 A. 22 in total.

Q. Was it at the inmates' request that they went to see Mr Astill - to your knowledge?

15 A. No. From what I understand - because I had nothing to do with the incident that you are talking about - they had been called over to be seen by him because of complaints or something. That's to the best of my knowledge.

Q. And when you were in the room with Mr Astill - you said that it had nothing to do with you - but you just wanted the opportunity to see him. Do you agree or disagree?

20 A. No. I disagree to that because it was him that asked to see me.

Q. Who was the officer that accompanied you to the office?

25 A. Mr Mirza.

Q. Were you ever seen cleaning by an Officer Poole?

A. Sorry, an officer who?

Q. Poole. P-O-O-L-E?

30 A. Indian gentleman?

Q. I don't know. A Don Poole. Do you recall the name at all?

A. No. Oh! Mr Poole - he wasn't an overseer? He was just a general officer.

35 Q. I beg your pardon?

A. Mr Poole - Mr - was it not an overseer - he was just a general officer.

Q. Yes, and he was - not an overseer - but he was sort of looking at what you were doing. Supervising. As far as the cleaning is concerned.

40 A. No. No, never. Because he wasn't a supervisor.

Q. Y was someone that you often worked with in cleaning?

A. That's correct.

45 Q. Where did you dispose of rubbish when you were cleaning the offices?

A. In the bin.

Q. Yes. Where was the bin?

A. I honestly don't remember.

50

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Q. When you gathered the rubbish in plastic bags - did you take that somewhere?

A. That's a really long time ago and it's not something that I remember, I'm sorry.

5

TYLER-STOTT: Just bear with me please, H.

WITNESS: Yeah, okay.

10 TYLER-STOTT

Q. You gave some evidence about "strictly dickly," that phrase. When did you say that? Was it in 2016 or 17?

15 A. It would have been 2016, and relatively early on. It was because Mr Astill was referencing to two of the ladies in the house having a relationship, and asked me if I had a girlfriend, and I said, "No, I'm strictly dickly."

Q. And you told him to keep that in mind, didn't you?

A. No, I did not.

20

Q. When Mr Astill said words to the effect of, "Us blokes go all right," in the common room of J unit, was Mr Allen Walker present?

A. I don't know who the other officer was at the time. I don't remember. I'm sorry.

25

Q. And that's as much as he said, wasn't it? "Us old blokes go all right"?

A. No, because he then followed up with, "You don't mind an old bloke, do you, H?" To that effect.

30 Q. And when did that happen in terms of - was it 2016 we're talking about as well?

A. Yes.

Q. Had you kissed Mr Astill by that point in time?

35 A. To be honest, I don't know. Actually, no, I don't believe I had.

Q. The topic of the pill - I'll suggest to you - didn't come up in conversation?

A. I beg your pardon?

40 Q. The pill. As in the--

HER HONOUR: Do you mean as a contraceptive?

WITNESS: Yeah, the contraceptive pill?

45

TYLER-STOTT

Q. As a contraceptive, yes. The pill.

A. It did not come up in conversation; is that what you're saying?

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Q. Yes, that's right.

A. No, it did.

Q. His tattoo on his arm, was that of a dog?

5 A. Yes.

Q. And that was a dog that had passed away; is that your recollection?

A. That is correct. Yep.

10 Q. He advised you that he'd memorialised his dog on his arm.

A. Yeah, but had to lift up his shirt to show us.

Q. Yes, of course. And he didn't say anything about the wrinkling or sagging, I'll suggest to you.

15 A. Yes he did.

Q. Who was there when that was said?

A. Z.

20 Q. Ma'am, have you made an application for compensation about these matters?

A. Yes, I have.

Q. And is that through a solicitor's firm?

25 A. That is correct.

Q. Taking action against the State?

A. That is correct.

30 Q. And the amount that you're claiming, you know--

CROWN PROSECUTOR: I object to this.

HER HONOUR: Relevance?

35

TYLER-STOTT: Well, it's a significant motivation, I would have thought, your Honour.

HER HONOUR: What--

40

WITNESS: I don't know how much is being claimed.

TYLER-STOTT: Making a false complaint.

45 HER HONOUR: Mr Crown?

CROWN PROSECUTOR: Your Honour, he said there's a claim being made. As to the amount - the difficulty being - as your Honour knows - a jurisdiction of particular courts is at a massive spectrum; what is claimed and what may be expected, it's such a vast spectrum as to be completely unhelpful to the jury.

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HER HONOUR: I--

CROWN PROSECUTOR: As to mislead them.

5

HER HONOUR: I struggle with the relevance in any way. I reject the question.

TYLER-STOTT: May it please your Honour.

10 Q. Are you working at the moment?

A. No, I'm not. I've just been released from prison.

Q. How far along is your compensation claim?

15 A. To be honest, I'm not sure. It's on hold at the moment till the end of this trial, as far as I know. And in relevance to the amount I haven't got a clue what they're claiming.

20 Q. Now I'll suggest to you that you've said that all of your interactions with Mr Astill are non-consensual, with the motive of making a false complaint for compensation. What do you say?

A. And I say that - I say that you're wrong.

25 Q. Did there come a point in time in your time at Dillwynia in 2017 where inmates were saying to you, "Stop spending so much time around Mr Astill."

A. Not that I remember. No.

Q. Did that ever come up in conversation?

A. Not that I remember. No.

30 Q. Were you ever called a scrim?

A. Yes, I was.

Q. When was that?

35 A. My whole gaol sentence because I could get along better with the officers than I did with the inmates, because I related better, and had better conversations with male and female officers.

Q. Were you ever harassed by other prisoners?

40 A. Yes. I was.

Q. As a result of that.

A. Yes.

Q. And did it become worse over time?

45 A. It fluctuated as it has done my whole gaol sentence.

Q. Did you feel slightly isolated because of the harassment that you were enduring from other prisoners?

50 A. I felt - I felt isolated a lot of times in gaol. Yes.

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Q. And when you made the complaint about Mr Astill's conduct - well, firstly to Mr Clarke - how long was to go on your sentence?

A. 18 months, I think.

5 Q. And then following that, you had another sentence imposed?

A. That is correct.

Q. So you're looking at a reasonable length of time in Dillwynia; is that correct?

10 A. No. I was leaving Dillwynia at that time. I was in the BIU and I was being transferred away from the centre and had made the decision to come up to Grafton because my support network was in Coffs Harbour. And put in a request to be transferred to old Grafton Gaol.

15 Q. And was that directly following your complaints about Mr Astill's conduct?

A. No. It was before my complaints were made.

Q. Right. So you made a complaint to Mr Clarke whilst you were at Grafton, did you?

20 A. No, I made a complaint to Mr Clarke while I was at Dillwynia, but my transfer had been put in well before any complaints had been made.

TYLER-STOTT: Please excuse me for a moment, H.

25 Thank you, Ms H.

NO RE-EXAMINATION

30 HER HONOUR: Thank you, Ms H. Your evidence is concluded. You're free to go. Thank you.

WITNESS: Thank you very much. Have a good day.

35 HER HONOUR: You too.

<THE WITNESS WITHDREW

AUDIO VISUAL LINK CONCLUDED AT 2.38PM

40 CROWN PROSECUTOR: Your Honour, we have two further witnesses to give evidence from Correctional Centre. Before I do that, parties have agreed on some facts. And those facts agreed upon have been reduced to writing. That's pursuant to s 191 of the Evidence Act. There are three separate documents, your Honour. Can I hand those up to your Honour now?

45 HER HONOUR: Yes. Can I have a look at them first please?

50 CROWN PROSECUTOR: You'll see the third of the documents is not in the same form, but it's to the same effect. My friend might confirm from the bar table.

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HER HONOUR: Can I just raise something at the end in relation to one of the agreed facts—

5 CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: --in relation to the one that's got particulars and reference to 37 and 43?

10 CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: Can we speak about that at some stage?

15 CROWN PROSECUTOR: Yes.

HER HONOUR: But in the other two, can they be – any objection to the other two?

20 TYLER-STOTT: No, your Honour.

EXHIBIT #H AGREED FACTS TENDERED, ADMITTED WITHOUT OBJECTION. SHOWN TO JURY

25 EXHIBIT #J AGREED FACTS TENDERED, ADMITTED WITHOUT OBJECTION. SHOWN TO JURY

30 HER HONOUR: We don't have exhibit I. I haven't misplaced the alphabet, it's just that it gets confused with the number 1. So exhibit H and exhibit J. Yes, thank you, just for those two. Are you handing them out to the jury—

CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: --or do you want me to – I'll read them onto the record?

35 CROWN PROSECUTOR: If it please, your Honour, yes.

HER HONOUR: Yes, okay. Perhaps they can be handed out then to the jury and they can read along as I go.

40 CROWN PROSECUTOR: Would your Honour just - your Honour may identify which of those documents was which exhibit.

45 HER HONOUR: Exhibit H will be the one relevant to the dates of the inmates being in custody.

CROWN PROSECUTOR: Yes.

50 HER HONOUR: And the other one in relation to the accused's phone number and employment history, exhibit J.

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CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: So you should have two documents, ladies and gentlemen. I'll just read onto the record and read it for you, it's exhibit H. So basically what it means, an agreed fact document, it means that these are things that the Crown and Mr Tyler-Stott, on behalf of the accused, agree, so that there's no need to lead actual evidence about it. It's an agreed position between the parties that this is a factual situation. So agreed facts pursuant to s 191 of the Evidence Act 1995. That's just the provision where you're allowed to use agreed facts.

"So for the purposes of these criminal proceedings, the Crown and the abovenamed accused, Wayne Astill, upon the advice of his lawyer, have agreed upon the following facts pursuant to s 191: (1) C was an inmate at Dillwynia Correctional Centre from 4 February 2014 until 23 December 2016; (2) Witness K was an inmate at Dillwynia Correctional Centre from 23 February 2015 until 31 July 2021; (3) H was an inmate at Dillwynia Correctional Centre from 19 November 2015 until 6 October 2018. She was absent from Dillwynia Correctional Centre from 24 June 2017 until 3 August 2017 while attending her trial.

O, (4), has been an inmate at Dillwynia Correctional Centre since 4 January 2016; (5) 'Witness G' was an inmate at Dillwynia Correctional Centre from 5 August 2016 until 15 May 2017. She returned to Dillwynia Correctional Centre from 8 December 2017 until 10 February 2018. She returned to Dillwynia Correctional Centre on 24 March 2018 and remains there.

(6) M was an inmate at Dillwynia Correctional Centre between 6 May 2016 and 27 May 2017, except for a period of absence from 10 to 22 September 2016 while she attended court. I was an inmate at Dillwynia Correctional Centre from 15 May 2017 to 9 November 2018. J was an inmate at Dillwynia Correctional Centre from 27 September 2016 until 9 November 2018; (9) Witness F was an inmate at Dillwynia Correctional Centre from 2 April 2018 until 4 August 2018; (10) N has been an inmate at Dillwynia Correctional Centre since 14 March 2014; E was an inmate at Dillwynia Correctional Centre from 23 January to 30 March 2017, and again from 5 October 2017 until 2 July 2019. NAIDIC, N-A-I-D-I-C(as said), National Aborigines and Islanders Day Observance Committee Week".

Is that meant to be NAIDOC?

CROWN PROSECUTOR: Yes, your Honour, it is.

"NAIDOC in 2018 was held between 8 and 15 July 2018; (13) E died on 27 September 2020; (14) 'Witness D' was an inmate at Dillwynia Correctional Centre from 18 June 2018 until 3 September 2018, and again from 20 August 2020 until 19 July 2021; (15) A was an inmate at Dillwynia Correctional Centre from 16 September 2016 to 1 March

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2017, then again from 1 November 2017 to 14 January 2019; (16) S was an inmate at Dillwynia Correctional Centre from 30 March 2016 until 6 August 2016, and again from 25 June 2018 until 28 December 2018. She moved to Berrima Correctional Centre on 28 December 2018.”

And there you can see it's been signed by the accused and the lawyers. In relation to exhibit J, again, there is an agreed fact document which specifies that:

“(1) at all relevant times, Wayne Astill used mobile phone number 0402 059 118 and landline 4567 7995. He lived at 7 Don Street in Kurrajong Heights; (2) Wayne Astill was employed by Corrective Services New South Wales from October 1999 until February 2019. He transferred from Parklea Correctional Centre to Dillwynia Correctional Centre on 2 February 2009. He worked as a senior correctional officer at Dillwynia Correctional Centre. He obtained the position of chief correctional officer at Dillwynia Correctional Centre from 26 September 2016 onwards.

(3) prior to his employment with Corrective Services New South Wales, the accused was employed as a detective with the New South Wales Police Force. He began working for the New South Wales Police Force on 1 April 1987 and resigned on 26 March 1996; (4) he was overseas from 4 to 21 September 2017; (5) the accused was overseas from 4 to 29 September 2018; (6) the accused was on leave from work from 31 August 2018 to 30 September 2018.” Seven, “The accused was on leave from work from 15 October 2018 to 13 January 2019.” Eight, “From 14 January 2019 to 3 February 2019, the accused was on a recovery at work support plan for an injury to his left ankle.” Nine, “The accused was arrested on 20 February 2019.” Again, that has been signed.

CROWN PROSECUTOR: Your Honour, we've asked for P to be made available now to give evidence.

AUDIO VISUAL LINK COMMENCED AT 2.50PM

HER HONOUR: Yes, and here she is. Ms P, can you see and hear me? No. Now, Ms P, can you see and hear me?

P: I can hear you, but it's a bit fuzzy.

HER HONOUR: Let me know if you do not understand me or the questions that are going to be asked or you cannot hear properly, okay?

P: Yes.

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<P, SWORN(2.51PM)

5 HER HONOUR: Mr Crown now will ask you some questions, and again, if you cannot hear him or you don't understand him, can you please let us know, and do you have your statements and some material there in front of you?

WITNESS: Yes, I do.

10 HER HONOUR: Would you mind turning them over, and if the counsel want you to look at them, they will let you know, okay?

WITNESS: Okay.

15 HER HONOUR: So just turn them upside down. That's it.

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

Q. Is your name P?

20 A. Yes.

Q. Are you currently an inmate with Corrective Services New South Wales?

A. Yes, I am.

Q. Are you currently being housed at the Dillwynia Correctional Centre?

25 A. Yes, I am.

Q. How long have you been there for now at--

A. I've been here for ten years.

30 Q. During your time at Dillwynia, did you get to know an inmate by the name of C?

A. Yes.

Q. Was she at one stage in the SMAP area in the cell next door to you?

35 A. Yes, she was.

Q. Did you come to know a Corrections officer by the name of Wayne Astill?

A. Yes.

40 Q. Did you ever see Astill speaking to C?

A. Yes.

Q. On how many occasions roughly would you say you saw them speaking together, just the two of them?

45 A. Several - several times, when he was working up in high needs.

Q. During that time and those conversations, how long would these conversations go on for?

50 A. They could - around 10, 15 minutes, however long - however long they were talking for.

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- Q. So far as other female inmates, did you see Mr Astill speak to other female inmates?
A. Yes.
- 5 Q. Was it a similar length or was the C conversations longer or shorter or the same as those other women?
A. The same. The same.
- 10 Q. Did you become aware of another inmate in the SMAP house by the name of H?
A. Yes.
- 15 Q. When she first came to Dillwynia, did you know her when she first got there?
A. No.
- 20 Q. To your knowledge, how long was it after she arrived that you first had anything to do with her?
A. A couple of months maybe, give or take.
- 25 Q. When you first got to know her, did you notice how she got along with other officers, with prison officers?
A. Sorry, can you repeat that question.
- 30 Q. When you first got to know her, did you see how she got along with Corrective Services officers generally?
A. Yes.
- 35 Q. And how did she get along with them?
A. Sometimes flirtatious, and normal, yes.
- 40 Q. When you say, "flirtatious", what did you actually see and hear that made you think it was flirtatious?
A. Just by the body language, flicking her hair and laughing and smiling.
- 45 Q. How was she with you so far as she interacted with the other women? How did she get along with them?
A. She got along with them quite well.
- 50 Q. In terms of her personality, was she quiet, was she loud, was she friendly? What was she like with the women in the jail?
A. Friendly. Friendly.
- 55 Q. When you said she was sometimes flirtatious, did that ever include with Mr Astill?
A. Yes.
- 60 Q. What other officers did you say that included?
A. Just Astill, yes.

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- Q. Did you ever see them in conversation?
A. I've seen them in the office talk for long periods of time.
- 5 Q. When was this? How long after she arrived was this?
A. I can't be exact on the time.
- Q. When you say she was flirtatious, during what period was that? So you indicate she's arrived at the jail at one point when she first came to Dillwynia.
10 How long after that did you first notice what you say was her being flirtatious?
A. When Mr Astill was working in high needs area.
- Q. How long after she arrived, or you are unable to say?
A. Maybe a couple of months.
- 15 Q. As far as that behaviour went that you described as flirtatious, the body language and the like--
A. Yeah.
- 20 Q. --was there ever any change in her body language that you saw during the time that she was there towards Mr Astill?
A. She would get, like, a rash on her chest. She'd get very nervous, and yeah, like, she'd get very nervous and scared.
- 25 Q. When did you first notice that happening?
A. When she started taking other girls into the office with her because she said that he was being sleazy.
- Q. You've described this behaviour, her body language initially, you thought she was being flirtatious. Just hang on a moment. When in relation to that
30 time did you notice that she started saying he was sleazy and that sort of thing? Was that after that or before that or--
A. It was after. After.
- 35 Q. Was there ever mention she made of Mr Astill having told a joke?
A. A joke?
- Q. Yes.
A. Yes, it was along the lines of a man's genitals.
- 40 Q. When you said that other girls would go with her, which of the other women would go with her to the office that you recall?
A. X and Z.
- 45 Q. Apart from what you've told us, that she thought he was sleazy, what did H say to you, if anything, about Mr Astill and how she felt about him?
A. She said that he creeped her out and that she didn't want to go in there by herself. That's why she was taking other inmates in with her, so she didn't feel uncomfortable.
- 50

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Q. How did you get along with Mr Astill?

