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	Transcript of District Court Proceedings Day 7 to Day 14 K. Day 7 L. Day 8 M. Day 9 N. Day 10 O. Day 11 P. Day 12 Q. Day 13 R. Day 14	5 August 2022 – 16 August 2022	K. AST.002.004.0012 L. AST.002.004.0013 M. AST.002.004.0014 N. AST.002.004.0015 O. AST.002.004.0016 P. AST.002.004.0017 Q. AST.002.004.0018 R. AST.002.004.0019

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VIQ:SND

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IN THE DISTRICT COURT
OF NEW SOUTH WALES
CRIMINAL JURISDICTION

5 JUDGE O'ROURKE SC
AND A JURY OF FIFTEEN

SEVENTH DAY: FRIDAY 5 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, we are ready, there's just a couple of
quick things I want to raise.

HER HONOUR: Yes.

25 CROWN PROSECUTOR: First one is, I see Ms O's in the suite. If there's a
logistical problem with doing it this way, then I won't, but we've got two
witnesses outside who are only short witnesses. I'd prefer, and Ms "I" was
going to lead evidence from them. I think there's probably half an hour, 40
minutes all up in those witnesses.

30

HER HONOUR: Right.

CROWN PROSECUTOR: I'd prefer to get them out of the way, but if, as I say,
if there's a problem with that logistically--

35

HER HONOUR: Well, it's a matter for you. It's your witnesses.

CROWN PROSECUTOR: Understand that, your Honour. But is your Honour
aware of any problem with Ms O coming back in 40 minutes?

40

HER HONOUR: No. Have you spoken to her?

45 CROWN PROSECUTOR: Not this morning, no, we haven't. We tried to, we
went to the cells, and she wasn't there, of course. I mean I'd prefer, and I say
if it's not going to cause disruption to have those other witnesses out of the
way before we move to Ms O.

HER HONOUR: Right. Well, it might be just wise to let her know.

50 CROWN PROSECUTOR: Yes.

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HER HONOUR: I can go off the bench, and you can speak to her, if that's okay. Okay.

5 SHORT ADJOURNMENT

CROWN PROSECUTOR: Thank you for that time, your Honour.

HER HONOUR: Yes. Who are the two witnesses?

10

STUART: First witness is Q, and the second one is Paul Foster.

TYLER-STOTT: Just so it doesn't take your Honour by surprise. I've foreshadowed to my friends at the bar table my intention to cross-examine about Ms Q's record. She has a number of matters of dishonesty on there.

15

HER HONOUR: Is she an inmate, is she?

CROWN PROSECUTOR: She was. Sorry.

20

STUART: Yes, she was formerly an inmate. She has been released and is here in person today.

HER HONOUR: Okay. She's giving evidence about?

25

STUART: Ms Q is giving evidence about an incident where the accused grabbed her hand and stroked it, and made a comment to the effect of, "If you do favours for officers, officers will do favours for you".

30 HER HONOUR: Is she part of the tendency?

STUART: Yes, she is, exactly, your Honour. A tendency witness in relation to the misconduct charges. And Mr Foster's evidence is evidence of complaint about that exact same thing.

35

HER HONOUR: Thank you. Just whilst they're coming, in relation to the errata, there are a couple of things I need to raise in relation to them, and plus there is some additional ones that I've seen on page 184. It was a discussion between yourself and I, Mr Crown, about Barry and Berri. But I'll go through that when we have a bit of time. It's just that the transcribers have picked up Berri when I've Barry, and Barry when I've said Berri. But that just needs to be corrected. And I'll put them on record as well at some stage once we've gone through them.

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IN THE PRESENCE OF THE JURY

<Q, SWORN(10.15.AM)

5 <EXAMINATION-IN-CHIEF BY MS STUART

Q. Is your name Q?

A. Currently it's actually Q. I changed it because of my married name.

10 Q. And previously it was Q. Is that correct?

A. Yes, that's correct.

Q. Were you also previously an inmate in the custody of Corrective Services New South Wales?

15 A. Yes, I was.

Q. Were you housed at Dillwynia Correctional Centre from May 2017 until January 2019?

20 A. I was housed at Dillwynia and then I moved, yes, to Parramatta TC. Yes, that's correct.

Q. While you were at Dillwynia Correctional Centre, did you have a job as a sweeper?

25 A. Yes.

Q. Where did you start working as a sweeper?

A. The reception.

Q. Can you tell us what that job involved?

30 A. It was just cleaning the reception area preparing little welcome, sort of, packages for incoming inmates, doing the laundry, washing the inmate clothing and folding them and putting them away.

Q. Was there a certain room or area where you did the laundry tasks?

35 A. Yes. So the laundry room was near the front of the reception area, and the back area is where I would fold them and pack the clothes away.

Q. When you were cleaning, whereabouts were you doing the cleaning?

40 A. Usually everywhere. So from the front of reception, all the way to the back of reception.

Q. When you were doing that job, the sweepers role, was that something you did by yourself, or with other inmates?

45 A. No, it was a one person job.

Q. Did you while you're at Dillwynia come to know a person called Wayne Astill?

A. Yes, I did.

50 Q. Was he a correctional officer there?

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A. Yes.

Q. Do you know what rank he had?

A. At the time when I met him, I believe he was acting chief.

5

Q. Was that a relatively senior rank to your knowledge?

A. Yes, it was.

Q. Did you for the first couple of months that you were at Dillwynia, did you have much to do with Mr Astill?

10

A. No, not really. I heard about Mr Astill, but I didn't really have much to do with any officers at the time. It's the first time incarcerated so kept to myself.

Q. At some point did you have cause to need to speak to Mr Astill?

15

A. Yes.

Q. What did you need to speak to him about?

A. To contact my husband. At the time there was no money on my phone, and I was going through a bit of a mental health thing, and I needed to speak to my husband, and he had organised that for me.

20

Q. Did that happen?

A. Yes, it did.

Q. I'd like to ask you about a time in December 2017. Were you working as a sweeper at Dillwynia then?

25

A. Yes. In the hygiene department.

Q. Were you also still working around the reception area in that period?

30

A. Yeah. So I went, sorry, I went from the hygiene department to the reception area. So it was two separate jobs. When I first was arrested, went to Dillwynia, got the hygiene position, and then it was a few months later that I started working at the reception area.

Q. So earlier you told us about what the job entailed, the kinds of tasks, cleaning the reception area--

35

A. Mm-hmm.

Q. --and folding laundry and things like that. Is that what you were doing at hygiene or at the second job you had at reception?

40

A. No, at reception.

Q. That was the job in reception, was it? Okay. So was there a time in December 2017 when you were doing your job in the reception sweepers role, and you were folding laundry?

45

A. Mm-hmm.

Q. Did you encounter Mr Astill at that time?

A. Yes, I did.

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Q. On this particular occasion?

A. Yes.

Q. Where were you?

5 A. I was at the back area where there's a wall, kind of, that blocks off from the outside, and there's a desk where I do all my folding, and then there's the shelving all behind me.

Q. Were you in that area alone?

10 A. Yes, I was.

Q. What were you doing at the time?

A. At the time I was folding the laundry and biting my nails at the same time, so.

15

Q. When did you see Mr Astill? What did you see him do?

A. He walked past, then he walked in, kind of sat on the table, blocked my way out, grabbed my hand from my mouth as I was biting my nails, so - yeah, and started patting my hand. I don't know if I can show you.

20

Q. Yes, please demonstrate.

A. Yeah, just really - like this, and started saying, you know, "If you do favours for officers, officers will do favours for you." At that point, I ripped my hands away from him and kind of squeezed my way through him.

25

STUART: If I could just describe the motion for the record that the witness has demonstrated, with one hand stroking the other hand from the wrist down to the fingers.

30 Q. And did that happen a number of times?

A. That was the only occasion that it happened to.

Q. Sorry, I should rephrase that question. Did the stroking happen a number of times?

35 A. Yes.

Q. Do you know how many?

A. No, not really, cause it kind of took me by shock, so I kind of froze for a little bit and just, kind of - was doing it, and then I kind of snapped out of it and pulled my hands. So I can't recall how many times.

40

Q. Was that on the back of your hand that he was touching?

A. Yes.

45 Q. And did you say anything?

A. Yes, I did. I--

Q. What did you say?

A. I ripped my hands away from him, and I said - I don't know if I can repeat this, but--

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HER HONOUR: Yes.

5 WITNESS: Yes? That - if he was to touch my hands again, he won't have hands. And I walked away.

STUART

- 10 Q. You say you walked away. Where did you go?
A. I went to the front of reception where there was people around, just to get away from being alone in the back with--
- 15 Q. So, when Mr Astill was in the room with you stroking your hand in that way, was anybody else around?
A. No.
- 20 Q. Did you know an officer by the name of Barry?
A. Yes, Chief Barry.
- Q. Was she a female officer?
A. Yes, she was.
- 25 Q. Did you ever speak to any officer about this incident where Mr Astill had stroked your hand and said that thing to you?
A. Well, I - I believe it was maybe the next day or a couple of days later, I kind of wanted to say something, and so I walked into Chief Barry's - she was at the reception office. And I walked in there, and I said, "I'd like to make a complaint about Mr Astill." She said, "Okay, let's do it. We've got to speak to Chief Wilson." And at the time, Chief Wilson and Mr Astill were very good friends, very close friends, from what I had seen, and I just didn't trust that it was going
30 to be beneficial for me to - to continue down that road. So I kind of just stayed quiet, kept to myself, and avoided - avoided Mr Astill as much as I could.
- 35 Q. Did you also know an officer at Dillwynia called Mr Foster?
A. Yes.
- Q. And at some point, did you make a report to him?
A. I did say something to Mr Foster, and I believe Mr Clarke at the same time as well.
40
- STUART: If the witness could be shown this, please?
- 45 Q. Have you seen that diagram before?
A. Yes, I drew it.
- Q. And can you tell us what it describes, please?
A. It describes the location of where Mr Astill patted my hand.
- 50 Q. And can you see, in the top right corner of the diagram, there are two stick figures?

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A. Yeah.

Q. One of them is "Q", is that you?

A. Mm-hmm.

5

Q. And one of them is "Astill", is that Mr Astill?

A. Yes.

Q. And what do the positions of those two stick figures describe?

10 A. His back was towards the front entrance of reception, and me - I was facing the front. So we were kind of like this.

HER HONOUR

15 Q. Face to face?

A. Not face to face, side to side.

EXHIBIT #M DIAGRAM TENDERED, ADMITTED WITHOUT OBJECTION

20 STUART: There are jury copies.

<CROSS-EXAMINATION BY MR TYLER-STOTT

25 Q. So, Mr Astill initially assisted you in making a phone call to your husband, is that correct?

A. Yes.

Q. You just have to answer orally.

A. Yes, sorry.

30

Q. What was the spelling of your surname?

A. My maiden name?

Q. The name you use today.

35 A. other NAME for Q. hyphen, other NAME for Q.

Q. Have you gone by other names, as well?

A. Yes.

40 Q. One of those was other NAME for Q,

A. Yes, other NAME for Q.

Q. other NAME for Q?

A. Mm-hmm.

45

Q. And other NAME for Q?

A. Q, yes.

Q. You were in prison for fraud matters?

50 A. That's correct.

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Q. And you have a number of those on your record, is that correct?

A. Yes.

5 Q. You've been charged on about five occasions, is that right?

A. Yes.

Q. Once in 2012?

A. Yes. That - I believe that was the first, yep.

10

Q. Once in 2013, yes?

A. Yes.

Q. Twice in 2015?

15

A. Yes.

Q. And finally in 2017, is that correct?

A. Yes.

20 Q. The total amounts that you have obtained is over \$200,000, would you agree with that?

A. Yes.

25 Q. And on one occasion, you used other NAME for Q as a referee when you were getting a job with the name of Q, is that correct?

A. Yes.

Q. Within the laundry room, was that the last dealing you had with Mr Astill?

A. Well, after that--

30

HER HONOUR: What do you mean by dealing?

TYLER-STOTT

35 Q. Well, last time you interacted with him.

A. Yes, I believe so.

Q. Do you know where you were housed at the time that Mr Astill did this to you in the laundry room?

40 A. I don't recall. Either it was N2, which is in low needs, or it could've been in O house, also in low needs. It was a long time ago, I can't really remember.

Q. With Ms Barry, when you said you wanted to make a complaint about Mr Astill, did you go into any detail with her about what had taken place?

45

A. No.

Q. When was it that you approached Ms Barry?

A. I don't recall. I - it was either the next day or a couple of days after the event.

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Q. But you most certainly raised Mr Astill's name, is that right?

A. Yes, I did.

Q. Did she ask you about what it was about?

5 A. Well, I believe she needed another officer there while the complaint was made. That was the assumption I was under, why she went to get Chief Wilson.

Q. Did she ask you to put a complaint on the inmate application?

10 A. No.

Q. No?

A. Cause I - the minute she went to get Chief Wilson, I kind of just said, "You know what? Don't worry about it."

15

Q. When Mr Astill walked in on you when you were folding laundry, you at some stage were biting your fingers, is that correct? Fingernails?

A. Yes. I suffer anxiety, so I bite my nails.

20 Q. Mr Astill took your hand from--

A. From my mouth.

Q. --your mouth, and told you to stop biting your nails, is that correct?

A. As he was patting my hand.

25

Q. Did he tell you to stop biting your hand?

A. At the very beginning, I don't recall.

Q. You don't recall?

30 A. No.

Q. Did he raise with you the fact that you were handling a number of objects, and it was unsanitary to be biting your fingernails?

A. No, I - I don't know.

35

Q. You don't know, or no?

A. I don't recall. I don't recall.

Q. How would you describe the initial grabbing of you? Was it of your hand or your arm?

40 A. My hand.

Q. Did that change at any point in time? It was always your hand. Is that correct?

45 A. Yes.

Q. Just finally, ma'am, I'll just suggest to you that what you've said about Mr Astill stroking your hand--

A. Mm-hmm.

50

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Q. --and the reference to doing favours is an outright lie?

A. No, it's not.

NO RE-EXAMINATION BY MS STUART

5

<THE WITNESS WITHDREW

HER HONOUR: Yes, next witness.

10 STUART: Next witness is Paul Foster.

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<PAUL FOSTER, SWORN(10.31AM)

<EXAMINATION IN CHIEF BY MS STUART

- 5 Q. Is your name Paul Foster?
A. That's correct, ma'am.
- Q. Do you currently work for Corrective Services New South Wales?
A. That's right.
- 10 Q. Do you work at Dillwynia Correctional Centre?
A. I do.
- Q. Have you worked there for sometime?
15 A. Since 2004.
- Q. 2004 is when you started working at Dillwynia?
A. Yeah.
- 20 Q. As part of your duties, do you have regular contact with inmates at that correctional centre?
A. Absolutely.
- Q. What rank are you currently, sir?
25 A. I'm a senior correctional officer.
- Q. Did you come to know an inmate by the name of Q--
A. Yes, I did.
- 30 Q. --while you were working at Dillwynia? At some point in November 2018, did you speak with Ms Q?
A. I did.
- Q. At that time was she at the independent living unit at Dillwynia?
35 A. She was, yes.
- Q. As a result of that conversation, did you produce an officer report?
A. I did.
- 40 Q. Is that report dated 1 November 2018?
A. Correct.
- Q. And that's a report that you wrote, that's one and a bit pages. Is that correct?
45 A. That's right.
- Q. Have you read over a copy of that report recently?
A. I have.
- 50 Q. Who was the report addressed to?

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A. Would've been addressed to the Governor of the correctional centre.

STUART: Could the witness please be shown this document.

5 Q. Is that a copy of your report, sir?

A. It certainly is.

Q. That's a report that you wrote?

A. I did.

10

Q. Does the report contain the following information under your hand, that "Approximately one week ago information came to your attention regarding an ILU inmate, Q"?

A. Yes.

15

Q. I'm going to read from the report and just ask you a question at the end, okay sir.

A. Yeah, certainly.

20 HER HONOUR: Any objection to this?

TYLER-STOTT: No, your Honour. Well, depends what's being read.

STUART: My friend will stop me if--

25

TYLER-STOTT: Yes, I will.

STUART

30 Q. "A story has been related to me"--

TYLER-STOTT: I object, your Honour. Can I just have a moment.

STUART: I'm going to read from the following paragraph.

35

Q.

40

"I invited inmate Q into the ILU unit and asked her if I could ask a personal question, and told her that she didn't have to answer if she preferred not to. She asked, 'What kind of question?'. I shared with her that I had heard of a matter concerning her and staff member. Q then told me there was an incident. I asked her who was involved in the incident, and she was silent. I then asked her if Officer Astill was part of the incident, to which she reluctantly replied, 'Yes'. Q then went on to describe what had occurred to her whilst working in the reception area of the centre. She also reminded me that this is an area devoid of camera coverage. She told me that she had been carrying out her job as a reception sweeper, working in her normal clothes folding area. Mr Astill approached her and took her by the arm, she felt cornered. Q told

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me that Mr Astill had said to her, 'If an inmate does a favour for an officer, the officer does a favour for the inmate', whilst all the time stroking Q's arm. Q removed herself from the situation as early as she could."

5

Is that information from your report, sir?

A. Yes, it is, ma'am.

Q. Is that the truth?

10

A. It is.

STUART: No further questions, but might that document be marked for identification, please.

15

MFI #13 INCIDENT REPORT WRITTEN BY PAUL FOSTER

NO CROSS-EXAMINATION BY MR TYLER-STOTT

<THE WITNESS WITHDREW

20

HER HONOUR: Yes.

CROWN PROSECUTOR: Your Honour, I call O. She's in custody, and we could have her on the screen.

25

HER HONOUR: This concerns counts 25 to 32. Is that right?

CROWN PROSECUTOR: That's right, your Honour, it does. Your Honour, I should make clear that the last witnesses who gave evidence, that evidence was of a tendency nature, so that evidence is not related to any--

30

HER HONOUR: Count.

CROWN PROSECUTOR: --specific count, but rather it forms part of that body of evidence of a tendency, various tendencies on the part of the accused, which I told the jury about on the first--

35

HER HONOUR: Yes. You remember the Crown Prosecutor said to you about that there's some evidence that they rely upon which they say proves that the accused had a tendency to act in particular ways, and that that witness that you just heard was related to the Crown's evidence that they say proves that the accused has a tendency. There'll be a further explanation of that, no doubt, and there'll be directions given to you in relation to that.

40

45

CLOSED-CIRCUIT TELEVISION ACTIVATED

HER HONOUR: Yes. Once again, ladies and gentlemen, you can see that there is a support person there with her. Again, that's standard procedure for matters of this type. It doesn't give her evidence any greater or lesser emphasis, and also nothing adverse to the accused can be taken because of

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the presence of a support person. But yes, Ms O, can you see and hear me?

O: Yes.

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<O, SWORN(10.41AM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

5 Q. Is your name O?

A. Correct.

Q. Is English your first language, Ms O, or not?

A. No.

10

Q. What's your first language?

A. Arabic.

CROWN PROSECUTOR: I'm going to take the questions slowly.

15 Your Honour, can I just indicate, there is an interpreter at the jail. But I don't know whether the interpreter will be required, but perhaps if the interpreter's sworn--

HER HONOUR: Where is the interpreter? With her?

20

CROWN PROSECUTOR: Yes, beside her.

WITNESS: Yes, your Honour.

25 HER HONOUR: Right. Sorry, I thought you were the support person.

SUPPORT PERSON: I'm the support person, your Honour. Hello.

30 HER HONOUR: Okay, we have a support person, another face. Well, Madam Interpreter, I'll just have you sworn in case there is a need for you. Obviously it appears that Ms O can speak English very well, but if there is a need - and Ms O, if you need the interpreter, utilise her, use her. Okay?

WITNESS: Okay.

35

HER HONOUR: Just as a matter for you. You just let us know whether you need the interpreter to interpret. Okay?

WITNESS: Okay.

40

INTERPRETER, SWORN TO INTERPRET THE ARABIC LANGUAGE

CROWN PROSECUTOR

45 Q. Ms O, are you currently being housed at Dillwynia Correctional Centre?

A. WITNESS: Yes.

Q. Have you been housed there since 4 January 2016?

A. WITNESS: Yes.

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Q. Throughout that period, have you been in the SMAP area of the jail?

A. WITNESS: Yes.

Q. Have you been housed in any other part of the jail?

5 A. WITNESS: I'm just going to use the interpreter.

A. INTERPRETER: No. Until 2020, I came to ILU.

Q. Did you know an inmate at Dillwynia by the name of "T"?

10 A. WITNESS: Yes.

Q. Was there an occasion in March 2017 where you were walking in an open area near the chief's office?

A. WITNESS: Yes.

15 Q. Did something happened on that occasion that you remember in particular from the chief's office?

A. WITNESS: Yes.

Q. Just tell us what happened, and what did you see and hear, Ms O?

20 A. WITNESS: I was just walking there. It was our time to be out, so we - as the girls, we were sitting there, walking there, it's our time break. Then H was cleaning the office, because she was a sweeper. Then - should I say his name? Then the chief was sitting in his office, chief office. Then she was in his office cleaning and all that stuff, and I just noticed something inappropriate happen there.

Q. When you say inappropriate, please tell us, what did you see?

A. WITNESS: He touched her from the back.

30 Q. When you say he touched her, who was he?

A. WITNESS: Wayne Astill.

Q. And when you say touched her, who was she?

35 A. WITNESS: H.

Q. How did he touch her?

A. WITNESS: He just swiped his hand from her bottom, like, from bottom to top.

40 CROWN PROSECUTOR: Your Honour, with leave, if the witness could stand and just indicate how that was done?

Q. Would you be able to demonstrate? If you just stand up for us, please, Ms O, would you mind demonstrating how that was done?

45 A. WITNESS: He just touched her, like, from her butt up there.

Q. Do you remember which hand he used?

A. WITNESS: It's the right hand.

50 CROWN PROSECUTOR: Please, take a seat again. Thank you, Ms O, sit

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down for me. For the record, the witness indicated with her right hand, open palm, and a sweeping motion from down at perhaps slightly below the groin area, and indicating upwards.

5 Q. Where was H within the office? So, inside the office, where exactly was she when that happened?

A. WITNESS: Exactly next to his office, where is his rubbish bin, trying - like, she was right then changing bin or vacuuming - like, that stuff doing.

10 Q. When you say next to his office near the bin--

A. Next to his desk in the office.

Q. Did you draw for the police two diagrams, two sketch plans?

A. WITNESS: Yes, I did.

15

Q. Does the first of them, marked annexure A, set out an open area where the SMAP is, where the main office is, and where the chief's office is?

A. WITNESS: Yes.

20 Q. And does the second diagram, marked annexure B, set out the chief's office, where the desk was, where the chair was, window, and where the door was?

A. WITNESS: Yes.

25 EXHIBIT #N TWO DIAGRAMS TENDERED, ADMITTED WITHOUT OBJECTION

Q. Just while that's going out, do you have your statement there, Ms O?

A. WITNESS: Sorry, I couldn't hear you properly.

30

Q. Do you have your statements there?

A. WITNESS: Yes, I do.

35 Q. Do you see on the back of one of those statement there is the two diagrams?

A. WITNESS: Yeah.

Q. Would you look at annexure B for me, please?

A. WITNESS: Yeah.

40

Q. As you're holding that up with the words annexure B at the top of the page, over on the left, bottom-left, you've got the word, O, and two circles to the left. Do you see that?

A. WITNESS: Yes.

45

Q. What does that represent? What does the two circles mean, there?

A. WITNESS: That I was in that spot.

Q. Now, there's two circles. Where was Ms T?

50 A. WITNESS: Next to me in one of the circles. Me in one and the other circle

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is her.

Q. How far from the door were you?

5 A. WITNESS: Not far, because the space is very much close to each other. Like, if he talk from there then it would be very clear to hear.

Q. Are you able to say, like metres or centimetres, how far roughly, estimate how far from the door you are?

10 A. WITNESS: I'm going to use the interpreter with that, please.
A. INTERPRETER: I don't know with measurements, but I know it wasn't far. I don't know how to measure with centimetres and things like that.

Q. When you went there, did anybody have any conversation with anybody in the office? Did you or T talk to anybody in the office, or not?

15 A. WITNESS: Do you mean after what - when we saw what happened?

Q. Before and after, yes. On that occasion, at that time.

20 A. WITNESS: We just - we were asked, like, I think we were three of but two of us saw it, but we were shocked at what's happened.

Q. Was anything said by anybody in the room, that is, did H or Mr Astill say anything at that time?

25 A. WITNESS: Not on that day. He was just shocked, because he noticed that we saw him.

Q. What makes you think he was shocked?

30 A. WITNESS: We could look at his face, because, as I said, his face is very much small, like we can see each other faces, like, we can see through the door, like, when - especially when it's open. Like, we can see the person that's sitting behind the desk and if he look at us, we can see him.

Q. When he did this action with his hand up behind her, how was he positioned? Was he standing up or sitting down?

35 A. WITNESS: Sitting down.

Q. How was she positioned?

A. WITNESS: She was bent over, like, to change the bin.

Q. Did H say anything during that time?

40 A. WITNESS: No.

Q. Did you make a report about that, an inmate application, setting out--

A. WITNESS: Yes I--

45 Q. --what you'd seen?

A. WITNESS: Yes.

Q. Were you spoken to after that by Mr Bartlett? Mr Brian Bartlett? And were you interviewed by him?

50 A. WITNESS: Do you mean the person who is acting at that time as the

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governor?

Q. Yes. The acting--

A. WITNESS: Yes.

5

Q. --manager of security, Mr Bartlett.

A. WITNESS: Yes.

Q. A few weeks after that, did you speak to H?

10 A. WITNESS: She's the one who was approaching me all the time.

Q. But, a few weeks after, did she approach you on a particular occasion and say something to you about that?

A. WITNESS: Yes.

15

Q. What did she say?

A. WITNESS: She used to ..(not transcribable).. me and calling me name, and say that I went with complaints saying that she had sex with Astill.

20 Q. About a month after that, did you speak to Mr Astill in the chief's office about that?

A. WITNESS: Yes.

Q. What did he say?

25 A. WITNESS: He approached me about my request that I put against him, the complaint that I made.

Q. And what did you say to him about that?

A. WITNESS: I said I don't know what he's talking about, it wasn't me.

30

Q. Did he show you a document at that stage, some paper?

A. WITNESS: After when I said that, then he did show me the book that I signed on it.

35 Q. The book that you signed?

A. WITNESS: The book that name is there, like, on the complaint book. I think they call it register book.

Q. When you saw that, did you say anything to Mr Astill?

40 A. WITNESS: I apologised.

Q. Was there a time where you were having trouble receiving your personal mail?

A. WITNESS: Yes.

45

Q. Did you ever speak to Mr Astill about your mail? Was there ever any discussion about mail for you?

A. WITNESS: Yes, many times.

50 Q. I want to ask you about some birthday cards.

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A. WITNESS: Yes.

Q. Was there ever any discussion with him which involves some mail, including birthday cards?

5 A. WITNESS: Yes.

Q. When did that happen?

10 A. WITNESS: It was around September and even afterward, and even a couple of months afterward. It's because the mail I tracked, and I never got my cards.

Q. You said around September, what year was that?

15 A. WITNESS: I can't really remember exactly. I can't exactly recall the year, but either it was like, end of September 2016 or 17.

Q. What happened regarding the mail, when you were speaking to Mr Astill? Tell us about that.

20 A. WITNESS: Well, I was putting request forms and I keep asking everyone, like, I know there is mail been sent to me, there is birthday card being sent to me, and I'm not receiving them. But later he did show me that he had them.

Q. Now, when you say he'd showed me that he had them, who are you talking about?

25 A. WITNESS: Astill.

Q. And what exactly did he show you?

A. WITNESS: My four birthday cards.

Q. Did he say anything to you then about the fact that he had them?

30 A. WITNESS: He said I have them with me here. Then I ask him if I can have them, please.

Q. And what did he say?

35 A. WITNESS: No.

Q. Did he do anything with the cards and the mail when you were there?

A. WITNESS: Throw them in the bin.

Q. Did he say anything else to you at that stage?

40 A. WITNESS: Can I just get a minute?

Q. Take your time. So, this is after he's thrown the cards in the bin. And I've asked you, did he say anything else to you after that.

45 A. WITNESS: Can I use the interpreter for a second?

HER HONOUR

Q. It's okay.

50 A. INTERPRETER: Sorry. Can I ask her to repeat her answer, please?

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Q. Yes.

A. INTERPRETER: I'm feeling very nervous. I understand your questions but I'm feeling very nervous. Can I check my statement, please?

5 Q. Just do the best you can at the moment. If you can remember what was said, just say so. You don't need to be nervous. Just say what you remember and we'll then - maybe or maybe not your statement, but the first thing is to just tell us what you remember.

10 A. WITNESS: I know he did refuse to have my birthday card, and that because of what happened, like, they complained that I put against him and all that sort of stuff.

CROWN PROSECUTOR

15 Q. A couple of days after that meeting, do you remember walking to get your pills at the pill window at the clinic?

A. WITNESS: Yes.

Q. Did you speak to Mr Astill at that time?

20 A. WITNESS: He came to me, yes.

Q. Did he say something to you at that time?

A. WITNESS: He said we can be friend.

25 Q. Did you say anything back to him about that, being friends?

A. WITNESS: I said I'd like to be friend and we'd be civil.

Q. Did he say anything else to you at that stage?

30 A. WITNESS: He said to come and talk to him later because, as I said, he'd like to be a friend and to be civil and that's something good for me.

Q. Did you have a lawyer at that stage?

A. WITNESS: No, I didn't.

35 Q. Was there ever any discussion about you getting a lawyer?

A. WITNESS: I was trying to have one but I couldn't afford it. Then he offered me one.

Q. When did that happen?

40 A. WITNESS: Well, when he said, "Come see me," it was about, like, to offer me a lawyer that his friend.

Q. Did you go to see him?

A. WITNESS: I--

45

Q. Sorry. Excuse me. Just wait there, Ms O. I just want to check something. Did you go to see him, Ms O, after he mentioned his lawyer friend?

A. WITNESS: I did see him.

50 Q. What did you say to him about getting a lawyer?

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A. WITNESS: He's the one who said to me, because he said he have a lawyer. He can look at my paperwork. He can help me with my appeal.

Q. What did you say to that?

5 A. WITNESS: I said I don't have money to pay.

Q. What did he say when you said you don't have any money to pay?

A. WITNESS: He said, "Don't worry about the cost. He's my friend. He'll do me a favour."

10

Q. I want to ask you now about a couple of days after that at the muster. Did you speak to Mr Astill at that time, or did he speak to you?

A. WITNESS: He speak to me.

15

Q. What did he say to you, Ms O?

A. WITNESS: In lunchtime to go and see him in the office - chief office.

Q. Did you do that?

A. WITNESS: I did.

20

Q. Was that the next day?

A. WITNESS: I think it was the next day.

Q. When you went into the office, what happened in there?

25

A. WITNESS: Well, he was in his office, like, he was sitting there. He was alone in that office and he asked me if I think about it and it's about the friendship. Then I told him I didn't take him serious, like, I thought he was testing me.

30

Q. Was there any talk at that meeting about paperwork for the lawyer?

A. WITNESS: Yeah, he asked me if I brought my paperwork with me for the lawyer because he spoke to him and just briefed him briefly about my case, and he's waiting for my paperwork to read it to see how he can help me.

35

Q. At this stage, was he seated at this desk or not?

A. WITNESS: He was sitting in his desk, yes.

Q. Were you there when he stood up from the desk?

40

A. WITNESS: Yeah, after when I entered then we - like, we just exchanged the greeting then - yeah. He - he got up, came behind his desk. He was standing in front of me.

Q. What happened then?

45

A. WITNESS: He tried to come closer to me, like, just to hold me or something.

Q. Did he make contact with you at that time?

A. WITNESS: He tried to touch me.

50

Q. Did he actually touch you?

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A. WITNESS: Well, he put his hand on me. He tried to hug me and touch me.

Q. When he put his hand on you, where did he touch? Which part of you did he touch?

5 A. WITNESS: Well, he put his hand first around my arm. He's trying to touch me. Then he tried to move his hand around to my boobs and down, but I pushed him.

Q. After you pushed him, did anything else happen?

10 A. WITNESS: He tried to kiss me.

Q. Was this on the same occasion that you'd gone and spoken about the lawyer?

15 A. WITNESS: Well, that - the day when he said, like, "Did you bring your paperwork? Because I spoke to him and he ready to read your paperwork," so was on that day.

Q. On the occasion you've just told us about, you said in - excuse me, Ms O.

20 WITNESS: I'm just confused. The word is just in my head.

INTERPRETER: ..(foreign language)..

HER HONOUR: Please, no discussions. No discussions.

25

WITNESS: Sorry.

CROWN PROSECUTOR

30 Q. Ms O, you told us that he tried to touch your boobs.

A. WITNESS: Yeah.

Q. Did he actually make contact with them? On the outside of the clothing did he make contact with your boobs?

35 A. WITNESS: Yes.

CROWN PROSECUTOR: Your Honour, this relates to count 25 on the indictment.

40 HER HONOUR: Thank you.

CROWN PROSECUTOR

Q. Were you doing anything when he was trying to touch your boobs?

45 A. WITNESS: I pushed him.

Q. Did he say something to you at that stage?

A. WITNESS: It's only, it's okay, don't be scared, no-one will know, no-one is here.

50

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Q. What did you say to him, if anything. Did you say something back to him about that?

5 A. WITNESS: I said to him, like, "I'm scared. Like not - not - like I'm scared", I pushed him away. I was like nervous. Is someone going to see me or someone there. Like, I didn't know that he's friendship will be like this, but obviously ..(not transcribable)..it was sort of relationship he want.

Q. Did he say something else to you that day before you left?

10 A. WITNESS: Yeah, he said, "It's okay. It will be all right. I'll get used to it, and no-one will know. It's all right. We take it easy".

Q. About one week later, did Mr Astill tell you to come back to the case manager's office?

15 A. WITNESS: Yes.

Q. Did you go to the office on that occasion as you were told?

A. WITNESS: Yes.

Q. Who was in the office, if anyone? Was Mr Astill there?

20 A. WITNESS: Yes.

Q. Did he ask you anything when you arrived?

A. WITNESS: I'm - I'm sorry, I'm just little bit--

25 HER HONOUR: Just take your time. Have some water, take a deep breath. Use the interpreter if it makes you feel more comfortable, or it's easier to say it.

INTERPRETER: Can she ask for a break?

30 HER HONOUR: Yes, you can have a break. Ten minutes, okay.

SHORT ADJOURNMENT

CROWN PROSECUTOR

35 Q. Ms O, before that break, you were telling us about another occasion where you were told to go to the case manager's office. And you went and saw Mr Astill. And he was in the office.

40 A. WITNESS: Yes.

Q. Did he ask you how you were feeling at that time?

A. WITNESS: Yes.

Q. What did you say?

45 A. WITNESS: Like a shit.

Q. Did he say anything back to you?

50 A. WITNESS: Yeah. He asked why. And I should be happy, not feeling like that.

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Q. Was there any discussion about how old he was? Did you have anything to say about that?

A. WITNESS: Yes. I told him - do you even realise how old are you? You're like my grandpa age.

5

Q. What happened after you said that? Did anything happen between you two after that?

A. WITNESS: Well, first he told me like, "Why is that matter? Not like we going to have relationship." Then he start touching my hair, my face. Trying to kiss me.

10

Q. Did he touch any other part of your body on that occasion, Ms O?

A. WITNESS: Well, he start touching my hair, as I said, and my face. Then he tried to go lower than that - to my boob. He tried to go lower but I said to him, "Let's take it slowly."

15

Q. And after you said to take it slowly - what did he do after that?

A. WITNESS: He said, "It's okay. We go slowly as you want."

20

**Q. After he said that to you, did he touch you anywhere else?

A. WITNESS: Yeah. He didn't take it any slower. He just coming lower than that.

Q. Ms O, please tell us exactly what happened then. Did he touch any other part of you down below?

25

A. WITNESS: He moved his hand lower. Touched me down.

Q. Where did he touch exactly, Ms O? You can just say the words you need to say. Where did he touch you there down lower?

30

A. WITNESS: Touched my vagina.

Q. Was that on the outside of the clothes or inside of the clothes?

A. WITNESS: I think was - trying to touch me inside the clothes. Like, he trying to move my pants up with his hand inside my pants to touch my vagina.

35

Q. I just notice you're saying he tried to do different things. Did his hands go inside your pants?

A. WITNESS: Sorry, I'm just nervous. Yes, he did.

40

Q. It's all right. Please take your time. And when his hands went inside your pants, did his hands touch your vagina?

A. WITNESS: Yes.

45

Q. Count 26 on the indictment, your Honour is what - I want to ask you now about a few days later. Did you speak to Mr Astill in relation to your period? The fact you had your period.

A. WITNESS: Yes.

50

Q. How did that topic come up? What was that about? How did that come up?

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- A. WITNESS: He asked me to go and see him. And I said to him I have my period. I can do nothing.
- Q. Ms O, when you told him that, did you in fact have your period at that time?
5 A. WITNESS: No.
- Q. Why did you tell him that you did?
A. WITNESS: Didn't want - didn't want to go. Didn't want him to touch me.
- 10 Q. Did he say anything back after you told him that you had your period?
A. WITNESS: That time he said, "Yeah, it's okay. We wait." Then he called me to go back after a while. So, yeah.
- Q. How long after he said, "It's okay, we'll wait." - how long after that did he
15 call you to come back?
A. WITNESS: A week.
- Q. When he asked you to come back - where was he when he asked you to
20 come back on that occasion?
A. WITNESS: I think he was on muster when he asked me to go and see him
lunchtime in that management office.
- Q. Did you say anything referring to your period at that time?
25 A. WITNESS: As I recall, I said to him, "I still have my period", and he said,
"It's okay, we just talk."
- Q. At that stage, did he tell you what he wanted to talk about?
30 **A. WITNESS: Just - the conversation, I think, was around my appeal and
paperwork with lawyers.
- Q. The next day after being told to do that, did you go to his office?
A. WITNESS: Yes, I did.
- Q. Did you knock on the door?
35 A. WITNESS: Yeah, but the..(not transcribable)..so I knocked the door and he
opened the door for me.
- Q. Did you go inside?
40 A. WITNESS: I did.
- Q. What happened inside, just tell us, Ms O?
A. WITNESS: First, he asked me, did I get my paperwork yet to post it to the
lawyer. I said, "Not yet, I'll get to it later."
- 45 Q. Was anything else said at that stage?
A. WITNESS: It's just normal conversation in the beginning. How are you,
how's things going in the unit, and all that sort of stuff.
- Q. Did the subject of your period come up in that conversation?
50 A. WITNESS: Yeah, because he wanted to move toward me, and I said to

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him, "I still have my period."

CROWN PROSECUTOR: Sorry, I didn't quite catch that. Perhaps your Honour did. I didn't quite catch that answer.

5

HER HONOUR: It was, "I said that I still had my period."

CROWN PROSECUTOR: There was something before that, but perhaps it's of no consequence. I thought I'd just check. Yes, my instructor's note is, "because he wanted to move towards me", perhaps. That's consistent with what I thought she might have said.

10

HER HONOUR: Yes.

15 CROWN PROSECUTOR

Q. When you say he wanted to move towards you, what actually happened, what made you think he wanted to do that? Is that something he did or something he said?

20

A. WITNESS: Yeah, because when I said that to him, he said that I'm a lawyer, it's been over a week. So he just come to me and he want to touch me then. That's when - sorry.

CROWN PROSECUTOR: It's all right, just take your time, Ms O.

25

WITNESS: He said I'm a liar, it's been over a week now, and he pushed in the table, and he wanted to check.