A. I did not get along with Mr Astill.

5 Q. So far as her making those comments - that is H - making comments to you about how she felt about Mr Astill. Over what period were those comments made? Is that over just a period of days, months, years, weeks, what?

A. A couple of months.

10 Q. So far as the muster - what was that about? When there was a muster. Can you just tell the jury what's meant by a muster at the jail?

A. So with the muster - that's when we have to stand at our doors at 3.30 and we get mustered into our cells to be locked in overnight until the next morning.

15 Q. Did you ever see Mr Astill personally lock in one of the inmates?

A. Yes - H.

Q. Did you see him do that with any other inmate?

A. No.

20

Q. Was that something that that job or task of locking down inmates for the muster - was that something officers of his rank usually did--

A. No.

25 Q. --or not?

A. No.

Q. Was that a task that was routinely performed by people underneath his rank?

30 A. Yes.

Q. Was there an occasion where you were aware that H wanted to get hold of some Panadeine or some sort of medicine?

A. Yes. Yes - because--

35

Q. Did you see whether she managed to get hold of it?

A. Yes - it was slipped under the door.

Q. Is that something you saw yourself?

40 A. Yes. Before I got locked in - yes.

Q. Who did that, Ms P?

A. Sorry, can you repeat that?

45 Q. Who did that?

A. Mr Astill.

Q. Is that something you saw?

A. Yes. I'd seen it before I got locked in.

50

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Q. Did you have some conversation early on with H about how she was interacting with Ms Astill when you noticed the body language and the like.

A. Yes. Yes.

5 Q. What was said then?

A. I told her that it was inappropriate and it was disgusting the way that she was around Mr Astill.

<CROSS-EXAMINATION BY MR TYLER-STOTT

10

Q. Ms P, what was inappropriate and disgusting - that you saw?

A. Just the way that she'd hang around him and laugh and carry on and get stuff off him.

15 Q. And how often did you see them hanging around and carrying on like you've just described?

A. Every time that he was chief in high needs for that day.

20 Q. And around this time - did you observe whether or not Ms H left the unit to go see Mr Astill?

A. No. It was the times when we were out on the compound and he would call her to go to the seniors' office.

25 Q. You had a discussion with her about how it appeared to your other inmates. Is that correct?

A. Yes.

Q. What did she say?

A. She just shrugged her shoulders and just like - yeah - shook it off basically.

30

Q. Did you have a discussion with her again?

A. No. No.

Q. That was it?

35

A. Yes.

Q. Was she ever - to your knowledge - subject to threats or harassment from other inmates because of this relationship with Mr Astill?

A. Not to my knowledge - but I know a few of the girls were disgusted with it.

40

Q. Are you able to remember when you had this discussion with her about the appearance being inappropriate and disgusting?

A. Sorry, can you say that again. Sorry.

45 Q. Do you remember when Ms H came into Dillwynia?

A. Yes.

Q. Was it 2015 - late 2015?

A. Yes. I can't quite remember but that sounds right.

50

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Q. In terms of when she came to Dillwynia - to when you had this discussion with her - are you able to give us a timeframe in weeks, months, days?

A. Months.

5 Q. And did it - after you had the discussion - did it change?

A. No.

Q. Her behaviour toward Mr Astill change?

A. It still continued but then she'd take another inmate with her.

10

Q. Ms P- you provided a statement in February of 2019.

A. Yes.

15 Q. And you were trying to do your best to remember specific dates and people. Is that correct?

A. Yes.

Q. Was it only Mr Astill that she was flirtatious with?

A. Yes.

20

<THE WITNESS WITHDREW

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<Y, SWORN(3.08PM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

- 5 Q. Is your name Y?
A. Yes, it is.
- Q. Do you spell your last name Y-Y-Y-Y-Y-Y-Y?
A. Yes.
- 10 Q. Are you currently an inmate at Dillwynia Correctional Centre?
A. Yes, I am.
- Q. Were you an inmate there at the end of 2015 - when H came to the jail?
15 A. Yes.
- Q. Were you based during that time in the SMAP unit of the jail?
A. Yes, I was.
- 20 Q. Was that in the J block?
A. Yes, the J block - J house. Yes.
- Q. Did you get to know H pretty much as soon as she arrived?
A. I got to know her a little bit as time went past; she was still timid.
- 25 Q. Still timid?
A. Yes.
- Q. After a few months of being there, was there ever any discussion between
30 you and her about an officer by the name of Mr Astill?
A. Yes, there was.
- Q. Did H say anything to you about him?
A. She said she was scared of him.
- 35 Q. Did she say to you at that stage why she was scared of him?
A. Because of the things - some of the conversations that he was having and
the way he was standing.
- 40 Q. I want to ask you now, Ms Y, about an occasion where H was sitting down
on some steel benches.
- HER HONOUR: Ms Y, just turn the statement over; just see how you go.
- 45 WITNESS: Yep. Sorry.
- HER HONOUR: That's okay.
- CROWN PROSECUTOR
- 50

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Q. So I might just ask you about an occasion where H was sitting down on some steel benches, all right?

A. Yes.

5 Q. Did you see Mr Astill around at that time?

A. Yes, I did.

Q. What did you see - what happened?

10 A. He was having a conversation with H and he was also leaning - or, had one foot up on the steel benches talking to her.

Q. When would this have happened - even roughly - if she arrived in late 2015, so she arrived in late November 2015; when, roughly, would this have happened; the steel benches?

15 A. It would have been when I was in ground maintenance at time - I do apologise; I do not remember the date.

Q. That's all right, I'm just asking as best you can remember.

20 A. When they put the steel benches in, like I said, I was on ground maintenance.

Q. When he came up and stood - I think you said he had his foot on that steel bench?

25 A. Can I show you?

CROWN PROSECUTOR: Could the witness demonstrate--

HER HONOUR: Yes.

30 CROWN PROSECUTOR

Q. Yes, please do, Ms Y.

35 A. This is how he was, like that; he had the steel benches like this, H was sitting there, and he was like this, having a conversation to her.

HER HONOUR

Q. So you've got one, your right leg up at a 90 degree angle--

40 A. Yeah.

Q. --And you're pushing forward - going forward movements as well.

A. Sorry about that; sorry about the forward movements, I've actually got a little pain in my right.

45 Q. All right. So it's basically he's got one leg up sitting on the steel bench; was it? Was his foot on the steel bench?

A. Yes, it was.

50 Q. Yes, so at a 90 degree angle, Mr Crown.

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CROWN PROSECUTOR

Q. Thank you, your Honour. Did you tell us - but if you haven't, please tell us -
5 how far away from H was Mr Astill when he was standing like that?
A. How far was she away?

Q. Yeah.

A. Well, she was not far at all; they were very close.

10 Q. Is it something you could indicate with your hands; just showing roughly
how far apart?

A. Okay so basically, about that close away from her.

Q. Might it be a foot, your Honour; it has got its limitations of the video, but--
15

HER HONOUR: 15 to 20 cm

CROWN PROSECUTOR: Yes, your Honour.

20 Q. Was her face higher, lower, or at the same level as his crotch?

A. I would say just a tad lower.

Q. How far from H were you at this stage?

25 A. I would put around about 3 or 5 meters; that's a rough estimate - guess.

Q. Did you see how she reacted, if she reacted at all, when he--

A. Yes.

Q. --stood like that?

30 A. Yes, she slumped down.

Q. Did you see any expression on her face at that stage; was there any
reaction on her face?

35 A. I didn't - unfortunately I did not see any expression on her face. She was
facing the opposite direction to me.

Q. Do you recall anything being said as between the two of them or not?

A. I could not hear their conversation.

40 Q. Now that action that you've described where Mr Astill stepped up in that
way, were there any other times where you saw him do the same or a similar
thing to H?

A. Three to four times, I had seen it.

45 Q. And on those occasions, are we talking about a similar closeness as
between Mr Astill and H; similar distance between them as the other one you
described?

A. One's a little bit further away than the first incident.

50 Q. So far as prisoners being locked in their cells, did you notice what rank of

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corrective services officer would usually do that job?

A. I call them chiefs or officers.

Q. Did Mr Astill ever lock H - lock her cell door?

5 A. Are you asking did Mr Astill ever lock H's cell door?

Q. Yes, that you saw. That's what I'm asking.

A. Yes.

10 Q. Did you ever notice that after one of those musters where Mr Astill was there, that H's cell door remained open?

A. Yes, I did.

Q. Was that when Mr Astill was doing it; doing the lockdown?

15 A. Yes.

Q. Was that something which was unusual, that after lockdown someone still had their door open?

A. Yes, it was.

20

Q. As the time went on, was there any sort of change as to how H was describing Wayne Astill?

A. Creepy.

25 Q. Were you ever aware of occasions where she was required to go to his office?

A. Yes, I was.

Q. What would happen there; would she go alone, or, what would happen when it was Mr Astill's office?

30

A. Yes, she did go alone, no one was in the office at times.

Q. Now when you say go alone, are you talking about being in the office, or walking from the cells in the gaol to her(as said) office?

35

A. Walking from the unit to the office.

Q. Was she ever accompanied by other inmates; did other women ever go with her?

A. Sometimes.

40

HER HONOUR: To her knowledge.

CROWN PROSECUTOR: I do apologise.

45 Q. To your knowledge?

A. Sometimes.

Q. Did you ever hear a tapping on H's cell window after a lockdown?

A. Yes.

50

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Q. And did you notice who was doing the tapping?

A. Yes, I did.

Q. Who was it?

5 A. Mr Astill.

Q. Did you see his face when he was knocking?

A. Yes.

10 Q. What did you notice? What was his facial expression?

A. His facial expression was - how - how do I put it - sort of intrigued type look.

CROWN PROSECUTOR: Was it intrigued, your Honour?

15 HER HONOUR: Intrigued.

CROWN PROSECUTOR: Intrigued type look.

Q. Do you remember if, on that occasion, he said anything to her?

20 A. They were having a conversation. What it was, I don't know.

Q. To your knowledge, after the period that H was saying that she was scared of Mr Astill and that she found him creepy, did you see her do anything or take any measures to avoid him?

25 A. Yes, she did take measures to avoid him.

Q. What was that, Ms Y?

30 A. That was any time that Mr Astill had come over to the unit, she would ask me to let him know that she was either in the shower or she was in her room asleep.

Q. Did H ever say to you at any time that she had had sexual intercourse with Mr Astill?

35 A. Yes.

Q. When was that?

40 A. It was the afternoon that I had seen her door unlocked and Mr Astill was - that was at muster time, and everyone else's door was locked and I didn't - when I turned back around, I didn't see him out there at all, and then the next morning, I said to her, "What happened in the room?" She said, "We had sex."

Q. Did she say anything more about that?

A. No.

45 <CROSS-EXAMINATION BY MR TYLER-STOTT

Q. Can I just ask you to have a look at paragraph 16 of your statement, Ms Y

50 A. Yes, I'm looking at it.

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Q. It says, doesn't it, "H never said she had sex with Mr Astill"?

A. Yes, it does say that there, sorry.

Q. This is a statement you provided on 4 March 2019.

5 A. Yes, a long time ago.

Q. I'll just ask you to move that statement to the side just for a moment.

A. Yes, of course.

10 Q. You've given us sort of a point of reference being the time that you were on maintenance, I think it was.

A. Ground maintenance.

Q. Yes. Why do you think it was around that time that Mr Astill had his leg up on the steel bench?

15

A. Because that time I remember I was on ground maintenance and I was raking up the leaves and the sticks. That was part of my job.

Q. Now if I can use that as a point of reference, your conversations with H about Mr Astill being, to her mind, creepy, was that before or after, if I can say, the steel bench time?

20

A. I'm not sure.

Q. Did you speak to H after you saw Mr Astill and H in this position on the steel bench?

25

A. After he left, I said, "Are you okay?", and she could only say, "Yeah," at the time.

Q. You've given some evidence that Mr Astill's crotch was very close to H's face. Is that still your recollection?

30

A. Yes.

Q. You've given some evidence that it was perhaps 15 to 20 centimetres away from her face. Is that still--

35

HER HONOUR: She said the evidence that he was 15 to 20 centimetres away--

TYLER-STOTT: That's what I meant.

40

HER HONOUR: --and that her face was lower than the crotch.

TYLER-STOTT: Yes.

45 Q. You've just heard her Honour accurately recount your evidence, Ms

Y. Do you still stand by that evidence?

A. I don't understand what you're--

Q. Wouldn't Mr Astill just be looking down at the top of H's head if he was so close to H?

50

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A. I wouldn't know the height.

Q. How far away were you when you made these observations?

A. About 3 to 5 metres.

5

Q. Were you behind Ms H?

A. Yes.

Q. So when you had a discussion with her following Mr Astill leaving, is it your recollection that she said she was fine?

10

A. She - no, she didn't say she was fine. She said she was okay.

Q. Okay.

A. Okay.

15

Q. Do you know whether or not you'd had any conversations with her before then about him being creepy, or could it have been after?

A. To be honest, I don't remember.

Q. Did you ever see Ms H being flirtatious with Mr Astill?

20

A. What do you mean by flirtatious?

Q. Making jokes, flicking hair, touching him.

A. I've never seen her touching him.

25

Q. Did you ever see them interact other than the occasion on the bench? Have you ever seen them interact, just the two of them alone?

A. Alone?

Q. CROWN PROSECUTOR: I ask that it be clarified, physically interacting or otherwise, given the context of the question.

30

TYLER-STOTT

Q. Have you ever seen them in conversation standing by themselves?

35

A. As in standing side by side to each other just having a conversation?

Q. Yes.

A. Is that what you are asking?

40

Q. Yes, it is.

A. Yes, I have.

Q. Was it a frequent occurrence or not frequent?

45

A. Just the usual talking.

Q. So just the usual talking. Nothing unusual that you saw.

A. Not always, no.

Q. Ms Y, do you ever do cleaning with H?

50

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HER HONOUR: "Did you".

TYLER-STOTT

5

Q. Did you ever do cleaning with H?

A. Yes.

Q. Where did you clean with her?

10 A. In hygiene.

Q. What about the SAPO offices and those areas?

A. Yes.

15 Q. Do you have any memory of Ms H sending you away on an occasion to get some paper towels?

A. Yes, she has.

Q. So did you leave H in and around the offices by herself?

20 A. There are - there was another inmate with us.

Q. Was this a frequent occurrence that she'd send you away to get paper towels?

25 A. There had been times where it was frequent and other times there hadn't been.

TYLER-STOTT: I have nothing further.

NO RE-EXAMINATION

30

HER HONOUR: Thank you, Ms Y. That concludes your evidence. Thank you very much.

WITNESS: Thank you very much.

35

<THE WITNESS WITHDREW

AUDIO VISUAL LINK CONCLUDED AT 3.30PM

40 HER HONOUR: Yes, Mr Crown.

CROWN PROSECUTOR: Your Honour, that concludes the witnesses we have for today.

45 HER HONOUR: Okay. So ladies and gentlemen, that concludes the witnesses for today. We're going ahead of schedule again, so you get an early mark again. And so, again, just the reminder, please don't discuss the evidence that you've heard with anyone, unless all 12 – 15 of you are all together. Other than that, please have a great night tonight and we'll see you
50 tomorrow for a 10 o'clock start. Thank you.

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IN THE ABSENCE OF THE JURY

HER HONOUR: In relation to that other agreed fact statement, I just wanted to double-check, because I haven't read the tendency notice. Just seeing the
5 relevance of it, what it goes to. Is it part of the – is included within the tendency notice is it?

CROWN PROSECUTOR: Yes.

10 HER HONOUR: Those two counts?

CROWN PROSECUTOR: Yes.

15 HER HONOUR: Right.

CROWN PROSECUTOR: It is. And the statements that they were based on for its reference. We need to dig that out, because your Honour asked for it and—

20 HER HONOUR: Yes, I just wasn't aware. Before I went through, I just wanted to double-check that it was part – it is part of the Crown case of tendency evidence. Is that right?

25 CROWN PROSECUTOR: I believe so. I'll double-check that, it's very broad.

HER HONOUR: Yes, because otherwise it wouldn't be relevant, because they're not in charge – those counts aren't in charge of the jury. Sorry, just wanted to double-check with that. Maybe you can just double-check and show me tomorrow with the tendency notice, if that's okay.

30 CROWN PROSECUTOR: Yes, of course.

HER HONOUR: And the other thing, Mr Tyler-Stott, the court officer is not the person to be sending notes through to counsel at the bar table. It's not a good
35 look for the jury.

TYLER-STOTT: I understand.

40 HER HONOUR: Your solicitor is there for that. Thank you. Anything else?

CROWN PROSECUTOR: I can tell your Honour the batting, the proposed batting order for tomorrow if that helps.

45 HER HONOUR: Yes please, yes.

CROWN PROSECUTOR: CC, she's from Villawood.

HER HONOUR: So we need a 77?

50 CROWN PROSECUTOR: No. I was told no, is that still right? I thought there

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used to be a specific order under the Immigration Act for this, but—

HER HONOUR: You might need to find that out.

5 CROWN PROSECUTOR: We might have to chase that up.

HER HONOUR: Yes.

10 CROWN PROSECUTOR: But I don't think it is a 77, but it's some other order, I think.

HER HONOUR: Yes.

15 CROWN PROSECUTOR: Anyway, Z is in person, FF—

HER HONOUR: In person?

20 CROWN PROSECUTOR: In person. FF in person. X is an AVL from the police station, Armidale. T, AVL, then Brian Bartlett and Wesley Giles, both in person.

HER HONOUR: So you don't need any s 77s tomorrow?

25 CROWN PROSECUTOR: I don't think there is tomorrow.

HER HONOUR: Who's 'NAME OF MOTHER OF WITNESS M'? Is that the Ms M from the—

30 CROWN PROSECUTOR: Yes, it's—

TYLER-STOTT: It's the mother of M, I think, your Honour.

CROWN PROSECUTOR: Yes, M.

35 HER HONOUR: Right. Is Ms M that H referred to giving evidence, the one that they made a – they said they made a complaint to in November 2017?

CROWN PROSECUTOR: No, she's not. No, she's not, your Honour.

40 HER HONOUR: So that's the order for tomorrow or—

CROWN PROSECUTOR: Yes, your Honour.

45 HER HONOUR: So there's no 77 orders required?

CROWN PROSECUTOR: No, we don't need any for tomorrow.

HER HONOUR: And then there's the interpreter. Who's the interpreter for?

50 CROWN PROSECUTOR: That's for CC.

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HER HONOUR: Right, okay. Have we got the interpreter coming for 10.00?

ASSOCIATE: Yes.

5

HER HONOUR: Right. So, okay. Yes, thank you. Nothing else to raise?

CROWN PROSECUTOR: No, your Honour.

10 TYLER-STOTT: No, your Honour.

HER HONOUR: Perhaps if a document in relation to the errata, Mr Crown, can be forthcoming by – soon.

15 CROWN PROSECUTOR: We'll have that in the morning, first thing in the morning.

HER HONOUR: Okay, all right, thank you. I'll adjourn, 2pm – 10am.

20 ADJOURNED TO THURSDAY 4 AUGUST 2022

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IN THE DISTRICT COURT
OF NEW SOUTH WALES
CRIMINAL JURISDICTION

5 JUDGE O'ROURKE SC
AND A JURY OF FIFTEEN

SIXTH DAY: THURSDAY 4 AUGUST 2022

10 **2019/00056907 - R v Wayne Gregory ASTILL**

STATUTORY NON-PUBLICATION ORDER

CLOSED COURT FOR EVIDENCE OF COMPLAINANTS

15

IN THE ABSENCE OF THE JURY

20 CROWN PROSECUTOR: Your Honour, just raising the issue of tendency. My
solicitor insists that your Honour previously received a tendency notice. I don't
know that you did but in any event, here's one.

25 HER HONOUR: All right. Thank you.

CROWN PROSECUTOR: And we've highlighted - very colourfully - various
parts of that which relate to the witness who gave evidence yesterday and
some of the issues that then gave your Honour pause about misconduct.

30 HER HONOUR: It was just about whether the agreed facts is relevant to the
trial really. And it is, it's part of the tendency?

CROWN PROSECUTOR: Yes, your Honour.

35 HER HONOUR: Right. It hasn't been opposed?

TYLER-STOTT: That's right.

40 CROWN PROSECUTOR: No. It's a very broad tendency notice. I can hand
that up now, in any event.

HER HONOUR: So it's relevant to misconduct charges.

45 CROWN PROSECUTOR: Yes, it is. And I open to that effect.

HER HONOUR: Do you propose going through the evidence again yesterday
concerning - for example - K - and there's misconduct charge in relation to her,
is there not?

50 CROWN PROSECUTOR: Yes.

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HER HONOUR: So the evidence that you rely upon for that is the visits to the BIU, the dustpan, the laundry incidents, things like that?

5 CROWN PROSECUTOR: Yes. And--

HER HONOUR: So I'm just trying to work out what's context evidence that the Crown's relying upon, and what's the evidence that goes to that count.

10 CROWN PROSECUTOR: Well, the--

HER HONOUR: Remember we were going to tell the jury what evidence is going to each particular count. With the misconduct charges, I know it's a bit broader, but it's--

15

CROWN PROSECUTOR: Yes. And I didn't go to that particular count for that reason, I must say, but to those misconducts, I haven't been doing it for that reason because it is much broader. But it incorporates - and I've opened to this effect - the sexual relationships - and in one case, as in G, inappropriate relationship, not in a sexual nature, but other behaviour which made those relationships inappropriate.

20

So it's pretty much everything so far as everything that he's done inappropriately in respect to those inmates; favours giving them contraband or giving them gifts in circumstances where it's - on the Crown case - to carry favour with them, as well as sexual. So it's a broad multitude of sins effectively.

25

HER HONOUR: You're not really relying on context evidence then, because that would feed into the misconduct charge.

30

CROWN PROSECUTOR: Yes.

HER HONOUR: So any real context that would be normally referred to as context evidence is going to be incorporated into the Crown's misconduct charge.

35

CROWN PROSECUTOR: Yes, your Honour. Some evidence is of a context nature where it relates to - I've led evidence from witnesses, various complainants, as to their state of mind. I've led that as context; I don't say that there's no evidence which is admissible as context. That's context to put into context why they have not--

40

HER HONOUR: Complained.

45

CROWN PROSECUTOR: --complained, delayed, why it continued.

HER HONOUR: Just going to be a bit of tiptoeing around landmines--

50 CROWN PROSECUTOR: It is.

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HER HONOUR: --in relation to..(not transcribable)..and the like.

CROWN PROSECUTOR: Yes.

5

HER HONOUR: Okay, and you say - and it's your position as well, Mr Tyler-Stott - that the agreed facts for those counts 37 and 43 are part of the tendency for the misconduct charges that the Crown's--

10 TYLER-STOTT: Yes, I can see that, your Honour.

HER HONOUR: And of course at the end of the trial, before you close, Mr Crown, if you could just help me with my summing up so that I know how you're utilising - the Crown utilises the tendency evidence; if that could be articulated before you close it or submit it to the jury.

15

CROWN PROSECUTOR: I'll make a note of that. We'll do that in document form, so your Honour--

20 HER HONOUR: That's okay. No, you just need to tell me, just so that I can encompass that within the tendency direction.

CROWN PROSECUTOR: Yes, your Honour.

25 HER HONOUR: Okay, well we've got a witness on screen now, so we might as well utilise - are you ready for the jury?

CROWN PROSECUTOR: Yes, your Honour. We can return to errata later in the day.

30

HER HONOUR: Yes, well when we have a gap. Just while there's a witness available. And so this witness is?

CROWN PROSECUTOR: This is X, also known as X.

35

HER HONOUR: X. Okay. Yes, did anyone see an interpreter? We have someone ordered for 10 o'clock. No one's popped in?

40 CROWN PROSECUTOR: No, we haven't seen one. The Indian interpreter was for today for the next witness, so we can push it back in the day. It's Ms CC.

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IN THE PRESENCE OF THE JURY

HER HONOUR: Yes, good morning, ladies and gentlemen. We're ready to proceed. Yes, Mr Crown, your first witness for today?

5

CROWN PROSECUTOR: Yes, your Honour. I call X. I see she's on the screen.

AUDIO VISUAL LINK COMMENCED AT 10.11AM

10

HER HONOUR: Okay, yes. Ms X, can you hear and see me? I cannot hear you, though. I'll just double check to make sure. Now, can you hear me?

WITNESS: Yes, I can.

15

HER HONOUR: Okay, we can hear you now, so that's good.

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<X AFFIRMED(11.12AM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

5 Q. Is your name X?

A. Yes, it is.

Q. Were you previously in custody, including in the Dillwynia Correctional Centre?

10 A. Yes.

Q. When you were in custody, was your name X?

A. Yes, it was.

15 Q. After you'd been released, did you change your name?

A. Yes, I did.

Q. Was that back to your maiden name?

A. Yes.

20

Q. As it used to be called. Perhaps archaic language, but in any event. When you were in Dillwynia, were you in protective custody in the high needs section?

A. Yes, I was.

25

Q. Were there, to your memory, about 20 inmates within that protection in that particular house?

A. Yes, generally around that number.

30 Q. And was it the situation that they all had their own cell, everyone had their own cell in there, or not?

A. The majority of us had our own cells. There were a couple of three outs, which new inmates to the house went into.

35 Q. Now, did you have a key to your own cell?

A. Yes, we did.

Q. That may seem a bit strange to people. What was that about, why did you have your own--

40

HER HONOUR: Just wait, Mr Crown. I don't know why it is, but - there, there you go. Thank you.

WITNESS: Sorry, can you repeat the question?

45

CROWN PROSECUTOR: That's all right.

Q. Why did the inmates have their own cell key--

50 AUDIO VISUAL LINK COMMENCED AT 10.14AM

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HER HONOUR: Hold on, Mr Crown, again. I'm sorry, but is this a witness for us, or not?

5 CROWN PROSECUTOR: Yes, your Honour, it is. It's the witness, Ms CC, who's--

HER HONOUR: Well, perhaps she can be told to not dial in yet. I'm sorry, excuse me, we're dealing with another witness at the moment. Can you just
10 not dial in till you hear from the DPP?

SPEAKER: Okay.

HER HONOUR: Thank you.
15

AUDIO VISUAL LINK CONCLUDED AT 10.14AM

CROWN PROSECUTOR: Thank you, your Honour.

20 WITNESS: Yes, we all had our own keys which was just that, when we left our cell, if we were going to work or clinic things like that, we could lock the cell just from the outside, so then we didn't have to worry about other inmates going into our cell.

25 CROWN PROSECUTOR: All right.

Q. Now, Dillwynia was known as a working jail, wasn't it?

A. Yes.

30 Q. Did you have jobs when you were there?

A. Yes, I did.

Q. Did you work in the hygiene area?

A. Yes.

35

Q. Did that include cleaning the administration building?

A. Yes, it did.

40 Q. Did it also include cleaning the visits area, and various parts of the high needs section of the jail?

A. Yes.

Q. Were you also a stores manager?

A. Yes, I became the stores manager.

45

Q. When you started working in the hygiene section in the protection area, did you work with H?

A. Yes, I did.

50 Q. Did you work with another inmate by the name of Tanya, with a Y,

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Mondosca, spelt--

A. Yes.

Q. --M-O-N-D-O-S-C-A?

5 A. Yes.

Q. Now, did you go to Dillwynia Correctional Centre in March 2017?

A. Yes.

10 Q. After you went there, did you meet an officer by the name of Wayne Astill, Mr Astill?

A. Yes, I did.

Q. How long after you moved to Dillwynia did you come across him?

15 A. In the first couple of weeks I was there.

Q. As to the general correctives officers - so, the lower ranked officers - was it the case that, as inmate, you'd deal with them every day?

A. Yes, we did.

20

Q. And did you ever have reason to see one of the chief correctional officers?

A. Yes, there - a few different reasons. Yeah, protection status, category status. They helped me with when I was getting a divorce, to be able to sign legal documents. And also behavioural issues of inmates.

25

Q. What, discipline?

A. Yes.

Q. So far as your category status, was there any review of that process that was undertaken?

30

A. Yes. Normally, with the category status, that was every 12 months.

Q. Now, people in the hygiene section, how often would they work with the chiefs, or have contact with them?

35

A. It could be every day. Yeah, it would vary. So maybe once or twice a week, or it could be every day on a particular week.

Q. Would that include cleaning the chief's office?

A. Yes.

40

Q. Now, how did you get access to those offices? Were they always open, or were they locked or did you need to get let in?

A. We would need to get let in, unless they happened to be in the office at the time.

45

Q. And, in your role there, was it your understanding that you should be accompanied, there should be somebody with you when you were in there attending to your duties?

A. Yes. Yes.

50

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Q. And is that something that happened whenever you were in there?

A. If - we were with our overseer, which was generally doing administration and visits, and other than that, yes, there was always meant to be someone there with us, so - at all times.

5

Q. Did you ever hear Mr Astill make any comments in particular which you remember, to you or that you heard to other inmates?

A. He would made - always make comments about maybe how a girl looked in her clothes - you know - so it could be - you know - "Nice shorts." Things like that, but it was just the way that he said it. He made a comment to me once regarding when I had issues with the stores key, which used to be kept in my cell. There was issues of other girls trying to get it. I approached him regarding this and he said I should hide it. And then I said, "Well, the officers need to know where the key is." And he said, "Well, how about you box it?"

10
15

Q. Had you heard that expression before?

A. Yes.

Q. What do you understand that to mean?

20 A. That's to hide something within your vagina.

Q. I want to ask you now about around the middle of 2018. Near the chapel.

A. Mm.

25 Q. Do you remember where that is?

A. It's--

Q. Do you remember--

A. Yeah. Sorry?

30

Q. Do you remember an inmate by the name of CC?

A. Yes.

Q. Did something happen there at that time that you remember?

35 A. Yes. We were sitting outside the chapel on one of the benches, just sitting in the sun. And Wayne Astill approached us. I can't remember exactly what the conversation was, but while he was standing there, he put his foot up on the bench, and so his crotch was right in my face. I - yeah, I had to turn away, and it was - it felt to me sort of like a power play thing, I'm not sure, but I was
40 pretty disgusted by it.

Q. When you say his crotch was right in your face--

A. Mm.

45 Q. --how far away from your face was it at the closest?

A. I don't know. Maybe about 30cm?

Q. Did he say anything before or during that time?

50 A. I think it was just a very general conversation. I can't exactly remember what it was about.

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Q. And how did that come to an end?

A. I think--

5 Q. His crotch was there, and--

A. I think at that time, we had to go back up to the house, because we only had limited time out in the main compound.

10 Q. Did you ever have any physical contact - was there any time where Mr Astill, any part of Mr Astill, touched any part of you?

A. Yes. He - particularly when I was cleaning. He would brush past me a lot. Particularly if it was in a smaller space. There was one time where I was cleaning. I'm not sure - I think it was in the administration building and I was bent over and he came past me and tapped me on the bottom.

15

Q. I want to ask you now about an inmate of H. Did you ever see H interacting with officers?

A. Yes.

20 Q. Was there any particular way in which she would interact with them?

A. She was very flirty with the male officers.

Q. And how did that take form? What do you mean by flirty?

25 A. Just flicking of her hair - sorry - just flicking of her hair, just her body language, her tone of voice, things like that.

Q. You've described that as being directed at male officers; did you see that include Mr Astill or not?

30 A. Yes.

Q. I want to ask you now about the lockdown procedure.

A. Mm.

35 Q. When the officers would lock you down, did the officers actually lock the cells or did the inmates and the officers?

A. The officers, yes.

Q. And who would do that?

40 A. Normally the - the general officers that we had every day.

Q. And so far as the chief - whoever was on as the chief at the time - did they have a role to play in the lockdown process, or checking it, or anything like that?

45 A. Yes, generally they would be there. Just to sort of double check - you know - if they had anything to say to the inmates, things like that.

Q. Did you ever see Mr Astill remain after the lockdown?

A. Yes, I did.

50

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Q. Was this the procedure with the lockdown; was there initially a muster - as in, like a headcount? Is that how it worked?

A. Yes, it was like a roll call. Yes.

5 Q. And it was after that roll call that the women would go into the cells?

A. Yes. Yes, the door would be locked behind us, and then the officers would come back along and check that each door was locked.

Q. So during the muster itself, before the lockdown--

10 A. Mm-hmm.

Q. --where did that take place?

A. We'd all be standing outside of our cell doors. Within the house.

15 CROWN PROSECUTOR: Just give me a moment.

Q. You've told us that you recall Mr Astill remaining after the other officers had left.

A. Yes.

20

Q. Was that on more than one occasion, or just one occasion?

A. More than one occasion.

25

Q. Are you able to say - even roughly - how many times you would have seen that?

A. Probably - probably around three or four times, at least, that I remember.

Q. Do you remember on any of those occasions any particular conversations that he had, or what he was doing?

30 A. Normally - I think most of the time - he actually went over to H' cell door.

Q. So this is after the inmates are locked in?

A. Yes.

35 Q. How were you able to say that you believe it was over to H' door; what makes you think it was that?

A. Because H - her cell was right next to mine. And so I - to a point, I could see where he was walking to. And sometimes I could hear some of the conversation - it wasn't always clear though.

40

Q. How long would these conversations go on for?

A. Sometimes they were only ten minutes. I do remember one which was quite long. So, it might have been twenty minutes or more. I actually thought that he'd left, but then I could - then started hearing him again.

45

Q. Do you remember any times when H was called to the chief's office?

A. Yeah, fairly regularly.

50

Q. Before going to his office, did she ever say anything to you, or ask you anything?

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- 5 A. Yes. Generally if we were out in the compound, she would ask if I could hang around near the office. As you could see into the office because there was a window there, and I would stand outside and sweep or pretending I was doing cleaning, or things like that. She generally wanted someone there, so.
- Q. Who was the chief during those occasions, or did that happen with more than one chief?
- A. Well, there is more than one chief. Sometimes she would see other chiefs, but generally it was Wayne Astill who would call her in there.
- 10 Q. But as to these comments or requests that you oversee her, as it were, or hang around, who was the chief during those - when she'd ask you--
- A. Wayne Astill.
- 15 Q. Was there a door on Mr Astill's office, high need?
- A. Yes.
- Q. When you saw H go in there, did you see whether or not the door remained opened or was closed?
- 20 A. It - he always would close it.
- Q. When you had occasion to go in and see Mr Astill, did he close the door or not?
- A. Yes, he would close the door with the majority of the inmates in the protection house.
- 25 Q. Did you know another person by the name of N?
- A. Yes.
- 30 Q. Did you work in hygiene with her?
- A. She is part of the general population, but she would come to the protection house to pick up stores, different things like that. We both worked in hygiene, but just in different areas. We were also on the inmate development council, so the IDC.
- 35 Q. When she came to that protection house that you were in, was that to collect stores and do the linen?
- A. Yes.
- 40 Q. Was there any other reason you ever saw her go to the high needs area?
- A. If her - we all had case officers. If her case officer happened to be working in the high needs area, and she was up for review, sometimes she would have to come up for that. But generally other than that, no, there was no need for her to be there.
- 45 Q. Did she ever go, that you saw, into Mr Astill's office?
- A. Yes.
- 50 Q. How many times did you see that happen if it was more than once?
- A. It could've been at least once every two weeks, maybe, sometimes more

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than that.

Q. Did his office move at some stage?

A. Yes, it did.

5

Q. When you were telling us earlier about H going into his office, was this the earlier office, or the later office?

A. The early office. The first one.

10 Q. I say either, one or the other, but was it only that one or was it both?

A. He - it was only when he was in the original office that H would ask me to stand sort of outside the door. When the office moved, it was a bit harder to be able to do that.