CROWN PROSECUTOR

30

Q. He pushed you onto the table and he wanted to check?

A. WITNESS: Yeah.

Q. Did he go on to check you, to check on your period?

35

A. WITNESS: Yes. He took my pants off to check if - if I have my period, and he separated my leg, and he said to me that, "You're a liar, you don't have any period."

CROWN PROSECUTOR: That's count 27 on the indictment, your Honour.

40

HER HONOUR: Yes.

CROWN PROSECUTOR

Q. After he said you were a liar, how were you reacting at this stage, emotionally?

45

A. WITNESS: I was terrified.

Q. Were you showing any signs of that, like your facial expression?

50

A. WITNESS: I started shaking, and I was scared, you know? I apologised

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from him, that I'd been lying.

Q. What did he say to you, Ms O, after you apologised?

5 A. WITNESS: He said: "It's okay, you don't need to be scared. And you should know better not to lie."

Q. Was anything else said before that meeting ended?

A. WITNESS: He said, "Fix yourself, go back to unit, and don't do it again."

10 Q. Did you leave at that time?

A. WITNESS: Yeah, I said thank you and I just went back.

Q. So when you went back, where did you go back to?

15 A. WITNESS: Back muster, to the unit.

Q. Did you speak to Mr Astill again before the muster that afternoon?

A. WITNESS: Yeah, he came around before the muster lock in, and he spoke to me in the sleep out, we call it.

20 Q. Sleep out?

A. WITNESS: It's, like, a room - before, it used to be for smoking, now it's just - that's the label of it, sleep out. Yeah.

Q. So he came around, and what did he say?

25 A. WITNESS: He was checking if I was okay, and it's okay, I don't need to be scared, and everything would be all right, and I should know better not to do it again. And I apologised again, and I said, "Now I know better."

30 Q. I want to ask you now, Ms O, about a time about three days later, but after you had not seen Mr Astill for a couple of days. He'd been off for a couple of days. Do you remember that occasion?

A. WITNESS: Yeah.

Q. Did you go to Mr Astill's office on that day?

35 A. WITNESS: Yeah.

Q. Do you remember why you went to the office, what led you to do that at that time?

40 A. WITNESS: He told me to go.

Q. Now, when you went into the office, was there anybody in there?

A. WITNESS: No.

Q. Did you see where Mr Astill was?

45 A. WITNESS: He was inside. He left the door a little bit open so I can straightaway go in before anyone noticed.

Q. All right, so Mr Astill was in there, but there was nobody else apart from him?

50 A. WITNESS: No.

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- Q. What happened that time when you went into the office, Ms O?
A. WITNESS: We just started normal conversation, how are you, how you going, normal things. Then he moved toward me.
- 5 Q. He moved towards you, yes? What happened after he moved towards you?
A. WITNESS: He started kissing me, touching me.
- 10 Q. Where did he touch you?
A. WITNESS: He touched me in my arse, my boobs.
- Q. Did he say anything to you around that time?
A. WITNESS: That I am attractive, and - he said that I am attractive woman,
15 and he never seen someone have smooth body like me. He liked my hair.
- Q. Now, do you remember what you were wearing on your bottom half when you went to the office?
A. WITNESS: I think I was wearing leggings.
- 20 Q. Did they remain on during that meeting or not?
A. WITNESS: No.
- Q. How did they come to be off? Just tell us about that.
25 A. WITNESS: Well, he took my pants off and bend me in the desk to have sex with me.
- Q. Please tell us what exactly happened when you say he did it to have sex with you. What exactly did he do to you?
30 A. INTERPRETER: He took off my pants, my underwear. He was facing my back. Touched me. He touched me. How am I going to say it?
- Q. What part of his body or what parts of his body touched you?
A. INTERPRETER: I don't know how to say it. He penetrated me.
- 35 Q. What part of your body did he penetrate?
A. WITNESS: He put his penis in my vagina. Start having sex with me.
- CROWN PROSECUTOR: Count 28, your Honour.
- 40 Q. Ms O, how long did that go on for?
A. WITNESS: I didn't catch the time. I didn't count. For me it feel lifetime.
- Q. Did he ejaculate inside you?
45 A. WITNESS: No.
- Q. Did you see him ejaculate at all?
A. WITNESS: Yeah, in the bin.
- 50 Q. Was there any talk about contraception at that time?

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A. WITNESS: Yes.

Q. What was said and who said it?

5 A. WITNESS: He said - Astill said he checked my record and he know I have Mirena on but just in case, to be safe.

Q. Did you after that time get your clothes back on?

10 A. WITNESS: Yes. I put my pants back on. He told me to fix myself and go back and tell no-one.

Q. Even roughly, do you remember what time of day that happened, Ms O? That incident?

A. WITNESS: On lunchtime when we were out - after 12.

15 Q. Ms O, do you know a character by the name of Michael Weatherly?

A. WITNESS: Yes.

Q. Who's Michael Weatherly?

20 A. WITNESS: He's an actor in NCIS.

Q. Was there a time when you noticed somebody in the gaol who looked a bit like him?

A. WITNESS: Yes, the SAPO guy.

25 Q. The SAPO guy?

A. WITNESS: Yes.

Q. Do you remember the SAPO guy's name?

30 A. WITNESS: I think Matthew. I'm not exactly sure.

Q. Was there a time where Mr Astill told you that that person had made a complaint about you?

A. WITNESS: Yes.

35 Q. What was that about?

A. WITNESS: Because I was inappropriate with him - talk to him.

Q. What had you said to that officer?

40 A. WITNESS: I told him if I saw him outside the gaol, like, before I came in then I might have dated him.

Q. Did Mr Astill say anything to you about what might happen because of that complaint?

45 A. WITNESS: I'll be moved from this gaol.

Q. That you'd be moved from the gaol.

A. WITNESS: He said there is a complaint being put at me and that it's a big deal and I might - they might move me from this gaol.

50 Q. Did he say how that might be avoided or if anything could be done to stop

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that or not?

A. WITNESS: Yeah, he said leave it with him. He's going to try to help me and sort it out.

5 Q. Ms O, about two weeks later was there a time you went again to Mr Astill's office?

A. WITNESS: Yes.

Q. Was this a time when you were menstruating; you did have your period?

10 A. WITNESS: Yes, I did.

Q. Did you go into his office and speak with him?

A. WITNESS: Yes.

15 Q. What was said? From the time you walked in, just tell us what was said between you and he.

A. WITNESS: As usual we just greeted each other and speak. Then I said to him, "I can't stay long. I have my period on and I have to go back."

20 Q. What did he say to that?

A. WITNESS: He said, "It's okay. Let's just chat." But it wasn't just chat.

Q. What happened apart from chatting, Ms O? Just take your time and tell us.

25 A. WITNESS: He's starting to take his pants off. Then I told him, "What you doing? I told you I have period on and you can even check." He said, "No, I do believe you. Just you'll be taste it."

Q. What did you say about "believe you"? Could you just repeat that?

30 A. WITNESS: When I said to him, "I told you that I do have my period on and he can check if you want," he said, "No, I do believe you."

Q. "Do believe you." Thank you. What happened then, after that was said?

A. WITNESS: He took his pants off and his penis off and told me, "Just taste it little bit."

35 HER HONOUR: "Just taste it a little bit."

CROWN PROSECUTOR: Sorry, your Honour. We're just having a bit of trouble with the accent. That's all.

40 Q. What did you do after that? What happened after that?

A. WITNESS: He let me to--

A. INTERPRETER: He sat me down - I sat down on my knees, he hold my head, and let me practice oral sex with him. Do oral sex to him.

45 Q. When you say practiced the oral sex, where did his penis go?

A. WITNESS: I sucked his penis. It was in my mouth.

Q. On that occasion, did he ejaculate?

50 A. WITNESS: Yes, in my mouth.

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Q. What happened after that, Ms O?

A. WITNESS: I vomited to the bin that was next to me. He told me there is a sink there, I can wash up, and put my clothes on, fix myself, and go back.

5

Q. Did you use the sink to wash your mouth, and did you end up going back?

A. WITNESS: Yes.

10 Q. I just want to ask you briefly about this. Before that happened, before that sucking happened, Ms O, when you were telling us how you came to be down on your knees, can you describe your movements and his movements as you went down to your knees? Just tell us about that.

A. WITNESS: He was standing up in front of me, and I was in front of him, then I went to my knees.

15

Q. When you went down to your knees, did you go down to your knees on your own?

A. WITNESS: He told me to.

20 Q. And could you just explain to us, why did you go down to your knees at that time?

A. WITNESS: Don't have an option.

Q. I want to ask you now about another occasion.

25

HER HONOUR: Is that count 29?

CROWN PROSECUTOR: I'm sorry, your Honour, that's count 29. Sorry.

30 Q. Was there an occasion where there were some grapes in Mr Astill's office?

A. WITNESS: That was different day.

Q. Yes, I'm asking you was there an occasion when there were some grapes in his office?

35 A. WITNESS: Yes.

Q. Was that a time when you went into his office and saw him?

A. WITNESS: Yes.

40 Q. Do you remember why you went into the office on that occasion?

A. WITNESS: He told me to go there.

Q. When you went inside, who was in there? Was there anybody apart from Mr Astill, or was it just Mr Astill?

45 A. WITNESS: Just Mr Astill.

Q. Do you remember what time of day that was?

A. WITNESS: Lunchtime, after 12. That's the only time we can get out, at that particular times.

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Q. Which office was this in?

A. WITNESS: It's - management office.

5 Q. Was there an office which he usually used as the chief, where the chief usually sat?

A. WITNESS: There is only two office there, one on left, one on the right. On that day, he was on the left one.

Q. Now, what was said about the grapes? Do you remember that?

10 A. WITNESS: He offered me some, and I said, "I don't want, I'm okay, thank you."

Q. What happened after he offered you the grapes, Ms O?

15 A. INTERPRETER: He asked me to sit on the desk, he took off my pants, and he wanted to put the grapes inside my vagina. I told him, "No, are you crazy? What are you doing?"

Q. When you say he wanted you to take off your pants, I think you said, how did you know he wanted you to take off your pants?

20 A. INTERPRETER: He took off my pants. That's the - that's the thing he does when I go to his office.

Q. Just tell us what actually happened after he took off your pants.

25 A. INTERPRETER: As I said, he wanted to put things inside, but then he said, "We" - "We need to add some flavour to it."

Q. Did he say what things he wanted to put inside?

A. WITNESS: The grape.

30 Q. After he said he wanted to add some flavour to it, what did he do?

A. WITNESS: He put the grape inside my vagina.

CROWN PROSECUTOR: Count 30, your Honour, being an object.

35 HER HONOUR: Yes.

CROWN PROSECUTOR

40 Q. Where were you, and how were you positioned, when he put the grape inside your vagina, Ms O?

A. WITNESS: On the desk.

Q. When you put the grape inside you, how long did it stay in you for, inside you?

45 A. WITNESS: It wasn't long, then he tried to take it off.

Q. When he tried to take it out, did he get it out?

A. WITNESS: Yes.

50 Q. Now, when the grape went into you - I'm sorry, I have to ask you - when he

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put the grape in, do you know if it went completely in, or if it part of it remained outside?

A. WITNESS: I don't look, but I know it went in.

5 Q. What happened when he took the grape out?

A. WITNESS: He ate it.

Q. And you told us you were sitting on the desk. What happened then, after the grape?

10 A. WITNESS: He had sex with me.

Q. Now, Ms O, you said he had sex with you. How did he do that? Just tell us, naming the body parts, please.

15 A. WITNESS: He put his vagina - I mean, his penis in my vagina, and then he had sex.

Q. Did you give him permission to do any of these things to you, Ms O?

A. WITNESS: No.

20 Q. When he put his penis in your vagina at that time, how long did that continue for?

A. WITNESS: I don't count the times. It's - I just don't count the times. I - it's not - it needs like hell, it's lifetime, like, I don't count the times.

25 Q. All right. I'm nearly finished asking you about this, Ms O, but do you remember if he ejaculated on that occasion?

A. WITNESS: In the bin again.

Q. Did he say anything after that incident before you left the office?

30 A. WITNESS: He said, "That was nice", and then the..(not transcribable).. "Fix yourself. Don't let someone to notice anything. Go back".

Q. Did you go back then. Did you leave his office then?

A. WITNESS: Yes.

35

CROWN PROSECUTOR: Your Honour, the last count is count 31. That's penile vaginal intercourse.

Q. Did you become aware, Ms O, that Mr Astill went on a holiday to America?

40 A. WITNESS: Yes.

Q. How did you learn that he was going on holiday to America, or that he went on the holiday. How did you hear about it?

A. WITNESS: He told me.

45

Q. Do you remember when that was?

A. WITNESS: I don't recall the time exactly, but yeah.

Q. After Mr Astill came back from his holiday, did you meet him again in a particular room?

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- A. WITNESS: Yeah, that was in high needs.
- Q. That was in high needs.
A. WITNESS: Yes.
- 5 Q. Which room was it in high needs?
A. WITNESS: Next to the chief office.
- Q. Did you go to that room?
10 A. WITNESS: Yeah, he called me there, but the room was locked, so someone else unlocked it to us, and we went that room.
- Q. Someone else. Was it another officer?
A. WITNESS: Yes.
- 15 Q. Do you know that officer's name?
A. WITNESS: His name Agro, but I'm not sure if I'm pronounce it, his name correctly or not.
- 20 Q. Agro. Do you know if that was his real name or a nickname?
A. WITNESS: That's all we call him.
- Q. Did you go into the office with Mr Astill?
A. WITNESS: Yes.
- 25 Q. What happened in there, Ms O?
A. WITNESS: He tried to hug me and kiss me. I pushed him. I was scared.
- Q. Did you know at that stage where Agro was?
30 A. WITNESS: Yeah, he was close to us, next - next room. I was terrified of he's going to hear us or see us.
- Q. Were you able to see Agro from where you were, were you able to see Agro whilst Mr Astill was doing these things or not?
35 A. WITNESS: No.
- Q. Was there any talk after that about this lawyer that Mr Astill knew?
A. WITNESS: Yeah, I--
- 40 TYLER-STOTT: Your Honour, if I just interject for one moment. I just thought the witness has just pulled the piece of paper across. I thought it were the exhibits. I just wonder if that's her statement?
- HER HONOUR: No, I can see. My observation is that they're the exhibits, the
45 pieces of--
- TYLER-STOTT: There's three pieces.
- HER HONOUR: Do you have your statement there, Ms O?
50

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WITNESS: I do, but I'm not even reading them.

HER HONOUR: Okay. Just put them to one side. Move them away.

5 WITNESS: Is just there.

HER HONOUR: That's okay, thank you. There we are.

CROWN PROSECUTOR

10

Q. Ms O, I just asked you, was there anymore discussion about the lawyer that Mr Astill knew?

A. WITNESS: Yes. I asked him what's happened the lawyer that you promised me with.

15

Q. What did he say?

A. WITNESS: He said, "Yeah, he was ..(not transcribable)..", and he even wrote me his number down in a paper.

20 Q. What did you do with that?

A. WITNESS: ..(not transcribable)..

Q. Ms O, at the time that these things were happening with Mr Astill, that is the things that he was doing to you, did you tell anybody about those things?

25 A. WITNESS: No.

Q. Just tell us why did you not tell anybody at that time? Just take your time. About why you did not report it at that time, Ms O.

30 A. WITNESS: In the first report I put in, I was first scared to put that report in the complain, the request complain I put about what I saw between him and H. But they promised me that no-one will know about it. From that office, this paper will go to Governor and no-one will know about it. I will be okay. Then nothing happened. Then he did know about it..(not transcribable)..I became his capture, and no-one will believe me anymore, and I don't have no-one here
35 to tell, and I don't have no family here, and no-one will believe me. I was scared, I was terrified.

CROWN PROSECUTOR: Your Honour, that concludes the examination in chief.

40

HER HONOUR: Yes. Thank you. Ms O, just take a moment. Mr Tyler-Stott's just going to ask you a few questions. Just listen to the questions. If you don't understand them, ask him to repeat it, but just answer the questions that are being asked of you, okay. Just take your time. Just give
45 her a moment, Mr Tyler-Stott.

TYLER-STOTT: Yes, your Honour.

WITNESS: Can I please take a break, please.

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INTERPRETER: Can I please take a break?

HER HONOUR: Yes. We can have five minutes.

5 SHORT ADJOURNMENT

<CROSS-EXAMINATION BY MR TYLER-STOTT

10 Q. Ms O, just before the break, you had your statement in front of you, is that correct?

A. WITNESS: Yeah.

Q. And that was there since you came back after morning tea, is that correct?

15 A. WITNESS: And you were looking at it from time to time when you were giving evidence, weren't you?

A. WITNESS: Not to read it, though.

Q. No, you were just looking at the document, but not reading it?

20 A. WITNESS: Just by looking at the paper doesn't make me I read it, because I barely can read it as in English. So unless I focus and word - in each word, that's when I can read it.

Q. You read over your statements before you signed them, I take it?

25 A. WITNESS: Yes.

Q. Did you indicate any difficulty with reading the statement to the police officers who took them?

A. WITNESS: I had help.

30 Q. So you didn't have any difficulty?

A. WITNESS: Because I said what I said, so what has been written in the paper, that's what I said. So I took my time, and I - as I recall, I took a very long time to read each word.

35 Q. Ms O, you provided two statements, is that right?

A. WITNESS: Correct.

Q. One was on 16 July 2019?

40 A. WITNESS: Yes.

Q. And that one related to what you say you saw with Ms H and Mr Astill, is that correct?

A. WITNESS: Yes.

45 Q. You made no reference within that document or that statement to anything about you and Mr Astill having sex, is that correct?

A. INTERPRETER: No, I didn't mention it.

50 Q. And when you provided that statement in July of 2019, Mr Astill wasn't at Dillwynia anymore, was he?

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- A. WITNESS: No.
- Q. The next statement you provided was in 2021, is that right?
A. WITNESS: Yes.
- 5 Q. How did it come to be that you provided the statement in 2021?
A. WITNESS: I don't understand your question.
- 10 Q. Did you make contact with the police, or did they make contact with you?
A. WITNESS: I did.
- Q. And that was after you'd heard of a number of complaints about Mr Astill and his conduct, is that right?
A. WITNESS: That part of it.
- 15 Q. Yes, and one of those complaints were from, you understood, C, is that right?
A. WITNESS: No, cause I - I left the jail from a long time ago. I don't know the girls that they put statements on him. I know there are some girls.
- 20 Q. Was one of those girls H?
A. WITNESS: As I said, where I am, when I gave that statement - none of those girls were with me.
- 25 Q. You've also lodged a claim for compensation against the state. Is that right?
A. WITNESS: Yes.
- Q. When did you do that?
30 A. WITNESS: After I gave my statement.
- Q. The incident that you've described with the birthday cards - was that before or after what you saw with Ms H and Mr Astill?
A. WITNESS: After.
- 35 Q. Would it have been in the same year - that is 2017?
A. WITNESS: Yes. I believe so.
- Q. I beg your pardon?
40 A. WITNESS: I believe so.
- Q. And your birthday is 15 September. Is that correct?
A. WITNESS: Correct.
- 45 Q. Did Mr Astill assist you in contacting your family back in Iraq?
A. WITNESS: No.
- Q. Are you sure?
A. WITNESS: Of course I am.
- 50

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Q. Did Mr Astill enquire about - or did you tell him about - you wanting to have contact with your children.

A. WITNESS: He know I can not have contact with my children.

5 Q. Did you tell him that?

A. WITNESS: No. He know everything. It's in my paperwork. It's in a -

A. INTERPRETER: It's in my file.

Q. Did you tell him about a scar on your face and how you got it?

10 A. INTERPRETER: He ask me once about that wound or scar on my eye.

Q. You said you'd got it when you were about 9 years old, or thereabouts. Is that right?

15 A. INTERPRETER: I don't recall mentioning there but I think I told him it took place when I was in school.

Q. Did you tell Mr Astill that a lawyer wanted \$14,000 just to look at the brief for your appeal?

20 A. WITNESS: I told him I need a lot of money for my appeal.

Q. And did he tell you that he would provide you with a list of names of lawyers?

A. WITNESS: Not list of name of lawyers. He said he have a lawyer.

25 Q. Yes. I'll suggest to you he provided you with you with a list of lawyers and identified one of those lawyers that he knew.

A. WITNESS: No.

Q. Did you make any application for legal aid for the purpose of your appeal?

30 A. WITNESS: I had legal aid, yes.

Q. So you had a Legal Aid lawyer?

A. WITNESS: I had.

35 Q. Did they assist you with your appeal?

A. WITNESS: It didn't get - succeed.

Q. And Legal Aid wouldn't do it. Is that true?

40 A. WITNESS: I didn't had merit - they said.

Q. And therefore you had to try and source an outside lawyer. Is that correct?

A. WITNESS: Yes.

45 Q. Obviously that appeal would have been very important to you. Is that correct?

A. WITNESS: Yes.

Q. Because you had a reasonably lengthy sentence, is that right?

50 A. WITNESS: Can you repeat the question please?

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Q. You had a fairly long sentence to serve. Is that correct?

A. WITNESS: Yes.

Q. And that's why you went to Mr Astill.

5 A. WITNESS: I didn't go to Mr Astill.

Q. Ms O, it was you who first touched Mr Astill in an intimate way.

A. WITNESS: No.

10 Q. On how many occasions did you go to his office?

A. WITNESS: It was many time; I didn't put record for them.

Q. And did you have sex on every single occasion or not?

15 A. WITNESS: Yes. Except the one I mentioned that when I had period and he checked. And he let me go.

Q. Could you just walk to his office if you wished, from the block?

A. INTERPRETER: If we're already outside.

20 Q. So that was just after twelve, was it?

A. WITNESS: Lunch time let go, yes.

Q. So, you could just walk to his office without escort, is that correct?

25 A. WITNESS: Yes.

Q. You did that on many occasions. Is that right?

A. WITNESS: Yes.

30 Q. Were you teased by other inmates for putting on makeup before going to see Mr Astill?

A. WITNESS: I get teased for everything. And I do put makeup every day. Not just to go see Astill.

35 Q. So, you did get teased for putting on makeup before going to see Mr Astill. Is that correct?

A. WITNESS: I said I get teased from the girls every time - whether I go to Astill or put makeup - I put makeup every day. It's not putting makeup to go see him.

40 Q. Did H talk to you about having put in the complaint about Mr Astill and what you saw him do to her?

A. WITNESS: She was bullying me.

Q. Did she speak to you about the complaint, mam?

45 A. INTERPRETER: She was always chasing me and fighting - saying that I was the one who went and put in a complaint that they were both like, having sex.

50 Q. Did it appear to you that she wasn't happy about you making that complaint?

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A. WITNESS: Of course.

Q. Did you ask Mr Astill about H?

A. WITNESS: To keep her away from me.

5

Q. Can I suggest to you, Ms O, that on an occasion you went to his office - you took hold of his hand and you began kissing him.

A. WITNESS: No.

10 Q. This happened about three occasions before any sexual intercourse of any nature.

A. WITNESS: No.

15 CROWN PROSECUTOR: Should be asked a question, your Honour. Do you -

HER HONOUR: But she said "no". She understands.

CROWN PROSECUTOR: Particularly with this witness is my concern--

20

HER HONOUR: Yes. I'll make sure that she understands. Just have to make sure that you're putting it as a question, and that she knows she can agree or disagree.

25 TYLER-STOTT

Q. Ms O, this is a question. And I'm just doing to suggest to you that, following these occasions which you've denied, you started to rub his penis through his pants. Do you agree, or disagree?

30 A. WITNESS: No.

Q. And that when you were doing this, he was touching your vagina on the outside of your clothing.

A. WITNESS: He always touch me, but I did not touch him.

35

HER HONOUR: They're difficult questions, Mr Tyler-Stott--

TYLER-STOTT: I understand.

40 HER HONOUR: --because they're all on a presumption that she's agreed to your earlier question when she hasn't.

TYLER-STOTT: No, your Honour - I do understand. I'm doing my best.

45 HER HONOUR: Yes, I know.

TYLER-STOTT

50 Q. I'll suggest to you, Ms O, that there was an occasion when you unzipped his fly, removed his penis and began giving him oral sex of your own choice.

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A. WITNESS: No.

5 Q. Goes on, that you - following this oral sex, which I understand you deny - you took your pants down and leant over on a desk. Do you agree or disagree with that?

A. WITNESS: No.

Q. Was there a shredding machine in Mr Astill's office?

10 A. WITNESS: I don't exam the office. Every office have shredding machine. As I work as a cleaner, that's my knowledge. But I do not exam his office.

Q. But you leant over onto the shredding machine, didn't you?

A. WITNESS: Was table.

15 Q. I beg your pardon?

A. WITNESS: It was table, desk.

Q. Okay. I understand. Mr Astill, when he was having penile and vaginal intercourse with you, told you he was about to ejaculate. Did this ever occur?

20 A. WITNESS: I don't focus on what he about to say or what about he do. For me, it was a hell.

Q. And you told him to come in you because it was safe.

25 A. WITNESS: No.

Q. And you told him why you were safe, didn't you?

A. WITNESS: No.

Q. You told him that you had a - an implant.

30

CROWN PROSECUTOR: Questions, please. I ask your Honour.

HER HONOUR

35 Q. Did you tell him that you had an implant?

A. WITNESS: No.

TYLER-STOTT

40 Q. Ma'am, I'll suggest to you that on every occasion you and Mr Astill had sex of any nature, it was completely consensual. Do you agree or disagree?

A. WITNESS: No.

Q. Did you ever ask him to perform oral sex on you?

45

A. WITNESS: No.

Q. Did he perform oral sex on you?

A. INTERPRETER: I don't understand the question. You mean he perform--

50 Q. Yes. No, I'll put it in simpler terms. Did his tongue touch your vagina?

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A. WITNESS: No.

Q. Ms O, can I please ask you to retrieve the statement of 4 May 2021.

A. WITNESS: Yes.

5

Q. Can I ask you, please, to go to paragraph 9.

A. WITNESS: Yes.

10 Q. If you can just read that to yourself. You don't need to read it aloud; just read it in your head.

A. INTERPRETER: Yes.

Q. That paragraph, does that relate to the very first time Mr Astill attempted to touch you?

15 A. WITNESS: I don't think that was the first time.

Q. No? Do you agree that it says - I'll just read the entire paragraph. Perhaps it might be easier, Ms O. "A couple of days later, at 3.30pm at muster, he told me to see him the following day in the office that is now called the case manager's office. Where is the case manager's office?"

20

A. WITNESS: Behind IDAPT.

Q. "IDAP", did you say?

25 A. WITNESS: Yes. It's between the medium needs - it's in the middle medium needs and the..(not transcribable)..

Q. Okay.

30 A. WITNESS: --but a little bit further from..(not transcribable)..closer to medium need.

Q. I just want to make sure I get the letters correct. Is it "I-D-A-P" for "papa"?

A. WITNESS: I don't know how to spell it.

CROWN PROSECUTOR: "T" on the end.

35

TYLER-STOTT. Might be "I-D-A-T", I'm told by the Crown.

CROWN PROSECUTOR: "P-T". "IDAPT".

40 TYLER-STOTT: "IDAPT". Thank you, Mr Crown.

45 Q. You say - go on in that paragraph; you say it was a quick comment. "I didn't say anything back to him. The following day at lunchtime, I went to the office. The outside is mirrored, so you can't see in." Have I read that accurately so far?

WITNESS: What's "accurately"?

50 INTERPRETER: What's "accurately" mean? Sorry, I thought she didn't understand the question; my apologies.

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WITNESS: Yes.

TYLER-STOTT

5

Q. Thank you. You go on to say, "As I was going to the door of the office, he opened it and I walked in. He closed the door behind me. He sat at the desk. He was in the office by himself. He told me to come over to him. I told him that I was okay where I was. He asked me whether I had my paperwork with me for the lawyer, and I told him I didn't." Have I read that correctly so far?

10

A. WITNESS: Yes.

Q. You go on to say,

15

"He stood up from the desk and he tried to hold my hand. He touched my hand and I pulled it back. I said to him that they were calling me and that I had to get my pills. I turned around and walked out. I was shaking at this point. I did not know what I'd - what do."

20

Have I read that accurately?

A. WITNESS: Yes.

Q. Mr Crown was asking you questions about this time, I'll suggest to you, and he asked you if you were in the room when Mr Astill stood up. Do you remember that line of questioning?

25

A. WITNESS: Yes.

Q. You said - and I'm paraphrasing - that he went to touch your boobs, but you pushed him away. Do you remember that?

30

A. WITNESS: He said that. Yes.

Q. This is your evidence, ma'am, that I'm asking you about.

A. WITNESS: Yes, he asked me that question. I did answer him like this.

35

Q. You also said he tried to kiss you. Is that correct?

A. WITNESS: Yes.

Q. And to hug you and touch you. Do you remember that?

A. WITNESS: Yes.

40

Q. Do those movements of Mr Astill - touching your body - appear in the paragraph that I've just read to you?

A. WITNESS: Not in this one.

45

Q. Are you confused as to--

HER HONOUR: Paragraph 12. Have I missed something or--

TYLER-STOTT: No, but Mr Crown was leading directly from this paragraph, your Honour. Had it in the moment in time. It may well appear in another

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paragraph but this is the time she was giving evidence about.

Q. Was the occasion when he grabbed your hand - was that the first time you felt uncomfortable with him?

5 A. WITNESS: Every time I'm around him I'm not comfortable with him.

Q. Were you talking to him about your appeal in paragraph 9? The time that I'm talking about, paragraph 9 - were you discussing your appeal?

10 A. WITNESS: No.

Q. You went there following him asking you about your appeal. Is that right?

A. WITNESS: I'm sorry. I'm confused with your question. I'm lost.

15 Q. If you just go to paragraph 8, ma'am, page 2, the topic of the appeal is raised there. Is that correct?

A. WITNESS: Give me a second, please. I'm just reading.

Q. It's the first sentence.

20 A. WITNESS: Yes, the first two line.

Q. Yes, it was the first sentence. "About a week later, Mr Astill called me to the chief's office to tell me he'd arranged the lawyer for my appeal and that all I needed to do was give him the paperwork to read." Is that correct?

25 A. WITNESS: Yes.

Q. Then paragraph 9, "A couple of days later at 3.30pm." I'm just trying to place it in time. Is that correct?

A. WITNESS: Yes.

30 Q. I'll move on, Ms O. Ms O, Mr Astill did not ever place an object into your vagina. Do you agree or disagree?

A. WITNESS: I'm just - I'm confused with your question. Can you please repeat that.

35 Q. I'll be specific. He did not put a grape in your vagina, ma'am.

A. WITNESS: Yes, he did.

Q. I'll go back in time. When Mr Astill spoke to you about H and your complaint--

40 A. WITNESS: Okay.

Q. --he wasn't angry with you at all.

A. WITNESS: What time are you talking about?

45 Q. When he spoke to you for the first time after you'd made the complaint and raised the topic of the complaint.

A. WITNESS: He was pissed off. It was like a threat to me when he told me that.

50 Q. Ma'am, just finally, and I'm almost done, I'll suggest to you that you've

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made up these complaints against Mr Astill as a means of getting some money from the State. Do you understand the question?

5 A. WITNESS: When I give this statement to the police I had no idea about the compensation or any money, and for that I didn't open my mouth for a long time. It took me couple years until I finally reached to the police and opened my mouth. It has nothing to do with compensation--

Q. Ma'am--

10 A. WITNESS: --and none of this money in the world will fix that damage. I'm sorry, your Honour.

HER HONOUR: It's okay.

WITNESS: I - I just raised my voice. I'm sorry.

15

TYLER-STOTT

Q. Ma'am, you provided your statement on 4 May 2021. Is that correct?

20 A. WITNESS: Yeah.

Q. You must have known that other inmates were applying for compensation.

A. WITNESS: I did not speak to no-one. No-one know. No-one have any idea and I did not discuss it with no-one and until this moment.

25 HER HONOUR: Any re-examination?

CROWN PROSECUTOR: Briefly, your Honour, but I need leave under s 108(3)(b). It relates - I think it's appropriate to say this much with the jury here - it relates to cross-examination of a particular paragraph and I wish to re-establish credit by--

30

TYLER-STOTT: No issue, your Honour.

HER HONOUR: Leave granted.

35

CROWN PROSECUTOR: I have a further application that I be able to lead the portion of the statement rather than have the witness refresh her memory as to what's in the statement.

40 TYLER-STOTT: No issue, your Honour.

HER HONOUR: Thank you. There you go.

<RE-EXAMINATION BY CROWN PROSECUTOR

45

Q. Ms O, you were just asked some questions a little while ago about part of the statement that you made on 4 May 2021. Do you remember it was read out to you - part of that statement?

50 HER HONOUR: Paragraph 9.

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WITNESS: Paragraph 9?

HER HONOUR: Yes.

5

CROWN PROSECUTOR

Q. Yes, paragraph 9 was read out to you. Do you remember that? A little while ago.

10 A. WITNESS: Yes.

Q. Could you open your statement there, please, to that page with paragraph 9 on it.

A. WITNESS: Yes.

15

Q. Could you now go to paragraph 11 down the bottom.

A. WITNESS: Yes.

20 Q. Is this paragraph referring to about three days after what you described at paragraph 9?

A. WITNESS: May I just look at paragraph?

Q. Of course.

A. WITNESS: Yes.

25

Q. Did you say in part of that statement at paragraph 11 that you went to the office?

30 "I knocked on the door. Astill opened the door. I walked in and noticed he was the only one there. He closed the door. He said, 'I know you went to get your pills first. You should have come here first.' I said, 'If I am late they will shut the window and I will miss my medication.' He said to me, 'Let's talk.' Just small talk. Trying to be nice. He asked me how I was. 'Was everything okay?' I said, 'Yes, everything was fine.'

35 He said, 'What do you want to do?' I asked him, 'Does it matter what I want to do? I don't have a choice.' He said, 'There's always a choice. It depends on what you want to do.' I didn't answer him. He moved towards me and started to touch my hair, my hands, and tried to kiss me. I moved my face, and instead of kissing my mouth, he kissed my

40 cheek. He said, 'It's okay, you'll get used to it.' I said, 'Never.' He said, 'Don't say that. I want you to enjoy it as much as I do.' I didn't say anything. He started kissing and touching me everywhere. He touched"--

45 WITNESS: One second, please, I need to go to the next page. My paperwork not in direct numbers. Sorry, yes.

50 CROWN PROSECUTOR: "He touched my boobs. I wouldn't let him touch lower than that. I tried to push him away. He said to me, 'Don't worry, there is no one here, and no one will know, don't be scared.' I told him, 'That is

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enough for today, and I am not comfortable, I am scared.' He let me go."

Q. Now, does that appear in paragraph 11 of your statement that Mr Tyler-Stott was asking you about?

5 A. WITNESS: Yes.

CROWN PROSECUTOR: That's re-examination, your Honour.

10 HER HONOUR: Thank you. Thank you, Ms O, that concludes your evidence. You're finished, and it's all over, okay? Thank you very much.

<THE WITNESS WITHDREW

CLOSED-CIRCUIT TELEVISION DEACTIVATED

15

HER HONOUR: Yes, Mr Crown, I note it's lunch.

20 CROWN PROSECUTOR: Yes, your Honour. We don't have any more witnesses for today. We are, I can say, tracking very well through the witnesses, but we don't have any more.

HER HONOUR: Okay. Well, you can have an early mark. You can have your lunch, though, ladies and gentlemen, take your time. Lunch they've provided to you, but it looks like we're going quicker than expected, which is good news. 25 That'll also give you the time, I suppose, to deal with any private matters that you need to deal with this afternoon. Just if I can remind you, though, over the weekend, please don't discuss it. There's going to be social events, you're going to be asked about it. Please do not discuss the evidence with anyone, and apart from that, have a fantastic weekend, and we'll see you Monday 30 morning at 10am for another start. Thank you very much.

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IN THE ABSENCE OF THE JURY

MFI #14 STATEMENT OF MS O DATED 04/05/21

5 HER HONOUR: For Monday, any s 77s required?

CROWN PROSECUTOR: Yes there are, your Honour. We've sent in a list through to your Honour's associate, but it's B and V.

10 HER HONOUR: Right. Just those two?

CROWN PROSECUTOR: There's one witness on standby, N. Perhaps for abundant caution. We've got a number of witnesses on - and M is a complainant with several counts.

15

HER HONOUR: Okay.

CROWN PROSECUTOR: I think we'll rather overload--

20 HER HONOUR: Just send the list through, just so that they're there and the 77's gone through for them.

CROWN PROSECUTOR: Yes.

25 ADJOURNED TO MONDAY 8 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

EIGHTH DAY: MONDAY 8 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: I understand some jurors were late due to the trains audit.

CROWN PROSECUTOR: Very well. Your Honour, just as they're coming, could I just remind your Honour the first afternoon I think your Honour said that your Honour would accommodate me with my directions hearing before
25 Button J, and then I had asked about Friday.

HER HONOUR: I can finish at 1.

30 CROWN PROSECUTOR: Very well. Thank you, your Honour.

HER HONOUR: I've got a sentence, in any event, at 2. So, that may or may not be adjourned, but I can give you to 1.

35 CROWN PROSECUTOR: Thank you, your Honour.

HER HONOUR: Or from 1, I should say.

CROWN PROSECUTOR: From 1, understand.

40 HER HONOUR: Yes. Is that okay with you, Mr--

TYLER-STOTT: Yes. Yes, your Honour.

45 HER HONOUR: At this stage, I still have a sentence hearing, in any event, so I thought that might correspond. If it does ultimately get adjourned, you can still have it.

CROWN PROSECUTOR: Yes, your Honour, thank you.

50 HER HONOUR: Yes, thank you.

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IN THE PRESENCE OF THE JURY

AUDIO VISUAL LINK COMMENCED AT 10.36AM

5 <M, SWORN(10.36AM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

Q. Is your name M?

10 A. Yes.

Q. Ms M, were you previously an inmate at the Dillwynia Correctional Centre?

A. Yes, I was.

15 Q. Were you at Dillwynia between May 2016 and May 2017?

A. Yes, I was.

Q. Did you then go off to court for a period, but return on 22 September 2016 where you remained until May 2017?

20 A. Yes, I did.

Q. At the Dillwynia Correctional Centre, did you have any dealings with an officer by the name of Mr Astill?

A. Yes, I did, yes.

25

Q. Ms M, was there ever occasion for you to ask for an extended visit?

A. Yes, there was.

Q. Now, just tell us about that. Why do people need, sometimes, extended visits in the gaol? Why might they get approval for that?

30

A. Because my family lived seven hours away, and my mum had my two daughters, so she would bring them - they'd have to drive seven hours, so I would ask for an extended visit to see them a bit longer because I only see them every two months.

35

Q. I want to ask you now about a visit where you went to an office in the low needs area--

A. Yep.

40 Q. --with respect to getting approval for an extended leave. All right?

A. Yes.

Q. Did you speak to Mr Astill on that occasion?

45

A. I'm actually - I'm not quite sure because I was only very new to the gaol at that stage, so I didn't really know any of the officers by first name - by last names or--

Q. Did you speak to Mr Astill at some stage with respect to extended visits?

A. Yes. Yes, I did.

50

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Q. And when--

A. Every other visit except for the first one.

Q. Every one but the first one?

5 A. Every - yeah, but I'm not sure about the first one because I didn't know them - know the officers at that stage, but every one after that it was definitely Mr Astill.

10 Q. When you spoke to him, did you recognise him from having seen him before?

A. At the start - he was first there at the start when I first came in, and I didn't know him then. I didn't know him until I asked for the second extended visits because the girls had told me that Mr Astill was the senior chief to go to for those kind of things.

15

Q. When you spoke with Mr Astill on that occasion--

A. Yep.

Q. --do you remember him saying anything to you in particular?

20 A. Yes, he always - whenever he'd speak to me, he'd tell me that I had a beautiful smile, and that I was - he didn't look at me like the other inmates. Just very uncomfortable comments.