15 Q. Do you remember when, even roughly, when it was that Mr Astill moved offices?

A. It was 2018, maybe halfway through the year. I'm not sure.

20 Q. When Ms N was going to visit Mr Astill, was that in one or both of the offices. Do you remember?

A. Initially it was in the first office, but once Mr Astill moved into the other office, it was always in there. The first one wasn't used as a chief office anymore. Often one of the senior officers might've gone in there, like the senior officer on duty for that day.

25

Q. With respect to Ms N, did you notice her having any particular items which caught your interest?

A. Just she always had a lot of expensive things from the buy up.

30 Q. What sort of things?

A. Shoes, a lot of makeup, headphones, radio, a lot of the clothing which you could buy, which some of that was a little bit expensive, so yes.

Q. With the makeup--

35 A. Sorry.

Q. That's all right. With the makeup could you get that as a buy up?

A. Yes. Yes, that was on the - what was called the activities buy up.

40 Q. What about hair colour. Could you buy that?

A. No. We - well, there was just - yeah, there was three different colour dyes you could buy, like blonde, brown and black.

45 Q. Was there anyone else, any of the other inmates in particular, that you frequently noticed going to Mr Astill's office?

A. O was fairly regular, and J and I.

Q. O, did you get to know her?

50 A. Yes. Yes, I got to know her quite well. She started working in hygiene with me.

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Q. Were you aware of her family situation?

A. Yes, I was.

5 Q. What was that?

A. Her oldest son was with his father, so her ex-husband, and the two younger children were both in foster care.

Q. Do you know whether she had any contact with the eldest boy?

10 A. No. She had no idea where they were at all.

Q. Did she speak to you about any efforts she was making to locate the eldest son, and communicate with the others?

A. Yes. Yes.

15

Q. What did she tell you she did?

A. She tried initially sort of through family, and then I'm pretty sure it was through FACS, and then she asked Wayne Astill if he could help her.

20 Q. Did O, she was in the protection area with you?

A. Yes.

Q. Did she work in hygiene some of the time that you were there?

A. Yes, she did.

25

Q. Was that the later period that you were there?

A. Yes. Yes, it was.

Q. You told us about "I".

30 A. Mm-hmm.

Q. I think you said that you saw her frequently going to Mr Astill's office?

A. Yes.

35 Q. Do you remember whether that was the earlier office, the later office, or both?

A. Both.

Q. Roughly how many occasions would you have seen her go to Mr Astill--

40 A. Maybe every once - yeah, once every couple of weeks. It would often depend, too, if Wayne Astill was, so, allocated to our area, but he still quite regularly would just come up to the area anyway.

Q. Now, you said that part of the chief's responsibilities were dealing with disciplinary matters?

45

A. Yes.

Q. Was it the situation that "I" was somebody who'd got into some trouble?

A. Yes.

50

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<CROSS-EXAMINATION BY MR TYLER-STOTT

- Q. You arrived at Dillwynia around 9 March 2017, does that accord with your recollection, yes?
- 5 A. Yes.
- Q. How long after your arrival did you come to know, H?
- A. Within the first few days.
- 10 Q. And when did you start working with Ms H?
- A. It was maybe around a month or two after I was transferred to Dillwynia.
- Q. Within that month or two, did you observe Ms H in this flirtatious behaviour with Mr Astill?
- 15 A. Yes.
- Q. And following that month or two as well?
- A. Yes.
- 20 Q. You've given evidence of the occasion that you felt Mr Astill tap you on the bottom. Was that in a small area that that happened?
- A. Yes. Yes, it was.
- Q. Did you see what it was that touched your bottom?
- 25 A. Yes. I - I knew that he was there within the building, and he was the only one, and he walked right behind me, so I knew that it was him, and he touched me with his hand, I'm pretty sure.
- Q. When you say you're pretty sure, you're not sure, are you?
- 30 A. Well, I assume that he touched me with his hand.
- Q. You've given some evidence about Ms N?
- A. Mm.
- 35 Q. Did she have greater access to areas of the prison than you did?
- A. Yes, I think she did. Normally the general population did have a little bit more access to areas, just because they could walk around the jail freely.
- Q. Ms O--
- 40 A. Yes.
- Q. --did she say to you that she sought Mr Astill for assistance--
- A. Yes.
- 45 Q. --concerning her child?
- A. Yes.
- Q. What were your observations about Ms O and her interactions with Mr Astill?
- 50 A. It was always, I suppose, a little bit of a joke that, when Mr Astill was

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working in our area, O would always put makeup on and make her hair look nice and things like that. So - and then, 99% of the time, Mr Astill would turn up in the high needs area.

5 Q. This is not to do with Ms O, but when you were in your cells, did you keep your property, like letters, in any receptacles, or just loose around your cell?
A. No, mine were always just kept together in a plastic sleeve, so.

10 Q. Did you have boxes, also, within your cell that you could put property within?
A. No, we weren't allowed to have boxes in our cells. We just had shelves, a desk, things like that.

15 Q. What about a shoebox?
A. No. If - when things like boxes were found by officers, generally they would get rid of them.

20 Q. I'll suggest to you that Mr Astill did not tell you "box it", he said to put it in a box?
A. No.

<RE-EXAMINATION BY CROWN PROSECUTOR

25 Q. Ms X, you said that you assumed that he touched you on the bottom with his hand, you assumed it was his hand?
A. Mm.

30 Q. What made you think it was his hand?
A. I think just because it felt like it would've been his hand. So - yeah.

CROWN PROSECUTOR: That's re-examination, your Honour.

35 HER HONOUR: Yes, thank you. Yes, thank you, Ms X, that concludes your evidence. Thank you very much.

WITNESS: Thank you.

<THE WITNESS WITHDREW

40 AUDIO VISUAL LINK CONCLUDED AT 10.46AM

HER HONOUR: Yes, Mr Crown.

45 CROWN PROSECUTOR: The next witness, who made a cameo appearance earlier prematurely, is CC.

HER HONOUR: Yes.

50 CROWN PROSECUTOR: I call her.

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HER HONOUR: Is this the one that requires the interpreter?

CROWN PROSECUTOR: Yes, your Honour.

5 HER HONOUR: Let's see if we have the interpreter first. Perhaps your solicitor could go out and just see if there is an interpreter out there.

HER HONOUR: No? Can we go to a next witness?

10 CROWN PROSECUTOR: Yes, your Honour. Your Honour, we'll ask now T to call in. She's at a police station on the south coast.

HER HONOUR: Yes.

15 CROWN PROSECUTOR: She's about one minute away, I'm told, your Honour.

HER HONOUR: Yes, that's fine.

20 CROWN PROSECUTOR: The Nowra Court House. At the police station--

HER HONOUR: At the what Court House?

25 CROWN PROSECUTOR: Nowra Court House. And the sheriff's taking her into the room.

AUDIO VISUAL LINK TO NOWRA COURT HOUSE COMMENCED AT 10.53AM

30 HER HONOUR: Yes, Ms T. Can you see and hear me?

T: I can, yes.

35 HER HONOUR: Okay. Thank you. Would you like to give your evidence by oath with the religious aspect to it, or an affirmation, a promise to tell the truth?

T: Religious.

40 HER HONOUR: Okay. Just listen to the court officer, and she'll administer the oath to you.

T: Okay.

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<T, SWORN(10.53AM)

5 HER HONOUR: Thank you very much. Now, just listen. Mr Crown will just ask you some questions. Just listen to the questions and just answer what the questions are for you. Thank you.

WITNESS: Thank you.

10 <EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

Q. Is your name T?

A. Yes.

15 Q. Ms T, were you an inmate at Dillwynia Correctional Centre between August 2016 and May 2018?

A. Yes.

20 Q. During the time that you were there, did you spend about 12 months as a SMAP prisoner?

A. Yes.

25 Q. On 28 March 2017, were you in the SMAP, were you being housed at SMAP then?

A. Yes.

Q. I want to ask you about what you saw after 8.30am that morning, when you went to see the principal's office in the high needs area.

A. Mm-hmm.

30 Q. Now, did you go there with anybody else?

A. Yes. O.

Q. What were you going there in relation to?

35 A. I can't remember to be sure, but it was a problem within the house with other inmates.

Q. Was this something that would happen; there would be sometimes friction between inmates?

A. Yes, definitely.

40 Q. Now, you said you went to the principal's office. You know the difference between principal corrective services officer and a chief correctional officer?

45 A. No, we just went to the principal's officer - office and there was a chief in there - like there was an officer in there. It was normally a higher ranking officer that you would take your problems to.

Q. And who was the chief officer when you went there that time?

A. Mr Astill.

50 Q. So when you and Ms O went there, did you go into the office?

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A. I think we just spoke to him at the door and he said that he would call me back later.

Q. Do you remember whether the door was open or closed?

5 A. It was open slightly.

Q. Were there any other officers in that vicinity? That is, officers - corrective staff.

10 A. No.

Q. Were you able to see into the office?

A. Yes.

Q. What did you see, Ms T, when you looked in?

15 A. H was inside the office.

Q. Now how was she positioned in the office?

20 A. So H was kneeling down beside - it's like, you walk in and there's a table. And he was sitting behind the table. I could see his face and the top half of him, and I could see him - her kneeling down, the back of her. I knew that it was her because of her long hair. And I could see, like the - like, her head - her hair and her kneeling beside his - his - his bench - kind of - his table.

Q. You say he was sitting down; you mean Mr Astill?

25 A. Yes. He was sitting down facing the door. It was not actually the door. When I walk in, he - he's looking straight ahead. I would have been on the left of him. That's where the door was positioned. So when I looked in, I looked to my right and that was the table so I could see her from - like - this way. She was just sitting there on the - on the end there.

30

Q. Were you able to see her face or not?

A. No, I couldn't.

Q. Why is that?

35 A. Because she was facing him.

Q. And when you say you recognised the hair, were there any other SMAP inmates that had the same hair?

40 A. No. No. She had very long hair down - down just before her bottom started. And it was very distinctive. It was like a bleach blonde.

Q. Could you see what she was doing - if anything - as she was kneeling down?

45 A. No, I couldn't.

Q. How close to him was she?

A. It seemed very close. It looked close.

50 Q. How close was her face - for example - from his crotch area? Can you put a distance on that for me?

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A. I couldn't actually give you a distance. It was close.

Q. Can you give me an approximate? Even indicating with your hands if you're able to do that?

5 A. Maybe this?

HER HONOUR: 20, 30 cm.

CROWN PROSECUTOR: Yes.

10

Q. 20, 30 cm?

A. Yeah. Yeah.

CROWN PROSECUTOR: Excuse me, your Honour.

15

Q. When you say you couldn't see her face because she was facing him, are you able to describe better her head position at that time?

A. No. At that time, it seemed her head was upright like this. Like - like how I'm sitting now.

20

Q. So how were you able to--

A. I couldn't - I couldn't really tell because of the way her hair and her back was. It was hard to tell. You know, like when you've got long hair at the back. If you've got your head like this, you can't tell because of - you know - your hair covers everything. So it was really hard to tell.

25

Q. Was she closer to you than Mr Astill?

A. No, definitely not. No.

30

Q. There's you, Mr Astill; was she on this side or Mr Astill or was she on the far side?

A. Yeah. She was closer to Mr Astill.

Q. Perhaps I've asked this poorly, but you're looking in, you can see Mr Astill sitting down?

35

A. Yep.

Q. Was she on your side of Mr Astill, or on the other side of Mr Astill?

A. She was on my side of Mr Astill, so I could see her fully, and then Mr Astill, and then you're talking about the other - the far side, I couldn't see.

40

Q. No, that's my clumsiness, that all right. Could you see her hands, her arms?

A. No, I can't recall. I don't think so, I'm not sure.

45

Q. Did she have any equipment with her at that time; cleaning equipment, that sort of thing?

A. Yeah, so she did have a vacuum cleaner at some stage. So this was - this was quite a few years for me, and a time I don't like to recall. But I do know that I went to that office a few times that day, and at one stage she did have a

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vacuum cleaner, but she didn't have it on her at this stage, no.

Q. How long did you stay at the door after you saw Mr Astill and you saw H kneeling?

5 A. No more than ten seconds. Five to ten seconds.

Q. Was anything said by Mr Astill or anyone else after you went there?

A. Yes, he's - yes, he told me that he would call me back. He'd call me up to the office.

10

Q. About 15 minutes after that, after you left that office area, did you again that day walk past that high needs office?

A. Yes, several times, yes.

15 Q. Did you see H again?

A. Yes.

Q. What did you see her doing, if anything, at that time?

A. So she was packing up a vacuum cleaner.

20

Q. How was she doing that?

A. She was rolling up the cord near the door. The door was opened.

Q. And where was it positioned? Was it inside an office, outside an office.

25

A. So you got the office door, it's fully opened, and she was like standing at the door, just on side - inside the door, and the vacuum cleaner was just outside, and she was just rolling the cord up.

30 Q. Was that outside the chief's office or the principal's office or somewhere else?

A. Yep, the - the chief's office, the principal's office.

35 Q. You used those sort of interchangeably. Do you know what I mean by that? Do you just call it principal's office or the chief's office the same thing, or?

A. Yep, it's the same thing, yes.

40 Q. About 15 minutes after you saw the packing up the vacuum cleaner, did you see her again?

A. Yes.

Q. What was she doing at that stage?

A. Vacuuming the office.

45

Q. Who's office?

A. Mr Astill's. So if - if he was the chief that day, it was his office, or it was just the chief's office or the principal's office, but he was the chief on that day.

50 Q. You've told us that that took place on 28 March?

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A. Mm-hmm.

Q. I'm sorry, 2017. It's 2017?

A. Yes.

5

Q. The following day, did you make a report about that?

A. Yes, I did.

Q. Who did you make that report to?

10 A. It was to another officer. So I don't recall if Mr Astill was on. I just - I don't know this officer's name, but I know that he was taller with short dark hair.

Q. Do you have your statement there?

A. I have it on my phone.

15

Q. Did you make a one page report which you dated, which said this, "I approached Mr Astill", this is your writing.

A. Yep.

20 HER HONOUR: Are you seeking leave for this? This is her statement, is it not?

CROWN PROSECUTOR: No, it's not, your Honour, it's a business record. I've spoken to my friend about it.

25

HER HONOUR: No objection?

TYLER-STOTT: No, your Honour.

30 CROWN PROSECUTOR: What I was getting at earlier, your Honour, was whether the witness had annexures, but she doesn't have them there.

Q. "I approached Mr Astill on 28 March, approximately 8.30am, informing I would like a chat in regards 2 some issues I have had in wing. I was told I'd be called later. Whilst waiting to be called, I noticed another inmate, H, kneeling in the office sometime chatting with Officer later. I witnessed"--

35

A. There's a lot of noise here. I can't hear you at the moment.

Q. Sounds like vacuuming. If I speak up, are you able to hear me?

40

A. Yeah.

CROWN PROSECUTOR: Don't how it'll affect the recording, your Honour, but I'll soldier on.

45 Q. "Was told I'd be called later. Whilst waiting to be called, I noticed another inmate, H, kneeling in the office sometime chatting with officer. Later I witnessed same inmate vacuuming office for 45 minutes plus. I believe this was inappropriate between the two". And did you go on to say on the form, "I wish to speak to a manager/governor"?

50

A. Yes.

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Q. Were you interviewed after you raised that complaint?

5 A. I don't remember the interview. I have seen the statement that I was provided in the beginning of the subpoena and stuff for this court case, and it has my signature on the bottom, and it is dated by me, but I don't recall this interview at all.

Q. All right.

10 A. I'm not saying it didn't happen, I just don't remember it.

Q. Very well. Do you know an officer, Brian Bartlett, Mr Bartlett, a senior officer at the jail?

A. I don't remember it. I don't remember a lot of the officer's names, sorry.

15 Q. Did you ever have any conflict with H at any time before that occasion you've told us about on 28 March 2017?

20 A. It wasn't really conflict. I think - I think was a house of 42 women, and from time to time everybody would get a bit, sorry for swearing, but bitchy towards each other, and I guess, H and I we clashed a bit, so we weren't best of friends. So we'd been in, you know, confrontations, nothing physical that I can't recall, just arguments.

<CROSS-EXAMINATION BY MR TYLER-STOTT

25 Q. Ms T, you had read to you a inmate application?

A. Yes.

Q. Just by the Crown just moments ago.

30 A. Yes.

Q. Can you explain what an inmate application is?

35 A. So those application forms for anything you want to do within the prison system, whether it be requesting special phone calls, medicals, anything you want to do, you have to put in an inmate request form, and that's the form.

Q. Do you recall ticking as to who it was to be referred to, the general manager?

A. I don't recall it, but I've seen it, and if it's ticked, then I've ticked it.

40 Q. I'm sure I'll be corrected by the Crown if it wasn't. But you've ticked, general manager. So what is that to reflect?

45 A. That's to reflect that I wanted to speak to somebody, a generally manager or somebody higher over the whole jail system. So not somebody just within my, you know, smack area, somebody that overlooks everything. That's what I would see it as. I don't know.

Q. Within the text, which is your handwriting, you've seen the document before, I take it?

50 A. I have, yes.

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- Q. You said: "I would like a chat in regards to some issues I have had in wing."
A. Yeah.
- 5 Q. "I was told I'd be called later. Whilst waiting to be called, I noticed another inmate, H, kneeling in the office."
A. Mm-hmm.
- 10 Q. "Sometime chatting with officer."
A. Mm-hmm.
- Q. Was she talking to Mr Astill when you saw her initially?
A. No, I actually couldn't hear her talking to him.
- 15 Q. Did you see--
A. If you look at - if you - sorry, what were you going to say?
- Q. I think I spoke over you, ma'am. Please tell us what you were going to say.
A. What I was going to say is, that inmate request form, I - I really rushed that, abbreviated words, that kind of thing. I was very brief, and - yeah, I did not hear her speaking.
- 20 Q. So do you know why you said the word chatting?
A. No, I don't.
- 25 Q. You go on to say later: "I witnessed same inmate vacuuming office for 45 minutes plus"?
A. Yes.
- 30 Q. Did you witness her vacuuming the office for 45 minutes?
A. Yeah, so you can actually see through them doors, and right in front of there is a garden area that I used to work in. I used to rake and stuff like that. So yeah, she was in there for a very long time, 45 minutes plus.
- 35 Q. But what I'm trying to understand is whether or not you saw her vacuuming for 45 minutes or you just presumed she was vacuuming--
A. I presumed that she was vacuuming.
- 40 Q. You didn't see her for the entire time?
A. Not the entire time, no.
- Q. And you could see through a window, did you?
A. I don't know - I can't recall if I could see through the window, but I do know that the door was slightly open, and I think the reason I thought that she was vacuuming for 45 minutes is maybe I could hear the vacuum. Yeah.
- 45 Q. When you were outside raking?
A. Yes, cause the door was open slightly. Cause I remember seeing her vacuuming as I went to that garden.
- 50

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Q. And did you say the door was open?

A. A little bit, yes.

Q. Was there anyone waiting outside the door?

5 A. I actually can't recall that.

Q. Did Ms H say anything to you after you put in the complaint?

10 A. No. I'm pretty sure - my - my remembering - like, my recognition of all of this is, shortly after I put in this complaint, I was shipped out from this jail. I was shipped to BIU, which is behavioural intervention unit, in Dillwynia Correctional Centre, which you go to after you've been in trouble. I was shipped - I was put there because I was waiting to go on a bus to another jail, back to Silverwater, and I stayed in there for up to two weeks waiting. So after I put in this complaint, that's my - I don't know how long after it just - me
15 remembering, that's how I feel happened. That's what happened.

Q. So did you speak to Ms H, what I'm trying to get at, about the complaint?

A. I would not have spoken to her about the complaint, no.

20 Q. Just please bear with me, I won't be much longer, ma'am.

A. Yeah, no, that's fine.

Q. Could it have been in August you were placed in the BIU?

25 A. It could've been.

NO RE-EXAMINATION

HER HONOUR: Thank you, Ms T, thank you for coming to give your evidence.
30 It's concluded now.

WITNESS: Thank you.

HER HONOUR: Thank you.

35 <THE WITNESS WITHDREW

AUDIO VISUAL LINK CONCLUDED AT 11.14AM

40 HER HONOUR: Yes, I think I did see someone that may have been the interpreter put his head in, so we'll see if--

CROWN PROSECUTOR: That is the interpreter, I understand.

45 HER HONOUR: Right, yes. The next witness?

CROWN PROSECUTOR: I call CC.

HER HONOUR: Yes.

50 AUDIO VISUAL LINK COMMENCED AT 11.14AM

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5 HER HONOUR: Now, how are we going to do the interpreter? He'll need to be in the witness box, I think. Yes come forward. Are you the Indian interpreter?

INTERPRETER: Yes.

10 HER HONOUR: Yes, come forward, we'll need you. We'll have you sworn, an interpreter oath, and have you in the witness box. The witness is actually giving evidence AVL, which makes it quite difficult, but we'll see how we go.

INTERPRETER, SWORN TO INTERPRET THE INDIAN LANGUAGE

15 HER HONOUR: Yes, thank you. Take a seat.

CROWN PROSECUTOR: Your Honour, before we continue, this witness has a significant amount of English, but the interpreter's being used for abundant caution. Is it your Honour's preference that the interpreter is used entirely, or only if the need arises?

20 HER HONOUR: No, only if need be.

CROWN PROSECUTOR: Yes, your Honour.

25 HER HONOUR: Yes.

CROWN PROSECUTOR: We have her on the screen, then.

30 HER HONOUR: She was on the screen. Yes. Can you hear us there, Ms CC?

CROWN PROSECUTOR: No response.

35 HER HONOUR: It wouldn't seem so. There are four, though, on the screen, you can see in the number of people. Have you got any notification that they're there?

40 CROWN PROSECUTOR: She was there, your Honour, unless she's left, but I've no reason to think she would.

HER HONOUR: Sorry, ladies and gentlemen. This happens so often, and it's very frustrating.

45 CROWN PROSECUTOR: Your Honour, if it continues to be a problem, I've got a live witness, as it were, outside who I can call.

HER HONOUR: Right. We've just got the interpreter here, though, we'd like to utilise him.

50 CROWN PROSECUTOR: Yes, of course. We'll have to call another witness,

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your Honour, I'm afraid.

5 HER HONOUR: Yes, I'm sorry, Mr Interpreter. Could you just take a seat
down there, and we'll have you recalled? It'll probably be, now, after morning
tea, so if you could return about quarter to 12, thank you.

AUDIO VISUAL LINK CONCLUDED AT 11.18AM

10 CROWN PROSECUTOR: We'll do everything in our power to sort it out once
and for all over morning tea, your Honour. I'm sorry about that.

HER HONOUR: Yes, thank you.

CROWN PROSECUTOR: I call Brian Bartlett.

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<BRIAN BARTLETT, SWORN(11.18AM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

- 5 Q. Is your name Brian Bartlett?
A. Yes.
- Q. Sir, did you previously work for the corrective services New South Wales, and retire on 17 January 2019?
10 A. That's correct.
- Q. Were you employed as part of your time as corrective services as a manager of security at Dillwynia?
A. That's correct.
15
- Q. And were you there between December 2016 and June 2017?
A. That's correct.
- Q. As the manager, was your role to do with day to day operations, staff rostering, security of the correctional centre, and being responsible to the governor, so you'd answer to the governor up the line?
20 A. That's correct.
- Q. And you were effectively, on the chain of command, one down from the governor?
25 A. That's correct.
- Q. Whilst you were in that role, do you receive a request from Governor, then, Ms Shari Martin, to interview inmates, O and T?
30 A. That's correct.
- Q. Did you understand at that time that there was an allegation of possible inappropriate behaviour by Chief Correctional Officer Wayne Astill?
A. Yes.
35
- Q. And that H was said to have been another party?
A. That's correct.
- Q. On 3 April, did you interview inmate O?
40 A. Yes, I did.
- Q. After interviewing Ms O, did you interview inmate T?
A. Yes, I did.
- 45 Q. I show you a document. Would you have a look at that document and tell the Court if you recognise it. It's sometime ago, so take your time to familiarise yourself.
A. Yes, I do recognise it.
- 50 Q. Did you receive that as part of this investigation?

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A. Yes, I did.

Q. So as part of the investigation and having interviewed Ms O, and T, did you speak to Mr Astill?

5 A. The day after I did. That would've been on the 4th.

Q. On that day did he say to you that Ms H was in his office, but did he deny any touching?

10 A. Yes, he did.

Q. Inappropriate touching?

A. Yes, he did.

15 Q. Did he say that he couldn't recall touching her, but if so, it was purely accidental?

A. Yes, he did.

Q. Did you ask him about whether or not H was kneeling down in his vicinity?

20 A. No, I don't recall, sorry.

CROWN PROSECUTOR: I tender the document that was just shown to Mr Bartlett.

25 WITNESS: Yes.

CROWN PROSECUTOR: It's inmate application of T, which was previously read with that witness.

30 EXHIBIT #K INMATE APPLICATION OF T TENDERED, ADMITTED WITHOUT OBJECTION

CROWN PROSECUTOR: If I continue on whilst that's being marked.

35 Q. You see in that document, Ms T said, "I noticed another inmate, H, kneeling in the office, sometime chatting with the officer. Later I witnessed some inmate vacuuming officer--

A. Yes.

40 Q. --office for 45 minutes plus. I believe this was inappropriate between the two".

A. Yes, that's correct. Yeah.

45 CROWN PROSECUTOR: There's jury copies of that document, your Honour. I wonder if that could be handed out.

HER HONOUR: Exhibit K ladies and gentlemen. This is the form filled in by Ms T. Is that right?

50 CROWN PROSECUTOR: Yes, your Honour. It's titled "Inmate application" in the name of T. Two page document.

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Q. Did you submit a report having carried out your inquiries, to the Governor?

A. Yes, I did.

5 Q. Was that on 4 April 2017?

A. That's correct, yes.

10 Q. You a copy of this, but do you accept this, that you wrote this under "Background" in the report, "At approximately 8.30am on Tuesday 28 March 2017 Inmate T attended the principal's office to speak with High Needs Chief Mr Wayne Astill. On arrival at the office, T saw Inmate H kneeling on the floor near a waste paper bin situated next to the desk where Mr Astill was seated"?

A. Yes, that's correct.

15 Q. It goes on, but with your words, "Shortly afterwards T left the area and informed Inmate O of what she'd seen. Then both inmates returned to the vicinity of the principal's office where O claims to have seen Mr Astill touch H on the thigh area whilst she was vacuuming the floor". Do you accept from me that I've read that from your report?

20 A. Yep.

Q. Did you take from that, that the concern that they were raising was that there may have been some sexual impropriety?

25 A. At first, yes.

Q. What did H have to say about that?

A. I didn't interview H at that stage.

30 Q. Did you ever interview her about that?

A. No.

HER HONOUR

Q. Why not?

35 A. At that particular time after interviewing the two parties involved, neither of them could give me any indication of a - that anything appropriate had happened, and you know, of a - of a sexual nature at that stage. Also too the fact that both parties who I interviewed were extremely fearful of this girl, and -
40 of - of Ms H, and there just didn't - in - in my opinion at that time it didn't seem to be any conclusive evidence that any sort of sexual inappropriate conduct had actually happened.

Q. Well, wouldn't you find that out by asking the person that it was concerning?

45 A. Yes, that - that is true, but the allegations were also against her, as well as him, and that there just didn't seem to be - I was more concerned at that stage, given the fact that when I interviewed the two of them, neither one of them were very - very sort of - would - neither of them have come forward and given me sort of any sort of conclusive information as to what occurred in there, or
50 what they saw. It was only the fact that O stated that she - that she saw Mr

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Astill touch Ms H' thigh. I interviewed - I just kept that. The next day I interviewed Mr Astill and just denied touching her, but may have done so by accident, given the fact that where Mr Astill claims he was seated, and she was in that area vacuuming the floor.

5

CROWN PROSECUTOR

Q. What did he say about her kneeling? Did you ask him about her kneeling down?

10 A. I can't recall the exact conversation with Mr Astill, but he - he claimed that - he said to me that he strongly denied touching her in any inappropriate way, and that if he did it was purely accident.

Q. You told her Honour that this was effectively an allegation against H as well, that she'd - I mean she done the wrong thing by the rules, hadn't she?

15 A. In - in the - in the applications that the two inmates submitted, indicated that there was inappropriate behaviour on both parties.

Q. Did you investigate H, or cause her to be investigated over this suggestion that she had this improper dealing with Mr Astill?

20 A. No, I didn't. I reported the matter in writing to the Governor of my findings at that particular time, at that point. I was bit concerned, given the fact that neither the two parties I interviewed were forthcoming with - with information, and that they both an intense dislike for Ms H. I was concerned that there was some of collusion there to try and implicate her to her moved or that. So I - that's what I reported to the Governor at that time, that it was in - I considered the matter as having inconclusive evidence at that stage, and that I would closely monitor it.

30 Q. But what was the monitor?

A. Well, any - any ongoing - this the first - I didn't have any prior knowledge of this information. I'd only come back to work after a long absence, and I didn't have any previous information to go on.

35 HER HONOUR

Q. But can you explain to me what was inappropriate about what H. Was she not an inmate?

A. Yes.

40

Q. Was he not an chief in the principal's office?

A. Yes.

Q. So what was to your mind the inappropriateness that she had done?

45 A. Well, it was only the inappropriateness of the fact that when these applications were received, that it was indicated by both the people I - I interviewed that they claimed the inappropriate behaviour on - by both of them.

CROWN PROSECUTOR

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Q. Did you have at that time any sort of social dealings with Wayne Astill?

A. No.

5 Q. What about the governor, Shari Martin?

A. No.

Q. Did she have any - to your knowledge - friendship with Wayne Astill at that time?

10 A. I don't know. No--

Q. You don't know? Did Tanya Hockey? Do you know that person?

A. That's - the name is familiar. But I can't actually - the - it's familiar.

15 Q. Do you remember whether Wayne Astill had a partner who was working at the gaol?

A. Yes, I do.

Q. What was her name?

20 A. That, I'm not sure of.

Q. Lianne O'Toole; did you know a person by that name?

A. Yes.

Q. What was her role?

25 A. She was the previous - she was the preceding manager of security to me.

Q. Your time at Dillwynia, did that ever overlap with hers?

30 A. No. She had left before I started, I think. She'd gone on leave before I commenced.

CROWN PROSECUTOR: That's examination-in-chief of this witness, your Honour.

35 HER HONOUR: Cross examination?

<CROSS-EXAMINATION BY MR TYLER-STOTT

Q. You mentioned that they were scared of Ms H. Did they go into why that was?

40 A. They cited to me that there were previous incidents. They wouldn't elaborate as to what they were. But they both claimed it. They were both very, very fearful of her, should - should anything - any - anything come of this where she became aware of these inquiries.

45 Q. Did you suspect that by talking to Ms H that that might cause issues within-

-

A. No, I didn't.

50 Q. --the gaol? No? Okay. Was it the case that Ms T said that she hadn't seen anything inappropriate in your interview with her?

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A. That's correct.

Q. Was there any mention of kneeling near a waste-paper basket?

A. Yes.

5

Q. And just on another topic, sir. Whose responsibility is it to ensure that cell doors are locked securely of an evening, for example?

A. That would be the officer in charge of the afternoon shift. Probably the night senior. Or whoever the senior officer was on that shift.

10

TYLER-STOTT: Thank you. Nothing further.

NO RE-EXAMINATION

15 HER HONOUR: Thank you. That's your evidence. You are concluded. You're free to go.

WITNESS: Thank you.

20 <THE WITNESS WITHDREW

HER HONOUR: We'll take the morning tea adjournment, ladies and gentlemen.

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IN THE ABSENCE OF THE JURY

HER HONOUR: Yes, so can we have Ms CC on the screen before we start?
Well, who else do we have today?

5

CROWN PROSECUTOR: Z, who will be in person. We have FF.

HER HONOUR: Right. Are these all just inmates with just observations?

10 CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: Or concerning H?

CROWN PROSECUTOR: Generally, yes.

15

HER HONOUR: There's no contest though in this case, is there Mr Tyler-Stott,
that there was a sexual relationship between your client and H?

TYLER-STOTT: Yes, your Honour.

20

HER HONOUR: It's just on the issue of consent.

TYLER-STOTT: That's right. And extent also.

25 HER HONOUR: And extent. You put to her that it only occurred around three
times. Is that right?

TYLER-STOTT: Yes.

30 HER HONOUR: Okay.

CROWN PROSECUTOR: Can I just say this, your Honour, in case your
Honour's wondering. The reason I'm calling this witness - I don't want to saw
sawdust - is the evidence of her concerns about not going to see him being at
35 odds with what appears the accused's case with respect to that witness.

HER HONOUR: Yes. I'll adjourn. Can we make sure that the interpreter
comes into court without his hat on, please.

40 CROWN PROSECUTOR: Yes, your Honour.

COURT OFFICER: All stand.

SHORT ADJOURNMENT

45

HER HONOUR: Yes, ready to go?

CROWN PROSECUTOR: Yes, your Honour.

50 HER HONOUR: Yes, we'll have the jury. Thank you.

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VIQ:SND

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CROWN PROSECUTOR: I can foreshadow, your Honour, that I think the way we're moving, we could add a witness to the witness list today of G. I've told Mr TylerStott that. But we'd need a s 77 for that.

5

HER HONOUR: Right. Can we do that quickly? Yes. We'll try and do that, then. And maybe a list for tomorrow. I'm just not quite sure what time - at the moment, I've got the day till 4, but if we were to finish a little bit earlier, I don't think anyone would be overly concerned.

10

CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: It's been a long week for the jury.

15

CROWN PROSECUTOR: Quite so.

HER HONOUR: And myself.

AUDIO VISUAL LINK COMMENCED AT 12.01PM

20

HER HONOUR: And the pronunciation of this witness's last name, Mr Hughes?

CROWN PROSECUTOR: I'm told it's CC, your Honour.

25

HER HONOUR: CC, right. Ms CC, can you hear me? Yes? Okay. We'll just get the jury. We won't be very long.

VIQ:SND

D6

IN THE PRESENCE OF THE JURY

HER HONOUR: Yes, thank you, ladies and gentlemen. Yes, Mr Crown, the next witness?

5

CROWN PROSECUTOR: Your Honour, I call CC.

HER HONOUR: Yes. And there is an interpreter. Mr Interpreter, would you like to come forward? We've had you sworn, did we not?

10

CROWN PROSECUTOR: We did.

HER HONOUR: We did, yes. You're on your former oath. Just come forward, and I think, Ms CC, when you need the interpreter, you just let us know, and he's here to assist you, okay? Yes, would you like to give your evidence under oath or affirmation? You need to turn your mute off. Ms CC, you've got your thing on mute, so there's no sound coming through. Could you turn that off, please? No. Is anyone there to assist you?

15

20 CROWN PROSECUTOR: It was working, your Honour, when we tested it.

HER HONOUR: Right.

SPEAKER: Can you hear us now?

25

HER HONOUR: Yes, we can now, thank you. That's better.

VIQ:SND

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<CC, AFFIRMED(12.05PM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

- 5 Q. Is your name CC?
A. Yes.
- Q. Were you previously at Dillwynia Correctional Centre?
A. Yes, I was.
- 10 Q. Did you arrive there in June 2017?
A. Yes.
- Q. When you went there, did they keep you in high needs section?
15 A. Sorry?
- Q. When you went to Dillwynia--
A. Yeah.
- 20 Q. --did they put you in the high needs area?
A. Yes.
- Q. When you first arrived, were you with two other women in your cell?
A. Yes.
- 25 Q. Was one of those women H?
A. Yes, H was in one out, yeah.
- Q. Till you were at the one out, did you say?
30 A. Yeah. Yeah.
- Q. So, did you move to the one out in September 2017, about three months after you arrived?
A. I met her in June when I first came in prison in Dillwynia.
- 35 HER HONOUR
- Q. Met her in June when I first came to Dillwynia?
A. Yes.
- 40 CROWN PROSECUTOR
- Q. So, were you in a cell with her for about three months at that time?
A. After the - when - in September, I was with her in three out.
- 45 Q. Did you spend a lot of time talking to H?
A. Yes.
- Q. Did you know an officer there by the name of Mr Astill?
50 A. Yes.