Q. Did you become friends with another inmate by the name of B(?)?

25 A. Yes.

Q. Did you ever speak to her about what Mr Astill had said to you?

A. Yes, all the time. She knew everything. She was the only one that I could really speak to about it.

30

Q. Was there a time that Mr Astill, to your knowledge, moved offices?

A. Yes, he did.

Q. Now, where was that to, do you remember?

35 A. No. It was between - it - it was in 2017, but I'm not quite sure what month it was. But he moved to the low needs one, which was just behind my - M right house.

Q. So you were being housed in the M right area, is that right?

40 A. Yes.

Q. And what classification was that?

A. That was medium.

45 Q. Medium needs?

A. Yeah, there was high needs, medium needs, and low needs.

Q. So far as the afternoon musters, did you ever see Mr Astill at those?

A. Yes, a lot of the times. At the 5.30 muster.

50

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- Q. Did you ever speak to him, or did he speak directly to you, as opposed to speaking to the group generally?
- A. No, he didn't speak to me on muster, cause he wasn't allowed to do that, but he definitely would walk past me and smile, and, you know, give me the
5 look, give me just a - a bit of a sly look. Yeah, and then he'd give me a big grin and say good night, but he'd say, "Good night, girls", and then he'd look at me and smile and - yeah, just kind of hold - hold the attention to me rather than any other girl in the house. And even R would notice that, too.
- 10 Q. I'm just going to ask you, Ms M, just to focus on what you saw and what you heard, all right?
- A. Okay.
- Q. As opposed to what B might have noticed, or--
- 15 A. Yep.
- Q. --what you thought she noticed, all right?
- A. Yep.
- 20 Q. Did you ever go into the office of Mr Astill, apart from that occasion you've told us about where you spoke to him about the extended leave?
- A. Yes, I did.
- Q. And did he ever say anything in there to you which you particularly
25 remember?
- A. Yes. He would say that I had a beautiful smile, that I was so beautiful, that he didn't look at me like I was an inmate, that he really liked me. Just - yeah, comments like that.
- 30 Q. Did you have a job when you were at Dillwynia?
- A. Yes, I did, at BIAPS(?).
- Q. Now, where was that area, the BIAPS area, in relation to Mr Astill's office at
35 M right?
- A. It was - it was far away. It was about 50 to 100 metres? I don't know. It was quite far. It was across the compound.
- Q. What rank was Mr Astill when you were there, do you know?
- 40 A. He was the senior chief.
- Q. Do you remember a particular weekend when you were with Mr Astill in his office, in this office behind the M right centre?
- A. Yes, I do.
- 45 Q. Was anybody else with you on that occasion apart from Mr Astill?
- A. No, there wasn't.
- Q. Do you remember what brought you to the office? That is, why you went
50 into the office that day?
- A. I was asked to sign a referral for a (as said) extended visit.

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Q. What happened when you went into the office on that day, Ms M?

5 A. So, I was by myself. He walked - he'd come up to me in the compound and asked if I would accompany him to the office to sign a referral form, and so I did. I walked in the office, and he closed the door behind me, and I heard the snib of the lock. And then he - he told him - told me to go to his office, so I did, and he - his - his penis was erect. He leaned in to try and kiss me, and I was very, very, very nervous and uncomfortable, so I just kind of, like, ducked out of his area, like, out of - like, where he was, and I quickly walked out of the office.

Q. Now, you told us that his penis was erect. Just take it slow, tell us what led you to observe that his penis was erect? What did you see, feel, or other otherwise that made you believe that to be the case?

15 A. Well, he grabbed my hand, and he started stroking it. Like - and then, like, cause I was close to him, he, like, pulled me in and pushed his penis against his - my hip, and my - like, my stomach area.

Q. Was he--

20 A. And so--

CROWN PROSECUTOR: I'm sorry.

HER HONOUR: "And so" what, sorry? Finish off what you were saying.

25

WITNESS: And then that's, like - that's how I knew that his penis was erect, cause it was up against the stomach.

CROWN PROSECUTOR

30

Q. Did he remain clothed during that period?

A. Yes.

CROWN PROSECUTOR: Your Honour, this is count 34 on the indictment.

35

HER HONOUR: Yes.

CROWN PROSECUTOR

40 Q. You prepared two diagrams for the police when they were interviewing you about this matter, is that right?

A. Yes, I did.

Q. And you've got those there with your statement?

45 A. Not with me here, but yes, I do have them--

Q. They're there with your statement?

A. Yes, they are.

50 CROWN PROSECUTOR: Your Honour, there's, I understand, no objection to

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them being tendered from the bar table in these circumstances.

TYLER-STOTT: That's right.

5 CROWN PROSECUTOR: This diagram and another.

HER HONOUR: There are two diagrams there, are there?

10 CROWN PROSECUTOR: There are, your Honour, and I will shortly get to the relevance of the second diagram.

HER HONOUR: Okay. Do you want to tender them both in right now?

15 CROWN PROSECUTOR: I will, your Honour.

EXHIBIT #O TWO DIAGRAMS BY MS M TENDERED, ADMITTED WITHOUT OBJECTION

20 HER HONOUR: Are they hand drawn?

CROWN PROSECUTOR: They are, your Honour, yes.

HER HONOUR: Thank you.

25 CROWN PROSECUTOR: There's a working copy there, your Honour.

HER HONOUR: I've got one, thank you, yes.

30 CROWN PROSECUTOR

Q. Ms M, could you just look at that first diagram attached to your statement, and it says on the bottom left, doesn't it, "first"?

A. Yes.

35 Q. Just so we can identify it. Now, you told us in your evidence that you heard the lock close. You used a word which, I must say, I didn't get. It sounded like "snib"?

A. The snib, yeah, sorry. Yes, I did hear the snib.

40 Q. And you said, after you heard that, you were told to go into the office?

A. Yeah, well, he just, like, said, "Come on."

Q. Do you see in the diagram you've got, "Door was locked", down the bottom?

45 A. Yep.

Q. Then further up on the right-hand side and further up, there's another door you've got marked there?

50 A. Yep. Yep. Is that the - that's the back. Yeah, that was - that was locked as well. That door wasn't used.

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Q. So you went through that--

A. Through that first door.

5 Q. --door down the bottom. And then into--

A. Yep.

Q. --Mr Astill's office. Is that right?

A. Yes. Yes.

10

Q. You've written there, "Me", in Mr Astill's office, and then, "Astill", it says. And does that set out--

A. And then..(not transcribable)..

15 Q. Does that show where you were at the time this incident happened to you?

A. Yes. Yes.

Q. By that, I mean him--

A. Yes.

20

Q. --leaning into you.

A. Yes.

25 Q. Just before we move on, Mr M, you said that he leaned in and tried to kiss you?

A. Yes.

Q. Are you able just to elaborate on that, what exactly he did, and how close he came?

30 A. Well, he was patting my hand, stoking my hand, and so he was quite close to me, and so he just, yeah, just like he had, like he had my hand, so he just like pulled me a little bit closer with this hand, and like starting pushing his penis against my side area, and then he just like leaned, yeah, he just - because we were quite close, you know, because he was like, obviously body to body, and so yeah he just tried to kiss me, like he just leant in to kiss me, because he's quite tall, so you know, he had to come down a bit, and then I just weaved out of it.

40 HER HONOUR: You demonstrate then by ducking by head and basically ducking under?

WITNESS: Yeah, like I just - yeah, like I just ducked and weaved out of it, kind of thing.

45 CROWN PROSECUTOR

Q. Did you see what Mr Astill did once you ducked away? I think you said you went to walk out. Did you see what--

50 A. No, I just walked out and I just - I just kept going, I didn't turn around, I didn't stop, I just kept going.

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- Q. How did you get out through the door? You told us the door was locked earlier.
- 5 A. Well, you can unlock it from the inside. So it was locked from the - like no-one could come in from the outside, but you could unlock it from the inside.
- Q. Where did you go straight from there once that happened?
- A. Straight down to visits area.
- 10 Q. Did you speak to anybody there at visits?
- A. Yes. I waited for R, my friend.
- Q. Is that B you told us about earlier?
- 15 A. Yes.
- Q. Did you see B there, having waited for her? Did you catch up with her?
- A. Yes. Yes.
- Q. Did you say anything to her when you saw her?
- 20 A. Yes, I told her it happened.
- Q. What did you say? Do you remember what you actually said to her?
- A. I just said that - like I just told, I just said, "I was just with Mr Astill. He told me to sign something, and he's just caught me in his office, and locked me up
- 25 in there and tried to kiss me and push his body against me and stuff". I, yeah, I - I was quite upset when I was telling her.
- Q. Was there any discussion between the two of you at that stage about you reporting that matter?
- 30 A. Of course. After - every time that he spoke to me in really uncomfortable way, she said, you know, "I think you should report this", but no-one was going to believe an inmate over an officer at that point, you know, it was just me.
- Q. When you said, I just want to be sure. Is that something you believed, or is that something she said or you said, that nobody would believe an inmate over an officer?
- 35 A. That's what we just discussed. We both - we both believed that, just because of stories that we've heard, you know. As if an officer was going to believe an inmate.
- 40 Q. Around the 28th or 12th, around that time, the 28th and 12th of May 2017, did you speak to Mr Astill about some photographs, getting some permission to have some photographs taken?
- A. Yes, of me and my daughters.
- 45 Q. Was this after the incident where he's tried to kiss you, you're telling us about?
- A. Yes. Yes.
- 50 Q. How long after? Even roughly.

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- A. Roughly like a month, within a month. So in that May month, within the April May month.
- Q. Was there a reason why you asked Mr Astill for that permission?
- 5 A. Yes, because he was the only senior officer that we could find at that time. It was really hard because there was only four senior chiefs in the jail, but not - they weren't there all the time. And some of them were in high needs, so we couldn't go up there. He was just the one that was available.
- 10 Q. What photographs did you want to take or have taken?
- A. Just of me and my daughters on visits. That was a thing that we just - like that was a thing that the inmates were allowed to request. So B and I requested, and we got it approved.
- 15 Q. What did B want approved?
- A. She got photos of her and her little nephews and dad and sister as well. And then there was other inmates as well that also got photos done as well at the same day.
- 20 Q. Where did you speak to Mr Astill about that request?
- A. In his - in his office behind - behind my house, medium needs.
- Q. You mentioned B, did she go with you to that?
- 25 A. Yes, she did. Yes she did. She was told to stand outside the room though at that time.
- Q. Who told her to stand outside the room?
- A. Mr Astill.
- 30 Q. Did she do so to your knowledge?
- A. Yes. Yes, she did.
- Q. When you're in the room, did the door remain open or was it closed?
- 35 A. Yes, it did. Yes, it - it remained open, yes.
- Q. What happened in the room on that occasion, Ms M? Just take your time.
- A. He - he liked - he always would pat my arm, so that's what he would start with doing, stroking my hand. And then he tried to kiss me again by grabbing my arm and pulling me closer, but because where we were standing, I would -
- 40 I stood right at the doorway, so where B was, she could see like, you know, she could see me on an angle, like through the doorway. So that stopped--
- Q. Just stop there. Just remember you can only tell us hear what you saw and heard, and what you were thinking at the time, all right.
- 45 A. Yeah. Yep, yep.
- Q. That's why I'm just cutting you off.
- A. No, well, she could - like okay, so, I could see her from where I was standing in the room, so I knew that she could see me and vice versa.
- 50

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Q. Again I'm just going to ask you to go back when you said he tried to kiss you again. What exactly did he do, Ms M?

5 A. He was again stroking my hand, and then he - because I was standing in the doorway at this time, so when he was stroking my hand, I know that I couldn't see B, so I know that she couldn't see me. And then he just pulled me closer and I stepped back, and that was - he - I think, well I thought that Mr Astill would've known by then that B would've been able to see us, so that's where he stopped.

10 Q. When you say he tried to kiss you, just spell it out, what made you think that he was trying to kiss you?

A. Because he leant down to try and kiss me again.

15 Q. How close to you did he come? That is how close did his face come to yours?

A. About this much. Because he's quite tall, so.

CROWN PROSECUTOR: Your Honour, I notice the witness is indicating--

20 Q. Would you just do that again?

A. about like, I don't know, like a face, another face between us.

HER HONOUR: 20 to 30 centimetres?

25 WITNESS: Yeah, about that.

CROWN PROSECUTOR

Q. Did he say anything as he was doing that, or before he did that?

30 A. Yeah. He asked what I would do if he tried to kiss me. He asked if I liked - he asked me if I liked him back. He told me that he liked me. He told me that I had a beautiful smile again.

Q. Did you say anything to him?

35 A. No, I did not say anything to him. I just - I'm a very nervous person, and when things like that happen, I just try to smile them off, like, laugh them off.

Q. You told us that he's pulled you in, and he's leant in as you describe. What did you do when he did that?

40 A. I looked down at the ground.

Q. And--

45 A. And then he - sorry. And then he would speak to me, and I would look up, and then I would look back down again, cause the time that I looked up, I could see that he was quite close to me, and I knew that - what he was going to try and do, so I looked back down to the ground so he had no..(not transcribable)..of my face.

50 Q. Sorry, the video probably doesn't help, I don't mean to talk over the top of you.

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A. No, no, no, sorry.

Q. How did that come to an end, that situation where he had hold of you?

5 A. Well, cause I stepped back, and Kirsty - I could see B, and so I - I looked at her, and I, like, raised my eyebrows like, you know, something's happening, B, like, please help me. And so, she'd come into the office, and then we just hurried things up, and we - like, we just got out of there as fast as possible. Cause I'd already spoken to B at - in my house and said, "If anything ever happens, or if I ever, like, look at you in a strange way, that means, you know, help me."

10 Q. Ms M, in your second diagram, which has been given to the jury, marked--

A. Yeah.

15 Q. --bottom left, "second"--

A. Yep.

Q. --you set out there, don't you - we're on the second page - you've got "B" with an arrow?

20 A. Yep. Yep.

Q. To the right of that, does it say desk?

A. Yes.

25 Q. Do you know what that desk was used for?

A. That was - so, when you walked into the - the office was just, like, a rectangle, and you walked into the door, and it was a square, and then it had two offices on the end of it. So when you walked in the front door of the actual - the full office, there was just a desk there, and it was just for an officer to sit there if - if they wanted to, or - yeah, it was just not assigned to any officer, like their - as their office.

30 Q. Ms M, in that diagram, over to the left as you hold it as I've indicated, with the word "second" bottom left, you've marked "Mr Astill" with a dot, you've marked "me", and then in between there's another dot. Do you see that?

35 A. I think that was the - hang on, I'll have a look.

Q. I'm not asking you to guess, of course, but do you remember what you were indicating when you put that middle dot in?

40 A. No, I'm - maybe that's where we, like, met in the middle. I think that's where we met in the middle, cause he was standing back and I was standing back, and then he pulled me closer. So that was where the lining up of the door was. Because, at the start, he - I couldn't see B, and so, when I stepped back, that's when I could see her.

45

Q. You've indicated that you pulled away. Did you end up dealing with your request for the photographs? What happened there in the office, if anything?

50 A. Yes, I did sign it after - when B had walked into the office. Because, once B had walked into the office, Mr Astill was just, like, okay, back to - you know, we've got to sign this now, girls. So he just - yeah, he just completely stopped

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what he was doing to me. So we actually - we did get the - the - the form signed, in the end. It was just very rushed, and B and I just wanted to get out of there.

5 Q. Is your mother a lady by the name of NAME of mother of "M"?

A. Yes.

Q. Did you make a telephone call to your mother after you left the office on that day you've told us about, that incident you've just told us about?

10 A. Yes, I did.

CROWN PROSECUTOR: Your Honour, that last count, I should say, was count 35.

15 HER HONOUR: Yes.

CROWN PROSECUTOR: I should say, the last incident was count 35.

HER HONOUR: Yes, thank you.

20

CROWN PROSECUTOR: Your Honour, there's a recording now I wish to tender and have played.

EXHIBIT #P RECORDING TENDERED, ADMITTED WITHOUT OBJECTION

25

EXHIBIT #P1 TRANSCRIPT OF RECORDING TENDERED, ADMITTED WITHOUT OBJECTION

30 HER HONOUR: Again as an aide, ladies and gentlemen, remembering that the evidence itself comes within the call itself and what is said in the call. If there's any difference between what you hear and what is in the transcript, it's what you hear. And you're seeking to play that now?

35 CROWN PROSECUTOR: Yes, your Honour, I do. Just before it's played, perhaps if those transcripts can go out.

HER HONOUR: Yes.

40 CROWN PROSECUTOR: And there's a copy, of course, for your Honour, and a working copy.

HER HONOUR: Thank you. Yes, we're just going to play the call now, Ms M, okay?

45 WITNESS: Yep.

EXHIBIT P PLAYED TO COURT

HER HONOUR: You can stop it there.

50

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CROWN PROSECUTOR: Stop there, I think. Ms - sorry.

HER HONOUR: We'll just get Ms M back. Yes, Ms M.

5 CROWN PROSECUTOR

Q. Ms M, were you able to hear that recording?

A. Yes, I was.

10 Q. Firstly, that was your voice on that call, wasn't it?

A. Yes.

Q. Was the other adult you were talking to, your mother, FIRST NAME OF MOTHER OF M?

15 A. Yes, it was.

Q. When you said to her, "I need to talk to you on the weekend," and went on to say, "No, I can't say it over the phone," what were you referring to?

A. The incidents with Mr Astill.

20

Q. When you referred to B wiping your face, was that B?

A. Yes, it was.

25 Q. Now, did you have a visit that weekend from your mum - from FIRST NAME OF MOTHER OF M?

A. Yes, I did. Yes, I did.

Q. Who came on that visit with your mother, if anybody? Did she bring the children?

30 A. My mum - my mum and my two daughters.

Q. Were there any photographs taken at that visit?

A. Yes, there was.

35 Q. Who took the photographs?

A. Mr Astill came and done it, which was quite surprising.

Q. I'm not being critical, but when I - I just ask you to say - to just answer the question I'm asking you.

40 A. Sorry, yes. Yes, Mr Astill.

Q. What about B? You've mentioned that there was an application for her and her nephew to get photographed. Did that happen?

A. Yep. Yes, it did.

45

Q. Where did this take place where the photographs were taken? Is there a particular part of the gaol?

A. Outside the visitor's area in the - where the playground was.

50 Q. Did you speak to your mother during that visit about Mr Astill?

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A. Yes, I did.

Q. What did you say to her?

5 A. I told her what had happened and then I showed her what he looked like because he walked in the room. So, I just said, "Oh, that's him there."

Q. If you remember, when you say you told your mother what happened, what did you actually say to her? Do you remember?

10 A. Well, it was quite hard because I had the officers around me and I had my two daughters there, but I spoke as much as I could to her, and I just said, "Mum, there's an officer who's tried to kiss me and do really inappropriate things. I just need to get out of here." You know, "I just want to forget about everything that's happened and--"

15 Q. Did you know when you were at Dillwynia, a couple of inmates by the name of V and B?

A. Yes, they were in my house.

20 Q. Did you ever speak to either or both of those women about either of these incidents that you describe where Mr Astill's tried to kiss you?

A. Yes, I did.

Q. What did you tell them about that, firstly?

25 A. B and I walked in B's room and they were both sitting there, and they were really close friends of mine and B's, and I just felt like I could tell those girls--

Q. All right.

A. --and so, we just said - sorry.

30 **Q. No, that's all right. What did you say, I'm sorry?

A. No, we just said, "We need to tell you something. Something about one of the officers," and V said, "Okay, which one?" and we said, "Mr Astill," and she said, "Oh, okay. Well, we've heard lots of things about him. What happened with you?" and so then I told her what - I told them both what had happened,
35 and they said they were shocked.

Q. Now, you told us that you left Dillwynia Correctional Centre in May 2017?

A. Yes.

40 Q. On that particular day - the day you left - did you speak to Mr Astill again?

A. Yes, I did.

Q. Did you have some concern about losing your particular cell?

45 A. Yes, I did, and I didn't think that I would return, so I knew that if I had my room held, then there would be - that I'd go straight back there.

Q. So, when you say have your room held, have that saved for you so you could keep your room when you returned?

50 A. Yeah, you just - yeah, you just don't get - you don't get withdrawn out of the gaol. You just get - you're on a, like, a leave pass-type of thing.

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Q. Now, when you spoke with him, was that in person?

A. Yes, it was.

5 Q. Where was that?

A. That was in the office behind M right.

Q. Was there anybody present with you in the office apart from Mr Astill?

A. No, not in his office, no.

10

Q. Did he say anything about whether that could happen; that is, whether your room could be held?

A. He said that it - his - it said that - no, sorry. He said that it might not be able to happen because it was - it was a bit more difficult this time around, like, not like the first time around.

15

Q. Did he say anything else to you with respect to you leaving the jail at that time?

A. Yes, he said that he would miss me, and that he will try and get me back there as much as he could. Yeah.

20

Q. Do you know where B was when you went into the room?

A. She - she wasn't there, no.

25

Q. Was there anybody in the area - not in the room itself with Mr Astill, but was there anybody that you saw before going in - in the general area near the office?

A. Yes, there was.

30

Q. Who was that?

A. There was a couple of inmates. I'm not sure how many, but there was about three or four, I think, and Ms Kellett.

Q. Now, is Ms Kellet, K-E-L-L-E-T-T, is that right?

35

A. Yes.

Q. Do you know her first name?

A. No, I don't.

40

Q. Is she a corrective services officer?

A. She was a senior chief, as well.

Q. When Mr Astill said to you, "I'll miss you", was he doing anything or not?

A. He was stroking my hand again.

45

Q. Did you respond to him stroking your hand in any way?

A. No, I just tried to, like, pull it out. Every time, I tried to, like, just pull it out of his hand, of his grip.

50

Q. Ms M, did you at any time say or do anything to Mr Astill to express to him

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that you are up for or willing to have any sort of physical contact with him?

A. Definitely not.

<CROSS-EXAMINATION BY MR TYLER-STOTT

5

Q. Ms M, can you see and hear me?

A. Yes, I can.

10 Q. Ms M, was there an occasion where Mr Astill was talking to you about the impact of drug use on your teeth?

A. Yes, there - yes, there was.

Q. And did he say that you could potentially look at some people or prisoners in low needs to see the impact of drug use on their teeth?

15 A. I can't recall that conversation, but I - I can remember saying to him that my mum would kick my bum if my teeth got ruined, my mouth. I can remember that conversation, but the only thing that he would--

Q. Sorry, Ms M, I couldn't quite catch everything you said.

20 A. Sorry.

Q. Could you please repeat that?

25 A. My mum would - I said to him that my mum - he said to me, "You have such a beautiful smile", and I - and I can remember saying back to him that my mum would've kicked my bum if I destroyed my teeth over methamphetamines.

Q. Did you say that you had beautiful teeth?

30 A. Yes.

Q. As opposed to, "You have a beautiful smile"?

A. Both.

Q. The office that I think you've described as, is it behind M right--

35 A. Yes.

Q. --or in the vicinity of M right?

A. Yeah.

40 Q. Is that also known as the hub?

A. I'm not sure now. But it was called the - it was called the senior chief - the senior chief's office when I was there.

45 Q. If I can take you to the first time you say he attempted to kiss you, and you've left, can you tell us what you did when you attempted to leave from Mr Astill's presence? Where did you go?

A. I went straight down to the visits. Is that what you're meaning?

Q. Yes, how did you reach the visits?

50 A. I walked down there.

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Q. How did you get through the doors?

A. I unlocked them from the inside. Cause there was a snib.

5 Q. A what, sorry?

HER HONOUR: A snib.

WITNESS: There was, like, a little snip from the inside.

10

TYLER-STOTT

Q. You've provided a statement to the police, haven't you?

A. Yes, I have.

15

Q. You provided one back on 31 January 2019--

A. Yeah.

20 Q. --wherein you say that Mr Astill followed you and unlocked the door with a key. Have you recently read that?

A. No, he - no, I'm pretty sure - no, I unlocked the door because I rushed out of there. He locked it before I went in there.

Q. Do you have your statement with you, ma'am?

25

A. No - yes, I do. I'll get it.

Q. If you can turn to paragraph 14, please?

A. Paragraph 14. Yes, I did read it, sorry. And I did put that he did follow me to the door, but I'm pretty sure I unlocked it.

30

Q. But you in your statement - and just so--

A. I know, I know. I'm just trying to think, sorry, it's - it was five years ago. No, he must have followed me to the door and unlocked it, cause it's a jail door, so I wouldn't have been able to unlock it.

35

Q. But it can't be locked internally?

A. No, the jail doors could be--

Q. Do you have any knowledge of that? I beg your pardon?

40

A. The jail doors could be. So, like, when you lock the door, it was locked.

Q. So you're now sure that he unlocked it with the key?

A. Yes. Yes, yeah, sorry.

45 Q. And just so we're clear, this paragraph 14 that we've just read from, is that the first occasion where there was any attempted intimacy?

A. Yes.

Q. And paragraph 15 describes the next occasion, is that correct?

50

A. Yes.

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C M XXN

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Q. Would you agree with me that, within paragraph 15, there's no reference to stroking your arm, or hand, rather?

A. Sorry, he did that every time he saw me.

5

Q. Yes, but would you just agree with me, or if you--

A. Okay. Yes, no, I agree with you. I agree.

Q. It's not in that paragraph, is it?

10 A. No, it's not, sorry.

Q. The occasion where Mr Astill took photographs of you, I think you were surprised, is that correct?

A. Yes.

15

Q. Did he tell you whether or not the activities officer wasn't on for the day, and that's why he was taking photographs?

A. No, he - he didn't tell me anything like that.

20 Q. If I can just go back - I'm sorry, is there--

A. Sorry, I've just got to - can I just check back quickly?

TYLER-STOTT: If your Honour says yes.

25 CROWN PROSECUTOR: Your Honour, could I just indicate something? I'm sorry, it was remiss of me not to pass it on, but the witness did indicate that she's breastfeeding, and it may arise that she needed to feed the child. So I don't know, she may have concerns about whether that's arisen, your Honour.

30 HER HONOUR: Are you okay?

WITNESS: Sorry, yeah. My little girl's just crying.

HER HONOUR: Okay.

35

TYLER-STOTT: Your Honour, I note the time. I could use 20 minutes, if I may, if Ms M could use that time.

HER HONOUR: Did you need to attend to your child?

40

WITNESS: Yeah, is that a - is that okay?

HER HONOUR: Yes, we could take the morning tea now.

45 TYLER-STOTT: Thank your Honour.

HER HONOUR: Okay, we'll take the morning tea, so 15 minutes, okay?

WITNESS: Yeah. Thank you.

50

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AUDIO VISUAL LINK DEACTIVATED

HER HONOUR: Yes, ladies and gentlemen, if you'd like to go out, just wait for the court officer, he might be able to open the door for you. Just wait there, sir.

5 Just wait for the court officers to take you. Yes.

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IN THE ABSENCE OF THE JURY

TYLER-STOTT: Your Honour, my instructor apologises for his phone. He's corrected the issue.

5

HER HONOUR: I didn't even hear it. Okay, we'll start at ten to.

TYLER-STOTT: Yes, your Honour.

10 SHORT ADJOURNMENT

AUDIO VISUAL LINK ACTIVATED

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IN THE PRESENCE OF THE JURY

TYLER-STOTT

5 Q. Ms M, how tall are you?

A. How tall am I?

Q. Yes.

A. About 160 centimetres.

10

Q. When Mr Astill was working at correctives whilst you were there, did he have a rather large belly?

A. Yes.

15 Q. I think when you were giving your evidence about the first attempted kiss, you said that you could feel his erect penis?

A. Yep.

20 Q. Your evidence as I remember it was, you felt it on your hip and then I think you said around your stomach area?

A. Yeah, or just around, like the side of my body, yep.

Q. So where was it that it touched?

A. Like here, my hip, just here. See that, sorry?

25

HER HONOUR: Yes, indicating up the top part of your right hip.

TYLER-STOTT: Right hip.

30 Q. His stomach would've made that very difficult, wouldn't it?

A. No, I'm not sure. He may - he seemed to do it.

Q. On this particular occasion when you went to see Mr Astill--

A. Yep.

35

Q. --what was the purpose of going to see him?

A. It was always for visits. Requested visits.

Q. Did you take a seat when you arrived in the--

40 A. No.

Q. --office.

A. No. Actually, I don't think there was any seats in there. Like there was his seat, but I don't think there was another seat because they had just moved in there.

45

Q. Did you have an ID tag?

A. Yes, I did. My MID card, yes.

50 Q. And a door key?

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A. A door key?

Q. Yes. Did you have a--

A. Yes.

5

Q. --key to your cell.

A. Yes.

10 Q. Do you know whether or not you were spinning them around your finger when you were speaking to Mr Astill?

A. No. I always had it on my neck, so, I couldn't really spin it around in my hand.

15 Q. Are you sure you weren't sitting down?

A. Yes, I'm positive.

Q. Did Mr Astill on an occasion allow you to wear a ring at your request?

A. No.

20 Q. Didn't you ask him for a ring that he was wearing, and he allowed you to wear it?

A. That he was wearing?

Q. Yes.

25 A. No, definitely not. What - sorry, what kind of ring was it? Just a finger ring?

Q. Well, yes. Yes, a ring that goes on your finger.

A. No. Okay, no. No. Nothing like that.

30 Q. On that occasion you were with B? I'm just suggesting it to you. You say you didn't wear the ring.

A. Yes.

Q. Just giving you the opportunity to comment on that.

35 A. Sorry, which - is that - which - where's - which one's the ring involved with? Which situation?

Q. I'm talking about an occasion where you tried on a ring that--

A. Okay. No, there was no - there was no situation with a ring.

40

Q. Do you know, and I'll just skip forward, ma'am. The first occasion where you say that Mr Astill attempted to kiss you, where was B at the time?

A. She was at visits.

45 Q. Did you tell Mr Astill that B was asleep at the time, having an afternoon an afternoon?

A. No, because she always had visits every single weekend.

Q. Could this have been a week day that this attempted kiss took place?

50 A. No, because I worked every day.

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C M XXN

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- Q. Did Mr Astill ask you, "So what can I do for you today, M?", just preceding the attempted kiss?
A. No. No. No.
- 5 Q. I'll suggest to you that you both walked towards one another?
A. Which situation is this, sorry?
- Q. This is the attempted kiss.
- 10 HER HONOUR: First time?
WITNESS: There was two.
- 15 TYLER-STOTT
Q. First time, yes.
A. First time. As we both walked towards each other?
- 20 Q. Yes.
A. No.
- Q. And you each took each other by the arms?
A. No.
- 25 Q. And--
A. No.
- Q. --you actually kissed for a period of time?
30 A. No, definitely not. Can I just say something about the ring situation. Why would his - why would one of his rings fit my finger, like, why would I ask to wear one of his rings?
- HER HONOUR: That's okay. Just answer the questions. It'll make your time
35 quicker.
- WITNESS: Yes, sorry.
- TYLER-STOTT
- 40 Q. I know you say it was an attempted kiss. Did you notice that a door was open?
A. No.
- 45 Q. And you said, "Fuck. Fuck. The door is open." Did you ever say anything--
A. I said this?
- Q. Yes.
50 A. No.

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C M XXN

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HER HONOUR: Did you say that? No?

TYLER-STOTT: No.

5

WITNESS: No, I didn't.

TYLER-STOTT

10 Q. Just moving to Mother's Day. That was obviously an emotional time for you. Is that correct?

A. Yes.

15 Q. Was it before or on the day of the Mother's Day visit that you were crying with Ms Sibret?

A. No.

Q. Did Mr--

20 A. That was on a weekday. Sorry.

Q. I beg your pardon?

A. That was on a weekday that that happened.

25 Q. Was there an occasion when you were crying and you were approached by Mr Astill around the Mother's Day visit?

A. No, it was on an afternoon. It was during the week, and it - I'm not sure if it was near Mother's Day, but Mother's Day is on a Sunday, and it was - it was definitely on a weekday.

30 Q. Did he ask you why you were crying on the occasion that he approached you?

A. Yes.

Q. Do you remember what you told him?

35 A. Nothing.

Q. Wasn't it about the fact that you were away from your children, obviously missing them?

A. No, I just said nothing was wrong.

40

Q. And I'll suggest to you there was no attempted second kiss, as you've given evidence about?

A. There was no--

45 Q. Attempted second kiss?

A. There was a second different time. Yes, I've said that.

Q. Yes, I understand that.

A. Yes.

50

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C M XXN

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Q. If your Honour will just bear with me a moment. I won't be much longer, Ms M?

A. Your right.

5 Q. Ms M, have you made an application for compensation?

A. No.

Q. You haven't made an application--

10 A. Sorry. Sorry, excuse - sorry, can you please explain that.

Q. Compensation against the state of New South Wales?

A. Yes, I think I have, yes.

Q. You think you have?

15 A. No, I - yes, I have, yes.

Q. Is the firm representing you, Mills Oakley?

A. Yes.

20 Q. Were you aware of a number of other ladies who've sought compensation as well?

A. Yes. No, not compensation, but I know that there was a couple of girls that were in this as well, but I don't know much at all.

25 Q. I'll suggest this final question to you and then I'm done. I suggest to you that you've constructed a false complaint so as to claim money against the state of New South Wales?

A. No.

30 NO RE-EXAMINATION

<THE WITNESS WITHDREW

AUDIO VISUAL LINK CONCLUDED AT 12.04PM

35

CROWN PROSECUTOR: Your Honour, the next witness, NAME of M's Mother, is at the same facility at the police station there, and she should be just outside the room.

40 HER HONOUR: Yes.

CROWN PROSECUTOR: I call NAME of M's mother. I'm just arranging that, your Honour. I'm having a little bit of trouble contacting her. We've spoken to her this morning. She's there with the last witness, your Honour, so we just
45 need a minute, I'm told.

HER HONOUR: I'm told the police station need to dial back in.

CROWN PROSECUTOR: We're doing that, your Honour.

50

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C M XXN WD

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HER HONOUR: It just might take a minute or so, ladies and gentlemen.

CROWN PROSECUTOR: Your Honour, there's a difficulty. I'll move to another witness, who I understand is ready to dial in. I call B.

5

MFI #15 STATEMENT OF M

AUDIO VISUAL LINK COMMENCED AT 12.11AM

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<R, AFFIRMED(12.12PM)

<EXAMINATION IN CHIEF BY CROWN PROSECUTOR

- 5 Q. Was your name formerly R?
A. Yes.
- Q. Have you changed your surname?
A. Yeah, to NEW NAME OF R.
- 10 Q. R, thank you.
A. Yeah.
- Q. Ms R, were you previously an inmate with Corrective Services New South
15 Wales?
A. Yes.
- Q. During that time were you housed at Dillwynia Correctional Centre?
A. Yes, I was.
- 20 Q. Were you there from late 2016 until a time in January 2019?
A. That's correct.
- Q. When you went to Dillwynia, were you initially in the high needs section?
25 A. Yes.
- Q. Did you move to the medium needs section about a week later?
A. Yes.
- 30 Q. Was that in the M right part of the jail?
A. Yes.
- Q. Did you meet a young woman by the name of M?
A. Yes.
- 35 Q. When you first went there, were you in a three out cell, that is with two
other women and yourself in a cell?
A. Yes, that's correct.
- 40 Q. How was M being housed. Was she in a one out?
A. Yeah, she was in a one out cell.
- Q. Did you come to work in the buy section of the jail?
A. Yes.
- 45 Q. Did M work there as well?
A. Yes, she did.
- Q. Did you ever wish to make inter jail phone calls?
50 A. Yes, I did. I used to make inner jail phone calls to my ex partner.

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R XN

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Q. If you wanted to do that in the jail, how could you go about getting that approval to do that?

5 A. You could either fill out a inter jail phone request phone, or you could speak to a chief.

Q. Which was the quickest way to get the approval?

A. Speaking to a chief directly.

10 Q. Was there an occasion where you wanted to get one of those inter jail phone calls approved so you went to see the chief correctional officer?

A. Yes, that's correct.

Q. Was that an occasion where you went with M?

15 A. Yes.

Q. So far as your friendship with M, did you have a lot to do with her? Did you spend much time with her or not?

20 A. M and I were really really close. We instantly became close when we met in M Right, and then we were pretty much inseparable until she was taken to Court in Albury.

Q. When you went to see the chief this particular day, which chief was that?

25 A. Wayne Astill.

Q. Did you go alone, or did you go with anybody?

A. M and I both went together.

Q. Did Mr Astill process your application?

30 A. Yep.

Q. Was there a particular occasion that you remember where you were in the chief's office with Mr Astill and M, where Mr Astill said something to M?

35 A. Yeah. So Mr Astill used to sometimes say inappropriate things to M, like when they - they - they first met. I found out that he had actually booked--

TYLER-STOTT: I object, your Honour.

WITNESS: --into the jail.

40

HER HONOUR: Mr Crown.

WITNESS: Pardon?

45 CROWN PROSECUTOR

Q. I'm asking you though--

50 HER HONOUR: It's just important just to say what you said, what you observed, not basically, what someone's told you, unless you're specifically

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asked.

WITNESS: Okay.

5 HER HONOUR: Okay.

WITNESS: Okay, yep.

10 HER HONOUR: They're just rules of evidence in a Court. So just basically say what you saw, what you observed, and that's about it.

WITNESS: Yep.

CROWN PROSECUTOR

15

Q. So I'd asked you was there an occasion where you were in Mr Astill's office with M, and did Mr Astill say something to you that you remembered?

20 A. So he - he had said not to me specifically, but he said to M, like that from the moment he met her, he knew that she was special, and - and that was - that was about it, and we just sort of laughed it off.

Q. When you say, "We just sort of laughed it off", I want you to focus on M. How did M react when he said that?

25 A. Uncomfortable, but yeah, we just - we didn't take it seriously really, at that stage.

Q. Was there ever any discussion with Mr Astill as to the clothing, comments about clothing being worn by anybody?

30 A. Yeah. So one - one day we were walking back from buy ups, back to - through the compound, and Mr Astill stopped us and said that M - he commented on the shirt that M was wearing, saying they looked really nice, or something along those lines.

Q. Are you able to describe that shirt that she was wearing?

35 A. So, it was - it was like a cool dry shirt. So it - it was a really tight fitting green shirt.

Q. Was there ever an occasion where you were with Mr Astill and M, where Mr Astill spoke about his past?

40 A. Yes.

Q. What did he say?

45 A. He was speaking about how he used to be a police officer, worked in the - a drug task force.

Q. Was there a period where the chief's office moved places?

A. Yeah, it moved behind M right.

Q. M Right. Did you know an inmate by the name of N?

50 A. Yes.

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- Q. Was there an occasion when Ms N told you that Mr Astill wanted to see you?
A. Wanted to see M.
- 5 Q. What did Ms N say?
A. That Mr Astill wanted her to go down and help her clean the new chief's office.
- 10 Q. Did you go with her?
A. Yes.
- Q. What happened when you got there? Was there any conversation with Mr Astill?
15 A. Well, M was just, like, a bit confused as to why we were going down to clean the new chief's office, because we weren't sweepers, or--
- Q. All right, I'm sorry to stop you there, but when you got to the office, was there any conversation that you heard involving Mr Astill?
20 A. Yes. So M asked Mr Astill why we were asked to - or, why she was asked to go down there to clean, and Mr Astill said that he didn't want her to clean, he just wanted her to sit with him, so we sat down in his office.
- Q. When you sat down, was there any discussion at that point?
25 A. I can't remember exactly, sorry.
- Q. Now, did you ever get hold of some coloured paper, some stationery?
A. Yes.
- 30 Q. Was there a particular occasion that you remember where you got hold of some?
A. At the chief's office.
- Q. Did you go to the chief's office with anybody else, or was it just you?
35 A. M.
- Q. Apart from you and M, was there anybody else in that office when you got there?
A. Mr Astill.
- 40 Q. Did he remain in the office for the time that you and M were in that office?
A. No.
- Q. What happened? So he left the office?
45 A. Yeah, I can't remember exactly why he left the office, but he did leave the office for, probably, 20 minutes to half an hour.
- Q. Now, when he left for that period, was there any staff there with you, any corrective services--
50 A. No.