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CC XN

VIQ:SND

D6

Q. Did you ever speak to H about Mr Astill?

A. She used to talk, yeah. We used to talk, yeah.

5 Q. What did she say about Mr Astill?

A. That she feel uncomfortable talking or seeing her - seeing him.

Q. When she first said that to you, were you in the three out cell, or the one out cell?

10 A. I don't remember exactly, but - yeah.

Q. Do you remember how long after you went to Dillwynia H first said that to you?

15 A. Maybe in September, or - yeah. When we were in three out.

Q. When H went to Mr Astill's office, did she ever have anyone with her, any of the women with her?

A. Yes.

20 Q. Who went with her?

A. Ms Z.

Q. Did you hear any discussion before they went together between them, or not?

25 A. That - that she feel uncomfortable going by herself. So, yeah.

Q. I want to ask you now about times when Mr Astill would come to the area where you and H were being kept. All right?

A. Sorry, sir. I do not understand. Sorry.

30

Q. I'm going to ask you now about times when Mr Astill came--

A. Mm-hmm.

Q. --to your area of the cells. All right?

35 A. Mm-hmm.

Q. Did H ever say anything when Mr Astill was on his way to visit?

A. Yeah, she used to say that - that - tell him that I am in the shower.

40 CROWN PROSECUTOR: Excuse me, Your Honour.

Q. Did she ever do anything when you heard that Mr Astill was coming over, apart from what she said?

45 A. She just used to say the girls, like, "If you see him coming, just tell him that I'm in shower," so I don't really know.

Q. I just want to ask you about the lock-in procedure.

A. Mm-hmm.

50 Q. Is there a muster before you have the lock-in?

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A. Yes.

Q. In the afternoon?

A. Yes.

5

Q. And once your name is called out and you're checked off the roll, do you go back into your cell?

A. Yes.

10 Q. Did you ever see Mr Astill in the area after the lockdown?

A. Yes.

Q. And what was he doing on those times?

15 A. Probably sometime he stand near H's cell and talking with him - talking with her. Sorry.

Q. Did you ever see him do that with any of the other women in the time you were there?

A. No. No, I don't remember. No.

20

<CROSS-EXAMINATION BY MR TYLER-STOTT

Q. Ma'am, when you were locked in after muster--

A. Mm-hmm.

25

Q. --was it around that time that you saw Mr Astill?

A. Sorry?

HER HONOUR: Maybe use the interpreter.

30

TYLER-STOTT: Yes.

Q. Was it around the time of lock-in that she saw Mr Astill?

A. : Yes.

35

INTERPRETER: Yes.

TYLER-STOTT

40 Q. And you've said you think it was around September 2017 that H may have said that she was uncomfortable?

A. It happened before as well, like - not particularly she said. I saw the things - that things were, like, happening. So that's what - particularly because I was very new in the prison that time, so I didn't get a lot of things. I didn't
45 understood a lot of things that time.

Q. Is it hard to remember specific times when things occurred?

A. Yes.

50 Q. Including when you made observations or spoke to Ms H about being

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uncomfortable?

A. Yeah, particular time, it's really hard for me to remember.

TYLER-STOTT: Thank you, ma'am.

5

NO RE-EXAMINATION

HER HONOUR: Thank you, Ms CC. Thank you for giving your evidence. It's finished. Thank you very much.

10

WITNESS: Thank you.

HER HONOUR: And thank you, Mr Interpreter. Wasn't used that much, but thank you very much for coming. Thank you.

15

<THE WITNESS WITHDREW

CROWN PROSECUTOR: I call Peter Barglik.

VIQ:SND

D6

<PETER BARGLIK, SWORN(12.15PM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

- 5 Q. Sir, is your name, Peter Barglik.
A. Correct.
- Q. Do you spell your surname B-A-R-G-L-I-K?
A. Yes.
- 10 Q. And are you employed by Corrective Services?
A. Yes, I am.
- Q. What's your rank now, Mr Barglik?
15 A. First class.
- Q. First class correctional--
A. Correctional officer.
- 20 Q. Officer. Thank you. Were you previously working at Dillwynia Correctional Centre?
A. Yes, I'm still employed at Dillwynia.
- Q. Still there. All right. And did you first meet a man by the name of Wayne Astill around 2009 at Dillwynia?
25 A. Yes.
- Q. Do you remember what rank he was at the gaol at that time?
A. He was a senior correctional officer.
- 30 Q. Were there ever occasions whilst he was at the gaol where he would direct any particular searches of inmates?
A. Yes.
- 35 Q. Now, what rank was he when he would do that?
A. He was acting in a chief's position. As the chief correctional officer.
- Q. Did he say anything about why particular inmates would be chosen?
A. Can't really remember. But if he was acting - well, when he was acting in
40 the intel position, I would just assume that it would be in regards to intel.
- Q. Were you aware that there were inmates he did not have a good working relationship with?
A. There were times that it seemed--
- 45 TYLER-STOTT: I object, your Honour.
- CROWN PROSECUTOR: Your Honour, excuse me.
- 50 HER HONOUR: Give evidence about his observations, but not his opinion.

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BARGLIK XN

VIQ:SND

D6

CROWN PROSECUTOR: Your Honour, I have an application under section 38 with respect to some evidence the witness gave a moment ago before that.

5 HER HONOUR: Well, did you want to go to 32 first or?

CROWN PROSECUTOR: I can't, your Honour, by virtue of the date of his statement. It doesn't permit section 32 by virtue when the statement's made. That's why it goes straight to 38.

10

HER HONOUR: Right. Well, I have no idea what's going on here, ladies and gentlemen, so I just have to ask you to step into the corridor for a second. And Mr Barglik, if you could just step outside for a minute while I just hear Mr Crown.

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IN THE ABSENCE OF THE JURY AND WITNESS

HER HONOUR: Okay, so what is - can I have a look at the statement?

5 CROWN PROSECUTOR: Yes. May I approach?

HER HONOUR: Yes.

10 CROWN PROSECUTOR: Paragraph 5, your Honour.

HER HONOUR: Well, what was the question that you asked of him? Whether he--

15 CROWN PROSECUTOR: It was to the effective of whether he ever indicated any basis for selecting which inmates were to be searched.

HER HONOUR: So that was a question back--

20 CROWN PROSECUTOR: That was questioned a little way back. And he said he assumes it was based on intel.

HER HONOUR: "I can't remember. I assume it was based on intel," is what he said.

25 CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: And your objection to that question, was the objection on the basis of, what, opinion without a basis?

30 TYLER-STOTT: Yes. On the question he was about to answer, it seemed - that's where I jumped up.

35 HER HONOUR: Even on his statement, though, Mr Crown, you need more than that, don't you? Don't you have to say why? Because it's effectively an opinion. He says: "There were times when Astill would ask for targeted searches on inmates which he did not have a good working relationship with." Well, what's that based upon?

40 CROWN PROSECUTOR: Well, he's likely to answer that, but I confess, that might be best done in the absence of the jury, I ask him that. Because I suspect he'll say it was what he was told. But he may not.

45 HER HONOUR: Because you have to be careful. Whether he liked, whether he disliked the accused, his opinion as a correctional officer is not relevant to the trial. It's only what he saw, heard, and observed.

CROWN PROSECUTOR: Precisely. And that's why I haven't got his impressions of the officer.

50 HER HONOUR: Yes, but it's the impression that, on inmates which he did not

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5 have a good working relationship with. What's that based upon? There's no expansion of that in the statement whatsoever. "He'd make inappropriate comments about inmates he thought were attractive." Well, again, what were the comments, who were the inmates, and what was the basis for it? It's like basically his assessment of his character.

CROWN PROSECUTOR: Well, your Honour, I'd ask that I be able to ask the witness those questions in the absence of the jury to see if it's based on--

10 HER HONOUR: But this is the statement that you've been provided. Have you conferred with this witness?

CROWN PROSECUTOR: No, I haven't.

15 HER HONOUR: Well, you might need to do the proper way of conferring with him, and if there's an additional statement to be taken, rather than ambushing Mr Tyler-Stott, that you have a statement taken from him expanding his observations, and then serve that upon defence.

20 CROWN PROSECUTOR: I don't press the application for s 30. I'll move on, your Honour.

HER HONOUR: Okay. Yes.

25 MFI #12 STATEMENT OF PETER BARGLIK

HER HONOUR: So you're ready to proceed with the matter?

CROWN PROSECUTOR: Yes, your Honour.

30

HER HONOUR: With this witness?

CROWN PROSECUTOR: Yes, your Honour.

35 HER HONOUR: Yes, thank you. Can your solicitor please get the witness in, please?

IN THE PRESENCE OF THE
WITNESS

40

HER HONOUR: Just come back into the witness box, please. You're on your former promise to tell the truth. Take a seat, yes.

WITNESS: Thank you.

VIQ:SND

D6

IN THE PRESENCE OF THE JURY

HER HONOUR: Yes, thank you, ladies and gentlemen, we've sorted that out. Mr Crown withdraws the application. Yes, thank you, Mr Crown.

5

CROWN PROSECUTOR

Q. Mr Barglik, was there an occasion where you saw Mr Astill and an officer by the name of Tanya Hockey in the high needs officer area?

10 A. Yes.

Q. Was Tanya Hockey somebody, to your knowledge, who was in a relationship with Mr Astill?

15 A. That's correct.

Q. And was that at that time, as well, they were in a relationship?

A. Yes.

Q. Did you come across and deal with an inmate by the name of C?

20 A. Yes.

Q. Did you ever see C in the high needs section with Mr Astill and Ms Hockey?

25 A. Yes.

Q. What was that occasion? Firstly, when would you say, even roughly, that took place?

30 A. I - I don't recall the time. It's - it's been a while. But I recall them in the - what was the senior's office at the time, giving inmate C a compassionate phone call, and that phone call took an hour or so. After the phone call, Astill - Mr Astill and Ms Hockey came back into where the first classes would sit in the office, and stated that inmate C was not guilty.

Q. Now, when you refer to a compassionate phone call, is that something that would happen from time to time?

35 A. Yes. So a chief - a chief would allow an inmate to have a compassionate call.

Q. Where would the call be made from, potentially a compassionate call?

40 A. Generally in - in the chief's office, or the senior's office.

Q. And how long would those calls typically take?

A. Six to ten minutes.

45 Q. Did you know an inmate by the name of N?

A. Yes.

Q. Did you ever see her going to the chief's office?

50 A. Yes.

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BARGLIK XN

VIQ:SND

D6

Q. Where was that? What section of the jail was that in?

A. That's - that's in the section behind medium needs.

Q. Medium needs?

5 A. Medium needs, known as the hub.

Q. So far as after the lockout - lock in period, rather, was that something that inmates could do, go and see the chief after lockout - lock in, sorry?

A. Lock in.

10

Q. It'd be a strange jail if it was lockouts, but lock ins. Is that something that inmates could do, or not?

A. Generally, for the good order and security of the jail, once the inmate's locked in their cell or in their unit, they don't come out. Inmate N was required to have her BSL, blood sugar levels, taken after they were locked in. She'd be let out of her unit, and she'd make her way down to the clinic, and another officer would meet her there, she'd have her blood sugar levels taken, and then the inmate would return to her unit and be locked back in. But there were occasions where Mr Astill would have inmate N go to the hub after she'd finished at the clinic, which wasn't general practice.

15

20

Q. I want to ask you now about an occasion on a muster in the medium needs area. So this is the hub, yes?

A. No, the sort of musters took place in the units, the medium needs units, and the hub is where the chief - the chief's office would be.

25

Q. Did you know of an inmate by the name of B?

A. Yes.

30

Q. Was there an occasion that you have a particular recollection of where there was a muster involving Ms B?

A. Yes, there was--

Q. What was that? What happened then?

35

A. So, we went in at 4 o'clock, we would lock the - the category four inmates in in the medium needs area, and Mr Astill was the chief, and I was on the C watch. There was a conversation that took place between B and Mr Astill which he said directly in front of B, "It smells like fucking dog in here", and B replied, "You'd know."

40

Q. How many women were there, to your best estimate, when Astill said that? That is, how many inmates were there when he said that?

A. Again, it was a while back. I think there would've been 11 inmates in that unit.

45

Q. Do you know the names of any of the other inmates who were there when he said that?

A. I - I can't recall. Actually, I'm sure there would've been inmate K. I think N. I - I think--

50

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BARGLIK XN

VIQ:SND

D6

- Q. Do you remember them? If you don't remember, I'm not asking you to guess. Did you have a conversation at the behavioural intervention unit, the BIU, with Wayne Astill about Shari Martin?
- 5 A. Yes, I did.
- Q. Did you speak in that conversation about inmates B and V?
- A. Yes, I did.
- Q. Using the words that were said, as though you're in a play, and I said, he said, the words in the first person narrative, what was said?
- 10 A. Well, I said to Mr Astill that I - that Shari Martin was a shit governor. She had no - she didn't care about staff. Wayne said, "Mate, you have no idea what she does for us", and I said, "Well, amuse me." He said that two inmates had made allegations that he'd touched up another inmate, and, well, you
- 15 know, I said, "Who were the inmates?" And he turned around and he said, "V and B". We then - I - and then he - he basically then came across and was saying that - that Shari does look after staff, that the two inmates that had made the allegations - cause I was concerned for his welfare, thinking--
- Q. All right, I appreciate that--
- 20 A. --so--
- Q. --but if you remember, just focus. To the best of your memory, what he said.
- 25 A. So he said that - "Shari and I interviewed both the inmates, both the crims." That - he said, "Remember I was a copper?" I said yes. He said, "Well, we belittled them. We belittled the fuck out of them, we intimidated them, and let's just say that, after this, they won't be telling any more fucking lies."
- Q. Now, you mentioned a complaint. What was said about that?
- 30 A. I'm sorry?
- Q. That a complaint had been made? These people who Astill said had been belittled and humiliated.
- 35 A. So--
- Q. How did that topic come up?
- A. We were talking - well, I'd made a statement about Shari, the governor, and that it just didn't feel like we were getting any support of her, and Wayne
- 40 basically said, listen, that she does do a lot for staff, and then he explained to me what had happened, that he'd been accused of touching up an inmate.
- Q. Did he say by whom, the names of the people who made that accusation?
- A. Yes, I - well, when I asked him, he said B and V.
- 45
- <CROSS-EXAMINATION BY MR TYLER-STOTT
- Q. Sir, as far as the comment about dogs or dog, was Ms B, or inmate
- B, part of the greyhound adoption program?
- 50 A. Yes.

VIQ:SND

D6

Q. Were there dogs that came through?

A. The dogs would be in the house at times, yes.

5 Q. Did you smell any dogs?

A. I can't recall.

Q. Sir, the conversation, or the compassionate call, with Ms C, did you witness the entirety of the phone call?

10 A. I wasn't in the room, I was in the office next door.

Q. So the answer's no?

A. I wasn't in the room, no.

15 Q. Was Tanya Hockey inmate C's case officer at the time, or you don't know?

A. I'm not sure.

Q. I suggest to you this conversation you've said about V and B didn't happen.

A. I'm sorry?

20

Q. That didn't happen. That conversation that you've attributed to yourself and Mr Astill, that just simply didn't happen.

25 HER HONOUR: It's a suggestion to you. You can either agree with the suggestion or not agree with it.

WITNESS: No, I don't - I don't agree.

TYLER-STOTT: Thank you, sir. Thank your Honour.

30

HER HONOUR: Yes, any re-examination?

CROWN PROSECUTOR: There's one question that I require leave for, your Honour.

35

HER HONOUR: Yes? To ask in chief, or what?

CROWN PROSECUTOR: Yes.

40 HER HONOUR: Any objection?

TYLER-STOTT: No, your Honour.

<FURTHER EXAMINATION BY CROWN PROSECUTOR

45

Q. You gave evidence when I was asking you questions about a comment by Mr Astill about "smells like dogs". Does the word "dog" in the jail setting have a particular meaning?

A. Yes.

50

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BARGLIK XXN FXN

VIQ:SND

D6

Q. What does it mean?

A. Scum. Putrid.

<FURTHER CROSS-EXAMINATION BY MR TYLER-STOTT

5

Q. When the comment was made, you thought Mr Astill was referring to the hygiene of the unit, is that correct?

A. Yes.

10 Q. And, from your observations, neither Mr Astill nor Ms B looked angry with one another?

A. That's correct.

NO RE-EXAMINATION

15

HER HONOUR: Thank you. Your evidence is concluded, you're free to go. Thank you very much.

<THE WITNESS WITHDREW

VIQ:SND

D6

<Z, SWORN(12.39PM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

- 5 Q. Is your name Z?
A. Yes.
- Q. Ms Z, were you previously an inmate with corrective services New South Wales?
10 A. Yes.
- Q. And, for a time, were you at the Dillwynia Correctional Centre?
A. Yes.
- 15 Q. In March 2016, did you become friendly with another inmate by the name of C?
A. Yes.
- Q. Did you know an officer by the name of Mr Astill?
20 A. Yes.
- Q. Did you ever see the two speak? That is, C and Mr Astill?
A. Yes. Yes.
- 25 Q. Was there ever an occasion in particular that you remember in March of 2016, where there was something exchanged between them?
A. Yes, cream, I believe it was.
- Q. Sorry?
30 A. Cream.
- Q. This cream, so it was exchanged. Who gave that to who?
A. Mr Astill gave it to C.
- 35 Q. Did you have any conversation with C about that cream? What it was or what it was about?
A. I knew it to be Tiger Balm. But I don't recall having a conversation with C about it. No.
- 40 Q. Did you become friends also with an inmate by the name of H?
A. Yes.
- Q. Did she ever speak to you about Mr Astill?
45 A. On occasion.
- Q. What did she say about him?
A. Just that she didn't want to be left alone with him.
- Q. Did she expand on why that was?
50 A. No, she didn't. She just said that she didn't want to be left alone by him.

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Z XN

VIQ:SND

D6

She - yeah. She used to get, like, a rash. When he - like if he came to the unit or she had to go speak to him or anything like that she would get, like a red rash around her neck and down her arms.

5 Q. Is that something you saw? You saw that rash?

A. Yeah. Yeah.

Q. Do you remember H going to see Mr Astill on her own, or with anyone else?

10 A. Yes. She'd gone on her own a few times. Yeah.

Q. Did you ever accompany her?

A. Most of the time, I tried to. If I couldn't be in there with her, I kind of just hung around the office.

15

Q. And why was it that you would go with her?

A. Just to make sure she was all right.

Q. Whose suggestion was that?

20 A. No one's suggestion. I just got the feeling that - yeah, she just - she didn't want to be left alone.

Q. Would there be times when Mr Astill would come to the wing?

A. Yep.

25

Q. And focusing on those occasions; do you remember what he would do when he came, or what he would say while he was there?

A. Various reasons during the day, but of a night-time it would usually be just to check that the doors were locked.

30

Q. And was this after lockdown?

A. Yeah, that would be after the nurses came to do their pill rounds.

Q. So the nurses did the pill parade?

35 A. Yep.

Q. That was what it was called?

A. Yep.

40 Q. Was there ever an occasion after the pill parade where Mr Astill remained back after the parade?

A. There was one occasion.

Q. What happened on that occasion, do you remember?

45 A. I remember hearing him knock on the door. I was in the cell next to H's and I remember him - hearing him tap his key on the door. And when I jumped up to see what it, I seen him pass something underneath the door. I believe for her pain.

50 Q. So you saw it. Where were you when you saw it?

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A. I was in the cell next door.

Q. So how much could you see from your cell?

A. Pretty much everything.

5

Q. Now, where was your cell in relation to hers?

A. Right beside.

Q. So has your cell got glass or perspex?

10 A. It was just a wooden door with a Perspex window.

Q. Did you hear anything said on that occasion?

A. He just asked her how her pain was.

15 Q. The next day, did you speak to H about what had happened?

A. I asked her why he'd knocked on her door. What he handed underneath the door. And she said just pills for her endometriosis.

<CROSS-EXAMINATION BY MR TYLER-STOTT

20

Q. Did you spend a lot of time with H?

A. Yeah. I'd say a fair bit, yeah.

Q. You consider yourself pretty good friends?

25 A. Yeah. Back then, yeah.

Q. As far as what Mr Astill provided to Ms H, you understood that to be medication?

A. Yeah. Pain medication. Yep.

30

Q. And was that medication something that H told you she wasn't receiving from the gaol?

A. She was getting medication from the gaol, but it was only ever Panadol or - yeah.

35

Q. She had something slightly stronger; is that right?

A. Yeah.

TYLER-STOTT: Nothing further, your Honour.

40

NO RE-EXAMINATION

HER HONOUR: Thank you, Ms Z. That concludes your evidence. You're free to go.

45

<THE WITNESS WITHDREW

CROWN PROSECUTOR: One further witness who I think we could get through before lunch, your Honour. I call FF.

VIQ:SND

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<FF, AFFIRMED(12.47PM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

- 5 Q. Is your name FF?
A. Correct.
- Q. Ms FF, were you previously an inmate at Dillwynia Correctional Centre?
A. I was.
- 10 Q. Were you there between March 2016 and around June 2017?
A. I was.
- Q. Whilst you were there, where you housed in an area called the J block; for protection area?
A. I was.
- 15 Q. And did you become friends with a number of inmates, including C and H?
A. Yes.
- 20 Q. Did you become aware of an officer there, a senior officer by the name of Wayne Astill?
A. Yes, I did.
- 25 Q. When you were there, when you first met Wayne Astill, you found he was pretty pleasant to you?
A. Yep.
- Q. About four to six months after you started at Dillwynia, did you notice anything about H when she was around Wayne Astill?
A. She was quite hesitant to be left alone with him. Quite skittish when he was in the proximity.
- 30 TYLER-STOTT: I object, your Honour.
- 35 HER HONOUR: I didn't hear it.
- TYLER-STOTT: Skittish, I think. Opinion.
- 40 HER HONOUR: Well, what's the objection?
- TYLER-STOTT: Opinion, your Honour.
- HER HONOUR
- 45 Q. Well, can you just tell us, Ms FF, when you say skittish, what do you mean? What did you observe her to be doing?
A. Very anxious. Quite quick in her words. And very adamant not to be left alone.
- 50

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CROWN PROSECUTOR

Q. When you say she was very adamant not to be left alone, what made you think that?

5 A. The anxiety rash that she would form on her chest, her face, back of her neck. The sweaty palms, and the fact that she told us, "Don't leave me."

Q. When she said, "Don't leave me," what was going on when she'd say that?

10 A. Well, at first it was the - I noticed the rash, the anxiety. And when I questioned it - which I did - she wouldn't say much other than to say, "Don't leave me."

Q. And how did you know that had anything to do with Mr Astill when she'd say that?

15 A. It was only when he was coming towards the block, when he was approaching us in the yard. Yeah.

Q. You told us that that was something you first noticed about four to six months - so around the middle of 2016?

20 A. From my memory, yes.

Q. I'm sorry, four to six months into your stay at Dillwynia?

A. Yep.

25 Q. How long were you at Dillwynia for?

A. I left Dillwynia and went into the main, and went up to Broken Hill, from memory, beginning of 17, 2017 to mid-2017.

Q. So you're at Dillwynia from March 2016 to around mid-2017?

30 A. Yeah, and I did the last stint of my sentence at Broken Hill on the works release program.

Q. After this, H showing these signs and saying she was uncomfortable, how long did that go on for?

35 A. For the whole time I was there until I left.

Q. Did you see her speaking to other officers?

40 A. We all had a bit to do with all officers, really. It was part of being in there. Wayne wasn't - Mr Astill wasn't always the officer-in-charge. There was other officers.

Q. Did you see her talking to the male officers?

A. Yeah. Yep.

45 Q. How was she when she spoke to them?

A. She appeared okay. She never gave me, anyone any inclination that there was anything wrong.

50 Q. Did you ever see H going to Mr Astill's office, or hear from her that she had to go there?

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FF XN

VIQ:SND

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A. Well, he was the senior, so yes.

Q. But did you ever hear from her that she had to go there, or hear her name called out?

5 A. Yeah, we all got called out. It was part of, you know, if an officer wanted to see you, they would call you over the speaker and you'd go to the officer, so yeah, I did hear her name called.

Q. Did she ever say anything before she would go?

10 A. It's hard to really answer that because wasn't always with H. We were in two separate sides of the wing.

Q. No, that's all right. I'm just asking you about from what you saw, the times that if you were with her when her name got called out, if she said anything?

15 A. Just if she - she would just say that she hopes its, not part of my words, but the nickname for him was fat cat. That was the nickname that was given by H from memory. She would say, "I hope its not fat cat", but yeah, she would never say anything else.

20 <CROSS-EXAMINATION BY MR TYLER-STOTT

Q. When someone was called, was it over the loud speaker?

A. Yeah, "Inmate FF to the office".

25 Q. So you could hear who was calling?

A. Yeah, if you knew their voices, yeah.

Q. I think you transferred in June of 2017?

A. Yeah. I said, yeah, around the start, middle.

30

Q. That's fine, I'm not trying to trick you. Just want to understand whether or not what you say you observed of H, could've happened in 2017 as opposed to what you've said earlier?

35 A. Look, it could have. I don't know, it's been a long time. The time that I was there with H, I just remember her saying, "I hope it's not fat cat. Don't leave me with fat cat", yeah.

Q. You mentioned you were in separate wings?

40 A. No, it wasn't a separate wing. So it was one wing split into two, so J right, J left, it had a foyer in the middle with a phone. If there was ever any trouble in the wing, the wing would be locked down. J right would be segregated from J left.

45 Q. I may have misspoke, and I clearly did, can I suggest to you that you transferred from Dillwynia to Wellington on 25 September 2017?

A. Wellington for one night, and then straight to Broken Hill.

Q. So I said June, and I apologise for that.

50 A. I can't remember.

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Q. September. Does that accord with your memory?

A. It could be, yep. I don't exactly remember.

NO RE-EXAMINATION BY CROWN PROSECUTOR

5

<THE WITNESS WITHDREW

HER HONOUR: We have lunch, Mr Crown?

10 CROWN PROSECUTOR: Please your Honour.

HER HONOUR: We've been getting through the witnesses quite quickly, ladies and gentlemen. So that all bodes well for the estimate for time for the trial.

VIQ:SND

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IN THE ABSENCE OF THE JURY

5 HER HONOUR: Despite my associate sending two emails regarding the s 77,
we haven't got any confirmation that that's going to occur. So we'll keep you
updated in relation to that. On this current way we're ripping through the
witnesses, Mr Crown, six weeks?

CROWN PROSECUTOR: No.

10 HER HONOUR: Would've been closer to three, yes.

CROWN PROSECUTOR: We agreed this morning, we're looking more like
four, because there are a number of witnesses of some significance.

15 HER HONOUR: More length.

CROWN PROSECUTOR: Recordings and the like.

20 HER HONOUR: Yes.

CROWN PROSECUTOR: But it's not a huge - but I would've thought four
weeks we'd have them out.

25 HER HONOUR: This week's the second, isn't it. Yes, four weeks.

CROWN PROSECUTOR: Yes, four weeks we'd have them out I'd expect.

30 HER HONOUR: So the next witness is, if we can obtain her, is G. Is that
right?

CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: Will she be the only one this afternoon?

35 CROWN PROSECUTOR: Yes.

HER HONOUR: Okay. What about for tomorrow then, so that we can process
the 77's, if there are any?

40 CROWN PROSECUTOR: O. She's the only 77 for tomorrow.

HER HONOUR: That you need, okay.

45 CROWN PROSECUTOR: She counts for a number of the counts on the
indictment. She'll go a while, but won't be all day.

HER HONOUR: Okay. Do we need to know where she is at? You've got it.
No, it's all okay.

50 LUNCHEON ADJOURNMENT

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HER HONOUR: Ready for the jury?

5 CROWN PROSECUTOR: Not quite, your Honour. We've got G on the screen. We had her there, she's there, and we've checked the audio. Because she wasn't expecting to be on today, she's been told various things.

HER HONOUR: Yes.

10 CROWN PROSECUTOR: She's got her statement there, but she hasn't had a chance to go through it again. But she's had it for sometime, we've confirmed with her sometime ago. But I just ask that she be given another five minutes so she can read through the statement a couple of times. She had been told various things today, and the call was made somewhat late that she be on, but
15 she was otherwise expecting to be on Monday, and it was out of her control that she didn't have a recent look at the statement which she's going through now.

HER HONOUR: Right.

20

CROWN PROSECUTOR: Another five minutes will probably do it.

HER HONOUR: Okay. I'll just stay in the ante room then.

25 SHORT ADJOURNMENT

CROWN PROSECUTOR: Your Honour, thank you for that time. We're ready for the jury.

30 HER HONOUR: Okay.

VIQ:SND

D6

IN THE PRESENCE OF THE JURY

HER HONOUR: Yes, thank you, ladies and gentlemen. Sorry about the delay, but we were just with IT. Yes, Mr Crown.

5

CROWN PROSECUTOR: Your Honour, the next witness is G, and her evidence will predominantly relate to count 33 on the indictment, the charge of misconduct with an inappropriate relationship.

10 HER HONOUR: Yes, thank you.

AUDIO VISUAL LINK COMMENCED AT 2.21PM

VIQ:SND

D6

<G, AFFIRMED(2.22PM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

5 Q. Is your name G?

A. Yes.

Q. Are you currently an inmate with New South Wales corrective services?

A. Yes.

10

HER HONOUR: Just hold there for a second, Mr Crown. We just need it recorded.

CROWN PROSECUTOR: Of course.

15

HER HONOUR: Yes.

CROWN PROSECUTOR: I might take it from the top, your Honour.

20 HER HONOUR: Yes.

CROWN PROSECUTOR

Q. Is your name G?

25 A. Yes.

Q. And you are currently an inmate service in New South Wales corrective services?

A. Yes.

30

**Q. Ms G, were you first at Dillwynia Correctional Centre from 5 August 2016 until 15 May 2017?

A. Yes.

35 Q. Did you return to Dillwynia on 8 December 2017 up until 28 February 2018?

A. Yes.

Q. Did you then return to Dillwynia Correctional Centre from elsewhere on 24 March 2018, and you've remained there since?

40

A. Yes.

Q. During your time at Dillwynia, did you spend time in the J block, the high needs area?

45

A. Yes.

Q. Is that somewhere you have been the whole time, every time you've been at Dillwynia?

A. Up until recently, yes.

50

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VIQ:SND

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Q. So recently, were you there from the period of 2016 through 2018, for example? You were in--

A. Yes.

5 Q. --that area the whole time?

A. Yes.

Q. During your time there from 2016, did you know an officer by the name of Wayne Astill?

10 A. Yes.

Q. During that time, did you have dealings with him as the chief in your area?

A. Yes.

15 Q. He was one of the chiefs? They work according to their shifts, but he was one of the regular chiefs there, is that right?

A. Yes.

20 Q. And is it the situation that you had various times where you had to talk with him?

A. Yes.

Q. In fact, he gave you different things, like highlighters and pens and that sort of stuff, yes?

25 A. Yep. Yes.

Q. Did he help you make an inter-jail phone call to your partner?

A. Yes.

30 Q. Was there ever any discussion about your grandfather?

A. Yes.

Q. What was that?

35 A. He asked whether my grandfather was a police officer, because he believed at the time that he had gone through the academy with somebody with the same last name.

Q. Did you become aware in late 2016 that your stepdaughter was pregnant, or that's what you'd heard?

40 A. Yes.

Q. How old was she at that stage?

A. Just 17.

45 Q. Did you have contact with her?

A. At that time, no.

Q. Were you interested in making contact with her, tracking her down?

50 A. Yes, definitely.

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Q. How did you go about finding her? On social media, or presumably not the phone book, but how?

5 A. So - yeah, my only way of being able to think of being able to contact her was, yes, through somebody who'd been able to try some phone numbers, or social media. Facebook.

Q. Did you know an inmate in there by the name of H?

A. Yes.

10 Q. Did she speak with you about the topic of you--

A. Yes.

Q. --trying to make contact?

15 A. Yes.

Q. What did she say to you about that?

A. Pardon?

Q. What did H say to you about how you might try to find your stepdaughter?

20 A. So, we had - we had a couple of conversations about me trying to get in contact with her, and how - like, not having phone numbers or anything to get in contact with her. She said, go and see if Mr Astill can help you, he may be able to either try some phone numbers and make - see if it's the right one, or you can see if he'll be able to look her up.

25

Q. Did you go and see Mr Astill?

A. Yes, I did.

Q. And was that at the chief's office in high needs?

30 A. Yes.

Q. Did you ask him if he could help?

A. Yes.

35 Q. And what did he say initially to that?

A. That no, he could not do that, because he was bound by the rules and regulations of corrective services. He told me what the rules were, and that he may, if I had a phone in my property, be able to get my phone and see if he could get my number out of that, but otherwise, no.

40

Q. Did you have occasion to speak to Mr Astill again a day or so later?

A. Yes.

Q. And was there any discussion on that occasion about your stepdaughter?

45 A. Yes.

Q. What was that discussion?

A. He said he'd be able to possibly look her up, but not through the jail. He'd do it at home.

50

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VIQ:SND

D6

Q. Did he say how he could do it at home?

A. Via Facebook.

Q. What did you say to that?

5 A. Initially, yes.

Q. Did you have a friend who was a solicitor at that time?

A. Yes.

10 Q. Was that friend able to give you any assistance, to your knowledge, about trying to find your--

A. He was trying to help me, yes.

Q. I want to ask you now about a few weeks after that. Did Mr Astill call for you to go and see him?

15 A. Yes.

Q. Was that at, again, the chief's office in high needs?

A. Yes.

20

Q. Did he have a conversation with you? Did you speak any further about that topic?

A. Yes. We were having a conversation, and he mentioned that he had police officer friends that may be able to help look her up and track her down.

25

Q. Did he say how they would look her up, by what means they could look someone up?

A. I believe it was through the system.

30 Q. Did he indicate whether anybody else might be able to help?

A. Yes. He said that they--

Q. What did he say?

A. He said that they have investigator type friends, and that they're very good at finding people.

35

Q. The next day, did Mr Astill take you aside and ask you something?

A. Yes. He asked if I'd thought about it, and whether I wanted him to help, and that he had spoken to these people the night before, and that they were able to help, and they were just waiting for the name.

40

Q. Did you provide him with the name?

A. Yes.

45 Q. Did you ask him if you were required to do anything for this favour?

A. Yes.

Q. What did you say?

A. "What's it going to cost?"

50

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VIQ:SND

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Q. Why did you say that?

A. Because it's jail, nothing happens for free in this place, and there's rumours going around at the time.

5 Q. Did he answer you as to whether you'd need to do anything for him, or any price for you to pay, at that stage?

A. No. He said that he wouldn't do it. Like, he could do it because he knew that I was stressed and that I really wanted it, and that I had no outside support or phone calls or anything at that time.

10

Q. Now, when you gave Mr Astill the name of your stepdaughter, did you have any particular concerns about the police looking into her?

A. Yes.

15 Q. What were those concerns?

HER HONOUR: Relevance? Does it matter?

20 CROWN PROSECUTOR: To put into context what follows, your Honour. I won't press it.

WITNESS: Can I answer?