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Q. --non-inmate staff at all?

A. No.

5 Q. And what was in his office?

A. Just a general office. Computer, phone, just everything that is normally in an officer's office.

10 Q. Did any other officer in your time in custody ever leave you unsupervised like that in an office?

A. No.

Q. Was there ever an occasion where Mr Astill had a ring, as in, a ring that one would put on their finger?

15 A. Yeah, that was the - the time when M and I went to the chief's office. He had a silver ring, and gave it to M to try on, and--

Q. When did that happen?

20 A. One of the occasions when we went to the chief's office. I think it was the - the first occasion that we went there, when we were asked - when M was asked to go clean. Before we were left in the office.

Q. Was anything said by Mr Astill about the ring?

25 A. I don't recall.

Q. Now, you said she tried it on?

A. Yes.

Q. Did she put it on her finger?

30 A. Yes.

Q. Did Mr Astill do anything towards her at that time?

A. He held her hand and started to caress her hand.

35 Q. Did you see M at that time as to any reaction she gave?

A. Yeah, she was really uncomfortable.

Q. What makes you say--

40 A. She didn't quite know what to do.

Q. What makes you say, form the belief, that she was uncomfortable? What did you see or hear that made you think she was uncomfortable?

45 A. She didn't really say anything. I just - we were really close, so I could just tell, because her - she - with her body language and facial expression, that she wasn't comfortable in that situation, but that she didn't know what to do either.

Q. What was her facial expression?

A. A bit shocked.

50 Q. When you left the office, were you with her, or did one of you leave before

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the other?

A. Yes, I was with her.

5 Q. Following on from that, were you aware of M going to Mr Astill's office again on other occasions?

A. Yes, so she got paged to go to the chief's office. I don't know exactly when, but yeah, there was an occasion when she got paged there and I didn't go with her.

10 Q. And you?

A. I didn't go with her.

Q. Did you have a conversation with M about two weeks after this incident where Mr Astill touched M's hand, the ring?

15 A. Yes.

Q. Where was that conversation?

A. In M's room?

20 Q. And how did that come to be? Why did you go in there to start with, do you remember?

A. Because I noticed that M was crying and upset, so I went to check on her.

Q. What did she say to you, if anything, about why she was upset?

25 A. She said that Mr Astill had tried to kiss her.

Q. Did she say anything else about that incident or not, or do you not remember?

A. Not that I recall. It was a long time ago.

30

Q. Was there an occasion where M was on the telephone that you remember?

A. Yeah, she was on the telephone in medium needs. She was on the phone to her mum.

35 Q. Were you with her on that occasion for part of that call?

A. Yes.

Q. Did you notice how she was?

A. She was crying. She was upset.

40

Q. I want to ask you now about some earrings. Do you remember at some stage M wearing some earrings?

A. Yeah, M had some silver hoops.

45 Q. Was anything said with respect to Mr Astill about those earrings, or indicated about the earrings?

A. Yeah. Mr Astill called M over after her phone call on her way back to the unit, and sort of pointed to her earrings to suggest that he was calling her over to speak to her about her wearing the earrings.

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Q. When you say "to suggest", what was it that made you think it was the earrings?

A. Because he pointed to his ears.

5 Q. Now, were earrings completely prohibited to wear earrings in the jail, or not?

A. Yes. Yes.

Q. Did you ever see women in the gaol wearing earrings nonetheless?

10 A. You do see it. You do see inmates wearing earrings, but you're not allowed to wear earrings.

Q. Did you see whether M went over after he indicated to his ears?

15 A. Yes, she did.

Q. Did you hear what was said, if anything, between the two?

A. No, I couldn't hear.

20 Q. I want to ask you now about a day that you were aware M was leaving the gaol to go down to Albury for court.

A. Yep.

Q. Do you remember M being called down to the chief's office?

25 A. Yes.

Q. Did you go to the chief's office as well?

A. Yes.

Q. What happened when you got there?

30 A. So, M went actually into the chief's office. I stood outside, and I could see in the reflection--

Q. Can you hear me? I notice the picture's gone.

35 A. Yep, sorry, it just went blank then. I could see in the reflection of the door that Mr Astill was standing incredibly close to M whilst she was backed up against the wall, and he also grabbed a hold of her arm.

Q. Were you able to hear anything at that time?

40 A. No.

Q. Did you receive, at one stage, a letter from M?

A. Yes.

Q. Was that a letter that you passed onto somebody else?

45 A. Yes, I passed it onto the governor, Shari Martin.

Q. After that last occasion that you were talking about where you could see the reflection, did you speak to M after she came out of the office on that occasion?

50 A. Yes, I did, but I don't really recall the conversation very well.

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Q. Do you remember what she said; whether she mentioned anything about what had happened in the room, or not?

5 A. She did, but I - I - again, I can't remember what she said or anything like that.

<CROSS-EXAMINATION BY MR TYLER-STOTT

Q. Ma'am, can you see and hear me okay?

10 A. Yes.

Q. When you left prison, did you speak with Ms M over the telephone?

A. Yes.

15 Q. Did you also communicate with her in writing?

A. Yes.

Q. And when--

20 A. I communicated with her in writing when we were in gaol - when I was still in gaol once she had been released.

Q. And when you were both out, did you catch up again?

A. No, not since we've both been out.

25 Q. Have you spoken to each other over the telephone at all?

A. Yes.

Q. Have you spoke about what Ms M says that Mr Astill did to her?

30 A. No, not really.

Q. When you say not really, what do you mean?

35 A. So, we've spoken about the court case coming up, and me having to give evidence and her having to give evidence, but we haven't gone through what had happened whilst in gaol.

Q. What about leading up to providing your--

A. ..(not transcribable)..out quite a long time ago.

40 Q. What about leading up to providing your statement in January of 2019; did you speak to Ms M around that time?

A. No, I hadn't spoken to her for quite a while before I'd given my statement. We did speak about everything whilst I was still at Dillwynia and she had been released, but since me going to Parramatta, no, we hadn't spoken about it.

45 Q. So, once she was released, you maintained contact with her in writing?

A. And through telephone.

Q. And through telephone, and--

50 A. Yep.

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Q. --whilst you were communicating with her within that period of time just leading up to providing your statement--

A. Yep.

5 Q. --as well as the time that you were in custody, did you speak about any incidents with Mr Astill?

A. Yes.

Q. What did you discuss?

10 A. I can't recall the exact conversation, but we did speak about me handing a letter that she had written to me to Shari Martin, which did detail some of the stuff that had happened with Mr Astill. I can't recall exactly what was in the letter, but it was just me basically letting her know that I had spoken to the governor about what had happened.

15

Q. Did she also talk to you about having - well, Mr Astill attempt to kiss her and what she did afterwards?

A. Over the phone?

20 Q. Or at any - any communications?

A. Yeah, we - we had--

HER HONOUR: You mean outside of gaol, or at the time when she's already given evidence about?

25

TYLER-STOTT

Q. When you were in gaol - in custody - and she was out?

30 HER HONOUR: Well, she's given evidence about that. Are you taking her to that evidence?

TYLER-STOTT: No, your Honour.

35 HER HONOUR: All right.

TYLER-STOTT

40 Q. I don't have the telephone calls, but do you have telecommunication - telephone communications with her about what happened with Mr Astill?

A. I don't - I don't - I can't recall exactly what was said in the conversations over the phone. We did speak about things that did happen with Mr Astill, but I can't say whether that was about the kiss or about - I - I can't remember that conversation in that much detail.

45

Q. When you say about the kiss, was it a kiss or an attempted kiss, do you know?

A. Attempt kiss, sorry.

50 Q. Now, the ring that Mr Astill - did he tell you that it was from his late wife?

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A. I don't recall.

Q. I suggest to you that when Ms M put it on, Mr Astill did not stroke her hand. Do you agree or disagree?

5 A. Disagree.

Q. The office at M right where Mr Astill was situated; was that also known as the hub, or you don't know?

10 A. Previously.

Q. Did you help move furniture and so forth to that location?

A. No.

Q. Are you sure about that?

15 A. Yes.

Q. Neither you or M assisted to move furniture?

A. M may have, but I didn't move furniture.

20 Q. The first attempted kiss, or the attempt kiss - I'll put it in that way - you spoke to M afterwards. Is that right?

A. Yes.

Q. How long afterwards? Were you able to work that out?

25 A. I can't recall how long afterwards. It was when I seen M crying in her room. I don't know how long afterwards that it was.

Q. Do you know when in the year that was, or in which year?

A. No.

30

Q. The time where you've seen, I think, off the reflection of a door, Mr Astill have hold of M's arm, whereabouts on her arm did he grab. Was it up around the shoulder, the elbow?

A. No, lower arm.

35

Q. How far away were you from what you were observing?

A. A few metres.

Q. Do you know which arm it was?

40 A. I don't recall.

Q. Can I suggest to you that it was up around the shoulder area that she was touched, not her arm?

45 HER HONOUR: Do you agree with that, or disagree?

WITNESS: Disagree.

TYLER-STOTT

50

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Q. Was this around the time that Ms M was going to Albury?

A. Yes.

Q. Could that have been in August of 2017?

5 A. I agree.

NO RE-EXAMINATION BY CROWN PROSECUTOR

AUDIO VISUAL LINK CONCLUDED AT 12.41PM

10

<THE WITNESS WITHDREW

CROWN PROSECUTOR: Your Honour, the witness NAME OF M's MOTHER
is the room. I'm being told there's some difficulty.

15

AUDIO VISUAL LINK COMMENCED AT 12.44PM

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<M's MOTHER, SWORN(12.44PM)

<EXAMINATION IN CHIEF BY CROWN PROSECUTOR

- 5 Q. Is your name NAME OF M'S MOTHER?
A. Yes, it is.
- Q. Is M your daughter?
A. Yes, she is.
- 10 Q. She used to be, for a while, she was an inmate at Dillwynia, wasn't she?
A. Yes, she was.
- Q. Do you remember that she was there generally from April 2016 till around
15 August 2017?
A. I'm pretty sure she went in, in April. April until the next - into - for about 16 months.
- Q. Is it fair to say that you lived several hours away from Dillwynia?
20 A. Yes, I lived six hours.
- Q. Was there an occasion where you remember, in particular, receiving a
phone call from Ms M?
A. Yes.
- 25 Q. Was that a phone call where she started to cry?
A. Yes, she did.
- Q. Was that phone call, do you remember, on 10 May 2017? Does that sound
30 right or not?
A. Yes, that - that would've been about right, yes.
- Q. After that phone call, a little while after that, a couple of days perhaps, did
you go and visit M at the jail?
35 A. Yes, we did. Yes, we were going that weekend. We had booked in.
- Q. Just one thing, Mrs M, when you spoke to M ordinarily on the phone, how
was her mood usually, or did it vary greatly?
A. No, she was always quite cheerful because she was ringing me to speak to
40 the girls as well, so she was always pretty cheery, and she used to ring on
their way to school. So you know, give them a bit of a heads up, have a good
day et cetera.
- Q. After that phone call you had this visit, didn't you, with the girls, and you
45 went and--
A. Yes, we did.
- Q. --visited Dillwynia. Do you remember what happened--
A. Yes, we did.
- 50

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J M XN

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Q. --there? Did you have a particular conversation with M that day at the jail?

A. We - we tried to have a conversation. It's always very noisy there with the kids and everything, and you're not allowed to whisper to each other, but she did say - she'd already told me on the phone that she wanted to talk to me
5 about something, and - and then when the - the - Mr Astill came in, she said, "Oh that's the guy I was talking about", because she - she had told me that she'd had a - an altercation with the - with this guy. And I said, okay, so we couldn't really talk about it at that time, but then the - then he came in because he was going to take a photo. She had organised to do a photo at outside on
10 the wall, and--

Q. Just pause there a moment.

A. Okay.

15 Q. You mentioned that she had told you about an altercation with a guy. When did she first mention that there'd been an altercation?

A. When we first went in there. When we first went in to do the visit, and I could speak to her, and she was - we're at the table.

20 Q. This is the visit that you're referring to where you went after the phone call. Is that right?

A. Yes. After the phone call. She didn't mention it. She said, "I've got something to tell you", but she didn't mention it because she didn't want to mention it on the phone to me, and plus she didn't want the girls to hear it
25 anyway.

Q. Do you remember did she name the officer who she indicated at that stage? Did she say the name of that officer when you were sitting there with her or not?

30 A. Yes. Yes, I think she did, yes. It's a long time ago. Yes, she did, but it was no difference to me because I didn't know any of the officers. So she just said his name.

Q. What did she say; what name did she say?

35 A. I'm pretty sure she said his name was Wayne Astill.

Q. Did he end up taking the photographs?

A. Sorry?

40 Q. Did Mr Astill end up taking the photographs?

A. Yes, he did. He came up - he must've - he came up to the table, and we just walked outside on the brick wall, and then he took - cause M said, "We're going to get a photo taken", and - so we went outside, and then he took several photos, and then we just went back inside, and she said, "That's him",
45 and I thought, yeah, okay.

<CROSS-EXAMINATION BY MR TYLER-STOTT

50 Q. Just very briefly, Mrs M, did the officer have a large stomach, a large belly?

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A. Sorry, what was that?

Q. Did the officer have a large stomach, or a large belly?

5 A. Certainly did, yes. Very white hair, and very - he was tall, a big guy, with a
- yeah, quite a large stomach, yes.

NO RE-EXAMINATION

10 HER HONOUR: Thank you, Ms M, for giving your evidence. It's finished,
you're free to go. Thank you very much.

WITNESS: Thank you. Thank you.

15 <THE WITNESS WITHDREW

AUDIO VISUAL LINK CONCLUDED AT 12.51PM

20 CROWN PROSECUTOR: Your Honour, I can proceed on. The next witness
will be B.

HER HONOUR: Yes, we can start.

AUDIO VISUAL LINK COMMENCED AT 12.51PM

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<B, SWORN(12.51PM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

- 5 Q. Is your name B?
A. Yes, it is.
- Q. Are you an inmate with corrective services New South Wales?
A. Yes, I am.
- 10 Q. Are you being housed at the Dillwynia Correctional Centre in Western Sydney?
A. Yes, I am.
- 15 Q. When did you first go to Dillwynia, Ms B?
A. 23 February 2015.
- Q. When you first went to Dillwynia, what area of the jail were you being housed in?
20 A. High needs.
- Q. How long were you there for?
A. Only a few months, and then--
- 25 Q. Where did you go to after that?
A. Medium needs in Dillwynia.
- Q. Is there a particular program in the jail, greyhounds as pets?
A. Yes, there is. Yes.
- 30 Q. And that deals with greyhounds which used to be in the greyhound racing industry, is that right?
A. Yes, that's correct.
- 35 Q. Or used in that industry, perhaps more accurately. Is that something which you were involved in while you were at the jail?
A. Yes, I am. Yes.
- Q. And was there somebody else by the name of W who had involvement in that?
40 A. Yes, she was.
- Q. When you went to the medium needs unit, did you become aware of an officer by the name of Mr Astill?
45 A. Yes, I did.
- Q. Now, was he, to your knowledge, one of two area managers?
A. Yes, that's correct.
- 50 Q. The other manger, what was her name?

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B XN

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A. Ms Barry.

Q. Ms Barry?

A. Barry, yes.

5

Q. I want to ask you now about a particular occasion where you were in your room. Did you know inmates by the name of R and M?

A. Yes, I did.

10 Q. Did you know inmates V and W? You know W--

A. Yes.

Q. --who was working with you, yes?

A. Yes, I did. Yes.

15

Q. Did you have a discussion with them in your room on this occasion?

A. Yes, I did.

Q. Did you notice how M appeared to you during that time?

20 A. She was extremely distressed.

Q. What made you think she was extremely distressed, Ms B?

A. She was shaking, and then she started to cry.

25 Q. Do you remember when this took place, roughly?

A. Roughly about 2016, the end of.

Q. Did she say anything to you as to why she was upset?

30 A. Yes. She said that she had something very distressing to - to tell us, and she didn't - she was reluctant at first, and then she said that she had been over at Mr Astill's office, and that he had tried to kiss her, and he was holding her hand and stroking her hand.

Q. Did you go, after that incident, to the governor's office?

35 A. It was later on. I actually went with V and R, and I actually waited outside while they spoke to the governor.

Q. After that day, the day that you'd become aware that there was a meeting, did you notice particular behaviour towards you from Mr Astill?

40 A. Yes. He became - he would look at me in a different way, and he looked almost aggressive, and made it - I was perfectly aware that--

TYLER-STOTT: I object, your Honour--

45 WITNESS: --whatever was said in that meeting had come out.

CROWN PROSECUTOR: I don't press that, your Honour.

50 Q. So far as you said he looked at you in a different way, how did he look at you?

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HER HONOUR: "Almost aggressive", she said.

5 WITNESS: Menacing. Yes, almost - yeah, it was aggressive. It was the way you look at somebody who you really don't like.

CROWN PROSECUTOR

10 Q. Did you ever have searches done of your room by Mr Astill?
A. Yes. He came into there and did searches by himself on muster, and the other officers--

15 Q. All right--
A. --yeah.

Q. --I'll just stop you there.
A. Yeah.

20 Q. So, if you just answer this question directly, were other officers nearby but not participating in the search at the time?
A. Yes, that's correct. It was on muster.

25 Q. Now, were there other occasions that you saw corrective service officers, during the time you've been in custody, search cells?
A. Definitely, yes.

Q. Did you ever see them do it alone, that is, only one person searching?
A. No, never.

30 Q. Did Mr Astill ever tell you about his past?
A. Yes.

35 Q. Or his life outside the jail?
A. Yes, he did.

Q. What did he say to you?
A. He said he was an ex-police officer, and he was part of a bikie gang.

40 Q. When did he say that to you?
A. At the dog fence. When I was work in the dog yard, he came up to the fence.

45 Q. And when did he say that? Was that before or after there'd been this meeting at the governor's office?
A. After.

50 Q. Now, you told us that he'd said that he was an ex-police officer, or is an ex-police officer, as well as a member of a bikie gang. Did he say anything else to you?
A. Yes, he said that if I didn't stop talking about these false allegations, that he

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would be able to get my family, and it didn't matter where my family lived, New Zealand or in Albury.

- 5 Q. Did you know an inmate by the name of K?
A. Yes, I did.
- Q. Was she in your unit--
A. Yes, she was.
- 10 Q. --at one stage?
A. Yes, she was.
- Q. Which part of the jail was that?
A. In medium needs, M right.
- 15 Q. Do you remember if she worked in the jail?
A. Yes, she worked in reception.
- Q. Did you work at that time?
20 A. Yes, in the greyhound yard.
- Q. So they're actually greyhounds at the jail, were there?
A. Yes, there are. Yes.
- 25 Q. Did K ever tell you anything about Mr Astill?
A. She said that he'd been inappropriate with her, and while she was working at reception, he tried to touch her on the bottom, and that he would hide his hands with his jacket so that the camera couldn't see him actually touching her.
- 30 Q. When you say she said that he tried to touch her on the bottom, are you able to use the words that she actually used when she said that to you?
A. She said, "He touched me on the bottom with his hand". And push - and glance - I can't think of the word. Where he - he rubbed up against her, so it was contact.
- 35 Q. When you said that, rubbed up against you, you've used your hand in a waving action. Do you mean he rubbed with a hand?
A. Yeah, his hand. Under his jacket, he's brushed up against her that way to touch her bottom.
- 40 Q. Did she tell you about anything else happening with Mr Astill?
A. Yes. She was in trouble and had to go down to the BIU for a little bit of time, and she said while she was down there, Mr Astill came into her cell after lock in, and attempted to - to kiss her, and was interrupted by another officer.
- 45 Q. Did she say to you what that officer's name was?
A. Mr Clarke.
- 50 Q. Is there a Mr Clarke, a corrections officer, who was working there at that

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time?

A. Yes.

CROWN PROSECUTOR: Your Honour, that's examination in chief.

5

HER HONOUR: Will you be long, Mr Tyler-Stott?

TYLER-STOTT: I'm not sure, your Honour.

10 HER HONOUR: Did you want to conclude her evidence?

TYLER-STOTT: Can I please have the lunch break?

15 HER HONOUR: Okay. Ms B, we're going to have lunch now, but we'll be back at 2 o'clock.

AUDIO VISUAL LINK DEACTIVATED

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IN THE ABSENCE OF THE JURY

CROWN PROSECUTOR: I just had confirmed, but I think we're going to get to N this afternoon.

5

HER HONOUR: We will?

CROWN PROSECUTOR: I think so. And I'd probably finish her.

10 HER HONOUR: Okay. Who's next after this one? Is it V?

CROWN PROSECUTOR: V, Renee Berri is a correctives officer. She might be sometime. I don't know how long my friend will be with her, but in any event, I'll confirm with my friend. But I'm pretty confident we'll get to--

15

HER HONOUR: At least start her, one would think.

CROWN PROSECUTOR: Yes, your Honour.

20 HER HONOUR: Mr Tyler-Stott, can I just ask you; you put to the witness the last complainant, Ms M, about the false complaints, yet I note that your client pleaded guilty to being misconduct on the basis of an inappropriate sexual relationship. How does--

25 TYLER-STOTT: Consent, your Honour.

HER HONOUR: Yes, I know, but that still - so you're saying - you might need to make it clear of the false complaint, if that happens again that - because it might confuse the jury--

30

TYLER-STOTT: I understand, yes, your Honour.

HER HONOUR: --that what you're actually saying is the false complaint in the light of the fact that he's pleaded guilty to a sexual relationship.

35

TYLER-STOTT: Accept that.

LUNCHEON ADJOURNMENT

40 CROWN PROSECUTOR: Just while that's happening, can I just indicate I won't call V this afternoon. I've spoken to my friend, something's just arisen. That's the only change.

45 HER HONOUR: Okay. So it's basically Renee Berri and N. Is that right?

CROWN PROSECUTOR: Yes. What I would ask, before Ms N comes on, we've proffered it before, but she is a witness I'm particularly of concern, that she might go - say things in front of the jury she should not. I would ask after Ms Berri's given evidence--

50

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HER HONOUR: We're going to have a break. It'll probably be around three.
Just a bathroom break or something.

CROWN PROSECUTOR: Please.

5

HER HONOUR: Okay, we'll do that after Ms Berri's evidence.

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IN THE PRESENCE OF THE JURY

AUDIO VISUAL LINK ACTIVATED

5 HER HONOUR: You're on your former oath. The promise to tell the truth, okay.

WITNESS: Yes.

10 <CROSS-EXAMINATION BY MR TYLER-STOTT

Q. Ms B, when Mr Astill searched your cells, were there any other officers or corrective services employees working around the area at the time?

A. They were standing on the muster line with the inmates.

15

Q. I beg your pardon?

A. They were standing on the muster line where myself and the rest of the inmates were.

20 Q. So couldn't see your cell being searched. Is that correct?

A. They could see that he was in there, and they were just waiting.

Q. Who were the officers who saw this?

A. I can't remember off the top of my head. It's - right now, I'm sorry, who they were.

25

Q. How many times did it happen to you?

A. Once.

30 Q. You can't remember who else who worked at correctives services was present on the muster line with you?

A. Not on that day, no, sorry. It - sorry.

Q. Can I suggest to you he did not search your cell by himself?

35 A. He did.

Q. You knew Ms V didn't like Mr Astill, didn't you?

A. She did not. There was no dislike.

40 Q. No. They got along, did they?

A. When we first got to Dillwynia, yeah, there was no drama at all.

Q. Did you talk to other inmates about Mr Astill, just in your time at Dillwynia?

A. In regards to what?

45

Q. Just generally, what sort of an officer he was?

A. No, I didn't discuss him like that.

Q. What about his past employment as a police officer?

50 A. He told me that himself.

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- Q. Didn't it come up with other inmates that that topic of conversation came up?
A. No. He only spoke to me at the greyhound yard where he said he was a former police officer.
- 5
- Q. Did you know whether or not any of the other staff were former police officers?
A. No. I don't know.
- 10
- Q. It didn't come up at all?
A. No.
- Q. The suggestion that Mr Astill tried to intimidate you by saying he was an ex police officer is just not true?
A. It is true.
- 15
- Q. Agree or disagree?
- 20
- HER HONOUR: What are you actually putting to her? The intimidation or that he never said he was an ex police officer?
- TYLER-STOTT: I thought they were intertwined, but I'll make it clear, your Honour.
- 25
- Q. I suggest to you that he did not tell you that he was an ex police officer?
A. He told me.
- Q. I suggest to you he did not tell you that he was a member of a motorcycle gang and that he could get--
A. He told me that.
- 30
- Q. --you and your family wherever they were.
A. He told me that at the greyhound yard.
- 35
- NO RE-EXAMINATION BY CROWN PROSECUTOR
- AUDIO VISUAL LINK CONCLUDED AT 2.14PM
- 40
- <THE WITNESS WITHDREW
- CROWN PROSECUTOR: Your Honour, I call Renee Berri who is a member of the corrective services staff at the same jail. So I believe she should be waiting outside.
- 45
- HER HONOUR: She's AVL?
- CROWN PROSECUTOR: She's AVL I should say. And she was outside that..(not transcribable)..I think.
- 50

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HER HONOUR: At the same place.

AUDIO VISUAL LINK COMMENCED AT 2.16PM

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<RENEE BERRY, SWORN(2.16PM)

<EXAMINATION IN CHIEF BY CROWN PROSECUTOR

- 5 Q. Is your name Renee Berry?
A. Yes, it is, sir.
- Q. Ms Berry, are you employed by Corrective Services New South Wales?
A. Yes, I am.
- 10 Q. What is your current rank?
A. I am a senior assist superintendent.
- Q. Are you based at Dillwynia Correctional Centre at the moment?
15 A. No, I'm not, sir.
- Q. Where are you based now?
A. Emu Plains Correctional Centre.
- 20 Q. Were you previously employed at Dillwynia as a corrective services officer?
A. Yes, I was, for 15 years, sir.
- Q. Was that from 2016 for 15 years, from that time on?
- 25 HER HONOUR: From that time on?
CROWN PROSECUTOR: 2006, I'm sorry, your Honour.
- HER HONOUR: 2006.
- 30 CROWN PROSECUTOR
- Q. 2006?
A. Yes, sir. Yes, that's correct, sir.
- 35 Q. What rank did you reach during your time at Dillwynia?
A. Senior Correctional Officer, sir.
- Q. At Dillwynia, in that role, among other duties, were you working as the
40 senior of visits?
A. Yes, I was. I was on a rotation for visits for two years, approximately.
- Q. Was that from November 2018?
A. I can't actually recall the date, but it sounds close.
- 45 Q. Around that time, yes?
A. Yeah.
- HER HONOUR: Yes.
- 50

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CROWN PROSECUTOR

Q. In that role, did you have to supervise inmate visits, including on the weekends?

5 A. Yes, I did. I supervised contact visits for inmates on the weekends with their family, contact and non-contact, and during the week days I supervised Court proceedings, AVL's like what we're doing today.

Q. So with those AVL's and the like, so audio visual link ups, yes

10 A. Yes. Yes, yes.

Q. Was it an important feature of your duties there to prevent contraband? That is items being brought into the jail, which should not be brought into the jail?

15 A. 100%. Security was paramount. It was our duty to make sure that no contraband of any sort was brought into a correctional facility, to protect the inmates and to protect staff.

Q. I want to ask you now about your role of being the senior at the reception area of Dillwynia. Did you perform that role?

20 A. Yes, I did. Previous to SCA visits, I was SCO reception for several years, and yes. Then I moved to visits.

Q. Was that from around 2015 to around 2018?

25 A. Yeah, approximately, yes.

Q. Did that role at reception; does that include inmates coming into the gaol for the first time, whether from courts or other gaols?

30 A. What it is is - for us, we weren't a reception gaol. We were a program sentence gaol, so it was receiving and transfers in from other centres. So, it was response - and discharging, obviously, for releases out into community.

Q. Now, so far as inmates coming into the gaol, did the role at reception involve carefully itemising what property was on the prisoner?

35 A. Yes, yes. So, when they come into custody at the reception centres, their - all their property - the jewellery, phones, clothing, everything - is put into canvas bags and valuable bags, and it's our responsibility, and a serious responsibility, to make sure that they're documented and kept appropriately and secured and actioned, and that when we are actioning all transactions on
40 these bags, that it's done correctly by policy.

Q. Now, so far as those duties are concerned at reception, as the senior, would you also supervise other staff, including correctional officers?

45 A. Yes, so we have - at that time when I was SCO at reception, they - they brought in a - a C watch, which was an afternoon shift, to help with the workload so, yes, we were working as a team. I had to train other staff in their responsibilities of reception duties. We also had the responsibility of looking after inmate's sweeper. That is a very - probably one of the most serious jobs in the centre because they are dealing with other inmate's property and very
50 confidential information in regards to escorts - medical escorts - and things like

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that pending that is coming up.

Q. I'm sorry. I need to get this right. Did you say that inmate sweepers are involved in those duties you just outlined?

5 A. Well, the inmate sweepers are responsible for making sure that their - their clothing is prepared; that, you know, their identification is prepared for when they come in and out of a centre. They help us prepare the inmate's clothing for court, but in their work duties they have the ability to see documentation that will talk about future escorts coming up which could be a security concern,
10 so it's a very, very trusted position. It's a very trusted area to be in.

Q. Are they supervised in their work - inmate sweepers - when it comes to having contact with such--

15 A. Yes, so the--

Q. --information as that?

A. Yes. Yes, so the reception area that I did work in there, we had CCTV cameras in the front area where the inmates - where the holding cells and strip rooms and stuff were, but at the back area where the inmate worked a lot,
20 there was no CCTV cameras, but again, it is a trusted position, and then there is a high expectation that the inmate is going to follow everything correctly.

Q. Now, as the senior of reception, did you have the authority to say who can access, or can't access, inmate's property?

25 A. Yes, so any - any inmate request for anything in regards to inmate's property would come through the SCO reception. There was only one person that could override the SCO reception, and that was the governor.

Q. So, could those who were not working in reception; were they entitled to say who could access inmate's property?

30 A. No.

Q. Did you meet a correction's officer by the name of Wayne Astill when he started working at Dillwynia?

35 A. Yes, I did. Parklea privatised, and we received a few Parklea correctional officers and overseers.

Q. Was that your memory around February 2009?

40 A. Yeah, it was approximately around then because my husband was one of the overseers that was - that also come over from Parklea.

Q. At that stage, did he hold the rank of senior correctional officer?

A. Yes, he did.

45 Q. Now, did that rank mean that he wore an epaulet - so shoulder strips - with three stripes, or chevrons, on them?

A. Yes. Yes, he did.

Q. And a bar on the--

50 A. I couldn't tell you whether he - some choose to wear a bar. Some don't, but

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I can tell you he would've had three - we call them three hooks - I'm not sure whether he had a bar on his.

Q. Did you know another officer by the name of Tanya Hockey?

5 A. Yes, I did.

Q. Was that person the partner - in a relationship with Wayne Astill, to your knowledge?

10 A. Yes, it was common knowledge in the centre that Tanya was best friends with Wayne's wife at the time, and she was in a relationship with Wayne Astill.

Q. I want to ask you now about C. Do you remember that inmate?

A. Yes, I do.

15 Q. I want to ask you about 20 April 2015. All right?

A. Yes.

Q. On that day, were you working at the gaol in reception?

20 A. Yes, I was rostered as C watch. So, I was a 1 o'clock start - 1 till 9 - 1pm till 1 - 9pm. I remember starting that day. I came in early, as I always do, and I found inmate C laying - sitting at the senior's chair inside the office area, and I saw she was sitting to the left at the desk on the - with the chair under the window, and I saw Wayne Astill leaning on the filing cabinet to the right, eating a - it appeared to be a mandarin or some sort of fruit, leaning on the filing cabinet. It was strange. We don't have any other inmates in that area other than the sweeper, especially in the office area, especially when there's no
25 CCTV cameras in there.

Q. Was C a sweeper?

30 A. No, she was not, no.

Q. To your knowledge, was she ever a sweeper?

A. Not at Dillwynia Correctional Centre, no, no.

35 Q. Did Mr Astill say anything to you?

A. He just said the comment, "Oh, you're early, Berry." I felt uncomfortable, so I left. It was - it - it threw me. I wasn't expecting it.

Q. In the reception office, is there any information in there, or any - is there
40 any security issues that you could tell us about in particular?

A. Yes. In the office, the filing cabinet that Mr Astill was leaning on holds all the inmate's information in regards to their property, and any approvals and things like that. Where C was sitting, there is a - a - the desk butted up to a wall, and across that wall was medical escorts for the coming week, any court
45 paperwork, any inmate request forms and, yeah, so she would have seen private confidential information only officers should have seen, yeah.

Q. Apart from a sweeper being in there, have you ever seen an officer in the reception office without - I'm sorry, an inmate in the reception office
50 unsupervised, or in there with an officer, apart from the sweepers?

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A. No. My time, as in reception, and I have never seen any other inmate in that office other than a sweeper because they're the only ones that have permission to go in there.

5 Q. Now, what time was it when you went in on that day, 20 April?

A. From memory, I think it was about quarter to 1. My shift started at 1. I remember going to the lunch room and just sitting there. I - I knew C was a SMAP inmate, so they have an hour out, and I knew she had to be back at her unit at 1 o'clock. So, I knew going back at 1 o'clock, I'd - it'd be safe to go
10 back in there.

Q. Did you go back in there at 1 o'clock?

A. Yes, I did.

15 Q. Who was there, if anyone?

A. Just Wayne. Wayne Astill. He didn't say anything about it. I didn't say anything about it, and it was like it never happened.

Q. Why did you not say anything about it?

20 A. I found him intimidating. I did not feel comfortable to approach him.

Q. I want to ask you now about 13 February 2016. Now, were you working on a day shift at that stage - on that day, rather?

A. Sorry, what - can you please repeat that, sir.
25

Q. I want to ask you about Saturday 13 February 2016. Were you working a day shift as the visit senior on that occasion?

A. Yes, I was.

30 Q. Was Officer Tanya Hockey working there on that occasion?

A. Yes, she was.

Q. What about First Class Correctional Officer Jacinta Curtin?

A. Yes, she was.
35

Q. Now, what time did the visits usually start?

A. They started at - from memory back then - 9 o'clock, and usually finished about 11.30 for the inmates to be back in time for musters, like, midday musters.
40

Q. On that day, was one of the inmates who was receiving a visit, C?

A. Yes.

45 Q. Now, did you notice something about her wearing some jewellery on that occasion?

A. It was brought to my attention - as the senior, if there's an issue in visits, the junior staff will speak to the senior for their assistance. So Jacinta Curtin spoke to me in regards to a ring, a silver men's ring, that C was wearing. She had checked her property card. It wasn't recorded on there. She had asked
50 the inmate to remove it to be confiscated, and the inmate refused.

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Q. When you say "the inmate", you're talking about C?

A. Yes, I am. C.

5 Q. Now, did you see or hear Mr Astill around that time?

A. Okay, so this occurred in the middle of the visits area, which was under CCTV cameras, where the visits actually happen. So the inmates - all the other inmates were cleared out due to the fact that C is a SMAP protected inmate. All I know is that the staff all went to go do musters, and the next
10 thing, I had Mr Astill banging with his fist, with a closed fist like this, on the door really loudly. And it was quite loud, because we were - there was about a 10 metre distance between himself, the door, and where I was with C. The fact that C was very argumentative and rude and aggressive, I wasn't willing to leave the officer with that inmate yet, so I indicated - I just put my finger up to
15 tell Wayne - Wayne Astill - to wait. He then picked up the Motorola and radioed on the radio, "Berry, open the door now." And that was broadcast across the jail. The jail heard it.

Q. I'll just get you to pause there, and it's not a criticism, but you have a
20 tendency - as do I, sometimes - to talk rather quickly.

A. Sorry.

Q. No, don't apologise. But let's try to slow that down a little bit--

A. Okay.
25

Q. --just so that - I'm pausing, really, so that anyone who wished to take a note can take a note. All right?

A. All right. Thank you. All right. So, after the radio call, I - when I felt comfortable enough to leave Jacinta with the inmate C, I walked down and
30 opened the door to let him in, cause it was a secured door, and he just barged past me, straight past me, straight down to C, and he just lost it. He was swearing, he kept saying, "What"--

Q. All right, stop, I'll have you pause there.

A. Yep.
35

Q. You might've been moving on, but I want to hear from you, I'm asking you, what was actually said, rather than just characterising it? So, what did he say at that stage?

A. Well, he - when I opened the door, he said nothing. He just flew - walked straight down to where Ms - where C was standing. When I caught up with him when we - I got back down there, Wayne Astill said, "What in the" - "What the fuck is going on? Is it a fucking joke?" I remember him saying, "My lawyer fucks up property all the time." Myself and Jacinta Curtin were trying to explain
45 to him what had occurred. He was saying that inmate - I remember inmate Duffy, "She gets away with jewellery", he said, "You're just picking on C." He was just - he just lost it. He just was screaming and swearing, very protective of the inmate.

50 Q. Where was C when Mr Astill was saying those things?

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A. That's - she was standing right beside him. He'd placed himself right beside her.

5 Q. So far as jail security is concerned, do officers receive training as to maintaining a united front in front of prisoners, or not?

10 A. We do. If there is an issue between officers, we don't display that in front of inmates. The fact that Wayne Astill was an - a senior correctional officer that day, posted, and so was I, it is not practice to come into another senior's area and tell them how to run the area. If they have an issue with what's gone on, you speak quietly away from the inmates, but the way that Wayne Astill behaved that day just escalated the situation, because it was - besides, it felt like, arguing with an inmate, we were also arguing with the officer.

15 Q. Now, is there an officer by the name of Pam Hotham?

A. Yes.

Q. What rank was she at that time?

20 A. Okay. She was principle correctional officer, she was running the jail that day.

Q. Did she come into the area at that time?

A. Yeah, she came into the area at that time with, I believe, Chief Judy Barry, and they escorted C out of the area.

25 Q. I want to ask you now about an inmate by the name of P. Do you know that person?

A. Yes, I do.

30 **Q. Do you know an inmate, or are you aware of an inmate, at that time by the name of Haynes?

A. Yes, Charlie Haynes. Yes.

Q. Charlie Haynes?

35 A. Yes.

Q. On 4 October 2018, did you and Mr Astill go to the BIU for the purpose of feeding inmates?

40 A. Yes, we did. The BIU stands for behaviour intervention unit, so that unit holds segregation inmates, protection, like, SMAP overflows, things like that. So the policy in there, the procedure, is to always have two officers attend when opening a cell. We always work off the sight and sound policy, so--

Q. What's that? What's mean by the sight and sound policy?

45 A. Sight and sound - so, we always have each other's sight and sound. So and officer does not go near an inmate by themselves for fear they could be hurt or allegations made about them. It's just - we're taught that at basic training, and we have to uphold it within the centre. So, this particular day, Wayne Astill was feeding the inmates, asked me to come down, cause reception backed up to BIU, and I came with him. He opened the door, and inmate Haynes was standing there, and he said, "Why didn't you go down and"

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- "Why didn't you go up to see the" - "hang out with the SMAPs?" Cause at lunchtime, she had the ability to do that if she wanted to. She spoke of having association problems with inmate P. And then he - his tone just changed. He got very harsh, very direct--

5

Q. Who?

A. Wayne Astill, sorry. Wayne Astill's tone changed. He got very direct, very harsh, and he pointed to a tattoo that Haynes had on her face, a small tattoo, love heart, and he said: "See that tattoo on your face? That's as big as P's heart. She's nothing but a fucking mutt." I - I was dumbfounded.