25 CROWN PROSECUTOR: I won't press it, your Honour, on reflection.

Q. About two weeks later, were you called back to the high needs chief's office?

A. Yes.

30 Q. Did you speak to Mr Astill there?

A. Yes.

Q. Was anything discussed as to the outcome of the inquiries about your stepdaughter?

35 A. Yes.

Q. What was said? What did he say, and what did you say?

A. He said that he had the information that I needed in regards to my daughter, and that it would cost me a hand job.

40

Q. A hand job?

A. (No verbal reply)

Q. I think you nodded. Is that what you said, a hand job?

45 A. Yeah.

Q. What did you say to that?

A. That he said - "You said you were going to just help me because you'd seen I was stressed. I don't want to do it."

50

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G XN

VIQ:SND

D6

Q. Was there any reference to your age, that is, how old you were, in that context?

A. Yeah. That I'm not 18, and fresh to the jail system.

5 Q. Were those the words he used?

A. Pretty sure, yes.

Q. Now, the fact that he'd asked you for this sexual favour, is that something you used to your advantage?

10 A. Sorry?

Q. Is that something you used to your advantage, the fact that he'd put out this request to you?

A. After the--

15

HER HONOUR: Sorry, what sort of question is that, Mr Crown?

CROWN PROSECUTOR: It's consistent with the statement that I have, your Honour.

20

HER HONOUR: Well, isn't it, "what did you do after he said that to you?"

CROWN PROSECUTOR: That would be the next question, your Honour.

25 HER HONOUR: Well, you're implying something. I don't allow that question. You'll need to rephrase it.

CROWN PROSECUTOR: Yes, your Honour.

30 Q. Did you have further contact with Mr Astill after that request for the hand job?

A. Yes.

Q. What was the next contact you had with him, to your memory?

35 A. Asking whether she was pregnant and whether she was okay, and pretty much agreeing.

Q. Did you speak to him about the fact that he'd made that sexual request of you?

40 A. Yes.

Q. What did you say to him?

A. Can't remember, to be honest. Sorry.

45 Q. Did you know an inmate by the name of C?

A. Yes.

Q. Did you ever see C interacting with Mr Astill?

A. Yes.

50

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G XN

VIQ:SND

D6

Q. Were you ever present when you knew or believed Mr Astill was coming to the area that you and C were in?

A. Yes.

5 Q. Do you understand what I mean by that?

A. Yes, I believe you're asking whether I was present when she - when he was in our house.

10 Q. And did you ever see her react in a particular way when he was approaching?

A. Yes.

Q. How did she react when you saw her?

15 A. Angry. She tried to avoid - like, avoid going to see him at times.

Q. What made you think that she was avoiding him? What makes you say that?

A. Her comment.

20 Q. Now, when did that take place? You've told us that you first went to Dillwynia on 5 August 2016, you were there until 15 May 2017, and then from 8 December 2017 until February 2018. Now, it may assist you, it may not, but when did you observe C reacting in that way to Mr Astill's approach?

25 A. Towards the Christmas period. So it would be 2017, like, Christmas, just in - sorry, December 2017.

**Q. Did you know an inmate by the name of P?

A. Yes.

30 Q. Is that somebody who it's fair to say you did not get along with?

A. Yes.

Q. That relationship or disagreement, did it get physical? Was there a physical fight at one stage?

35 A. Yes.

Q. Did Mr Astill speak to you about that?

A. Yes, he asked me to put in a statement about it, and that he would get her moved from the jail.

40

Q. On how many occasions did he ask you to do that? Was it just the once or more?

A. No, twice, a couple of times.

45 Q. Did you do so?

A. Yes, I did end up doing so.

Q. Did you speak with him, or did he speak to you a few days later at a muster?

50 A. Yes.

VIQ:SND

D6

- Q. What did he say?
A. That the statement - so, because I'd put in my statement on - what happened with me and P, she had been moved to another area.
- 5 Q. Did he say--
A. And--
- Q. Sorry, cut you off, go on.
10 A. No, you go, sorry.
- Q. Did he say anything else to you about that outcome having been achieved?
A. Yes, that then - that he had done several favours for me now.
- 15 Q. He's done favours for you. Did he say anything after that?
A. That it will cost me. And that he would talk to SORC.
- Q. SORC. Is that right?
A. Yep.
- 20 CROWN PROSECUTOR: For the transcript, it's S-O-R-C, is the acronym, your Honour. I think there's no dispute about that.
- Q. What was the context of him saying he'll talk to SORC. How did that come up?
25 A. Because she would've - because he was going to try and get her moved from the jail, and because she's a, I don't know, serious offender, she's under them, so he would be able to talk to them and--
- 30 Q. But did you know then what SORC--
A. --pressure them. No.
- Q. Do you know now what SORC is?
A. Kind of.
- 35 Q. What is it?
A. I know it's the people that watch over the serious offenders.
- Q. Where did that conversation take place where he mentioned SORC?
40 A. In the high needs office.
- Q. A few days after that, did Mr Astill call you to the smoke out?
A. Yeah.
- 45 Q. Did he say something to you?
A. Yes.
- Q. What did he say?
A. He asked me to come and have a conversation with him in his office afterwards.
- 50

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Q. Did you do that?

A. Yeah.

5 Q. Did he say something to you in there that you remember, in particular?

A. Yeah.

Q. What did he say, Ms G?

A. That I had to give him a sexual favour.

10

Q. Did he say what the sexual favour was?

A. Now a head job.

Q. What did you say back to that, if anything?

15 A. That I - that I can't do it now because I need to psych myself up to be able to do it.

Q. Did the meeting end soon after that was said?

A. Yes, as long as I was aware that it was going to happen at some point.

20

Q. Did you take any measures to avoid Mr Astill after that. Did you try to do that?

A. Yes.

25 Q. How would you do that, Ms G?

A. Anywhere possible. I wouldn't go through the place on my own. I would run and pretend to be in the shower when I seen him coming. I would hide in my room. I'd do anything I could. I'd try to get moved from the jail.

30 Q. That's something you actively tried to do, put in to get moved?

A. Yes.

Q. Were you successful in that?

A. Only due to having Court, I ended up back here.

35

Q. Did you know an inmate, I think you've told us, you knew an inmate by the name of H?

A. Yes.

40 Q. Did you ever see her in the high needs chief's office?

A. Yes, regularly.

Q. Are you able to tell us what she was doing in there on the occasions that you saw her in there?

45 A. So she - she was the sweeper, so she'd vacuum and clean the office. I've seen inappropriate stuff with him - with her, sorry.

Q. Just tell us; when you say with, firstly, with him, who are you talking about?

A. Mr Astill.

50

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G XN

VIQ:SND

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- Q. What did you see that you describe as inappropriate?
A. Her vacuuming, well supposedly vacuuming, and him with his chair up against the wall with her kind of bent over in front of him with his hand on her hip and on her crutch.
- 5 Q. Did you speak to H on that occasion soon after she came out of the office?
A. Yes, I did.
- 10 Q. What did she say about that?
A. That she was okay. She just wanted to go inside. She kind of said that nothing happened.
- 15 Q. Is that something that you made a report to the jail about?
A. Yes. Several of us did.
- 20 Q. Was anybody else with you when you saw that?
A. Yes, there was four of us doing laps.
- Q. Who are they?
A. Adrian Garner, Kylie, I'm not sure of her last name, and I don't remember the third - the fourth person, sorry.
- 25 Q. Did you know an inmate, they're known as X?
A. Yes.
- Q. Was she a sweeper at one stage?
A. Yes, there was three sweepers.
- 30 Q. Were they H and also O?
A. Yes.
- Q. Was there an occasion where you doing laps of the high needs area?
A. Yes, I regularly did laps of the high needs area.
- 35 Q. Was there an occasion where you're doing that that you saw X in the high needs chief's office?
A. Yes.
- 40 Q. Was anybody else in there apart from her?
A. Mr Astill.
- Q. What did you see happen?
A. She was getting the bin from under the desk, and he smacked her on the arse, bum, sorry.
- 45 Q. From what you could see, were there any other officers or other staff in that vicinity at the time?
A. They were in the other office on the other side of the thoroughfare.
- 50 <CROSS-EXAMINATION BY MR TYLER-STOTT

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Q. Ms G, did you have some jobs whilst you were at Dillwynia?

A. Yes.

5 Q. Was one of those jobs ground maintenance?

A. Yes.

Q. And if I suggested to you that you started at ground maintenance on 23 November 2016, does that accord with your memory?

10 A. Yeah.

Q. The information that Mr Astill provided to you about your daughter, did you already have that information?

A. Yes.

15

Q. And you told him the same?

A. Yes.

Q. He never asked you for a hand job, I'll suggest to you, ma'am.

20 A. No.

Q. You can agree, disagree, or answer it how you wish.

A. Disagree.

25 Q. When were you making the inquiries about your stepdaughter?

A. Sorry?

Q. When were you making or wanting to make inquiries about your stepdaughter?

30 A. Do you mean what time? Like, when?

Q. Yes, or month, or - are you able to say?

A. September, October.

35 Q. What year?

A. Sorry. 2016.

Q. Could it have even been later than that?

A. Possibly.

40

Q. And was it Ms H who suggested to you to go to Mr Astill for assistance?

A. Yes.

Q. I suggest you, Ms G, that he did not make any suggestions of a sexual nature to you at all.

45

A. Disagree.

Q. Have you made an application for compensation?

A. For what, sorry?

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Q. Compensation.

A. In relation to what, sorry?

Q. Mr Astill's actions upon you.

5 A. No.

Q. Are you sure about that?

A. There's a New South Wales application.

10 Q. Yes, so you're trying to claim against the state for what you said Mr Astill did to you, is that correct?

A. Yes.

Q. Now, I suggest you that's why you're saying that Mr Astill said those things to you.

15

A. No.

HER HONOUR: Well, it may well be.

20 TYLER-STOTT

Q. And I'll suggest you that you've falsely done that.

A. No.

25 Q. Ms P, did she have a fight with a partner, Ms Dawes?

A. Yes, regularly.

Q. And was that one of the reasons she was moved?

A. No.

30

Q. They were both moved, weren't they?

A. No.

Q. They regularly fought, and they remained in the same area?

35

A. No, Carol Dawes was moved.

Q. Did you do an inmate application relating to Ms P?

A. Yes.

40 Q. Who was that addressed to?

A. What do you mean?

Q. Did you suggest or tick a box saying it needed to go somewhere in particular, like the general manager, programs manager, area manager?

45

A. I don't know, because Mr Astill did it.

Q. He did it for you, did he?

A. Yes.

50 Q. Did he write it out for you, or did you do it?

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A. No, I write it out.

Q. Do you know when this was?

A. No. 2016. 2017, maybe.

5

Q. You said you saw something inappropriate between H and Mr Astill, correct?

A. Yeah.

10 Q. You spoke to H after that?

A. Yeah.

Q. Do you know when this was in terms of years or months?

A. It was my second time back.

15

Q. Okay, so are you able to assist us with when it might have been?

A. It was - no, sorry.

Q. Did you talk to Ms H about what you'd seen?

20 A. Yes.

Q. And what did she say to you?

A. That nothing - that it was okay, nothing had - it wasn't what we thought.

25 Q. Where were you when you observed what you say you saw concerning Mr Astill and Ms X?

A. Walking through the thoroughfare.

Q. Was the door open or closed?

30 A. Opened slightly. Like, half open, half closed.

Q. And you were walking past--

A. Yes.

35 Q. --and just at that very moment, you saw a slap on the backside?

A. Yes.

Q. I suggest to you, you didn't see that.

A. Disagree.

40

Q. Where did Ms P move to, to your knowledge?

A. To BIU. The--

Q. For how long?

45 A. Three days, four days.

Q. And then back in the same area, or a different area?

A. Same area.

50 NO RE-EXAMINATION

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HER HONOUR: Thank you, Ms G, that concludes your evidence. Thank you very much.

5 WITNESS: Thank you.

HER HONOUR: Thank you.

10 WITNESS: Thank you.

<THE WITNESS WITHDREW

AUDIO VISUAL LINK CONCLUDED AT 2.57PM

15 CROWN PROSECUTOR: Your Honour, we have some further agreed facts, if now is an appropriate time.

HER HONOUR: Yes.

20 EXHIBIT #L FURTHER AGREED FACTS TENDERED, ADMITTED WITHOUT OBJECTION

HER HONOUR: You've got copies for the jury?

25 CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: And I'll read them out on the record.

CROWN PROSECUTOR: Thanks, Madam Court Officer.

30

HER HONOUR: So, ladies and gentlemen, this relates to count 37 and count 43 on the indictment. You can see both of those counts are misconduct in public office, the 37 in relation to "I" and J between 1 January 2018 and 18 October 2018 at Berkshire Park, and count 43 in relation to E between

35

In relation to that: (1) Dillwynia Correctional Centre is a female only correctional centre which is located in the John Morony Correctional Complex in Berkshire Park. Dillwynia houses all categories of female inmates, including

40 people on remand, and convicted and sentenced prisoners. Dillwynia contains a high needs area, medium needs area, low needs area, and a behavioural intervention unit, BIU.

45

(2) Wayne Astill was employed by corrective services New South Wales from October 1999. He transferred from Parklea to Dillwynia Correctional Centre on 9 February 2009 as a senior correctional officer. In around September 2016, he was promoted to chief correctional officer.

50

(3) As part of his duties, the accused had regular contact with all inmates. He had the ability to interact with inmates in various locations throughout the

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correctional centre, including accommodation areas, offices and open areas of the centre. He worked as the chief correctional officer in the high needs area.

5 (4) At all relevant times, the accused was in a de facto relationship with a fellow correctional officer, Tanya Hockey.

Count 37.

10 (5) Between 1 January 2018 and 9 November 2018, the accused - while employed as a chief correctional officer at Dillwynia - engaged in sexual acts with "I" and J, inmates who were under his supervision and care.

15 (6) J was an inmate at Dillwynia Correctional Centre from 27 September 2016 and to 9 November 2018. "I" was an inmate at Dillwynia Correctional Centre from 15 May 2017 to 9 November 2018. "I" was housed in J unit from 27 October 2017 until 24 October 2018, when she moved to the BIU, until her departure from Dillwynia on 9 November 2018. J was housed in K2 unit, the BIU unit, and J unit until she moved into the BIU on 24 October 2018 and departed Dillwynia on 9 November 2018. "I" and J were in the SMAP
20 protection area with H.

(7) The accused showed "I" and other inmates photographs of his dog, his motorbike and other personal photographs.

25 (8) On one occasion, "I" was with inmate J and the accused. The accused and J arranged to have sex. A week or two later, the accused met "I" and J in the chief's office in the high needs area. The window to this office was covered with cardboard so nobody could see inside. J's shorts were lowered to just above her knees. The accused touched J's vagina with his finger. "I"
30 gave the accused penile and oral sexual intercourse for a short time; approximately one to two minutes. While he was standing behind her, and J was leaning on the table, the accused then attempted to have penile vaginal sexual intercourse with J.

35 (9) The accused's misconduct included; one, engaging in an inappropriate sexual relationship with "I" and J, coupled with failure to declare that contact in contravention of the internal policies and regulations; two, sharing personal information about himself with inmates.

40 Count 43.

45 (10) E was an inmate at Dillwynia Correctional Centre from 23 January to 30 March 2017, and again from 5 October 2017 until 2 July 2019. While at Dillwynia, she was housed in K unit, K2 unit, L4 unit, L3 unit, D unit, Health NM Therapeutic. In February 2019, she was housed in the BIU, the L1 unit and the L2 unit.

50 From around the time of the NAIDOC Day celebrations on 8 July 2018 until he went on leave on 18 October 2018, the accused had sexual intercourse with the inmate, E on around five occasions. On one occasion he gave E a type of

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hair dye that was not available in the buy ops offered in prison. On a later occasion, he gave E tobacco loose inside a glove.

5 (14) On 11 February 2019, he arranged for E to receive a new MIN card worth about \$5.

10 (15) The accused's misconduct included; one, engaging in an inappropriate sexual relationship with E, coupled with failure to declare that relationship and contact, in contravention of the internal policies and regulations; two, introducing contraband items into the centre and giving banned items to inmates; and three, giving favours to E, including a new MIN card.

15 CROWN PROSECUTOR: Your Honour, that concludes the evidence we have for today. We've moved quickly.

HER HONOUR: Okay. We've moved quite quickly then.

TYLER-STOTT: We have moved quickly.

20 HER HONOUR: Yes, we've got through a lot more witnesses than were expected. I think the estimate from six weeks is going to come down considerably, so you'll be pleased to hear that.

25 So, ladies and gentlemen, even though we're finishing early, it's because basically, we're getting through the evidence a lot quicker than imagined. So please take some heart in that and have an early night and we'll see you tomorrow for a 10am.

30 Again, please don't discuss the evidence with anyone. Only yourselves when all 15 of you are together. Have a great night. And we'll see you tomorrow for a 10 o'clock start. Thank you.

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IN THE ABSENCE OF THE JURY

CROWN PROSECUTOR: Your Honour, we have an errata table.

5 HER HONOUR: Right.

CROWN PROSECUTOR: Joint position. There is very little which is not agreed on. There's a little - and it's highlighted - where the parties are simply unsure. I'll hand that up.

10

HER HONOUR: Hand it up to me and I'll have a look at it overnight. We can discuss it tomorrow. I'll have that marked, though. The errata. And I'll have that continuing - I think it's MFI 13 or - 13, yes.

15 CROWN PROSECUTOR: That's up to and including yesterday.

HER HONOUR: Thank you. So it's marked there where it's not agreed or not quite sure?

20 CROWN PROSECUTOR: Yes.

HER HONOUR: Okay.

CROWN PROSECUTOR: So there's a code at the top, colour-coded.

25

HER HONOUR: I'll have a look at it because I've gone through it as well. Anything else?

CROWN PROSECUTOR: No, not from--

30

HER HONOUR: No? We've got the s 77 order then for Ms O?

CROWN PROSECUTOR: O tomorrow. Then there's two other witnesses I think will be short witnesses. It's proposed that Ms "I" call those two latter witnesses. I'll call the complainant O. But Ms "I" - I just want to your Honour a heads up about that, but--

35

HER HONOUR: Okay. Okay. I'll adjourn. I'll mark the tendency notice MFI 14 then.

40

MFI #14 TENDENCY NOTICE

CROWN PROSECUTOR: Thank you. your Honour.

45 ADJOURNED TO FRIDAY 5 AUGUST 2022