10

Q. Did you make notes about that in your notebook?

A. Yes, I did.

15 HER HONOUR: What's the relevance of that, Mr Crown? What does that go to, what's the relevance of that?

CROWN PROSECUTOR: Section 66, it's a document, your Honour. It's dealt with under s 66. It can be a document or a witness.

20

HER HONOUR: Yes, I know, but what's the relevance? I note there's no objection, but--

CROWN PROSECUTOR: I don't know if there's going to be a challenge, but I can re-examine if the timing - I don't know if there's going to be a challenge to that, but I understand there is.

25

Q. Ms Berry, I want to ask you now about an inmate by the name of N. Do you know that person?

30

A. Yes, I do.

Q. On 30 October 2018, did you conduct a search in the medium needs section, the right unit, of the unit that housed Ms N?

A. Yes, I did.

35

Q. Was she in there on her own at that stage?

A. There is approximately - I can't tell you how many inmates were housed in that open accommodation unit. All I can tell you is they - it holds about 11 inmates. I can tell you that inmate N had the ensuite cell, with quite a large cell, and she'd been in that unit for some time.

40

Q. Now, were there 11 cells searched at that time?

A. The whole unit was searched from memory. But we - there was a search team, it wasn't just myself. There was more than myself there. it was - the search was conducted by Chief Michael Patterson, but there was a lot of focus on her cell due to the large amount of contraband she had.

45

Q Did that contraband include, firstly, Dencorub?

A. Yes, it did, which is not permitted in a correctional environment.

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Q. Tell us why that is?

A. They deem Dencorub or anything of that nature, a security risk, because it can be used as a weapon against officers, for example, they could rub it in the officer's eyes, things like that. And I also spoke with Justice Health that day to
5 confirm that, and they did not issue it.

Q. Were the following items also found, none of which are issued or able to be purchased from buy ups--

A. No--
10

Q. --some following items - if you just pause for a moment, Dream Maybelline Foundation, Rimmel mascara, pink lip gloss, black and pink mascara. Were those items found?

A. Yes, they were.
15

Q. Were there other items in that category, which are not issued, nor able to be bought for buy ups, without going to the brands, but of eye creams and that sort of items?

A. Yes. Yes.
20

Q. So far as confectionary, are inmates able to have that in their cells. So soft drinks, that sort of stuff?

A. Yes. Inmates have - yeah. Inmates have the ability to spend - a buy up each week, \$100. The amount of food that was - and buy ups that was
25 removed from the cell, and from the living room area, was excessive. In her cell, like I said, she had the ensuite, so it had three sections of shelving, from top to bottom, that two of them were completely full of food. The third one was filled with clothing. When the officers went out to the lounge room, from ceiling to floor, a double cupboard, every shelf full of food. There was a lot of lollies, chocolates, fizzy drink. It was like a grocery shop, and it was all--
30

Q. Was that more than is allowed for those items?

A. Yes, yes.

35 Q. Why is that a problem having, apart from diets..(not transcribable)..

Q. What's the problem with people having that much of one of these items?

A. Because it's the ability - they're supposed to purchase the items and eat them in a timely manner. Usually in a jail environment when they've got
40 excessive items like that, questions start coming, how are they getting that amount, are they doing bartering and business, and how they're obtaining that. Especially to, because \$100 buy ups, the inmates buy ups aren't priced like a shopping centre. They're highly higher, so they don't get a lot in their buy ups. So that would take a long time to save up that amount of stuff.
45

Q. I want to ask you now questions with respect to an inmate by the name of

H. Did you know that inmate?

A. Yes, I did, yes.

50 Q. Did you know her to be housed from 29 June 2018 to 6 October 2018 in

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the BIU?

A. Yes, I - yes, I did. I - I would assist quite often with feeding H, having the second officer, and they would need a second person. I always found H to be very polite, courteous, she was no issues, very compliant inmate.

5

Q. So far as her demeanour when she - did you see her apart from interacting with you, with other officers?

A. Yep. She was always courteous, polite. Like I said, she was compliant, she caused no issues.

10

Q. When she was in the BIU, did you see that she was housed in cell 5?

A. Yes, it was the end cell, yes.

Q. So when you go through the front door of the BIU, and there's cells on the right-hand side?

15

A. Yes.

Q. Last one on the right?

A. Yes.

20

Q. Is that where H was?

A. Yes, she was, right beside the exercise yard.

Q. Is there any CCTV unit covering that cell or the entry of that cell?

25

A. I couldn't tell you back then. I couldn't give you an answer on that. I know cameras have gone in over the years, but I couldn't tell you back at that time.

CROWN PROSECUTOR: Your Honour, there's a matter I wish to raise. It's a s 38 matter. I don't know that the jury will need - it mightn't - that the jury would need to go out for it, if I can provide your Honour with her statement. It's a very short line which is relevant to the application.

30

HER HONOUR: Right.

CROWN PROSECUTOR: If I could hand up the statement of the witness dated 23 July 2019. It's open at page 16.

35

HER HONOUR: Paragraph?

CROWN PROSECUTOR: 80, last sentence.

40

HER HONOUR: 80?

CROWN PROSECUTOR: 80, 8-0, I'm sorry, your Honour. Last sentence.

45

HER HONOUR: Does she have her statement in front of her?

CROWN PROSECUTOR: Yes, your Honour, she does have access to it.

HER HONOUR: We might have a s 32 if it's not objected to.

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CROWN PROSECUTOR

5 Q. Do you have your statement there, Ms Berry?

HER HONOUR: Was it her answer, "I don't remember"?

CROWN PROSECUTOR: Yes, your Honour. It's sufficiently--

10 HER HONOUR: There's no objection, Mr Tyler-Stott?

TYLER-STOTT: No, your Honour.

HER HONOUR: No, thank you.

15

CROWN PROSECUTOR

Q. Do you have your statement there now, Ms Berry?

A. I can grab it. I don't have it on me. Would you like me to grab it?

20

HER HONOUR: Yes, please. Bathroom.

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IN THE ABSENCE OF THE JURY

5 HER HONOUR: Ms Berry, I've just sent the jury out, they just needed a comfort break for five minutes, so just take a moment there, and we'll return in about five minutes, okay.

WITNESS: Okay.

10 HER HONOUR: Perhaps just turn the statement over, and when Mr Crown directs you to look at some aspects, we can do it then in front of the jury. Thank you. I'll just go off the bench for five minutes.

SHORT ADJOURNMENT

15 AUDIO VISUAL LINK DEACTIVATED

HER HONOUR: Do you still need that time, Mr Hughes, at the end of this witness? We'll see how long we are; I suppose.

20 CROWN PROSECUTOR: Yes. I prefer we did, your Honour. I've just got worries about that witness.

HER HONOUR: Okay.

25 CROWN PROSECUTOR: I'm sorry. She's been told before. Your Honour knows the problems that can arise.

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IN THE PRESENCE OF THE JURY

AUDIO VISUAL LINK ACTIVATED

5 HER HONOUR: Yes, thank you, we'll return to Ms Berry. We'll continue with your evidence, thank you.

CROWN PROSECUTOR

10 Q. Ms Berry, did you make a statement to the police on 23 July 2019?
A. Yes, I did.

Q. Do you have that in front of you now?
A. Yes, I do.

15

Q. Would you go to page 16 of that statement for me.
A. Yep. Yes.

20 Q. Paragraph 80 of the statement. Did you write this, "Most of the time that Inmate H was at the BIU, she was the only inmate housed there. The cell occupied by Inmate H was cell 5, which is the furthest from the entry to the unit". It says, "The", perhaps there, "Was no CCTV in that unit at that time". Is that the effect of what you've included in your statement?
A. Yes, that is.

25

Q. You might turn that over for me now, if you wish. You've given some evidence about Mr Astill going to the BIU alone. Is that right?
A. Yes, I did.

30 Q. Was that ever done during the time that H was there, to your memory?
A. It was done quite often when H was there, yes. Regularly, yes.

Q. Apart from going on his own, did you see him go with others as well, with other officers?

35 A. Sometimes I would see him go with some other officers. Sometimes I would offer to go with him, he would decline. He would say, yeah, "I'm just - I'm not going to crack the cell, just check that she's okay". But majority of the time he did not want me to attend with him.

40 Q. Did you speak to Inmate H the day before she was due to leave Dillwynia in October 2019?

A. Yes, I did. I was giving her breakfast as normal, and she - she was pleasant, but she appeared a bit stressed, and she asked to speak to FM Steve Vergo.

45

Q. Did you telephone or contact Stephen Vergo?

A. Yes, I - I can't recall if I rang him, or went and got him, but I did inform him that H wanted to speak with him. He came down to the BIU. I was present with him. She said - they had a - they talked. She said, "I'm", along the line, "I'm ready to talk". He said that he would get her some pen and paper. I went

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and got pen and paper for her, gave it to her. then he secured her back in the cell, and when she was finished, I went and - as per his - FM Steve Vergo's instructions, I went and retrieved the pen and paper and took it to him.

5 Q. You said "FM". What's that stand for, FM for?

A. Functional manager. Functional Manager.

Q. On 29 October 2019 were you working in reception in the A Watch?

10 A. Yes.

Q. Does A watch refer to the 8am to 4pm shift?

A. Yes.

Q. Was there a sweeper assisting you that day?

15 A. Yes, K.

Q. Did you ever see Mr Astill speak to her?

20 A. Yes, I did, quite often. He normally spoke to her at the rear of reception where there was no cameras. K had relayed to me multiple times, she felt very uncomfortable with him. So I did instruct her when possible, to have herself under the CCTV cameras where they were, or be near me. This particular day I had gone to get paperwork signed off by our manager of security, and when I came back to the reception area, I found Inmate K in the office area where there is no cameras. She was doing her filing, and I saw Wayne Astill in there.
25 As I've walked straight in there, because I could hear him talking, I walked straight in there to see if she was okay. He put an item into his pocket on his left side.

Q. Just before you go on. Was he working in that area that day?

30 A. No, he wasn't. I was the reception officer.

Q. So you told us you saw him put something in his pocket. What did you see--

35 A. Yes.

Q. --what happened then?

40 A. He - he left, and he went to the BIU, because he was rostered in the BIU. As soon as he left I said to K, "Are you okay?", she said, "Yes, Ms Berry". I said, "What did he put in his pocket?". She said, "He showed me a picture of him in his police uniform when he was 31 years old". I - I sort of laughed and said, "Why?", and she said, "I think he's trying to relive his youth. He must be going through midlife crisis". So I continued on--

45 Q. I'm just going to ask you Ms Berry. So far as correctional officers, are there correctional officers who were formally police officers?

A. Yes.

Q. Is that reasonably common?

50 A. It is common to have ex police officers, ex military in corrective services. We actually had at that time, from memory, three ex serving police officers.

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But it is not protocol or for your safety to tell an inmate that you're an ex police officer. It's not common practice.

Q. Just tell us why that is?

5 A. Because inmates have a hatred for police officers. It puts the officer at risk.

Q. Did you see Principal Pam Hotham and Judy Barry--

A. Yes.

10 Q. --a short time later?

A. They - yes. They were in the BIU whilst Wayne Astill was in reception. So when he's gone back to the BIU, he's come across Principal Pam Hoffam and Chief Judy Barry. And he showed them the picture in his pocket. So when they've walked back through to reception, and Pam - Principal Hoffam said to
15 me, "Are you okay?", and I told her what had occurred, she said, "Yes, he just showed us the photo". So that was my - that the inmate hadn't lied to me. She was correct in what she said, that she had seen a police photo.

Q. Do you remember an inmate by the name of D?

20 A. Yes, I do.

Q. Was that an inmate who was pregnant in custody?

A. Yes. I - whilst she was in custody pregnant, I had nothing to do with her. I
25 only come across D when she returned to custody and she wasn't pregnant, because she was very distressed when she saw another officer that resembled Wayne Astill.

Q. Did you speak to her in 2020?

A. Yes, I did.

30

Q. Was she distressed at that time?

A. I received a phone call from her overseeing, Anthony Baker. I was intel at that time. Intel position. And he said he had an inmate D with him--

35 Q. I'll just stop you there, Ms Berry, please. I'm asking you about D, did she--

A. Yep.

Q. --speak to you at some stage when she was distressed?

A. Yes.

40

Q. Just focus on D.

A. Yes, she did.

Q. What did she say to you?

45 A. She said when she was in custody, that Wayne Astill had touched her, and she was distressed because she'd been pregnant at the time.

<CROSS-EXAMINATION BY MR TYLER-STOTT

50 Q. On the occasion that you spoke to C about the ring--

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A. Yes.

Q. --was Tanya Hockey also working on that day?

A. Yes, she was.

5

Q. She was working in the clinic, wasn't she?

A. No, she was in visits with me.

10 Q. I suggest to you that she was in the clinic, and you disagree with that, do you?

A. I had her in visits with me.

Q. Mr Astill on this particular day had about a half hour lunch break. Is that correct?

15 A. I couldn't tell--

HER HONOUR: How would she know?

TYLER-STOTT: Beg your pardon, your Honour?

20

HER HONOUR: How would she know?

TYLER-STOTT: Well, she may, your Honour.

25 HER HONOUR: Five years ago, what someone had for a lunch break.

Q. Are you aware of whether he had a half an hour lunch break?

A. I couldn't tell you that, your Honour.

30 TYLER-STOTT

Q. Are there officers on that day that only get half hour lunch breaks?

A. We're entitled to a 20 minute lunch break. What an officer takes, I can't tell you.

35

Q. Mr Astill certainly knocked on the dividing door, if I can put it in that way, correct?

A. The secured door, yes. Area locked doors.

40 Q. You didn't originally open up for him. That's correct?

A. No.

Q. Mr Astill when he was on the radios said, "Berry, open up, what's going on?"?

45 A. Mr Astill on the radio yelled on the radio, "Berry, open up the door now".

Q. Did he say at some stage, "For fuck sake, what's going on?"?

A. Yes, he did.

50 Q. You advised him that it was a problem with the ring and it not being handed

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over, is that correct?

A. That is correct.

5 Q. Did he say words to the effect of, "Just let her keep it", or something along those lines?

A. He - he went on to criticise other centres for not recording it properly on the property card. He criticised other inmates and what property they had. And he never let us get a word in, he just kept screaming at us.

10 Q. Was one of the things he said, "Just let her have it"?

A. I couldn't tell you that.

Q. He didn't remain with you for very long, did he?

15 A. No, cause the inmate was removed from the area.

Q. And Ms Barry was there and took inmate C away, is that right?

A. Principle Pam Hotham took C away, and Judy Barry was with her, yes.

Q. Did you communicate with Ms Barry what had happened?

20 A. I spoke to Pam Hotham, she was the officer in charge of the centre.

Q. Ma'am, I just asked you whether or not you spoke to Ms Barry.

25 A. Probably did. She was probably the - present when I was talking to Pam Hotham.

Q. Was it possibly someone, instead of Hotham, Paddison?

A. He wasn't there that day. I - I - I dealt with--

30 HER HONOUR: Can you just be a bit clearer with your questions? Are you asking whether it was Ms Paddison and not Ms Hotham that was there the whole time, that was engaged in it, or just with the conversation, or what?

TYLER-STOTT: She's answered the question, your Honour, I'll move on.

35 HER HONOUR: Well, I don't know that she's answered the question. What's your answer to?

TYLER-STOTT: She said she wasn't working--

40 WITNESS: I--

TYLER-STOTT: --that day.

HER HONOUR: Right.

45 TYLER-STOTT

Q. As far as Ms N is concerned, when was the last search prior to the one that you undertook on 29 August 2018?

50 A. I - I couldn't tell you that. We have staff - we have centre searches,

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targeted searches, random searches. It's at the discretion, and that - that search was organised by the governor.

Q. Ms N was insulin dependent?

5 A. Yes, she was.

Q. Required sugar in her cell or in her--

A. Yes.

10 Q. --area, is that right?

A. She required, I believe, to attend the clinic twice a day for her insulin, and she had to have, I'm guessing, a correct diet.

Q. You've given some evidence about the BIU.

15 A. Yes.

Q. Do you know when it was that Mr Astill was visiting H in the BIU?

A. Too many times to give dates and times on. It was quite often. It was regular.

20

Q. Did you make a note?

A. Pardon?

Q. Did you make a note of it?

25 A. No, cause I was doing my duties as well.

Q. Did you document what inmate K told you about Mr Astill?

A. About the photo?

30 Q. Well, just the complaint about being uncomfortable.

A. I did document about the photo.

Q. About the complaint about her being uncomfortable?

A. No.

35

TYLER-STOTT: Thank you, ma'am.

WITNESS: Thank you.

40 NO RE-EXAMINATION

HER HONOUR: Thank you, Ms Berry. That concludes your evidence, you're free to go. Thank you very much.

45 WITNESS: Thank you.

<THE WITNESS WITHDREW

AUDIO VISUAL LINK CONCLUDED AT 3.14PM

50

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BERRY XXN

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CROWN PROSECUTOR: Your Honour, the next witness is N. I could make a start on her now, if that suits your Honour.

HER HONOUR: Okay, yes.

5

MFI 16 MS BERRY'S STATEMENT

HER HONOUR: She's at Dillwynia?

10 CROWN PROSECUTOR: Dillwynia, your Honour, yes.

HER HONOUR: Yes.

AUDIO VISUAL LINK COMMENCED AT 3.16PM

15

HER HONOUR: Ms N, can you see and hear me? We cannot hear you, though. It's mute. No. Now I can. Can you speak to me now?

N: Yes.

20

HER HONOUR: Yes, I can hear you now. Thank you.

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<N, SWORN(3.17PM)

HER HONOUR: Sorry, and you have a support person with you there, Ms N?

5 WITNESS: Yes.

HER HONOUR: Yes, could you just identify yourself, please?

SUPPORT PERSON: Hi, my name's Kelly Austen.

10

HER HONOUR: Okay, thank you, Kelly. Again, ladies and gentlemen, what I've said to you before. The complainants are entitled to have a support person with them. It doesn't affect their evidence in any greater or lesser way, and is also, of course, nothing adverse to the accused. Thank you. Yes,

15 Mr Crown.

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

Q. Is your name N?

20 A. Yes.

Q. Are you an inmate at the Dillwynia Correctional Centre?

A. Yes, I am.

25 Q. Have you been there since March 2014?

A. Yes, I have.

Q. After you arrived at the Dillwynia Correctional Centre, did you become friends with an inmate by the name of GG, known as NICKNAMES OF GG?

30 A. Yes, I did.

HER HONOUR: Ms N, do you have your statement there?

WITNESS: Yes.

35

HER HONOUR: Can you just turn it over, please? If counsel need you to go to it, they'll let you know, okay? Thank you.

WITNESS: Thank you.

40

CROWN PROSECUTOR

Q. Which part of the jail were you in when you moved there?

A. In high needs, and then I went to medium needs.

45

Q. When did you go to medium needs? Do you remember, even roughly?

A. Not sure.

Q. Did GG live in an area with JJ?

50 A. Yes.

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N XN

VIQ:SND

D8

- Q. Now, did you also become friends with an inmate by the name of F?
A. Yes.
- 5 Q. Did you become aware of an officer working at the jail by the name of Wayne Astill?
A. Yes.
- 10 Q. Do you remember what area or areas he worked in?
A. Several areas.
- Q. Which areas?
A. Several.
- 15 Q. Are you able to tell us which ones?
A. High needs, medium needs, low needs.
- Q. Was there an area known as The Hub?
A. Yes.
- 20 Q. Did you ever see GG with Mr Astill there?
A. Yes.
- 25 Q. Did you notice whereabouts was that? Whereabouts in The Hub was this when you saw them together?
A. In the office.
- Q. Did you notice GG doing anything in particular on this particular time?
A. Yes.
- 30 Q. What was she doing?
A. Touching Mr Astill.
- 35 Q. How was she positioned?
A. She was sitting on the table, on the desk.
- Q. What was Mr Astill doing, did you see if he was doing anything?
A. Touching her, kissing her.
- 40 Q. Are you able to say what GG was wearing when you saw her?
A. Nothing.
- Q. When you say, nothing, were you able to see the upper part of her body?
A. Yes.
- 45 Q. Were you able to see the lower part of her body?
A. No.
- 50 Q. Could you see then whether she had any clothes on, on the lower half of her body, or could you not tell from there?

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N XN

VIQ:SND

D8

A. Sorry, could you repeat the question.

Q. When you told us she was wearing nothing, could you only see the top half of her?

5 A. I could see the clothes on the ground.

Q. What clothes were on the ground, Ms N?

A. Long pants, underwear.

10 Q. Do you remember roughly when this happened? You've told us that you had been at the jail since March 2014. Are you able to say even roughly when it was that you saw GG and Mr Astill at The Hub, in The Hub?

A. Not sure of the times.

15 Q. What were you doing there at the time?

A. Working, cleaning.

Q. After you saw them, as you've described, did you go off and go to some other rooms?

20 A. No, I stayed in the main part and started my work as cleaning.

Q. When you saw GG and Mr Astill, where were you, how far from them were you, and where were you placed?

25 A. I was near the door, the door of the office. The door of the office was partly opened.

Q. Did you see through the partly open door? You saw what you've told us?

A. Yes.

30 Q. What did you do then?

A. I started cleaning the desk, the other tables. When I finished that, then I wanted to vacuum because the office floor was very dirty with grass, it was very wet.

35 Q. So did you do that?

A. No. I went back to the door, knocked on the door.

Q. What did you see then? What happened then?

40 A. I saw - I saw them together being very sexual.

Q. What did you see them doing?

A. Kissing, touching, making noises.

Q. Did you speak to GG the next day?

45 A. Yes, I did.

Q. Did she say something to you about Mr Astill?

50 TYLER-STOTT: I object, your Honour.

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CROWN PROSECUTOR: Your Honour, it's led for a non-hearsay purpose, I somehow raise. I'm leading this for a non-hearsay purpose. It maybe a miscommunication.

5 HER HONOUR: In relation to this witness being the tendency witness?

CROWN PROSECUTOR: In relation to what, to put into context what conversation this witness would later account conversations, account for with, recount with Mr Astill, I expect. So to make sense of those conversations from
10 the witness.

HER HONOUR: And this witness isn't being called though; Ms Sellars, though, is she?

15 CROWN PROSECUTOR: No, she's not.

HER HONOUR: No, I'm not allowing it.

CROWN PROSECUTOR: As your Honour pleases.
20

Q. Later that day, Ms N, did Mr Astill speak to you about F and GG?

A. Yes, he did.

Q. What did he say to you?

25 A. He asked me could I come to The Hub at 2 o'clock.

Q. Did you do that?

A. No - yes, but I was late that day. He rang down at the hygiene store where I worked.
30

Q. When he rang, did he speak to you?

A. No, he spoke to my overseer, which is Overseer Fiona Baker.

Q. What did you do after that?

35 A. She spoke to me and told me that I can - I've finished for the day, Mr Astill required me in The Hub. I gathered what I needed to take there, and I left for the day.

Q. Did you go to see Mr Astill at The Hub?

40 A. Yes.

Q. Did you speak to Mr Astill at The Hub?

A. Yes.

45 Q. What was said?

A. We just spoke about the cleaning. F and GG were there. I continued the cleaning. After I was finished cleaning, I went into the office where they were.

50 Q. Yes, you went into the office. What happened where they were, if anything?

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N XN

VIQ:SND

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- A. They were - sorry, could you just repeat that, please.
- Q. You told us you went to the office when they were?
A. Yep.
- 5 Q. Who's they? Who are you talking about?
A. GG and F were there with Mr Astill.
- Q. Was anything said when you went there on that occasion?
10 A. After - they were both touching Mr Astill. I continued cleaning, doing what I had to do there. They - after a while, they left, and then I spoke to Mr Astill by himself.
- Q. When you say they were touching Mr Astill, what were they doing?
15 A. Kissing him, touching him, he was kissing them back.
- Q. When you spoke to Mr Astill after that, you told us, what was said on that occasion?
A. I said to him, "What is he doing having sex with inmates? Why is he doing this?". "People are talking about it".
20
- Q. Did he say anything to you?
A. He said - told me to shut up and don't worry about it.
- 25 Q. Did he say anything else to you at that stage?
A. He just kept saying for me to keep my mouth shut; not to worry about what was going on, otherwise there'll be consequences.
- Q. Did you ever see tobacco in the gaol?
30 A. Yes.
- Q. Did you ever see it at Dillwynia during this period you're talking about?
A. Yes.
- 35 Q. Did you ever have any discussion with Mr Astill about any communication with Ms GG that you might have?
A. Sorry, could you just--
- Q. Notes or something like that?
40 A. He asked me to pass a note to GG. The first couple of times I did that. After that, I - I refused to and I wouldn't pass any more, and he became quite angry over that.
- Q. Did you see what the notes were about?
45 A. The first note was just that she wanted tobacco and other items. That she would see him and discuss that with him.
- Q. I'm sorry, but I understood you said that you wanted notes passed from - Mr Astill wanted notes passed to GG. Is that right?
50 A. And - and GG to him.

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N XN

VIQ:SND

D8

- Q. I was asking you though about any notes from Mr Astill to GG. Did you see any of those?
A. Yes.
- 5 Q. And you'd said to us a little while ago that you told him you wouldn't do it anymore?
A. Yes, that's correct.
- 10 Q. Now, when you said that to him, where were you?
A. In the hub.
- Q. Whereabouts in the hub were you, Ms N?
A. In the main part. There's two offices. When you walk in the - when you
15 walk in the main door, there's just, like, a - like, a normal office with a desk, a kitchen, and there's two offices at either end of the hub.
- Q. Whereabouts were you when you had this conversation where you told him you wouldn't do it anymore?
20 A. Near the desk.
- Q. What did he do or say after you said that to him?
A. He got angry. Said, "You'll do as you're f...ing told."
- 25 Q. After he said that, did he do anything, or say anything else?
A. No, not at that time.
- Q. Well, you've said not at that time. Was there some time after that where he's said something else about that, or did something to you?
30 A. Yes.
- Q. Where did that take place?
A. In the hub again.
- 35 Q. How long after you'd told him, no, you wouldn't pass these notes on?
A. That was only a couple of days after.
- Q. What happened on that occasion?
A. I was putting the stores that I'd taken there in the cupboard. I was just
40 finishing shutting the cupboard when he was behind me, and I turned around. He said something that he wanted me to pass this bag. I said, "No, I will not pass this. If I get caught, I'll be in serious trouble." He then put his arm - forearm - against my throat.
- 45 Q. Did he say anything when he did that, Ms N?
A. Yes.
- Q. What did he say?
A. "You'll f...ing do as you're told."
50

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N XN

VIQ:SND

D8

Q. What did he do after he had his forearm against your throat?

A. I couldn't breathe properly. He had his other hand - he started saying sexual things to me.

5 Q. What did he say, Ms N?

A. He asked me did I want to have sex with him, and I said, "No." He then said that I haven't - what I was in gaol for and that I hadn't had sex for a long time. Then once I've had this, I'll want more.

10 Q. You've told us about things he said. After he had his arm - his forearm - up against your throat, did he do anything? I want you to describe any actions he did?

A. He touched my top.

15 Q. When you say he touched your top, where exactly did he touch?

A. Here, and pulled out my top and made a comment about my breasts. He liked big breasts.

20 Q. I'm just going to stop you there, Ms N. I'm sorry, but you've indicated I don't know if your Honour saw that, or my friend saw that--

HER HONOUR: Flicked her top up the top end.

CROWN PROSECUTOR

25

Q. Yes. We could see you gesture with your hand flicking - you've got a short-sleeved blouse on. Is that right?

A. Yes.

30 Q. And your hand went down slightly inside your top--

A. Yeah, he pulled it out.

35 Q. --from the top, and pulled out - pulled it out, all right. Did he make any contact with you, apart from that touching, at that time as he put his hand down?

A. Yes, he asked me did I shave, and I wouldn't answer him. He then yelled at me and told me to f...ing answer him, and I didn't want to answer him, so he put his hand down - I had shorts on - he put his hand underneath my shorts and - and touched me.

40

Q. You've told us, Ms N - sorry but you've told us that he touched you. I'll just ask you to be clear. Where exactly did he touch you?

A. He put his hand up my shorts and put his hand near my vagina.

45 CROWN PROSECUTOR: Your Honour, I don't want to contaminate this witness's evidence, but I--

HER HONOUR

50 Q. Can you just repeat the last bit that you said, Ms N. I'm sorry, but we just

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need to know exactly what you've just said.

A. He put his hand up my short - the legs of my - the leg of my shorts and started to touch my vagina.

5 SUPPORT PERSON: Ms N needs a break now. Can she take a break?

HER HONOUR: Yes, she can. Would you like a break, Ms N?

WITNESS: Yes, please.

10

HER HONOUR: Okay, we'll give you five minutes. Okay, thank you.

WITNESS: Thank you.

15 AUDIO VISUAL LINK DEACTIVATED

HER HONOUR: Yes, ladies and gentlemen, just take a step out there and we'll see how we go. Just five minutes, and if anyone needs to go to the bathroom now, utilise the time.

VIQ:SND

D8

IN THE ABSENCE OF THE JURY

HER HONOUR: So, is that only related to any specific count?

5 CROWN PROSECUTOR: Your Honour, it is, but I was pausing then to - because I wished to - I'm going to revisit the count 39. Count 41 evidence has just been given of the touching of the vagina.

HER HONOUR: All right.

10

CROWN PROSECUTOR: So, I'll shortly announce which counts--

HER HONOUR: It's always concerned me, to some degree, that the reference to vagina - when the vagina's an internal organ - and vagina area, it's often referred to as vagina where it's - mean penetration, but it's just something that happens in all these cases though--

15

CROWN PROSECUTOR: Yes.

20 HER HONOUR: --but it's just if you actually look at the diagram of what a vagina is, it's not where they're saying that they're being touched. It's near the vagina, outside the vagina, vaginal area, but in any event.

25 CROWN PROSECUTOR: Ultimately, perhaps less of a significance with an assault, as opposed to an intercourse count, but--

HER HONOUR: They're all assault counts in relation to her, are they not, except for the misconducts?

30 CROWN PROSECUTOR: They are, that's right. No, that's right.

HER HONOUR: And so you're relying upon the evidence of what she says she witnessed concerning another inmate who's not being called as tendency evidence?

35

CROWN PROSECUTOR: Yes.

HER HONOUR: And you haven't objected to that, Mr Tyler-Stott?

40 TYLER-STOTT: That's right, your Honour, yes.

HER HONOUR: I'll just give them a brief aspect as to that it's not on the indictment, and that you are proposing to use that as tendency evidence.

45 CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: And that they will receive a direction as to how it can and not be used.

50 CROWN PROSECUTOR: Yes, your Honour.

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HER HONOUR: Okay. Is she right to go, or not? I'll go off the bench for a minute.

5 SHORT ADJOURNMENT

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N XN

VIQ:SND

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IN THE PRESENCE OF THE JURY

AUDIO VISUAL LINK ACTIVATED

5 HER HONOUR: Yes, Ms N, can you see and hear me?

WITNESS: Yes.

10 HER HONOUR: Okay. You're on your former oath. Thank you. Yes,
Mr Crown.

CROWN PROSECUTOR: Your Honour, the evidence the witness gave a
short time ago as to she described touching her vagina is what the Crown
relies on for count 41 on the indictment.

15 HER HONOUR: Yes, thank you.

CROWN PROSECUTOR

20 Q. When you were in there, and you told us, Ms N, about Mr Astill putting his
hand - well, you've indicated putting his hand down and then sort of flicking
out, do you remember doing that?

A. Yes.

25 Q. Hand down your shirt. What were you wearing that day?

A. My jail - my jail greens. A green t-shirt and green shorts.

Q. Now, how are those t-shirts fitted around the neck?

30 A. It was just a round neck, like something I have on. No collar, just a round
neck.

Q. The trim of the neck when you're wearing those t-shirts, is it up against
your skin?

35 A. It's not--

Q. So, when you're wearing the t-shirt, is the t-shirt around the neck part, is it
up against your skin when you wear them?

A. Yes, a little bit. Yes.

40 CROWN PROSECUTOR: Your Honour, the incident described earlier where
the witness has indicated Mr Astill put his hand down into that area, is relied--

HER HONOUR: Did she say that?

45 CROWN PROSECUTOR: She did.

WITNESS: Yes. Pulled my shirt out and put his hand there.

50 CROWN PROSECUTOR: I'd perhaps best clear it up, your Honour.

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N XN

VIQ:SND

D8

Q. Before that break, Ms N, you were telling us about this incident where Mr Astill put his hand inside your top, but--

5 HER HONOUR: I think you'll have to be very careful with what you say.

CROWN PROSECUTOR

Q. I think you told us that, you said, "He touched my top, he pulled"--

10 A. He pulled it, and then--

CROWN PROSECUTOR: I didn't hear that response, your Honour.

HER HONOUR: "He pulled it".

15 CROWN PROSECUTOR:

Q. And you said, "He pulled at my top"?

A. Had his hand here.

20 HER HONOUR

Q. Where did he have his hand, Ms N?

A. In here - in here, when he made the comment about me having big breasts.

25 Q. And you're indicating some of your fingers of your hand inside your top, not on the outside of it?

A. Some in, some out.

CROWN PROSECUTOR

30

Q. And far down your chest were they? Did his fingers make it to your breasts, or not?

A. To the top - to the top there.

35 HER HONOUR

Q. To the top of what?

A. My - my breasts.

40 CROWN PROSECUTOR: Your Honour, that evidence is relied on for count 39.

HER HONOUR: That's your evidence for count 39?

45 CROWN PROSECUTOR

Q. During this incident, did anything happen with your hands?

A. Could you please repeat that?

50 Q. During this incident, did anything happen with your hands?

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A. I tried to put my hand up against his arm to tell him to stop.

Q. How was he positioned when this happened to you?

A. In front of me.

5

Q. Were you able to see his lower half at any time?

A. He was close up against me.

Q. When you say he was close up against you, what do you mean by that?
Just tell us what you experienced?

10

A. I could feel - I could feel he had an erection.

Q. Where could you feel it, Ms N?

A. On - on me, on the lower part of me.

15

Q. I've just got to ask you, but how did you know that it was an erection that you could feel? Just tell us what led you to think it was an erection?

A. Sorry, could you just--

Q. What made you think it was an erection?

20

A. Because he said to me, I could - he put his hand down there, he said, "Once you've had this, you'll want more".

Q. You've said that he had an erection though. What makes you believe that it was an erection?

25

A. I could feel it against me.

Q. Where were your hands whilst that was happening?

A. One was - one was out here; one was down beside me.

30

HER HONOUR: You're indicating one out in the front, and one on - the left hand one on the side of you. Is that right?

WITNESS: I tried to put my hand out to stop him.

35

HER HONOUR: That's with your left hand, or you don't know which hand?
Left hand.

WITNESS: This hand, the left hand.

40

CROWN PROSECUTOR

Q. When you put your left hand out to try to stop him, what happened? Did anything happen with that hand?

45

A. Nothing. He stopped because there was noise coming, somebody was coming at the door to the office.

Q. What were you doing whilst Mr Astill had his hand under your top, as you've described, and was touching your vagina. Do you remember what you were doing, if anything, during that time?

50

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A. I was trying to make him stop.

Q. Did you feel able to leave at that point?

5 A. No. I didn't leave until after the phone rang and there was a knock on the door.

Q. Were you physically able to leave during that time or not?

10 A. No, because he had - he had his arm against my throat, and he was far too - too strong for me.

Q. You told us that he had an erection.

A. Mm-hmm.

Q. You said you could feel it up against you?

15 A. Yes.

Q. Can you indicate the part of the body which you could feel it up against you?

20 A. My - my leg here.

HER HONOUR: Where are you indicating, Ms N? We can't see.

WITNESS: Is it okay if I stand up?

25 HER HONOUR: Yes, of course.

WITNESS: Here.

30 HER HONOUR: So you're indicating, basically, the middle towards your groin of your right leg. Is that right?

WITNESS: Yes.

CROWN PROSECUTOR

35

Q. Was there any other part of your body which his penis made contact with, apart from what--

A. He was just pushing himself on me.

40 CROWN PROSECUTOR: Your Honour, I have a little while longer. There's other issues.

45 HER HONOUR: Okay. We'll call it a day. Ms N, it's nearly 4 o'clock now. We're going to give you a break overnight, but we'll need to continue your evidence in the morning at 10 o'clock?

WITNESS: Thank you.

<THE WITNESS WITHDREW

50

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AUDIO VISUAL LINK CONCLUDED AT 3.57PM

HER HONOUR: Ladies and gentlemen, just before you go, I just want to quickly say you've heard the evidence from this witness that she refers to
5 another inmate and what the observations that she said she saw between the
accused and another inmate, F, who is named on the indictment, but also
another inmate called, I think it was GG. The Crown's leading this evidence,
and it's being objected to, is leading this evidence on the basis which you may
10 have heard the Crown refer to as tendency evidence. So it doesn't relate to a
count on the indictment or an allegation from a complainant on the indictment.
But it's led in the Crown case because it is the Crown case that the accused
has a tendency to act in a particular way with a particular state of mind. And
one of those tendencies the Crown says that the accused has is to, for
15 example, give favourable treatment to an female inmate, including the
provision of contraband and to make suggestive comments to the inmate, and
to put himself in a position where he is alone with a female inmate or inmates,
but where there is a possibility of being interrupted, and to engage in sexual
acts with the inmate include requests for sexual activity, sexual touching and
sexual intercourse, engage in the conduct as outlined without the consent of
20 the inmate, and intimidate any inmate who challenged his actions.

So part of that evidence, part of the evidence and part of the Crown case is
this observation by Ms N, which she says that she did an allegation that she
25 says that she saw the accused with this particular witness. The Crown is
leading it as tendency to say in the Crown case that the Crown had those
certain tendencies to act in a particular way with a particular state of mind.
When it comes to the summing-up, I'll be going to this in far greater detail, and
warning you as to how you can use that evidence, but also to the steps that
you need to take before you can use that evidence, and also how you cannot
30 use that evidence. So there'll be a full direction in relation to that. So just not
put it to one side at the moment, of course, but just be alert that there are
restrictions as to how you can use that evidence, for obvious reasons, and
we'll go through that at the relevant time before you deliberate.

35 So there was also some other evidence that is being called on that basis. If
there is any further evidence throughout the trial, I'll indicate that to you as
well. But on that note, can you please have a good night tonight, again don't
discuss the evidence with anyone, outside of yourselves, and only when all 15
of you are together.

VIQ:SND

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IN THE ABSENCE OF THE JURY

5 HER HONOUR: Mr Crown, can I just confirm, for count 39, the Crown's evidence is Ms N's evidence that the hand was somewhat inside her top and touching the top of her breast, and the comment about liking big breasts?

CROWN PROSECUTOR: Yes.

10 HER HONOUR: Together with an erection being pushed into her leg?

CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: That's count 39?

15 CROWN PROSECUTOR: Yes.

HER HONOUR: Despite your ardent attempts, nothing for count 40?

20 CROWN PROSECUTOR: Not yet, your Honour.

HER HONOUR: And 41 in relation to the hand up the shorts and touching of the vagina?

25 CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: But that all relates to one incident.

CROWN PROSECUTOR: It does, yes.

30 HER HONOUR: Okay. Section 77 order tomorrow. Ms N continuing.

CROWN PROSECUTOR: Yes. V.

35 HER HONOUR: Yes.

CROWN PROSECUTOR: That's it for tomorrow as far as I--

HER HONOUR: V and N. 77's. I take it your client's privately represented?

40 TYLER-STOTT: Yes, your Honour.

HER HONOUR: Yes. So we'll try and achieve the most out of each day that we can.

45 TYLER-STOTT: Certainly, your Honour.

ADJOURNED TO TUESDAY 9 AUGUST 2022

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VIQ:SND

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IN THE DISTRICT COURT
OF NEW SOUTH WALES
CRIMINAL JURISDICTION

5 JUDGE O'ROURKE SC
AND A JURY OF FIFTEEN

NINTH DAY: TUESDAY 9 AUGUST 2022

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

STATUTORY NON-PUBLICATION ORDER

CLOSED COURT FOR EVIDENCE OF COMPLAINANTS

15

IN THE PRESENCE OF THE JURY

20 AUDIO VISUAL LINK COMMENCED AT 10.07AM

<Witness N, RESWORN(10.07AM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

25

Q. Yesterday afternoon you told us about a particular incident involving Mr Astill where he at one stage one of the things that happened was, he had his hand inside your top. Do you remember telling us about that incident?

A. Yes.

30

Q. So far as that particular occasion, that meeting and incident with Mr Astill, was there any other contact that you had, physical contact, you had with him during that meeting?

A. Yes.

35

Q. What was that?

A. When he had hold of my arm, he grabbed hold of my wrist and placed my hand on his penis.

40

Q. Were you able at that stage to feel the state of his penis?

A. Yes.

Q. What was the state of his penis?

A. Hard.

45

Q. How long did he have your hand on his penis?

A. It felt like a couple of minutes.

Q. Did you do or say anything at that time?

50

A. I said, "No, no, no".

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CROWN PROSECUTOR: Your Honour, that's the evidence for count 40, the incident rather, that relied upon for count 40.

5 HER HONOUR: Yes.

CROWN PROSECUTOR

10 Q. When you said, "No, no, no", did he respond either by saying or doing anything?

A. He told me to "Fucking shut up".

Q. How did that incident come to an end, Witness N? How did that meeting finish?

15 A. The phone - the phone rang in the office, and he went to answer the phone.

Q. This what you've just told us about him taking your arm, putting your hand on his penis, at what stage of the events that you described yesterday did this take place?

20 A. Just before the phone rang.

Q. You told us yesterday about him putting his hand down on your vagina. Did the touching that you're--

25 A. That was - sorry.

Q. Did your hand go on his penis before or after you--

A. After.

30 Q. Just so we're clear about that. The question - because I hadn't quite finished--

A. Sorry.

Q. --was it before or after he touched you on the vagina?

35 A. After.

Q. Was there an occasion where your cell was searched and the officers found a lot of items; make-up and a lot of lollies, drinks, that sort of thing, and some Dencorub?

40 A. Yes.

Q. Where did you receive those items from?

A. Some - some of the items I received from GG when she was an inmate.

Q. Which items were they?

45 A. A make-up brush, some make-up and some lip gloss.

Q. What about the Dencorub?

A. It came from Mr Astill.

50 Q. Do you remember the occasion that he gave that to you?

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Witness N XN

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A. Yes.

Q. Was anything--

A. I was in The Hub.

5

Q. Do you remember what circumstances that happened in; why he gave you the Dencorub?

A. I was up in The Hub cleaning one day and he had a sore knee, and he was using it to - to put on - to rub on his knee because he had a bad knee.

10

Q. So, how did that lead to you having the Dencorub?

A. I - I made a comment about us used to be able to get something like Dencorub but it was called Metsal, and we no longer have it and they only issued us with Voltaren, so he said to me that I could have the Dencorub. He would get some more later on at the shop.

15

Q. Did you receive any other items from Mr Astill at any time?

A. Yes.

20

Q. What did you receive?

A. Tobacco.

Q. How many occasions did that happen?

A. Several times.

25

Q. I want to ask you now about a young woman by the name of D. Do you remember a person by that name at the gaol?

A. Yes, I do.

30

Q. Was she an inmate?

A. Yes.

Q. Do you remember becoming aware that while she was in custody that she was pregnant?

35

A. Yes, I did.

Q. Now, when you say she was an inmate, was that at Dillwynia?

A. Yes.

40

Q. Do you remember when you first met her; what year or month, or even roughly when you met her?

A. I'm not - I'm not real sure on the - the day or the year. I - but I know I was in The Hub. I'd taken some - finished work and I was taking some supplies to The Hub.

45

Q. What work were you doing then?

A. I worked as leading hand in the hygiene store.

50

Q. At that place, was there a particular conversation that you had with D which you recall?

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Witness N XN

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A. Yes.

Q. What was that?

5 A. I just asked her how she was going, how - asked her how many - if she was okay with her pregnancy, and was everything okay because she looked at bit upset.

Q. Did she respond to you?

10 A. Yes, she did.

Q. What did she say?

15 A. She just said she would like - she didn't have any money on the phone, and she was there to ask Mr Astill could she make a phone call to - I'm not sure if it was her mother or her partner.

Q. What happened after that; after you had that conversation with her?

20 A. She went into the office with Mr Astill while I was - I started doing some cleaning. She - she was on the phone. I could see her on the phone in the office. She was in there for about 10 minutes. I was out - out in the other front office talking to Mr Astill.

Q. Now, was there ever times at Dillwynia where you made phone calls?

A. Yes.

25 Q. Was there some limit, according to the rules, as to how long the call - or according to the practice - how long those phone calls could go for?

A. Yes, when we made phone calls from the - our - what they call the Arunta system, they went for six minutes.

30 Q. Did you see D come out of the office after the phone call?

A. Yes.

Q. How was she at that stage? How did she look at that stage?

35 A. She was okay. She was a little bit upset still, but she was okay.

Q. Within the next few days, was there a day that Mr Astill came into the hygiene stores?

A. Yes.

40 Q. Did you have a cup of tea with him?

A. Yes, I did, and Overseer Baker was present.

Q. Is that Overseer Baker, Overseer Fiona Baker?

45 A. Yes.

Q. Did Fiona, at one stage, go to her office and leave--

A. Yes.

Q. --you and Mr Astill alone?

50 A. Yes, she did.

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Witness N XN

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Q. Did Mr Astill say something to you at that stage?

A. Yes, he did.

5 Q. What did he say?

A. He said to me that he liked D.

Q. Did he say anything else, apart from that he liked her?

A. I asked him what did he mean by that.

10

Q. What did he say?

A. "You know what I mean."

Q. Did you say anything to him when he said that?

15 A. I said, "You're misinterpreting things."

Q. Was anything else said in that conversation?

A. He said, "No, I'm not."

20 Q. Was there any other discussion - anything else you said - about D in that conversation?

A. I said she was pregnant.

Q. Did he say anything to that?

25 A. He said, "That's doesn't matter."

Q. Okay, just pause there. In December 2020, did you see that D was back at Dillwynia having been away?

A. Yes.

30

Q. Did you have a conversation with D in the hygiene store?

A. Yes, I did.

Q. Now, how did that come about?

35 A. I worked in the hygiene store, as I've said previously - I was leading hand - with another lady by the name of Megan Beale. There was a knock on the door. I'm pretty sure I went to the door and - and opened the door, and she - I could see that she was very very upset.

40 Q. When you say she was very very upset, who was that?

A. D.

Q. Just tell us, Witness N, how did you know that she was very very upset?

A. She was crying and crying, sobbing.

45

Q. Did you respond to that in anyway?

A. Yes, I did. I asked her to come in, and I closed the door.

Q. Did you have a conversation with D at that stage?

50 A. Yes. And Megan Beale was present as well as was overseer, Tony Baker.

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Witness N XN

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- Q. What was that conversation that you had with D?
A. She said she'd just been called to The Hub, but she couldn't go in The Hub because she started to have bad flashbacks about Mr Astill.
- 5 Q. Did you have any further conversation with D at that time?
A. I gave her a hug, and I became upset myself, and Tony - I went - I left her there with Megan Beale and overseer, Tony Baker.
- 10 Q. Did you see some officers arrive?
A. Yes, I did.
- Q. Who was that?
A. She's a senior - she was a senior officer, Ms Barry.
- 15 Q. Anyone else?
A. Yes. Senior Officer, Ms Berry.
- Q. Did you remain in their company or not?
A. No.
- 20
- <CROSS-EXAMINATION BY MR TYLER-STOTT
- Q. The contraband that was found in your cell, did you tell anyone at the time that Mr Astill gave you anything?
A. No.
- 25
- Q. You advised, it was Barry or Berry who--
A. Sorry?
- 30
- Q. Was it Ms Barry or Berry who spoke to you about the contraband in your cell?
A. Ms Berry.
- 35
- Q. Did you tell Ms Berry that a Suzanna Hall had provided you the Dencorub?
A. No, I didn't say--
- Q. Joanna. I beg your pardon. Joanna Hall?
A. Yes.
- 40
- Q. Did you advise Ms Berry that an Inmate F gave you the Satin Dream Maybelline?
A. Yes.
- 45
- Q. Did you advise Ms Berry that the Rimmel mascara was provided to you by Joanna Hall?
A. No, I said K.
- Q. Wasn't that the black and pink mascara?
A. Black and - black and pink one, we can buy from buy up.
- 50

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- Q. Okay. So you advised that K had provided you with some of the contraband?
A. Yes.
- 5 Q. And there was something you won at bingo at Mulawa, a pink lip gloss?
A. Yes.
- 10 Q. That you said that you'd brought over from Mulawa. Is that correct?
A. Yes.
- Q. So do I take it, bringing it from Mulawa, it didn't appear on your property register when you transferred from Mulawa to Dillwynia?
A. No, only some items appear on the property card.
- 15 Q. In your time at Dillwynia, did you perform maintenance in early 2016?
A. Sorry, sir, can you please repeat that.
- Q. One of the jobs you had was maintenance in early 2016?
A. No. I worked in the hygiene store. I worked as a cleaner.
- 20 Q. What were the jobs that you could do other than being a cleaner at the time that you were at Dillwynia?
A. There are buy up jobs, ground maintenance, hygiene, clerks. That's about it.
- 25 Q. Are you sure you did never have a job of maintenance in early 2016?
A. For two days I just did some window cleaning. That's it.
- 30 Q. Was that in early 2016?
A. Yes, that could be correct.
- Q. Was there also another job that you had following the outdoor maintenance in 2016 for a short time? Pack and assembly.
A. Tech and assembly headsets.
- 35 Q. Yes. That was from around March 2016 to January 2017?
A. Yes.
- 40 Q. When you're in hygiene, did that mean you had access to more of the jail than other inmates?
A. Yes.
- Q. Did you go over to ILU at any stage, the independent living unit?
A. No.
- 45 Q. Did you know someone over there by the name of Witness W?
A. Yes, she lived in - in - before she went to the ILU, I lived in the same house with her, in medium needs.
- 50

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Witness N XXN

VIQ:SND

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Q. Did you speak with her when she was in ILU, or communicate with her when she was in ILU?

A. No, you can't.

5 Q. ILU, it's not the same level of security as the rest of the jail, is it? It maybe--

A. No.

Q. --six foot high fences. Is that correct?

10 A. No.

Q. It's not correct, the six foot high fences around the ILU?

A. I've never been to the ILU, so I can't explain.

15 Q. Can you see it though, from inside the jail?

A. If you were down in low needs, yes, you probably could.

Q. Witness N, you provided three statements to police. Is that correct?

A. Yes.

20

Q. The first was 30 April 2019?

A. Yes, I did.

Q. The next two, were they on the same day?

25 A. No, I don't think so.

Q. There's one from 28 April 2021, and it would appear a further - I'll start again. Do you have those statements there with you, ma'am?

A. Yes, I do.

30

Q. Can you please pull out the two later statements. If you can just tell us the dates that they were completed?

A. 28 April 2021, 28 April 2021 and 30 April 2019.

35 Q. So there's three dates that you've given us. Two dates rather. You've said 28 April 2021 twice. Was that to indicate that the two later statements were provided on that date?

A. Yes.

40 Q. Do you have a memory of doing them on the same day?

A. Could you please repeat that question.

Q. Do you have a memory of doing those two statements on the same day?

A. I don't recall.

45

Q. And ma'am, is it true that, in the first statement, 30 April 2019, you don't refer to Mr Astill touching you in any sexual way?

A. No.

50 Q. When you say no, does that mean it's true or not true?

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Witness N XXN

VIQ:SND

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A. It's true.

Q. That you didn't provide--

A. And I spoke about that later on.

5

Q. Was that after you found out that other ladies were coming forward?

A. Not correct.

Q. And other ladies were seeking compensation?

10

A. No.

Q. Are you seeking compensation from the state?

A. Could you please repeat that?

15

Q. Are you seeking compensation from the state of New South Wales?

HER HONOUR

Q. Do you understand the question, Witness N?

20

A. Yes, I do.

Q. Are you able to answer that one?

A. Yes.

25

Q. Yes, that you are seeking compensation from the state of New South Wales?

A. I'm allowed to answer that?

Q. Yes, you are.

30

A. Yes.

HER HONOUR: Thank you.

TYLER-STOTT

35

Q. Witness N, yesterday, you were giving some evidence about someone that you've referred to as GG? I'll refer to her as Ms GG. Is that the same person?

A. Yes, it is.

40

Q. You've given some evidence that you saw Mr Astill having sex with Ms GG, is that correct?

A. Yes.

Q. You gave some evidence that her underwear and pants were on the ground?

45

A. That is correct.

Q. Would you please just have a look at your statement dated 30 April 2019? If you can please go to paragraph 6, can you please just read that to yourself, and I'll ask you a question once you've finished reading it. You've read that,

50

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Witness N XXN

VIQ:SND

D9

Witness N?

A. Yes, I have.

5 Q. And within that paragraph, you only refer to GG kissing Mr Astill, is that correct?

A. Yes, that was one time.

10 Q. Is there another time in the statement that you have recorded Ms GG having sex in the manner you've described yesterday in your evidence?

A. No.

15 Q. Witness N, in any of your statements, do you say that Mr Astill gave you tobacco?

A. Yes.

15 Q. Can you please point me to that?

A. I just need more time just to go over this for a second, please.

20 HER HONOUR: That's all right, take your time. I'm sorry, the support person, it's not your role to do anything in relation to this. Thank you.

WITNESS: Yes.

TYLER-STOTT

25

Q. Have you found something, Witness N?

A. Paragraph 9.

Q. Yes?

30 A. Page 22.

Q. Yes? This was--

35 A. "After I finished chatting with Mr Astill, he" - "he handed me a plastic bag and asked me to pass it to GG. I asked him what was in the bag, he said, 'Just take it to her.'"

Q. You presumed it was tobacco, did you?

40 A. No, not - the first time, I didn't know what was in the bag, I just took it. It was right on muster. I just took the bag and did as I was told.

Q. How many times did you do that, Witness N?

A. About three times.

Q. What were the other occasions?

45 A. At the same place.

Q. And for whom was the what you thought to be tobacco?

A. The second time, it - it was.

50 Q. And who did you provide that to?

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Witness N XXN

VIQ:SND

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A. GG.

Q. And the third time?

A. GG and F.

5

Q. Witness N, the reason you had so much property is because you're running a sort of a side trade, aren't you, in jail?

A. No.

10 Q. And that had nothing to do with Mr Astill?

A. No, not correct.

Q. Witness N, you were giving evidence yesterday about Mr Astill having his arm against your neck. What did he tell you when he had his arm against your neck?

15

A. Never to betray him.

Q. Anything else?

A. To never say anything to anyone, otherwise there'll be consequences.

20

Q. When you were giving evidence yesterday about Mr Astill having his hand inside your shirt - and forgive me if I've misinterpreted this, but - I understood you to have your left hand inside your top, just up near the top part above your right breast, when you were indicating where Mr Astill's hand was.

25

A. Yes.

Q. Is that accurate, or not accurate?

A. Accurate.

30 Q. So he didn't touch both of your breasts then?

A. After he pulled my top out, he had his hand touching the top of my breasts.

Q. Both breasts or one breast?

A. On both of them, there.

35

Q. Okay. So now you've - just for the record I'll describe it. You've got your hand with your fingers spread around the centre of your chest, around perhaps the sternum area.

A. At the top of my breasts there.

40

Q. Yes. You said something about asking you if you were shaved. Is that correct?

A. Pardon, could you repeat the question, please.

45 Q. Asking if you shaved. Is that correct?

A. Yes, correct.

Q. How did he access your genital area?

A. I had shorts on, and he put his hand up the side, the front part of my shorts.

50

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Witness N XXN

VIQ:SND

D9

Q. Was it down the pants, or was it up the pants?

A. Up the pants.

Q. You've given evidence today that - do you need a moment, Witness N?

5 A. I do. I need a break. Yes, I do. Could I have a break please.

HER HONOUR: Yes. Five minutes, Witness N.

AUDIO VISUAL LINK DEACTIVATED

VIQ:SND

D9

IN THE ABSENCE OF THE JURY

SHORT ADJOURNMENT

- 5 HER HONOUR: Do you need Witness N to go through her statements at all, at this stage, Mr Tyler-Stott?

TYLER-STOTT: Maybe one more question about that, your Honour, yes.

- 10 HER HONOUR: All right. It's just that they're there right in front of her.

AUDIO VISUAL LINK ACTIVATED

VIQ:SND

D9

IN THE PRESENCE OF THE JURY

TYLER-STOTT

5 Q. Witness N, I know you've been going through your statement, and you've pointed us to an example of where you say Mr Astill provided you with tobacco. That's the only time in your statement that you say that he provided you with tobacco. Is that correct?

A. Yes.

10

Q. You spent a lot of time with Mr Astill. Is that right?

A. Yes.

15 Q. You'd often have cups of tea with him and your overseer?

A. Yes.

Q. There were, on occasion, nice things to eat at those times where you had your cups of tea; cakes and so forth?

A. Yes.

20

Q. Who brought those?

A. The overseer, myself.

25 Q. Witness N, just a few things and I'll wrap up. The evidence that you've given about Ms GG having sex with Mr Astill is untrue. Do you agree or disagree?

A. I disagree.

30 Q. Mr Astill did not ever provide you with tobacco. Do you agree or disagree?

A. I disagree.

Q. Mr Astill did not threaten you with his arm up against your throat. Do you agree or disagree?

A. I disagree.

35

Q. Just in your first statement, if I can ask you to have a look at paragraph 10. This is your statement of 30 April 2019. About halfway down the paragraph, you're describing Mr Astill with his arm up against your throat. Is that right?

A. Yes.

40

Q. And you agree that there's no reference to any sexual touching following that incident within that statement?

45 HER HONOUR: What paragraph, what statement?

TYLER-STOTT: Paragraph 10 of the statement dated 30 April 2019.

HER HONOUR: Of 2019?

50 TYLER-STOTT: Yes, your Honour.

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Witness N XXN

VIQ:SND

D9

HER HONOUR: Can you put that to her again. Sorry, I interrupted.

TYLER-STOTT

5

Q. Yes, absolutely, your Honour. I suggest to you, Witness N, that in paragraph 10 where you're describing the incident with his forearm against your throat, you have not made any reference to any sexual touching following--

10 A. Yes.

Q. --that incident. Is that correct?

A. Yes, because I was ashamed and embarrassed.

15 Q. That's because it didn't happen, Witness N. Do you agree--

A. I disagree.

Q. --or disagree?

A. Disagree.

20

Q. Can you just bear with me, please, Witness N. I won't be much longer. Sorry for the delay. I won't be a moment. Witness N, just finally, if I can just please have the order of the touching of your breasts, the touching of the penis and the touching of your genital region. In what order did it take place?

25 A. He touched - touched my breasts first--

Q. Yes.

A. --then he put his hand up my shorts to my vagina second, then he grabbed my hand and placed it on his penis third.

30

Q. Can you please just finally, Witness N - I'm almost done - the statement of 28 April 2021 - I know there's two - but it commences at - in paragraph 4 saying, "In paragraph 10 of my original statement." Do you see that one?

A. Yes, I do.

35

Q. If you can just have a look at paragraph 4. Have you got that in front of you, ma'am?

A. Yes, sir.

40 Q. You say that he had the arm and that wasn't against your throat. He touched you on your breasts with the same hand. Is that correct?

A. Yes.

Q. It goes on. If you read through, you then say that he took hold of your left arm, pulled it towards him to make you touch his penis. Is that correct?

45

A. Yes, it is.

Q. And then finally at paragraph 5, you say, "He was really close to me up against the wall, and I could feel he had an erection. I was wearing shorts and a t-shirt at the time. Mr Astill put his hand between my legs and left it there"?

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Witness N XXN

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A. Yes.

Q. Is that correct? So, the order that you've provided in your statement is different to the order that you gave moments ago. Do you agree with that?

5 A. Yes, a little bit, yes.

Q. That's because you're having - and I'll suggest this to you, Witness N - difficulty remembering the lies that you've told. Do you agree or disagree?

10 A. I disagree.

<RE-EXAMINATION BY CROWN PROSECUTOR

Q. Witness N, you were asked a short while ago, you gave some evidence that you did not talk about these sexual sort of touching incidents with Mr Astill in your first statement because you were ashamed. Do you remember saying that?

15

A. Yes, I did.

Q. You've been asked questions about your statement of 28 April 2021 where you did outline some things that you've told us happened to you. Yes?

20

A. Yes, I did, yes.

Q. Why did you decide to tell the police on 28 April what happened?

A. Because it was the right thing to do.

25

<THE WITNESS WITHDREW

AUDIO VISUAL LINK CONCLUDED AT 11AM

30 TYLER-STOTT: Your Honour, sorry, I didn't ask for those statements to be marked.

MFI #17 STATEMENT OF Witness N DATED 30/04/19

35 MFI #18 STATEMENT OF Witness N DATED 28/04/21 REFERS TO PARAGRAPH 10 AT PARAGRAPH 4

MFI #19 STATEMENT OF Witness N DATED 28/04/21

40 HER HONOUR: Mr Crown.

CROWN PROSECUTOR: I call V, and she, your Honour, is at Dillwynia, and should be outside the room.

45 AUDIO VISUAL LINK COMMENCED AT 11.04AM

VIQ:SND

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<V, SWORN(11.04AM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

5 Q. Is your name V?

A. Yes, sir.

Q. Are you an inmate with Corrective Services New South Wales?

A. Yes, sir.

10

Q. Did you go to Dillwynia Correctional Centre in February 2015?

A. Yes, sir.

Q. when you first went to the jail, what part of the jail were you in?

15 A. I was housed in the high needs area, in K2 right.

Q. Did you move at one point to medium needs, and then low needs?

A. Yes, sir, I did.

20 Q. I want to ask you now about 2016--

A. Yes.

Q. --and around the middle of the year in 2016. Do you remember having a conversation with M and R in your room?

25 A. Yes, sir. I was basically housed in medium needs in the unit M right.

Q. M Right.

30 A. Yes. And I was in my room watching TV when I heard a knock on the door, and when I opened the door, it was R and M. They entered my room, and whilst I was watching TV, I turned the volume down and they asked me, "V, can we talk to you? Just want to ask you for an advice?". I said, "Yeah, come in", and I noticed that M looked a little upset. And I said, "What's wrong?", and basically they started divulging - like letting me know that something happened to M, and--

35

Q. I'll just get you to stop there, Ms V, I'm sorry.

A. Yes.

40 Q. I want you to tell us what was said, and when you say, they said or they did something, who did what, who said what, all right.

45 A. Okay. So first it was, to my - to my - as I record it, it was actually R who - who started the conversation first, saying that something happened to M, and as M continued the conversation, she said that Mr Astill has tried inappropriate things with her. It started with touching hands, and then later on it got worse to starting to touch her face, and saying like "I'll miss you", because she was going to Court not long after when that happened. So he was basically doing little touches and it started off with the hands, and then later on it progressed to touching the face, and saying inappropriate things. And this was confirmed by R who said, "Yes, I - I have witnessed this, and because"--

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V XN

VIQ:SND

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Q. Just want to hear from what relevant things that you can say that you saw and heard, all right.

A. What I saw, yes, yes.

5 Q. Did M say anything else to you at that stage?

A. No, just basically what Mr Astill did to her, with the touching the hands, and it progressed to touching her face and saying, "I'll miss you". And at that point, I said, "We need to talk to B", which is B, which - who lived next door to me, to the next room next to me. And we went there, and they - we basically confided
10 in them - in her too.

Q. I cut you off a little while ago about R. But I just want to be sure; are you able to say what R said that she saw, that R saw. What did she say--

15 A. That R saw?

Q. Yes, what she saw.

A. Yes. So after - after M divulged that what was happening to her, what Mr Astill was doing to her, R then confirmed that yes, I've seen him do this to her, and also said, like he also - she's also heard him say inappropriate things to
20 her. So she confirmed what M was saying.

Q. After you had that conversation with M and R, did you suggest the next course of action?

A. Yes, sir. I said, you know, because there was - there's only a few that we trust, obviously in the unit, I mean in the whole jail. I said, "Look, we need to
25 speak to B about this", who was in the next room to me. And because we saw B as like an older kind of sister. She had that - we had that relationship where we saw her as someone who's levelheaded and basically like a big sister, and obviously it was like a serious thing, yeah.

30

Q. What's B's proper name, do you know?

A. FULL NAME OF B, sir.

Q. After saying that, did you go somewhere?

35 A. Yes, sir.

Q. Where did you go?

A. We--

40 HER HONOUR: She's given this evidence.

CROWN PROSECUTOR: She went and moved on. I'm sorry, your Honour, I brought her back. I do apologise.

45 WITNESS: Yeah. So, we basically left my room, and we knocked on B's door, which was just right next to my room, and we entered her room, and inside her room was her present, and also another inmate by the name of Witness W, who's an older--

50 CROWN PROSECUTOR: All right.

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V XN

VIQ:SND

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WITNESS: Yeah.

CROWN PROSECUTOR

5

Q. Did M say anything about whether or not she'd said no when Mr Astill was doing anything with her?

A. To the best of my - like, as I - as far as I remember, sir--

10 Q. That's all you can do, just tell us.

A. --somebody - sorry?

Q. Just tell us, please.

15

A. Yes. As far as I can recall, someone - I wasn't sure who mentioned it, but someone said, "Did you say no?" After M told the other girls what - what happened to her, repeated what happened to her, someone asked - I - I can't recall who asked, but I know someone asked - "Did you say no to him?", and M answered, "Yes, I said no", and he - she even stepped away when he tried to do this to her.

20

Q. After that time, did you see Mr Astill again?

A. Yes, sir. Like, this went on for - after that, we basically - he found out that this was--

25 HER HONOUR

Q. Ms V, just answer the question, though. Did you see the accused, Mr Astill, after this?

A. Yes. Yes, sir. Yes, ma'am, yes, yes. Sorry.

30

HER HONOUR: That's okay, thank you.

CROWN PROSECUTOR

35 Q. Do you remember him saying anything to you?

A. Yes, because there were so many - several times that I - I saw and met - seen Mr Astill after this, like, incident. And he says little comments, inappropriate comments, more like threatening comments, but it's more of what he says, he - what he - how he looks at you. Yeah.

40

Q. Firstly, what did he say to you, Ms V? Just tell us, please.

HER HONOUR: When?

45 CROWN PROSECUTOR

Q. And when was this said?

A. He - yeah. Several times. Like, after - after this incident, it was basically a few days later, and it was brought to my attention that he found out about this--

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V XN

VIQ:SND

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Q. All right, what did he say to you, Ms V?

A. --conversation. He snickered, and he - he would - he went past me, he walked past me, and said that - "criminal" - he said little - like, I can't recall the - the other words that he said, but he would use little - he didn't say much, but
5 he would stare at you, intimidate you with looks, but he would drop little names like "criminal", "scum", all of those things. But I - I - I saw him a lot in the compound.

Q. Were you aware of a program involving greyhounds at the jail?

10 A. Yes, sir.

Q. Was there ever a reference made to dogs during a muster line up?

A. Yes, sir. There was a - we were all in a muster line, the whole house. So, when we muster, we would muster in the lounge area, and the officers would
15 come through and read our names out. Present was Mr Astill; Ms Michelle Robertson, or we call her Robbo; Mr Holyoakes(?); and another officer by the name of Ms Hayley, I'm not sure her - what her surname is. They were present during this muster, and he walked past us saying, "It smells like dogs in here."
20

Q. When you say, "he walked past us", who are you talking about when you say "us"?

A. So, basically, there were - if I can recall, there was almost ten or 11 of us in - that - that lived in that unit, and it was - I know I was here, and B was - B was
25 in, like, further along, and then we had R and also Witness W. He just basically walked the whole line, and was, like - doing, like, a little smelling action like - "Smells like dogs in here." And that was loudly said in front of all the inmates that were present in the unit, and all the officers that was present in the unit, and everyone - yeah.
30

Q. Now, a "dog", does that term mean anything to you in jail?

A. Yes, sir, it's a very derogative comment. Like, if you say that to someone, it's - it's on like Donkey Kong. It's - it's very - yeah, it's - it's not - it's called
35 basically a snitch, someone who - who dobs on people, who's, like - "you're filthy", like that.

Q. Now, before that comment was made--

A. Yes.

40 Q. --were you aware of, or had you made any complaint?

A. Yes, sir.

Q. What was that about?

A. So, from the time frame of around 2016, mid - mid-year of 2016, and just
45 before Christmas 2016, a lot happened, intimidation, harassment, bullying, not just towards myself, but towards my other fellow inmates, but--

Q. Please, Ms V, I'm sorry, and I don't mean to be rude--

50 A. Yeah.

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V XN

VIQ:SND

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HER HONOUR: Take her to the point, Mr Crown. You need to curtail the evidence.

WITNESS: Yes.

5

CROWN PROSECUTOR: If I may, your Honour, I asked the witness, and I asked you, Ms V, a very clear question.

Q. Did you make a complaint?

10 A. Yes. Yes, sir.

Q. Who did you make the complaint to?

15 A. We made a complaint to - we - I - I personally asked acting PIO at that time, Scott White, and he rang up the administration office, which gave myself and R a (as said) opportunity to talk to the acting MOS at that time, Mr Michael Patterson. So we were sent to the admin office, and we were sat down, and that's when we made the - I made the complaint, but alongside with R.

Q. Who did you make the complaint about?

20 A. Mr Astill.

Q. Was that based on what you'd been told by M?

25 A. Not at - not initially. Our initial complaint was because of - our initial complaint was because of what he was continuously doing to - personally to me, the intimidation, harassment, him coming into my workplace and staring me down, and - yeah.

Q. After making that complaint, did you speak with Ms Shari Martin, the governor?

30 A. Initially, no. At first, we were - the audience that was in the room was - present was acting - acting manager of--

HER HONOUR: No, just listen to the question.

35 Q. Did you speak to Governor Martin?

A. Yes. Later on, yes, I did.

HER HONOUR: Right, okay, thank you.

40 WITNESS: Yes.

CROWN PROSECUTOR

Q. What was said to Ms Shari Martin?

45 A. We repeated what we said to the other audience, and we said that he's been intimidating us and harassing us, because - because they were asking us, "Why is he doing this?" There - there must be a reason. And we felt - we felt that, you know, it wasn't our story to say at - at that start, but we ended up telling them what happened, and what M told me, what M told R.

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V XN

VIQ:SND

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Q. All right, just put the pause button there for a moment.

A. Yep.

5 Q. Between that time and before Christmas that year, 2016, do you remember hearing a deep voice that you recognised?

10 A. Yes, sir. There was a - one incident where I was in my room, and it was late in the evening, and my - like I - my room is situated right at the front of where the compound is, and I heard like a very distinctive voice, which I confirmed later on was Mr Astill. But before I went to the window to confirm that, I heard that - I heard a voice saying, "You can make it easier for yourself", along those lines, sir.

Q. Tell us, albeit perhaps out of order, that you've then gone up and you saw that it was Mr Astill?

15 A. Yes. I approached the window, opened my curtain, and I saw Mr Astill walking away, and it was very clear that it was him, because there was lamps on the walkway, so there was like lamps, yeah.

<CROSS-EXAMINATION BY MR TYLER-STOTT

20

Q. Ms V, did you at some stage tell Mr Astill you were going to destroy him?

A. No, that's incorrect, I've never said that.

25 Q. When M and R first came to you, was there anyone else around in your immediate vicinity?

A. No, sir, only myself and then when they both came in, it's just the three of us.

Q. And then you went somewhere else. Is that correct?

30 A. Yes, that's correct, sir.

Q. You went to see Ms B. Is that your evidence?

A. Yes, that's correct, sir.

35 Q. Where was W?

A. Witness W was in B's room at that time. They were chatting.

Q. Was there anyone else present?

40 A. No, sir.

Q. For how long did you talk about what M said Mr Astill had done?

A. So, could you please make it specific how long did we talk about it in my room, or in Ms B's room?

45 Q. In total?

A. I would say the talking to each other wasn't very long, it was more of the comforting and easing a fellow friend, an inmate who was very distressed, that took let's say around an hour because she was very upset. That took longer than the conversing, sir.

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V XN XXN

VIQ:SND

D9

Q. You've given some evidence that it was 2016, but could you be wrong about that. Could it have been 2017 that this discussion happened?

A. If it is - see it's been - this has been going on for like almost like how long, and when the investigation happened, it could possibly be even 2017. But I'm
5 pretty sure it could possibly - it's to my - the best of what I can recall, it's 2016, sir.

Q. When M said words to the effect of, and this is Mr Astill saying these things, that he was going to miss her, do you remember what year that was,
10 and what month?

A. I can't recall the month or anything like that, but it would've had to have happened within that year, I suppose. She wasn't specific on like dates or anything, except the fact this what happened to her.

15 Q. Was it near her trial?

A. I'm - I have no idea about her trial. All I know is that she was basically - possibly she was going to Junee or somewhere for a Court proceedings, but I'm not - I'm not very clear on the exact months, but--

20 Q. Well that was in August of 2017. Does that put things into sort of order?

A. Yes. Yes. Yes, because it didn't - because she was removed from the jail, and she'd - she went to Junee, or whichever jail she did go to, and then after that she didn't come back to Dillwynia.

25 Q. Did she speak to you multiple times, or just the once?

A. Just the once, sir. Like basically speaking about that after we spoke about it that evening, or that afternoon, we all spoke to each other and said--

30 HER HONOUR: No, that's enough. The question was, Ms V, how many times did she speak to you.

WITNESS: Yes.

35 HER HONOUR: Was it just the once. And it was just the once. Is that right?

WITNESS: Just the - just the once regarding that, yes. Yes, your Honour.

TYLER-STOTT

40 Q. Was that in May of 2017?

A. I - I know it's definitely around within the May, because I know it was after my birthday, which was in April. So around May. Between May or July.

Q. Ms V, you have a hatred for Mr Astill, don't you?

45 A. That's incorrect. I don't hate him.

Q. When Mr Astill made the comment about the smell, he said, "Dog", not dogs, plural. What do you say to that?

50 A. As far as I can recall, sir, he said, "Smells like dogs in here", with an S.

VIQ:SND

D9

Q. Was an officer by the name of Peter Barglik present?

A. I don't recall him being in the - in the unit, no.

5 Q. It was only said on the one occasion, wasn't it, the reference to dog or dogs?

A. As far - yes, as - when I was present I've only heard it once.

Q. So it wasn't something you were told. It was something that you actually heard?

10 A. No, I was told, because I was present, and he - when he was walking past us, he was looking at all of us in the face while he said it.

Q. Mr V, Mr Astill did not say anything at your cell door?

15 A. I beg your pardon, like, please elaborate?

Q. The last thing you gave evidence about when the Crown was asking you questions about Mr Astill saying things could be easier--

20 A. That wasn't my door, that was in the window, outside my window, because we were all locked in already, and it was late at night.

Q. I suggest to you Mr Astill said nothing of the kind, and you disagree, I take it?

A. I disagree because that happened, sir.

25 Q. Ms V, are you in custody for both fraud and murder?

A. Yes, sir.

Q. The murder related to the fraud. Is that correct?

30 A. Yes, sir.

Q. You pleaded guilty to that?

A. Yes, sir.

35 NO RE-EXAMINATION BY CROWN PROSECUTOR

<THE WITNESS WITHDREW

AUDIO VISUAL LINK CONCLUDED AT 11.27AM

40 HER HONOUR: Time for morning tea?

CROWN PROSECUTOR: Please, your Honour.

VIQ:SND

D9

IN THE ABSENCE OF THE JURY

5 HER HONOUR: Mr Crown, can I just ask you, how's the Crown using this evidence, the evidence of comments, the evidence of Ms V, for example, as to intimidating, bullying, the reference to dogs, the alleged threat to her outside her window, together with the evidence of, for example, B. What category, what are you using that evidence for, what's it going to?

10 CROWN PROSECUTOR: Tendency evidence, your Honour.

HER HONOUR: Tendency evidence for what?

CROWN PROSECUTOR: Tendency set out in the tendency notice--

15 HER HONOUR: I must say that's the most detailed tendency notice I have ever seen. Yes. What evidence?

20 CROWN PROSECUTOR: Paragraph 6, intimidate any inmate who challenged his actions outlined above, which takes in a multitude of..(not transcribable)..concede. And it is detailed, I grant your Honour that. It's set out, as your Honour can see, under headings addressing those matters..(not transcribable)..so, just go to--

25 HER HONOUR: And so this was provided to the defence in July 2022? Just this notice?

CROWN PROSECUTOR: No, it's updated, but only because there was extra counts added.

30 HER HONOUR: Right.

CROWN PROSECUTOR: But it didn't change in great substance, no.

35 HER HONOUR: Okay. I notice there's no objection to it, but I just wanted to know what use the Crown was making of it.

SHORT ADJOURNMENT

VIQ:SND

D9

IN THE PRESENCE OF THE JURY

AUDIO VISUAL LINK COMMENCED AT 11.51AM

5 <WITNESS W, SWORN(11.52AM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

Q. Is your name, Witness W?

10 A. Yes, it is.

Q. Were you an inmate within the corrective services, New South Wales?

A. Yes, I was.

15 Q. Were you housed at Dillwynia Correctional Centre?

A. Yes, I was.

Q. When did you go to Dillwynia?

20 A. I went to Dillwynia in March of 2017. I had served 10 and a half years in the Brisbane Women's Correctional Centre, and I transferred down to New South Wales to do the - the - the last part of my sentence close to my family.

Q. Did you come to be kept in the low needs section of the gaol?

25 A. Yes, I did. I went to the low needs - I can tell you when. Just one moment.

HER HONOUR: No, Ms W. Can we make sure that the--

WITNESS: No?

30 HER HONOUR: --witnesses are aware that they are not to be looking at their statements, Mr Crown.

CROWN PROSECUTOR: Yes, your Honour.

35 HER HONOUR: They are all - often doing it.

WITNESS: Okay.

HER HONOUR: Ms W, it's not your fault.

40 WITNESS: Sorry. I beg your pardon.

HER HONOUR: No, no, no, it's not your fault. It's just that the statements are there if you are asked to go to them. So, if there's a statement there--

45 WITNESS: Yes, certainly.

HER HONOUR: --could you turn it over, please.

50 WITNESS: Yes.

.09/08/22

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W XN

VIQ:SND

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HER HONOUR: Thank you very much.

WITNESS: Yes, it was in May 2017.

5

HER HONOUR: Thank you.

CROWN PROSECUTOR

10 Q. Was there a time when you were in the same part of the gaol as an inmate by the name of B?

A. Yes, I was. I was in the M right house with B. I moved there in the May, and I stayed there until I moved to low needs with B.

15 Q. Did you know a correctional officer by the name of Mr Astill?

A. Yes, I did. He was known as Chief Astill.

Q. Was there an occasion when you were in B's cell with V?

20 A. Yes, I - there was a time I was in B's cell with V. K was also there. R was also there, and a girl by the name of M, and myself.

Q. Do you remember when that was, even roughly?

A. May, June. About May, June, I think, 2017. I'm not sure on that.

25 Q. What was that conversation, as best you can recall, identifying who said what in that conversation?

A. Right. Well, we were having a general conversation. I was only new to that particular house group, and there was a conversation that came up about Chief Astill. M was going for her trial, and the procedure when people went to trial is that they usually left and they stayed at Silverwater Centre. If they had to return, they came back and they would virtually have to start again at Dillwynia and move through the higher needs and then work their way back down to medium needs, low needs, et cetera, and M had said that she had approached Chief Astill to see if he could hold her room for her, or something along the lines like that, so when she did come back, or if she had to come back to Dillwynia, she would be able to come back into that particular house with her friends, and what she told us was that he said he would try to do that for her, and if she did leave - if she - she was released, that he would miss her and that he'd bent in and tried to kiss her on the mouth.

40

Q. After that was said - now, you mentioned inmate K. Did she say anything at that time?

A. Yes, she told the group that she had had repeated incidents herself with Mr Astill. She worked in the reception store, and she would do laundry work in the laundry, and on a regular basis he would go into the laundry when she was working there, brush up against her and touch her on the backside, and that she'd also find notes left for her around reception, and we girls spoke about that, and I sort of said to J or K, "Why didn't you scream or something?" because there's always other officers working there in that area, and she told me that she was terribly terribly frightened - or told the group she was very

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W XN

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frightened of that man - but she had approached one of the reception female supervisors, Ms Barry, and told her, Ms Barry, what was happening - or Berry, I think, Ms Berry - and that Ms Berry's response was only to say, "Well, when he shows up, you stay close to me."

5

<CROSS-EXAMINATION BY MR TYLER-STOTT

Q. When Ms K made her disclosure, was V present?

A. Yes, she was.

10

Q. How do you establish that it was in May of 2017?

A. I keep a diary. For my whole 15 years incarceration, I keep a - a diary and I do daily entries. I have all my diaries still in my possession.

15

Q. Did you provide that to the police?

A. No, it wasn't asked for.

Q. The comments about holding the cell because she had an upcoming trial; do you say that that was in May?

20

A. Well look, I couldn't tell you exactly. I'm - I'm trying to remember the dates. I know that I moved in to the unit early May. It could have been a bit later. I'm not really 100% sure now. I haven't got that information here in front of me.

NO RE-EXAMINATION

25

<THE WITNESS WITHDREW

AUDIO VISUAL LINK CONCLUDED AT 11.59AM

30

CROWN PROSECUTOR: Your Honour, I'm sorry to say this. I'm having a logistical nightmare today on many many fronts. I have no-one outside and--

HER HONOUR: Who is the next witness?

35

CROWN PROSECUTOR: I had hoped it would be an overseer, Fiona Baker, your Honour.

HER HONOUR: Right, and so what are you asking for? Did you want--

40

CROWN PROSECUTOR: Can I have short break?

HER HONOUR: --to just give it a moment just to see?

45

CROWN PROSECUTOR: Could I actually have a short break, your Honour? I'm happy to say this in front of the jury.

HER HONOUR: Well, someone's--

50

CROWN PROSECUTOR: A number of corrective services officers were required here, and I wished to speak to them and they were not here during

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the break, and that was not my plan. It leaves me in an embarrassing situation, but I do need a short break, I must say.

5 HER HONOUR: Okay. Well, you've heard that, ladies and gentlemen. You've got a candid response. What we'll do is - how long do you think you need, Mr Crown?

10 CROWN PROSECUTOR: Your Honour, if I can even have five minutes, your Honour, to get my house in order.

HER HONOUR: Yes. Is there a waiting room for the jury that they can return to? Well, let's give you ten so that we can go forward.

15 CROWN PROSECUTOR: Thank your Honour.

HER HONOUR: Ten minutes, thank you, ladies and gentlemen.

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IN THE ABSENCE OF THE JURY

HER HONOUR: I'll just be in the anteroom.

5 CROWN PROSECUTOR: I apologise, your Honour.

SHORT ADJOURNMENT

10 CROWN PROSECUTOR: Your Honour, thank you for that time. Can I just
indicate before the jury comes in where I'm at? There is a witness I can call,
Fiona Baker, who's from corrective services, an overseer, and a witness in
person, EE. I don't know whether they'll go till lunch, they'd probably go close.
The next complainant, D, her flight from Dubbo is delayed today, but we expect
15 to have her here for 2 o'clock. We've got a couple of witnesses thereafter who
go to that, and the next complainant, S. So we're calling things slightly out of
order to keep it rolling.

HER HONOUR: That's all right. Okay, yes. Well, let's get the jury in, thank
you. Does S need a s 77?
20

CROWN PROSECUTOR: She's tomorrow, yes, your Honour.

HER HONOUR: That's tomorrow, is it? Okay.

25 CROWN PROSECUTOR: Tomorrow, yes. And D's in the community.

HER HONOUR: Okay.

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IN THE PRESENCE OF THE JURY

<FIONA BAKER, SWORN(12.20PM)

5 HER HONOUR: You can take your mask off whilst giving evidence.

WITNESS: Can I?

HER HONOUR: Yes.

10

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

Q. Is your name Fiona Baker?

A. Yes.

15

Q. Are you employed as an inmate overseer in the corrective services?

A. Yes.

Q. Have you been performing that role since May 2017?

20

A. Yes.

Q. And that was at Dillwynia Correctional Centre, is that right?

A. Yes.

25

Q. What does that role involve, generally?

A. The hygiene of the centre, and laundering the centre, and managing the inmates to get them prepared for work upon release.

Q. On release?

30

A. When they get released, just so they know what it's like. So I'm their employer.

Q. At Dillwynia Correctional Centre, did you come to know a correctional officer by the name of Wayne Astill?

35

A. Yes, I did.

Q. Now, for most of the time that you knew him, was he a chief correctional officer?

A. Yep.

40

Q. Whereabouts in the jail did he work, to your knowledge?

A. High needs, most of the time.

Q. I want to ask you now about 12 February 2019. Firstly, did you later become aware that Mr Astill had been arrested by the police?

45

A. Yeah, from the news.

Q. So, on 12 February 2019, were you in the reception area of Dillwynia Correctional Centre?

50

A. Yes.

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Q. Did you see Mr Astill at that time?

A. Yes, I did.

5 Q. Was this late at night?

A. Sorry?

Q. Was this late at night?

A. No.

10

Q. What time does the night shift start?

A. 10.30, I believe.

Q. What time of the day was this?

15 A. Would've been just before lunch.

Q. What was Mr Astill doing when you saw him?

A. MIN cards. ID cards for the inmates.

20 Q. Now, MIN cards, what does MIN stand for, M-I-N?

A. Master index number.

Q. So is it the situation that inmates are given a MIN number, their unique identifier?

25 A. It has a photo ID of them.

Q. Now, if those MIN cards are lost, are inmates able to get a replacement?

A. Yes, they are.

30 Q. And they have to pay \$5 for those?

A. Yes.

Q. When Mr Astill, you saw, was doing the MIN cards, what was he doing, do you mean?

35 A. He was trying to work the computer out. He couldn't get it right.

Q. Did you have some further discussion with him?

A. In regards to?

40 Q. Firstly, in relation to his wife, Tanya?

A. Yeah, just how things were going, and how - how they are, and about his knee operation.

Q. Now, did you know of an inmate by the name of Witness N?

45 A. Yes.

Q. Was anything said during that time with Mr Astill in relation to Witness N?

A. As I was leaving, he asked me to tell her not to breathe his - his name, or say his name, or anything.

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Q. What words did he use? What did he actually say?

A. "Tell N not to breathe my name", or the words, "come out of her mouth."

Q. How far away from you was he when he said that?

5 A. Just beside me.

Q. Was there anybody else in the room at that time?

A. No, it was just me and Mr Astill, that was it.

10 Q. I'm sorry?

A. It was only just me and Mr Astill.

Q. Did you see his facial expression? Did you see his face when he said it?

15 A. Yeah, it was, like, through gritted teeth. It was just - yeah. Which - I've never seen him like that before.

Q. Did you have a conversation with Witness N about something that she saw at the jail?

20 A. The hub.

Q. When was that conversation?

A. I can't remember. Yeah.

25 Q. Do you remember whether or not, at that stage, Mr Astill had been arrested?

A. Yes.

Q. Well, had he been arrested at that stage or not?

30 A. Yes.

Q. How long after you became aware that he was arrested did you have this conversation with Witness N?

A. A week later, I'd say. Few days.

35 Q. Where were you when you had that conversation with Witness N?

A. in the hygiene store. They were packing soap powder.

Q. Was there anybody there at the time that you had this conversation with Witness N--

40 A. No.

Q. --apart from you and her?

A. No.

45 Q. What was said? As best you can remember, what she said, what you said, as though you're the person--

A. Well--

Q. --saying it, as though it's a play that you're in now.

50 A. Okay. Well, she didn't seem herself, and I asked her if she was okay.

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"Yeah, yeah", she said she was fine. I said, "No", I said, "What's up?" She says, "I can't say, I can't say." And then I said to her, "Well, you can, it's only me and you." So then she says, "No, I can't, I can't." And then - yeah, then she proceeded to tell me about the hub, and her walking in on GG and
5 Mr Astill.

Q. All right, well, you can assume that the jury need to hear from you what was said.

A. Sorry.

10

Q. It's all right. So when you're talking about the hub and what she saw, what did she say?

A. She was on his lap facing the computer. Yeah. And then she said she was - she walked in on them, and I says, "What, having sex?" And she's gone,
15 "Yes." And then I went, "Oh." You know, I - I really didn't know what to do with the information. And then she said that - yeah, she - that then Mr Astill proceeded to put her on the wall and tell her not to breathe a word of that to anybody, and he can move her on, and yeah.

20 Q. So, just to be clear, is this what Witness N was saying to you--

A. Yes, sorry, yes.

Q. That's all right.

A. Yeah.

25

Q. And when you referred to a "she", were you referring to - was "she"--

A. Sorry.

Q. Were you referring to her in context of GG?

30 A. GG was the one on Mr Astill's lap. Is that what you're asking? I'm sorry.

CROWN PROSECUTOR: I didn't hear it for the cough, I'm sorry.

TYLER-STOTT: Sorry.

35

CROWN PROSECUTOR: No, I just didn't hear it.

WITNESS: Witness N was the one that was saying that Mr Astill had her on - on the wall.

40

CROWN PROSECUTOR

Q. Did she give any further detail about what she saw so far as GG and Astill?

A. Yeah. She just said he - she was on his knee towards the computer. And
45 then she carried on vacuuming after she - after the episode with Mr Astill.

Q. Did she say to you when she had seen this?

A. When she was up the hub vacuuming.

50 Q. But when in terms of time?

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A. It was before he was gone.

Q. I'm saying, did she say that she'd just seen it, or--

A. No, it was after. It was after Mr Astill was arrested, this come out.

5

Q. Did she put any time frame on when it was that she saw this?

A. No.

NO CROSS-EXAMINATION

10

HER HONOUR: Yes, thank you, Ms Baker. Thank you for coming to give your evidence.

<THE WITNESS WITHDREW

15

HER HONOUR: Yes, Mr Crown.

CROWN PROSECUTOR: I call EE.

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<EE, SWORN(12.30PM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

- 5 Q. Is your name EE?
A. Yes.
- Q. Do you spell EE, EE?
A. Yes.
- 10 Q. Is EE?
A. Yes.
- Q. Ms EE, were you previously an inmate at the Dillwynia Women's Correction
15 Centre at Berkshire Park?
A. Yes, I was.
- Q. Did you go there in May 2018?
A. Yes.
- 20 Q. When you went there, where were you housed at Dillwynia?
A. So, I was housed in M right. It's - which is medium right. M right. MR.
- Q. Did you know an inmate by the name of Witness N?
25 A. Yes.
- Q. Was she housed with you?
A. Yes.
- 30 Q. At MR, were there any particular privileges which other parts of the gaol
would not get?
A. Yes, so we were allowed out on some occasions in the afternoon, if there
was enough officers, to - till 5.30 in the afternoon. So, we would have a muster
at 3.30, and then if there was enough officers, we were allowed out till 5.30.
- 35 Q. Did you ever see Witness N go to the clinic?
A. For insulin, yes.
- Q. How often would that happen?
40 A. She would go in the mornings and she would also go in the afternoons. I
can't exactly remember, but maybe around 4.30.
- Q. When she would return, was there a particular place she'd go? Did she
45 have a particular routine? Having been to the clinic, where would she go after
that?
A. She would go straight back in her room. So, we were in a house and we - it
wasn't like cells. So, we had bedrooms, so she would go into her room.
- Q. After she'd go back, did people come to her cell?
50 A. Yes, so the - depending on - not all the time, but frequently, yes.

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Q. Did you ever see what would happen when they'd go to her cell?

A. Yes, so on a couple of occasions I witnessed N handing out tobacco, yeah.

5 Q. I want to ask you now about an inmate by the name of S.

A. Yes.

Q. S?

A. Yep.

10

Q. Did you come to know her?

A. Yep, so I knew S. I'd met S in - when we were at rehab together in Jarrah House at Little Bay. I think in 2015 or 2016 I was in there with S, and then - I've been arrested and incarcerated a few times, and S had been with me on a

15

Q. Were you at Dillwynia with her as well?

A. Yes.

20 Q. Was she at the MR house?

A. Yes, she was.

Q. Did you know a correctives officer by the name of Mr Astill?

A. Yes.

25

Q. Did you ever see S having some cigarettes in her possession?

A. Yes, so I went down - I walked down to the low needs office with S to pick up Winfield Blue Crush cigarettes, and I remember her - because that's the cigarettes that she smoked on the outside - and - and I remember her saying that she was going to get some from Mr Astill.

30

Q. Did she tell you anything else on that occasion about Mr Astill?

A. Yes, that he had let her make a phone call to her partner, Brett, at the time. He - Brett was very unimpressed. I remember that--

35

Q. Is that what she had told you?

A. Yeah, so this is what S told me once she--

Q. Can you tell us though, what did she say about--

40

A. That--

Q. --Mr Astill? What happened there?

A. Yep, so she said that Mr Astill made - didn't make her, but asked her to sit on his lap, and hold her hand and bend over to pick up rubbish from the floor.

45

Q. So, using her words as best you can--

A. Yep.

Q. --what did she actually say; anything further about that?

50

A. Just that she felt really quite disgusted in herself, and that she just didn't

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feel good about it.

Q. Did she say anything else about that?

A. No, not that I can remember.

5

Q. Following on from that - from the days after that - in the days after that - did you see Mr Astill at the M right house again?

A. Yes, so he would come up for muster, and S was directly in front of me on the muster line, and he made a comment to her as we - so, S would walk past first and then I would walk past directly after her - that just call her sexy; "Hey, sexy."

10

Q. Would he make any other comments to her that you remember?

A. Not that I remember, no.

15

Q. Sorry?

A. Not - no, not that I remember.

Q. Did you ever see S with any other items, apart from cigarettes, that were prohibited?

20

A. Yep, so she would have make-up, but most - no, just make-up and cigarettes.

Q. Did she say where she'd got those?

25

A. Yep, from Mr Astill.

Q. Did she say how she'd managed to get those from Mr Astill?

A. No - well, just the one time when we walked to low needs to get them, otherwise N would bring stuff back from the clinic.

30

<CROSS-EXAMINATION BY MR TYLER-STOTT

Q. Did N, to your knowledge, give S tobacco?

A. Yes.

35

Q. On several occasions?

A. Several, yep.

Q. And on one occasion, do you remember S trading items that she'd legitimately purchased in buy up--

40

A. Yes.

Q. --for tobacco from N?

A. Yes.

45

Q. Was there anything else that N, to your knowledge, distributed?

A. Not - no. I mean, she would bring back different cakes and stuff, but not - that was the main - just make-up and cigarettes.

50

Q. Can I suggest to you that Mr Astill did not say the words "Hey, sexy" or

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anything of that nature to Ms S? So, I'm just asking you to agree or disagree.

A. I disagree. I definitely heard him say.

Q. Was anyone else around at the time?

5 A. That we were in a muster line?

Q. Yes. Who else did you know that was around at the time?

10 A. So, there would have been S, Candice, N, 'J or K'. I don't know who else was behind me in the muster line. I'm just trying to think of who - because it went in our rooms. No, I can't remember who else was.

Q. Do ILU inmates attend the clinic?

A. Do I--

15 HER HONOUR: To her knowledge?

TYLER-STOTT: To her knowledge, yes.

HER HONOUR: To your knowledge?

20

WITNESS: Yes.

TYLER-STOTT

25 Q. The same clinic that Witness N attends?

A. Yes.

NO RE-EXAMINATION

30 <THE WITNESS WITHDREW

HER HONOUR: Yes, Mr Crown.

35 CROWN PROSECUTOR: Your Honour, the next witness we have will be D, whose evidence, I expect, will relate to counts 44 and 45.

HER HONOUR: Right.

40 CROWN PROSECUTOR: I'm hopeful that she will be here at 2 o'clock to give evidence.

HER HONOUR: Okay.

CROWN PROSECUTOR: And then some witnesses after that.

45

HER HONOUR: Okay. Ladies and gentlemen, you have an early mark for lunch. Hopefully, it's delicious. We'll see you again at 2pm, thank you.

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IN THE ABSENCE OF THE JURY

HER HONOUR: Anything?

5 CROWN PROSECUTOR: No, your Honour.

HER HONOUR: 2pm.

LUNCHEON ADJOURNMENT

10

CROWN PROSECUTOR: Your Honour, just before we have the jury; D is in the remote room at the JMT. She wishes to have a support person, John Hill, who is a witness in the case. He will give evidence, which won't take very long, but I'm in a position to call him next so that he has already given his evidence, which - It will make it more appropriate that he give his evidence before he's a support person.

15

HER HONOUR: There's no-one else that can be a support person?

20 CROWN PROSECUTOR: Not for this witness. This witness is adamant that she needs Mr Hill, and I've conferred with her. She presents as being a troubled person, and--

25 HER HONOUR: What's your position on that, Mr Tyler-Stott? Do you have any objection to it?

TYLER-STOTT: No, your Honour. I just have concerns about Mr Hill. He might - just from reading between the lines - he might be a little bit volatile, so as long as he's warned.

30

HER HONOUR: Who, he or her?

TYLER-STOTT: Mr Hill, yes. So, as long as he's warned.

35 HER HONOUR: What's the relationship between the two?

CROWN PROSECUTOR: As de facto partner.

HER HONOUR: I'm not really comfortable with that, Mr Crown.

40

CROWN PROSECUTOR: Well, can I say this, your Honour; I understand what your Honour says. This is a witness who has been reluctant to attend, and I don't think - I must say, on my discussions with her, I don't think she'll give evidence if he's not there. I have spoken with him today. I must say, I saw nothing volatile about him at all. Quite the contrary. He had little to say, and I--

45

HER HONOUR: What's he giving evidence about?

50 CROWN PROSECUTOR: There's some phone calls that, consistent with the

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complainant's - Ms D's - evidence, that the accused allowed her to make to him in excess of the usual six minutes. So, it corroborates aspects of the account.

5 HER HONOUR: So, he's just saying, what, "I took some phone calls from D while she was in custody, and they went for longer than six minutes"?

CROWN PROSECUTOR: Well, it accords with--

10 HER HONOUR: But is that what he's saying? Is that the essence of his evidence?

CROWN PROSECUTOR: Well, he's saying that. He also said - you know, gives evidence of distress at a later time, consistent with - she - it's not a full
15 complaint evidence, but there's other aspects of his evidence which he - so, she - he lends support to her account. So, the account that she would give is that the sexual assault took place in the context of being--

HER HONOUR: I've read her statement.
20

CROWN PROSECUTOR: Yes.

HER HONOUR: Well, what's your position, Mr Tyler-Stott? Is it going to be challenged, his evidence?
25

TYLER-STOTT: It's a very difficult one.

HER HONOUR: It is difficult.

30 TYLER-STOTT: My instructions don't go as far as it didn't happen. As far as the phone calls are concerned, there was just no memory of it, so I don't think there'll be any, sort of, robust challenge to it, no.

HER HONOUR: Right. Well, as I said, I don't think it's - it's far from an ideal
35 situation, particularly - I mean, the thing is what I'm concerned about is that you're thinking of the moment now, but not maybe in the future if things turn away, or that there is - if there are reasons for any repetition or--

CROWN PROSECUTOR: Can I - if I'm not interrupting your Honour's
40 thought - I have spoken to him, as I would with a support person in any such situation where I'm speaking to them, and making it clear that he is not (1) to be aware that even subconsciously he could find himself nodding and he's not to do that. He'll have a face mask on, in any event, but he's not to give her any assistance in any way. Not to show any sort of reaction to questions in any
45 way. Now, I've made that clear to him, not 10 minutes ago. He--

HER HONOUR: Well, can he not sit behind her?

CROWN PROSECUTOR: I personally would be happy with that, your Honour.
50 Having spoken to this complainant - and I don't want to betray her wishes, or at

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least not put those before the Court - she's somebody who presents as being very dependent on him. Very dependent.

5 HER HONOUR: Well if there's no real objection, we'll see how it goes. Her evidence will be recorded, I suppose. I'm concerned that he'll hear her evidence, and then if there was something that happened in the future if he had to give his evidence again, he's already heard her give her evidence.

10 CROWN PROSECUTOR: Yes. I must say--

HER HONOUR: I mean, there's many reasons why witnesses shouldn't be support people.

15 CROWN PROSECUTOR: I understand that well, your Honour. I'm left with little choice, as far as I see it, I must say.

HER HONOUR: All right, so you call him first?

20 CROWN PROSECUTOR: Yes, your Honour. What I would need after that is - so that he can be taken across to her - a few minutes so he can be walked across to the JMT.

25 HER HONOUR: In the end though, it doesn't seem like her evidence as to those aspects that you're calling him for are even going to be challenged.

CROWN PROSECUTOR: Could I just have a moment, your Honour?

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IN THE PRESENCE OF THE JURY

<JOHN HILL, SWORN(2.11PM)

5 HER HONOUR: You can take your mask off while you're giving evidence, thank you.

WITNESS: Yes.

10 <EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

Q. Is your name John Hill? When you answer the question, I wonder if you could do me a favour. Could you keep your voice up nice and loud just so it gets recorded--

15 A. Yeah.

Q. --and so everybody in the court can hear you?

A. Yeah.

20 Q. Are you in a relationship with a lady by the name of D?

A. Yeah.

Q. And were you in a relationship with her in 2018?

A. Yeah.

25

Q. Was she in custody at that stage?

A. Yeah.

30 Q. Now, was there a time where she was in custody at Wellington, near Dubbo?

A. Yeah.

Q. Did she move from there during 2018 to Dillwynia?

A. Yeah.

35

Q. Did you receive a phone call from the jail one day in 2018 that you have a particular memory of?

A. Yeah.

40 Q. What did you hear on the phone?

A. Just that this man wanted - D wanted to speak to me.

Q. Who said that?

A. I'm not too sure who he was.

45

Q. When you say he was, you did not recognise the voice?

A. Not really, no. I didn't know who it was at the - at the time. Just an officer, yeah.

50 Q. Well, when you say it was an officer, did the person introduce themselves

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on the phone?

A. Yeah.

Q. Did they say what their name was?

5 A. Yeah.

Q. And what did they say?

A. No - "This is Wayne Astill, corrective service officer", and, "I've got your partner here, D, wanting to speak to you."

10

Q. And did you speak to D on that occasion?

A. Yeah.

Q. How long did you talk to her for?

15 A. Ten, 15 minutes, yeah. A little while.

Q. Do you remember what time of day it was when you got that call?

A. No, I sort of don't, yeah. But--

20 Q. Now - sorry?

A. No, I sort of don't.

Q. Not long after that first call, did you get another call from the jail?

A. Yeah.

25

Q. How long after was the second call?

A. I'm not too - I'm not quite sure, cause all this come after - a - a - a long way after, you know? At the time, I just didn't think of it. I didn't sit there and think, a week, or what - you know, I just didn't think of it at all.

30

Q. Are you able to say roughly whether we're talking, was it the same day, was it days, months, or years after the--

A. No, only days. Yeah.

35 Q. What was said on that phone call?

A. Very similar thing.

Q. Did you recognise the caller?

A. Yeah, the same sort of dude.

40

Q. And what did that person say?

A. Just the same thing as the first time. "Got your partner here, D, want to speak to you again."

45 Q. Did he say what his name was on that occasion?

A. Yeah.

Q. What did he say?

A. "This is Wayne Astill, and I've got" - "got your partner here, D, I want to" - "and she wants to speak to you."

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Q. In November 2018, did D get out of custody?

A. Yeah.

5 Q. Did she go to Dubbo and live with you there?

A. Yeah.

Q. Did you speak to her about what happened in jail?

A. Yeah, little bit.

10

Q. What did she say to you?

A. Just talking about how - how sleazy - we just talked about how putrid jail is in general, yeah, and then she just started saying - fucking - how sleazy the officers were there, yeah. That was it.

15

<CROSS-EXAMINATION BY MR TYLER-STOTT

Q. Do you remember the name Wayne Astill?

A. Yeah.

20

Q. It doesn't appear in your statement, that's all.

A. No, yeah, I know, yeah.

Q. Perhaps has it been suggested to you by D that that's who made the call, and you've joined the dots?

25

A. No, like - at the time, it was - it just - it was just a normal phone call, and - and - and it didn't - it just didn't dawn on me that, you know, when it all come about, and it's all - it all come back, you know what I mean? Like I said, I - I couldn't tell you, fucking, exactly everything, but, when it all come out, well then, that's when it's - it all come back, yeah.

30

Q. Just, your statement of 31 March 2021 doesn't include reference to the name of the person who made the call from the jail--

A. Yeah, yeah.

35

Q. --you'd agree with that?

A. Because it was just phoned onto me, and it was like - and at the time, I just didn't - it just didn't dawn on me, yeah.

40 NO RE-EXAMINATION

HER HONOUR: Thank you, Mr Hill, that concludes your evidence.

WITNESS: Yeah.

45

HER HONOUR: You're free to go, thank you.

<THE WITNESS WITHDREW

50 CROWN PROSECUTOR: Your Honour, the next witness is D.

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She's going to be giving her evidence remotely from a nearby part of the complex.

HER HONOUR: Yes.

5

CROWN PROSECUTOR: We just need a few minutes, if we can, to make that connection and get that evidence

HER HONOUR: Yes. Well, we can sit here, can we not?

10

CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: Rather than have the jury go out again.

15

CROWN PROSECUTOR: Yes, of course.

AUDIO VISUAL LINK COMMENCED AT 2.25PM

HER HONOUR: Are they there?

20

CROWN PROSECUTOR: I believe so, your Honour. I'm inferring from the--

HER HONOUR: Yes, hello. We can hear you here in Court. Is Ms D there, please? Yes, D? D, can you see and hear me?

25

D: I can't see you.

SPEAKER: We can't see the screen, your Honour.

30

D: My name's D (correct spelling), not D (incorrect spelling).

HER HONOUR: Can you see me now?

D: No.

35

AUDIO VISUAL LINK DEACTIVATED

AUDIO VISUAL LINK ACTIVATED

40

HER HONOUR: D, can you see and hear me?

D: Yep.

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<D, SWORN(2.28PM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

5 Q. Is your name D?

A. Yes.

CROWN PROSECUTOR: And I wonder if the witness could take the--

10 HER HONOUR: She can take her mask off.

CROWN PROSECUTOR

Q. Would you mind taking the mask off, D.

15 A. Yes.

Q. I'm sorry. Is your name D?

A. Yes.

20 Q. Did you used to be at one stage an inmate at Dillwynia Correctional Centre?

A. Yes.

Q. Did you actually go there a couple of times?

25 A. Yes, twice.

Q. The first time, did you go there in 2018?

A. Yes.

30 Q. Now, was that around the middle of 2018 - June 2018? Is that right?

A. Yes.

Q. That time, were you there until September 2018?

A. Yes.

35

Q. The day before you went into custody that time, did you learn that you were in fact pregnant?

A. Yes.

40 Q. When you went into custody at Dillwynia--

A. Yeah.

Q. --did you learn about the phone system called Arunta?

A. What was that, sorry?

45

Q. Did you learn about something called Arunta at Dillwynia?

A. Yes.

Q. What's Arunta?

50 A. OIMS.

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Q. OIMS? That's--

A. OIMS - OIMS system, it's a corrective services system.

5 Q. And what was the procedure if you wanted to make a phone call? Did you have to pay for it, or what was the normal practice?

A. You had - there had to be a next of kin on - on your OIM system. You couldn't just - you can't just ring anyone.

10 Q. And did you have to pay for that from your account?

A. If I had the money, I had to ring - like, if - money, you'd ring up, but if you wanted a courtesy call, you have to have someone on your - who's your next of kin on your OIM system. You can't just call anyone, like, a friend.

15 Q. Now, your partner, was that John Hill?

A. Yeah.

Q. And was he your partner when you went into jail in 2018?

A. Yeah.

20

Q. And did you decide you wanted to telephone him?

A. Yes.

Q. Were you able to use the Arunta system at that stage?

25 A. I was - I was talking on it, but it cut - cut out, run out of credit.

HER HONOUR: "Run out of credit".

CROWN PROSECUTOR: Sorry, your Honour.

30

Q. Did you do something else, did you approach anybody about how you might make a phone call to John?

A. Yeah.

35 Q. Who did you speak to?

A. Amanda and Kim. Amanda Dallon--

Q. Who--

A. Amanda Dallon, and - and Kim.

40

Q. And what's Kim's last name?

A. Walker, I think. Walker, Kimbo--

HER HONOUR: Walker.

45

WITNESS: --Kimbo Walker.

CROWN PROSECUTOR: Yes, sorry.

50 WITNESS: Sorry.

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CROWN PROSECUTOR

- Q. Did they say how you could make a call?
5 A. Yeah, they said, "Go and see Mr Astill."
- Q. Now, did you know Mr Astill was one of the correctives officers--
A. No.--
- 10 Q. --at the jail?
A. They just explained to me that he was really tall, and he's got three wreaths on his shoulder, and that he - he will give you a free call if you waked him.
- Q. Did you go to see Mr Astill?
15 A. Yes.
- Q. Where did you go to see him about the phone call?
A. At the hub.
- 20 Q. Now, did he have an office there?
A. Yeah, got an office called the hub.
- Q. So what part of the jail were you in at that stage, D?
A. Medium - medium needs.
- 25 Q. So you've first gone to see Mr Astill about the phone call. What was said? What did you say, what did he say?
A. I wasn't listening to that. Sorry, I - I wasn't listening then. Can you repeat that question?
- 30 Q. When you first went to speak to Mr Astill about making a phone call, what did you say to him, and what did he say? Just tell us what was said.
A. I just - he opened the door, and he said, "Hello mate, how may I help you?"
I - I said, "Mr Astill, I was just wondering if I could get a call to my boyfriend,
35 John, please." And he's like, "Is he on your Arunta?" And I said yes. And then he's like, "He has to be" - "Is he your next of kin on your OIMS?" He said, "Because I can't just let you call anyone." And I said, "Yes, he is." And then he told me to come in, and then he checked on the computer that John was my next of kin, and he said, "Yes, he's John. There he"--
- 40 Q. And what - sorry, go on.
A. He said, "There" - "there's John." It was like - like, he's checking on the computer, and he said, "There's John". Like, as in, he's found him on my OIMS.
- 45 Q. And what happened then?
A. He - he just - he just confirmed that it was John, and then he rung him and tried to talk, like he - when he was speaking to my partner, he was speaking like a - like he was trying to be - like a - like a, you know, like a--
- 50

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Q. What did he say, D? Just tell us what he said when he called up John.

5 A. He said, "Hello, how are you going, is this John? Is" - "Is this John? It's" - "it's" - "it's Wayne Astill from Dillwynia here", he said, "I've got your" - "your girlfriend, D wants to speak to you." Then I heard - then he's like, "Yeah, here she is, I'll chuck her on." That's what he said to my partner. And then he put me on the phone to John.

Q. The last thing you said, sorry?

10 HER HONOUR: "I'll chuck her on, and then he gave me the phone."

CROWN PROSECUTOR

Q. Did you speak to John--

15 A. He's saying that to Johnny.

Q. All right. Was there anybody else in the office when you went in that time, apart from Mr Astill and you?

20 A. Yeah, N.

Q. What's N--

A. FULL NAME OF N.

Q. How long did you speak to John for on that occasion?

25 A. Ten minutes.

Q. After that phone call, was there another time that you went--

A. Ten, 15. It was about ten, 15 minutes, I don't know.

30 Q. Was there another time after that that you went to see Mr Astill about telephoning John?

A. Say that again?

35 Q. Was there another time after that where you went to see Mr Astill about telephoning John?

A. Yes. Yes.

Q. How long after the first time would you say that was?

40 A. About two weeks.

Q. Where did you see him?

A. Sorry.

45 HER HONOUR: Who is she speaking to, Mr Crown?

CROWN PROSECUTOR: I know there's a witness support person who may well be--

50 HER HONOUR: Well, the witness support person is not there to be talking to a witness when she's giving evidence.

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CROWN PROSECUTOR: No, certainly not. I think it was initiated by the witness, I must say, but--

5 HER HONOUR: I know that, but they know better.

CROWN PROSECUTOR: Yes, your Honour. Ms D--

10 WITNESS: Sorry, sorry, I - sorry, stop there, Mr..(not transcribable)..I'm just a bit stressed. I've just - I'm really bad smoker, you know what I mean? I just wanted to know if I could go for a - to deal with it. It's really stressing me out. I'm - I'm sitting here quite angry, stressing, and - and tired, you know? I don't - I don't want - I don't want to be angry doing this, you know what I mean?

15 CROWN PROSECUTOR: All right, yes. Would you do this, please? If you need to raise something, because the judge is here and everybody's here--

WITNESS: Sorry. Sorry, your Honour.

20 HER HONOUR: That's okay.

CROWN PROSECUTOR: If you need to raise something, you might just raise it with the judge, or say it to me and the judge will hear. Okay?

25 WITNESS: Okay. Sorry, your Honour, I don't - I really don't mean any disrespect, I just--

HER HONOUR: That's okay.

30 WITNESS: Yeah.

HER HONOUR: Just take your time. There's a glass of water there for you. We all know it's not easy, but just take your time, have a glass of water, and just listen to the questions, because the sooner you tell us your account, the
35 sooner you're out of here.

WITNESS: Is there a chance for a quick smoke break, please?

HER HONOUR: Mr Crown?

40

CROWN PROSECUTOR: Did your Honour hear that?

HER HONOUR: She wants a quick smoke break.

45 CROWN PROSECUTOR: Yes, your Honour.

WITNESS: Just me, I'll just go straight down and back, miss, if you don't mind.

HER HONOUR: Yes, okay.

50

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WITNESS: Thank you, your Honour.

HER HONOUR: Ladies and gentlemen, would you like to go with the court officer? We'll turn that off. Just for five minutes in the waiting room.

5

SHORT ADJOURNMENT

CROWN PROSECUTOR

10 Q. Just before we had that break, you told us that it was about two weeks roughly that you went back and you saw Mr Astill again, about making another phone call to John? Yes?

A. Yes.

15 Q. What happened that time? Was there some conversation when you first went there?

A. No. No-one answered.

Q. I'm sorry?

20 A. When I went there, I knocked, no-one answered. I put my face up against - up against the window to look in.

Q. Did you see anybody in there?

A. Can't see.

25

Q. Did you end up going into the office?

A. Yep.

Q. How did you get in?

30 A. Astill.

Q. Where was Mr Astill; was he inside the office or not?

A. Yes.

35 Q. Was there anybody else that time when you went into the office?

A. N.

Q. Was that again N?

A. Yeah. Yep.

40

Q. Did she say anything when you went in there?

A. Just - just chatting. Bit chatty, asked me how I was going.

Q. Did you ask Mr Astill if you could make another phone call?

45 A. Yep.

Q. What did he say?

A. He said, tried to be humorous about it, like "Because you've got no money in your account". Made a humorous remark, like smart remark, like.

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- Q. Did he make a call?
A. Yeah.
- 5 Q. Who did he call?
A. John.
- Q. What did he say?
A. There's - that he's - it was Wayne again from Dillwynia Correctional Centre and he had me, D, want to speak to John again, and let me speak to him.
- 10 Q. Did you speak with him?
A. Yes.
- Q. How long did you speak to him for?
A. Ten minutes.
- 15 Q. Did N stay in the room or not?
A. No.
- 20 Q. After the phone call, did you say anything to Mr Astill after you hung up?
A. "Let me out".
- Q. Did he say anything back to you?
A. Hmm?
- 25 Q. Did he say anything back to you when you said, "Let me out"?
A. I don't remember.
- Q. What happened after that whilst you were - so you've made the phone call, you've hung up, what happened next?
A. I asked him to let me out.
- 30 Q. What happened after that? Did he say anything after that to you about that?
A. About what?
- 35 Q. Being let out?
A. I can't remember. I've just gone blank, sorry.
- 40 Q. Just take your time. Did anything happen in the room after you hung up? I see you nodding there. Only because we need to have it recorded. Would you just answer that. Did something happen after you hung up?
A. Yes.
- 45 Q. Just take your time. Tell us what happened then?
A. I just stood up and asked him to let me out. He's just sitting across the - sitting across from me and he's come around - round - round behind me, and like pushed me back down on the desk. His - his right - right hand on my right hand, and left hand on my hand, and he's had sex with me from behind.
- 50

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Q. When you say he had sex with you behind--

HER HONOUR: From behind. "Sex with me from behind".

5 CROWN PROSECUTOR

Q. You say "He had sex with me from behind". Before I move on to another subject, I just need to ask you a little bit about that, all right. What did he actually do, are you able to refer to - use the words, the actual body parts, what actually happened. Just tell us.

10 A. He pulled my - he come - he come behind me and he - he put his right - right hand on my right hand, and like pushed me down on - on the table, so like I couldn't move, like he's standing behind me, and pulled my pants down on my left side.

15 Q. You said he had sex with you. What part of your body did he have sex with?

A. My vagina.

20 CROWN PROSECUTOR: Your Honour, this is count 44 on the indictment.

HER HONOUR: Yes. Ms D, did you ask Mr Hill to leave?

25 WITNESS: No, I just feel embarrassed.

HER HONOUR: That's okay. He's left the room. Did you ask him to leave?

WITNESS: Yes, because I - I don't want him to hear..(not transcribable)..

30 HER HONOUR: That's okay. Just take your time.

WITNESS: I'm embarrassed.

35 HER HONOUR: That's okay, just take your time. There's a glass of water there. Is there some tissues there for you, and just take a few deep breaths.

WITNESS: ..(not transcribable)..

40 HER HONOUR: I can't hear you, Ms D. Can you just move your hand away, and then just listen to the questions from Mr Crown.

CROWN PROSECUTOR

Q. Ms D--

45 A. Yeah.

Q. --are you able to say, even roughly, how long that went on for?

50 A. It would have felt like forever. I don't know how long exactly, but it just - it felt like forever, and he just kept telling me "Five minutes, and then I'll be done."

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CROWN PROSECUTOR: Your Honour, I managed to hear that. I'm assuming it could be heard. I know it was very soft.

5 HER HONOUR: Ms D said, "It felt like forever."

CROWN PROSECUTOR: Yes. I thought the words "Five minutes"--

10 HER HONOUR: And then "Five minutes. Just kept doing it."

CROWN PROSECUTOR

Q. After that finished - after he stopped doing that, all right--

15 A. Go on.

Q. After he stopped doing that, did he say anything to you?

A. I told him that he'll pay for what he done to me; that - that John would get him.

20 Q. Did he say anything back when you told him that John would get him?

A. Yes.

Q. What did he say, Ms D?

25 A. He said that - he said that no-one would find out, and that he - he - he's an ex-police officer and he's affiliated with the bikies, and that no-one would know about it.

HER HONOUR

30 Q. Ms D, I heard that you just said then that he said that noone will find out and that he was an expolice officer, and something else. What else did you say?

A. That he's affiliated with the bikies.

35 Q. That he was with a bike gang?

A. Affiliated with a bikie gang.

Q. Affiliated with a bikie gang?

40 A. Yeah.

CROWN PROSECUTOR

Q. Ms D, I just want to ask you; before he did that to you, did he say anything to you before he did it?

45 A. That he - that he liked pretty girls like me, and that I had to do him a favour because he done me a favour.

HER HONOUR: Ms D, are you okay?

50 WITNESS: Yeah. I just don't want to put my head up. I'm ashamed.

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HER HONOUR: I cannot hear you, Ms D - D.

WITNESS: I don't want to put my head up. I feel embarrassed.

5

HER HONOUR: Well, there's no need to feel embarrassed.

WITNESS: But I do.

10 HER HONOUR: It just makes it easier. Also, for us to hear and understand your evidence, and what you're telling us happened to you. So, are you able to sit up? Thank you. Thank you. Yes, Mr Crown.

CROWN PROSECUTOR

15

Q. When you left that office, Ms D, where did you go straight after that?

A. I went to the low needs house L4.

Q. Was there anybody at the house when you got there?

20

A. No.

Q. Did you tell anybody at the time what had happened?

A. No. No, I didn't - I didn't think anyone would believe me.

25 Q. I'm just going to ask you one more question about just the beginning of that act where you've told us that he had sex with you, all right. When he put his hand on - you said he - I've got the note. Won't be a moment.

HER HONOUR: Ms - she's gone, Mr - D, are you there?

30

WITNESS: Yeah, I am, Ms.

HER HONOUR: Would you mind just taking a seat back, please. Thank you.

35 WITNESS: Yeah, and I just wanted to fix myself up.

HER HONOUR: That's okay.

WITNESS: Sorry.

40

HER HONOUR: Okay. I think Mr Crown's nearly finished, okay.

WITNESS: Yeah.

45 CROWN PROSECUTOR

Q. When he took hold of you, you told us that he put his right hand on your right hand, pushed you down on the table. What were you doing? Do you remember?

50

A. I stood - stood - I stood - I stood up to get that out, and that's all I

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remember. Going around, pushing me down, and then when - when his penis was inside me and he's had me bent over the table on my - my elbows.

Q. Ms D, did you ever agree to do any of that with him?

5 A. No, no, no. No fucking way.

Q. I'm going to ask you about something different now, all right. Did you speak to N at some stage about what Mr Astill had done?

10 A. Yes.

Q. Was that during the 2018 stay at Dillwynia, or was that at the second time you went there?

A. Second time. It was how - how - how I told - how I come forward.

15 Q. Did N say anything to you about that incident?

A. Yeah, she knew that he was going to do it to me. He said it the first time I went in there, and she told him, no, because I was pregnant.

20 CROWN PROSECUTOR: Your Honour, I don't know whether that's going to be able to be picked up by those transcribing. I just ask because my hearing's not necessarily as good as - I suspect it's not as good as those who are listening to it.

25 HER HONOUR: I had picked up that Ms D had said that N had said to her she knew he was going to do it to me, and something about being pregnant.

30 WITNESS: She - she's - she's - N said to me that she knew that Astill was going to do that, and that she tried to stop that - stop him because I was, like, trying to tell him not to because I was pregnant.

HER HONOUR: Thank you.

CROWN PROSECUTOR: Count--

35 WITNESS: I'm sorry.

HER HONOUR: That's okay.

CROWN PROSECUTOR

40

Q. Do you have a cousin by the name of BB?

A. Yes.

Q. Did you ever speak to BB about what had happened to you?

45 A. Yes. But not - I didn't go into - I didn't tell her any detail. I only told her just to watch out for the screw, because she was in jail with me, and she's my cousin, and I didn't want nothing to happen to her.

Q. Did you just say that you did not go into any detail?

50 A. Yes.

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Q. Do you remember when you spoke to BB about that?

A. I didn't want to tell her any detail because none of her business, it's mine.

5 CROWN PROSECUTOR: Your Honour, that's the examination in chief.

HER HONOUR: Yes. Now, Mr Tyler-Stott, D, is going to ask you just a few questions. If you can put your hand away just so that you can answer the questions, and just take your time, and just listen only to the question, okay.

10

<CROSS-EXAMINATION BY MR TYLER-STOTT

Q. Have you made a claim for compensation against the State?

A. Is that relevant?

15

HER HONOUR: Did you hear the question?

WITNESS: Yes, I heard the question. I said, "Is that"--

20 HER HONOUR: Did you understand the question?

WITNESS: What?

HER HONOUR: Do you understand the question?

25

WITNESS: To tell you the truth, I'm not even fucking listening at the moment. I'm just fucking--

30 HER HONOUR: Sorry, D, I can't understand you. You need to speak a little bit clearer.

WITNESS: What?

35 HER HONOUR: Ask the question again, please, Mr Tyler-Stott. Just listen to the question, D.

WITNESS: I wasn't even listening to him. I was fucking - I'm shamed. I can't take my - my hand away from my face.

40 TYLER-STOTT

Q. Ms D, my question was have you made a claim for compensation against the State for what you say Mr Astill did to you?

A. Is that relevant? I answered him.

45

HER HONOUR: Did you say, is that relevant?

WITNESS: Yes.

50 HER HONOUR: Yes. Well, it's the question's been asked, there's no

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objection, so you do have to answer the question.

WITNESS: Yes.

5 TYLER-STOTT

Q. Before you made the complaint to police, you spoke with N. Is that correct?

A. What?

10

Q. Before you spoke up about what had happened to you in 2018, this is the second time you're at Dillwynia. I'll start again. The second time you're at Dillwynia you spoke with N about what you say happened with Mr Astill. Is that correct?

15 A. I spoke with her. What are you trying to say?

Q. I'm just asking you--

A. Ask your question - ask your question again.

20 Q. Did you speak with Ms N when you were at Dillwynia on your second time in prison there?

A. Yes, I just told you that. I just told you that, she just said, I'm told him not - I was telling him not to do that to you. Did I just not say that to you?

25 Q. You're just going to have to be patient with me, Ms D. I've got some questions to ask you.

A. ..(not transcribable)..

Q. Beg your pardon?

30 A. Keep going .

Q. Okay. Where did you speak to her when you were talking about this incident with Mr Astill?

A. At Mr Baker's office.

35

Q. Was there a time that you spoke to her about this incident before the office?

A. No. No.

40 Q. So do you say that N came in whilst you're in the office with Mr Baker?

A. No. I went down - I went down to there, to Mr Baker's office.

Q. Was Mr Baker there?

A. Yes.

45

Q. Did N come later, or was she there from the beginning?

A. She was there, she's the clerk, she's a cleaner. What - how is this relevant? She was there.

50 Q. How long did you speak to Witness N about what you say Mr Astill did?

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D XXN

VIQ:SND

D9

A. What? That's all she said. That she knew he was going to do it, she told him not to because I was pregnant. That's all she said.

Q. Witness N told you that other people had come forward about--

5 A. No--

Q. --Mr Astill?

A. --Mr Baker - no, Mr Baker told me that people come forward.

10 Q. And that was before Witness N was there. Is that correct?

A. Yes.

Q. Was that before Witness N was there?

A. Yes. Yes. I said yes.

15

Q. Did Mr Baker tell you who had come forward?

A. No.

Q. Did Mr Baker say anything about N?

20 A. No. No, he said he kept it - no, he said, listen, he said, I don't want you to discuss it with anyone, no-one at all. He said not even me, not even Ms Barry, not even Ms Berry. He said, no-one at all. He said keep it to yourself. Speak to the police. That's all he said. I did not discuss anything with anyone. I'm a very private person. I fucking hate cunts knowing my business, all right.

25

Q. Was there a lady by the name of Amanda Dallon staying in the prison back in 2018?

A. Yes.

30 Q. Was she a friend of yours?

A. Yes.

Q. The time where you say that Mr Astill had had sex with you, what time had you gone to his office?

35 A. What?

Q. What time did you go to his office on the occasion that you said he had sex with you?

A. I don't understand the question.

40

HER HONOUR: Just rephrase that. Can you change the words, Mr Tyler-Stott.

TYLER-STOTT: Yes, your Honour.

45

Q. The second time when you went to speak with John at Mr Astill's office, what time did you go to his office?

A. I don't fucking know.

50 Q. Did you say something in your statement?

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VIQ:SND

D9

A. I don't remember exact time. It was a long time ago.

Q. Did you say 12.30 in your statement?

A. I don't recall that.

5

Q. Do you recall whether or not anyone was locked in at the time?

A. I don't recall ..(not transcribable)..

HER HONOUR: Was that, I can't remember?

10

WITNESS: What; I don't recall. What are you saying?

HER HONOUR: Don't recall. Thank you. Just try and speak a bit clearer.

15 WITNESS: Sorry, your Honour.

HER HONOUR: That's okay.

TYLER-STOTT

20

Q. Ms D, have you got an offence on your record of break, enter and steal?

A. Of what?

Q. An offence on your record of break, enter and steal?

25

A. Yes, and what?

Q. You stole an ice pipe, did you?

A. It got withdrawn.

30 Q. I beg your pardon?

A. It got - it got withdrawn.

HER HONOUR: Got withdrawn.

35 TYLER-STOTT

Q. You had an intensive corrections order, didn't you?

A. Yeah, that wasn't for that. That was for a police pursuit. Something different.

40

TYLER-STOTT: Different records, your Honour.

WITNESS: ..(not transcribable)..

45 TYLER-STOTT

Q. Did you take an ice pipe, ma'am?

A. What?

50 Q. Did you take an ice pipe?

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A. How is that relevant?

Q. Will you just please answer the question, Ms D.

A. Yes.

5

Q. Are you on drugs today, Ms D?

A. No.

Q. Ms D, what you've said--

10 A. I said no to you.

Q. Yes, I'm moving on, Ms D.

A. ..(not transcribable)..his voice is irritating me.

15 HER HONOUR: Just listen to the question, Ms D.

WITNESS: I'm sorry, but his voice - his voice is irritating me, Miss, I'm sorry.

20 HER HONOUR: Okay. I don't think there's that much longer to go, so just if you listen to the questions and answer them, you'll be out of here quicker, okay?

WITNESS: Yeah. I just don't see how my criminal record's got anything to do with this.

25

TYLER-STOTT: Ms D--

WITNESS: Keep going. Hurry up.

30 TYLER-STOTT

Q. Ms D, you have made up what you say Mr Astill did to you, that is, the sexual assault.

A. Did you just say I made up?

35

Q. Yes, ma'am.

A. Fuck you, fucking maggot. Fuck--

Q. Ma'am, do you need any--

40 A. Go and fuck yourself. Go and fuck your mum and..(not transcribable)..you fucking maggot.

IN THE ABSENCE OF THE WITNESS

45 COURT OFFICER: Your Honour, this is the court officer.

HER HONOUR: Yes.

COURT OFFICER: She's just left the room for a moment.

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HER HONOUR: Yes, I know. Are there any further questions, Mr Tyler-Stott?

TYLER-STOTT: I had a few, your Honour.

- 5 HER HONOUR: We'll take a break, ladies and gentlemen. I think it might be wise. Just have a bathroom break, we'll see how we're going.

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IN THE ABSENCE OF THE JURY

5 CROWN PROSECUTOR: Your Honour, I'm mindful the witness is under cross-examination. I'd ask, in the hope that it may assist, that Ms Stuart might be permitted to speak to her, not on matters, obviously enough, of the evidence, but rather to encourage her to come back to continue her evidence.

10 HER HONOUR: Well, I wouldn't have thought it's got that much longer to go, Mr Tyler-Stott.

TYLER-STOTT: It doesn't, your Honour. No, it doesn't.

15 HER HONOUR: And of course, it's clear that she's upset with it being suggested to her when it's clear - her distress - in giving evidence about what her allegation is - she doesn't really understand the role of defence counsel in putting things to her. I have no concern about the DPP speaking to her, Mr Tyler-Stott.

20 TYLER-STOTT: No, I don't either, your Honour.

HER HONOUR: Not, of course, about the evidence at all--

TYLER-STOTT: No.

25 HER HONOUR: --and I'm prepared to give her the rest of the afternoon off, but I'm sure that she would prefer to have her evidence completed today. But it needs to be completed by 4 so that she can finish, otherwise, if she's too upset, then she can return tomorrow. But I'm sure if she had that option, she might prefer to have it over and done with this afternoon.

30 CROWN PROSECUTOR: Yes, your Honour.

35 TYLER-STOTT: Your Honour, just one thing. I was operating on a record, and I didn't mean to put to her something that was patently false, but the record I have shows that she received a community corrections order, rather, for an aggravated break in and steal in company.

40 HER HONOUR: Well, in the end, she said yes, she did take a pipe, but she probably thought that that charge had been withdrawn for various negotiating reasons.

TYLER-STOTT: Yes, your Honour.

45 HER HONOUR: But I think she did quite let you know that she couldn't see the relevance of that to what she was alleging.

TYLER-STOTT: Yes, your Honour.

50 HIS HONOUR: And I think we could take that she disagreed with your proposition at the end of your last question.

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CROWN PROSECUTOR: I drew that inference, your Honour.

5 HER HONOUR: Yes. Okay, well, let's see if we can get her back on. It'll be better to conclude her evidence now, but if she needs time till tomorrow, I'm quite prepared to do that as well.

CROWN PROSECUTOR: Yes, your Honour.

10 HER HONOUR: So I'll go off and just be in the anteroom.

SHORT ADJOURNMENT

15 HER HONOUR: How did we go?

TYLER-STOTT: Your Honour, indicated to the Crown I have no further questions.

20 HER HONOUR: No further questions, okay, thank you.

HER HONOUR: Do you have any re-examination?

CROWN PROSECUTOR: No, I do not, your Honour.

25 HER HONOUR: So we can just excuse her when the jury comes in. Are there any other witnesses for the day?

30 CROWN PROSECUTOR: I do, your Honour. There's one witness who I don't think will take long at all. She could come back tomorrow, your Honour. It maybe that it's been a long afternoon for the jury. I'm content with that.

HER HONOUR: They're coming back, we might as well utilise the time. Who is it?

35 CROWN PROSECUTOR: BB, your Honour. Just a complaint witness with respect to this complainant.

40 HER HONOUR: I might just let her know. D, can you hear and see me? Yes. Mr Tyler-Stott's got no more questions, and nor has the Crown, so I'm just going to have to formally excuse you in front of the jury, and you're finished, okay. So you don't have to answer anymore questions. But just stay there till the jury comes back so that I can tell them that there are no questions, okay.

WITNESS: Yep.

VIQ:SND

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IN THE PRESENCE OF THE JURY

HER HONOUR: Thank you, ladies and gentlemen. Mr Tyler-Stott, are there any further questions in cross-examination?

5

TYLER-STOTT: There aren't, your Honour.

NO RE-EXAMINATION

10 HER HONOUR: D, that has concluded your evidence. It's finished. You are free to go. Thank you for coming to giving your evidence.

<THE WITNESS WITHDREW

15 CLOSED-CIRCUIT TELEVISION DEACTIVATED

CROWN PROSECUTOR: We have one further witness today. It's BB. I call BB. She will be dialling in from the Orange courthouse.

20 CLOSED-CIRCUIT TELEVISION ACTIVATED

HER HONOUR: Ms BB.

BB: Yeah.

25

HER HONOUR: Can you see and hear me?

BB: Yeah.

30 HER HONOUR: I'm Judge O'Rourke, and I'm the one presiding over this case, and Mr Crown is about to call you as a witness.

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<BB, AFFIRMED(3.36PM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

- 5 Q. Is your name BB?
A. Yes.
- Q. Is your cousin D?
A. Yes.
- 10 Q. In 2020, were you in custody at Dillwynia Correctional Centre?
A. Yes.
- HER HONOUR
- 15 Q. Ms BB, do you have your statement there?
A. Yeah, I do have it with me.
- Q. Can you please turn it over.
20 A. Okay. All right. Sorry, I'm just really anxious.
- Q. That's okay. Just take a few deep breaths. That's all right.
A. All right.
- 25 CROWN PROSECUTOR
- Q. When you went into Dillwynia in 2020, did you see D was also there?
A. Yes.
- 30 Q. Did you go there to Dillwynia on 13 October 2020?
A. Yes, I did.
- Q. Did you notice something about D's behaviour shortly after you went there to Dillwynia?
35 A. Yeah, so after a bit of time there, she just - she wasn't herself anymore. She just become, like, really depressed, very anxious, just pretty much, like, she was really - she was really traumatised.
- Q. And did you speak to her about that? Did you ask her what's wrong or did she tell you?
40 A. Yeah, so
- ..(fault in audio recording equipment)..
- 45 ---just stop you there.
A. Okay.
- Q. Ms BB. You're not in trouble.
A. All right.
- 50

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Q. I'm just going to ask you, what did she say to you? So could you tell us what D said to you?

A. Okay. So she had just - it was almost like she had a panic attack, and I was like - I was like, "What's wrong?", and there was another officer there that
5 had reminded her of a previous officer. She didn't--

Q. Did she say that to you?

A. Yeah.

10 Q. When you're telling us about that and other things where you're talking to D, would you be able to tell us what she actually said, all right.

A. Okay. So, it wasn't until later on that day until like after lock in, I got her to sit down and have a talk to me about what was going on with her. I just wanted to check in on her. And she - she had let me know - know about a
15 previous time that she was locked up, an incident that had happened in the correctional centre.

Q. I'm sorry to cut you off, but what did she say to you about that?

A. So, do you want me to tell you everything that happened, yeah?
20

Q. Yes. Ms BB, as though you were you her, righto. So pretend you're her, what does she say?

A. Okay, so the previous time she was locked up she was pregnant and she wanted to get calls to her partner, which was the only support that she had at
25 the time, who was also in another correctional centre. The girls had let D know that she could speak to an officer; that he would help her get some calls and stuff to her partner. Don't know if it was the second or third time that she had approached him and had used the phone to call her partner.

30 He - the officer had then come at D and asked her "What are you going to do in" - like - "to return the favour?" and, like, it just happened so quickly. He had grabbed her from behind and pushed her across the - the table, and had pulled down her - her pants and he had - he had intercourse with her. He yeah, and she was really distraught. It wasn't consensual. She didn't know what to do
35 afterwards because he - she said that he was like - like - like a chief or something. Chief officer, so she was - didn't know who to speak to. Yeah, for the rest of our time there, she was really traumatised.

Q. After that conversation - perhaps a week or two later - do you remember being with D at the back of the pod office in low needs?
40

A. Yeah, so that's - I was going to say, also, the day that she had been assaulted - so when she's gone in, she had said that there was another - there was another inmate, like, a hygiene worker but she had left, and then that's - that's when the incident had happened, and it all just happened so quickly, and
45 then a few weeks later, after she's told me about what's happened and stuff, we were down at low needs, and one of the hygiene workers had called D over and I waited for them to talk, and then D come back and she said, "See cuz, she knew what was going to happen," and I'm, like, "About what?" you know, and, like, she said, "She was there that day in the office."
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BB XN

VIQ:SND

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So, that - the other inmate who was there was - had spoken to D and let her know, like, she's sorry. She shouldn't have left the office, yeah.

CROWN PROSECUTOR: I'll just stop you there.

5

<CROSS-EXAMINATION BY MR TYLER-STOTT

Q. Ms BB, you were at the - and I think it came out in your evidence in chief just a moment ago - you were in Dillwynia in October of 2020?

10

A. Yes.

Q. Had you heard that there had been an officer who'd been stood down for sexual allegations against inmates around that time?

15

A. I didn't really hear anything until, like, after I, like, yeah, I'd witnessed, like, what was happening with D, and then I sort of found out about everything so, yeah.

Q. Could that have happened before you spoke to D that you found out about the officer being stood down?

20

A. No. No. No, I didn't find out until afterwards.

Q. Who did you hear that from?

25

A. Well, I - I heard the name from D, and then I didn't really talk to anyone about it because it was just, like, between D and myself, and then I asked her to get some help, and it wasn't really until I left from the correctional centre that I actually done some research and I found out about him.

Q. So, whilst you were in Dillwynia, you say you didn't hear about it other than what D told you?

30

A. Yeah, she - yeah, when she let me know, yeah.

NO RE-EXAMINATION

<THE WITNESS WITHDREW

35

AUDIO VISUAL LINK CONCLUDED AT 3.45PM

CROWN PROSECUTOR: Your Honour, those are the witnesses we have for today.

40

HER HONOUR: Okay, thank you. Thank you, ladies and gentlemen. You've heard some evidence today. Please - as I say to you every night - please don't discuss it. Only amongst yourselves and all 15 of you are together, and we'll start tomorrow morning at 10am. So, if we can all be here, say, 9.30 tomorrow. Have a good night and we'll see you then, thank you.

45

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IN THE ABSENCE OF THE JURY

HER HONOUR: Mr Crown, what was Witness N's evidence in relation to any conversation with Ms D about that?

5

CROWN PROSECUTOR: I'd just have to go back and check, your Honour.

HER HONOUR: Did she give evidence about that?

10 CROWN PROSECUTOR: I'll just check, your Honour. We'll just go back to it.

HER HONOUR: Whilst your solicitor is finding that, I have received notification from my associate that we have received a letter forwarded from registry - I don't know whether you have - from A, social worker, saying that she's been admitted to hospital and cannot give evidence. I'm not sure if crown has this, so you may want to make some inquiries. The letter is to inform that she's an inpatient at a hospital. She would like an opportunity to testify when she becomes stable.

20 CROWN PROSECUTOR: Thank you, your Honour.

HER HONOUR: So, perhaps inquiries can be made in relation to that, but just - let me have a look at it - if you can make your own inquiries at this stage. I haven't read out all of the letter.

25

CROWN PROSECUTOR: No, I understand.

HER HONOUR: There are some personal aspects that didn't need to be in open court.

30

CROWN PROSECUTOR: Yes, your Honour, I understand. S, we need a s 77 order for.

HER HONOUR: For tomorrow, yes.

35

CROWN PROSECUTOR: That's the only 77 we require.

HER HONOUR: For tomorrow. Well, we're ploughing through the witnesses, I see. There's, what, about 10 or 12 left to go?

40

CROWN PROSECUTOR: Perhaps about that, your Honour. There's--

HER HONOUR: May see the conclusion by the end of the week then, really--

45 CROWN PROSECUTOR: Well, there's--

HER HONOUR: --of the Crown case, or - there's a bit of recordings.

50 CROWN PROSECUTOR: There is. We're revisiting those to try to make it as - in light of the way that his case is run - so to make it as - (a) put the

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material before the Court that we felt from the jury the jury needs--

HER HONOUR: Yes.

5 CROWN PROSECUTOR: --but it's still going to be for some length, and then the ERISP interview has got about three - a little over three - hours in it.

HER HONOUR: Well, that's all right. It's only two weeks tomorrow, I think, we started, so it will be well under the estimate.

10

CROWN PROSECUTOR: We found it.

HER HONOUR: Did you find that aspect?

15 CROWN PROSECUTOR: Witness N's evidence, yes.

HER HONOUR: I just couldn't remember what she had said.

20 CROWN PROSECUTOR: I confess, your Honour, at times it seems to merge--

HER HONOUR: Yes.

25 CROWN PROSECUTOR: --in my mind. The conversation as between N and D was:

"Q. Did you have a conversation with D at that stage?

A. Yes, and Megan Beale was present, as well as Overseer Tony Baker.

30

Q. What was that conversation with D?

A. She said she'd been called to The Hub, but she couldn't go into The Hub because she started to have bad flashbacks about Mr Astill."

35 Thereafter, she gave evidence that she then had a conversation with others but Witness N was not privy to that conversation.

HER HONOUR: Okay.

40 ADJOURNED TO WEDNESDAY 10 AUGUST 2022

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VIQ:SND

D10

IN THE DISTRICT COURT
OF NEW SOUTH WALES
CRIMINAL JURISDICTION

5 JUDGE O'ROURKE SC
AND A JURY OF FIFTEEN

TENTH DAY: WEDNESDAY 10 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: Mr Crown, you wanted to raise something?

CROWN PROSECUTOR: Only logistical matters, your Honour. An update to the extent that we can provide one with respect to the complainant, A, we will have the opportunity between midday and 2pm today, apparently, to speak with her doctors to get some sort of a forecast. From my enquiries with the forensic psychiatrist, who has nothing to do with that matter, confirming my own opinion, he told me this morning that with this particular condition it's highly variable which perhaps comes as no surprise as to recovery time.

30 It could be a day. It could be weeks so my update is, I suppose not much of an update, but we will advise as soon as we know. That witness, needless to say, will not be had been planned available today. However, we have others in court to go on with. Firstly, although not the witness we were going to call firstly, there is an issue with a competing court of S. She's here at court.
35 She's able and ready to give evidence save for a Local Court commitment. Now, the Local Court commitment, obviously enough the District Court trumps the Local Court.

40 I understand that but I think my instructor advised your Honour through your Honour's associate of that so we just have, we don't want to be presumptuous and go to the Local Court and say too bad. We require her as a witness and there's a co-accused in that hearing in the Local Court so perhaps if we could advise your Honour this morning at morning tea as to how that's playing out and where we're at. I didn't want to be presumptuous one way or
45 the other.

So far as there's a witness, Ronald Brumwell who is in the United Kingdom. He will be giving evidence obviously enough by way of audio visual hookup. It will be from a home in the United Kingdom. It will be 5 am over there at 2 pm

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and he is available at 2 pm so he'd be available to give evidence at 5 am.

HER HONOUR: Who is there this morning?

5 CROWN PROSECUTOR: We have I ready to go. I's evidence relates to
there's some agreed facts which I won't be breaching, of course, because 191
agreed facts she'll be giving there for some narrow evidence as to mainly to H
which goes to H's interactions with the accused. There is Officer
10 Glenn Clarke. He'll be a little while. There's another officer, Mark Wilson, who
is outside, who I don't expect to be as long. There is, as I say, S and following
agreement with my friend, there's no other witnesses of those to be called
today who I require to give evidence. So we have witnesses of substance.
How long they will take us, I don't know.

15 HER HONOUR: One second, also with the errata, has that been updated? I
will need to spend some time because there are some – you've seen that?
Have you gone through that, Mr Tyler-Stott?

TYLER-STOTT: I confess I haven't, your Honour.

20

HER HONOUR: Could you do that today?

TYLER-STOTT: Yes.

25 HER HONOUR: Thank you and we deal with it at some stage soon so it's on
the record. Even if it's updated from then at some stage after the evidence is
all in, we can just put it out all on the record but I'd like to know that it's being
updated as we go along.

30 TYLER-STOTT: Yes, your Honour.

CROWN PROSECUTOR: Yes.

35 HER HONOUR: There's a couple of things I wanted to raise. Last night the
complainant and her partner were leaving the JMT and crossed over with
some of the jurors. No words were spoken but the jurors just informed the
court officer that this morning. It has to be, I know it's difficult. They're both
coming out of the JMT but they shouldn't have been hanging around the JMT
40 knowing that that's where the jurors so the witness support should really know
that.

CROWN PROSECUTOR: We will make that perfectly clear, your Honour, and
perhaps have a message sent to the witness support unit generally that care
needs to be taken.

45

HER HONOUR: I can't see why they were still there to be honest because it
was at some little time later or probably five to 10 minutes but in any event
there was – it just obviously was uncomfortable.

50 CROWN PROSECUTOR: Of course.

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HER HONOUR: Another aspect that I wanted to raise is, and I'm only flagging this now because it's just been concerning me, is the counts that the accused has pleaded guilty to as to misconduct, the particularisation of it is that he
5 engaged in an inappropriate sexual relationship with the particular complainants.

CROWN PROSECUTOR: Yes.

10 HER HONOUR: What I am concerned about is it's not just based on that, is it? Because there's other aspects to the misconduct charge.

CROWN PROSECUTOR: Yes.

15 HER HONOUR: I suppose in a nutshell what I'm concerned about, Mr Crown, is not really a De Simone issue but if, for example, if we take going chronologically with the counts on the indictment, if the jury return verdicts of guilty on the counts involving 1 to 7, C, how does that sit then with a plea of
20 guilty? How can that be described, for example, as a sexual relationship?

CROWN PROSECUTOR: There's recent authority dealing with what is a sexual relationship and it dealt with 66EA and I don't have that at hand but the point made there and this is so I'm instructed, that in that revision where the court was dealing with it there they were talking about the maintaining of the
25 sexual relationship. Justice Basten dealt with what is meant by the ordinary language by a sexual relationship. There's a connotation, ordinarily, absent those words "maintaining of multiple acts" but (1) there is a relationship in this case by virtue of, to use arcane language, perhaps gaol of an inmate.

30 The inappropriateness comes from (1) the sexual behaviour but (2) those other acts, for example, the granting of favours, offering favours and the like feeds into the inappropriateness of it. It may be that's and, you know, it is inappropriate of itself to have a sexual relationship with the inmate but that goes to proof of the aspect of inappropriateness of it. So, there's a relationship
35 that's made sexual, the Crown says, by the fact of these sexual acts, non-consensual on the Crown case as they are.

HER HONOUR: I suppose what I'm troubled with, say for example we take another example of D. Now, the sexual relationship in that was the one count,
40 the one allegation, of effectively rape, sexual intercourse without consent. That itself is a crime within itself so if he was to be found guilty of that, then that effectively is what encompasses the second charge except for two 10 minute phone calls which are four minutes outside the grounds of what is normal.

45 CROWN PROSECUTOR: Firstly, let me say this, if your Honour's concern is that that is duplicitous or if the misconduct is assumed by the statutory offence then I'd say this. The misconduct, the gravamen of that offending is the breach of the public trust. This is not a Store v R situation where some elements of
50 the offence are completely subsumed by the latter by another offence. These

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are very different elements and the breach of trust as I have opened to the jury clearly on what's at the heart of the misconduct and the—

5 HER HONOUR: But say if you take D, then, what is the breach of the trust? Is committing a rape, if he was found guilty of that?

10 CROWN PROSECUTOR: The breach of the public trust? Absolutely. The trust the public places on the corrective officer of any rank is that they will exercise a duty of care, promote rehabilitation of the prisoner so the Crown says very clearly that that is a gross breach of the public trust, the very act itself. When it comes to sentencing, if it comes to sentencing, then I would readily accept that there is an overlap there of misconduct. That's something which would bear upon the issue of totality but there is not, there is no duplicity. It's not a duplicitous indictment—

15 HER HONOUR: The allegation may not, I suppose what I'm concerned about is the offence, I can see what you're saying but the offence may not be but the way it's particularised as being centred around the inappropriate sexual relationship which would be fine say, for example, if they were found not guilty
20 anyway I'm struggling with sexual relationship in any event when the Crown case is nonconsensual and I'm struggling, I suppose, with a certain aspect of when it's particularised as the breach of misconduct being the sexual relationship. Why, for example, it's not laid as an alternative charge and then not accepted in full satisfaction, for example, for C.

25 CROWN PROSECUTOR: Well, your Honour, I won't speak to - obviously consideration has been given to that, but the Crown's position is that it's simply not appropriate to have it laid as an alternative. It addresses a very different public--

30 HER HONOUR: Perhaps you can get me some authorities on what that offence actually encompasses, and that might assist me.

35 CROWN PROSECUTOR: I will.

HER HONOUR: But it's just something that I've been struggling with, I suppose, during the trial. But that would assist.

40 CROWN PROSECUTOR: Yes, of course, your Honour. Will do.

45 HER HONOUR: Can I just also flag so that you have plenty of notice, I am a little bit concerned about the breadth of the tendency evidence in relation to this matter. And I know it has gone in without any objection, but I am concerned as to it and the use of it. So, prior to your closing address, I would appreciate having that articulated as to how you use and are proposing to use that tendency evidence and the breadth of it in this case, and how you say the Crown can use that evidence, and what Mr Tyler-Stott's response is towards that as well.

50 CROWN PROSECUTOR: Yes, your Honour.

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HER HONOUR: In relation to what are you going to say to the jury in relation to that? But more predominantly, of course, because it is the Crown's tool that it's using, I want to know how you're using it.

5

CROWN PROSECUTOR: Of course, yes.

HER HONOUR: Because, as I raised yesterday, I am somewhat concerned about just the width of it and the breadth of it when we've got ten complainants, in any event, on the indictment, and there are other inmates giving evidence of aspects of it that don't even go towards the indictment. But anyway, I haven't been required to determine any aspect of it, but I would like to know so I know how to instruct the jury. Thank you.

10

15 CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: Yes, okay, let's get the jury in.

CROWN PROSECUTOR: I's first, your Honour.

20

HER HONOUR: I?

CROWN PROSECUTOR: Yes, your Honour. She'll dial in.

VIQ:SND

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IN THE PRESENCE OF THE JURY

< I, SWORN(10.33AM)

5 CROWN PROSECUTOR: Your Honour, can I just indicate before I start that this witness, I, is referred to in exhibit L, the agreed facts, before the jury.

HER HONOUR: Yes.

10 <EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

Q. Is your name I?

A. That's correct.

15 Q. I, were you previously an inmate at Dillwynia Correctional Centre?

A. Yes.

Q. When did you go to Dillwynia?

A. 2018, I believe. I can't recall exactly.

20

Q. How long were you there for?

A. Gosh. Maybe a year and a half.

Q. Whilst you were at Dillwynia, where were you housed?

25 A. In the high needs area, protection.

Q. Is that a SMAP area?

A. Correct.

30 Q. Did you become aware of an officer by the name of Wayne Astill?

A. Yes.

Q. Were you aware of his rank during the time you were there?

A. I was.

35

Q. What rank was it?

A. Senior chief officer.

Q. Did you come to know, or know of, an inmate by the name of H?

40 A. Yes.

Q. Was she housed in the same area as you?

A. Yes.

45 Q. Did you ever see H speaking with Mr Astill?

A. Yes.

Q. Did you notice anything about the way she spoke to him?

A. Yes.

50

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Q. What was that?

A. Yes.

Q. Sorry, what was the way, what did you notice?

5 A. Flirtatiousness, playing with her hair, yeah, that kind of stuff.

Q. I want to ask you now about the lock in, those daily lock ins.

A. Yeah.

10 Q. Do you remember what time that would happen?

A. 3 or 3.15pm of an afternoon. Sometimes, if we weren't locked in then, 5, 5.30.

Q. Did you ever see Mr Astill come to those lock ins?

15 A. Several times.

Q. Was he alone at that stage, or did he come with other officers?

A. With other officers.

20 Q. When the other officers left, did Mr Astill ever remain?

A. Yes.

Q. Did you have any interaction with him--

A. Yes.

25

Q. I did pause, but just let me finish. During those time when he remained after the other officers left, did you have any interaction with him during those times?

A. Yes.

30

Q. And what was that? Did he do anything?

A. Yes, he would come to my window, and wink at me, and make a gesture - a gesture for me to lift my shirt up.

35 CROWN PROSECUTOR: The witness, your Honour, if I could describe, has, with both her hands perhaps lightly clasped, knuckles facing upwards, has made an upward movements from below camera screen, so below her neckline, and up towards perhaps shoulder height.

40 HER HONOUR: Yes.

CROWN PROSECUTOR

Q. Did you ever see Mr Astill, during those times after the lock up, interact with H?

45

A. No.

<CROSS-EXAMINATION BY MR TYLER-STOTT

50 Q. I, can you see and hear me?

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A. I can.

Q. Did you witness many interactions between H and Mr Astill?

A. Yes.

5

Q. What sort of frequency, on a weekly basis, did you see them interact?

A. A couple of handful times a week.

Q. And did you ever--

10 A. She would go in and--

Q. I beg your pardon, I interrupted you.

A. Sorry.

15 Q. "She would go", you mentioned?

A. Into his office, clean his office, bend over in his office. We saw him touch her on the bottom several times in the office.

Q. And did you witness H's response to being touched?

20 A. No, not really.

CROWN PROSECUTOR: Your Honour, I object only for abundant caution. I thought the witness said "we saw". I don't know who that refers to, whether it's a personal observation, or--

25

HER HONOUR: Well, you can ask that in re-examination.

CROWN PROSECUTOR: Yes, your Honour.

30 TYLER-STOTT

Q. In the interactions, is it fair to say H didn't appear uncomfortable when dealing with Mr Astill?

A. Correct.

35

Q. You were in the J unit from 15 May 2017 through to 9 November 2018. Is that about right?

A. I believe so. I've - yep.

40 Q. A reasonably lengthy period of time?

A. Yes.

Q. Following your interaction and J's interaction with Mr Astill in the office, did he apologise to you the following day?

45 A. For his performance, yes.

Q. What did he say in particular?

A. That he was sorry because he was on medication that made him unable to maintain an erection.

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<RE-EXAMINATION BY CROWN PROSECUTOR

Q. I, you said, I think, "We saw him touching H". Is that something you saw personally?

5 A. Absolutely.

<THE WITNESS WITHDREW

AUDIO VISUAL LINK CONCLUDED AT 10.41AM

10

AUDIO VISUAL LINK COMMENCED AT 10.44AM

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<GLENN CLARK, SWORN(10.44AM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

- 5 Q. Is your name Glenn Clark?
A. Yes.
- Q. Do you spell Glenn with two N's?
A. Yes.
- 10 Q. And Clark with no E?
A. That's correct.
- Q. Could I just ask, do you have a copy of your statement in the room there
15 with you now?
A. Yes, I do.
- Q. I'll just ask you to do this, or not do this. Please don't refer to the statement
20 unless you're asked to look at it, all right?
A. Yes.
- Q. Are you currently employed as a correctional officer at Dillwynia?
A. Yes, I am.
- 25 Q. What rank are you?
A. A first class correctional officer.
- Q. Have you been working at Dillwynia since December 2014?
A. Yes.
- 30 Q. You're an officer for some years before that elsewhere. Is that right?
A. Yes, that's correct.
- Q. Did you come to know during your time at Dillwynia, another officer by the
35 name of Wayne Astill?
A. Yes, I did.
- Q. When did you first meet him, even roughly?
A. It would've been - would've been shortly after I started work at Dillwynia.
40 So it would've been early 2015.
- Q. Did you ever speak to Mr Astill about his interests?
A. Yeah, briefly. He had an interest in motorcycles, which I do also.
- 45 Q. Did he belong to a motorcycle club called The Southern Cross Cruisers?
A. I believe so, yes.
- Q. Is that something he told you?
A. Yes.
- 50

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Q. Was he your superior officer during the time that he was at Dillwynia?

A. Yes, he had superior rank to me, yes.

5 Q. He was one of a number. Is that right? So he's not the only one above you, but he's one of the officers above you?

A. He's - yes, he's one of the officers that was above me.

Q. Were there ever times or shifts where he was in fact the officer for the time in charge of the jail?

10 A. Yes, numerous times, whenever it was an afternoon or a nightshift, someone of Mr Astill's rank would be in charge of the correctional centre.

Q. Did you come to meet an inmate by the name of H?

A. Yes.

15

Q. Did she arrive, to your memory, in April 2016, that is arrive at Dillwynia?

A. To my recollection, yes.

Q. Do you remember where she was housed?

20 A. In the high needs area, in the protection wing.

Q. Do you recall at one stage she moved to the BIU?

A. Yes, I do.

25 Q. Where did she move from to the BIU?

A. From - from high needs in the protection wing to the BIU, which is short for behavioural intervention unit.

Q. Was that on 29 June 2018 that she moved?

30 A. I believe so.

Q. I want to ask you now about the period around March of 2018. Was there an occasion where Inmate H was paged to the chief's office?

A. Yes, I recollect that.

35

Q. Who was the chief on this particular occasion?

A. Mr Astill.

Q. Did you see Ms H at that time?

40 A. Yes.

Q. Where was that?

A. Outside of the - what we call the high needs office.

45 Q. Did she say anything to you at that time?

A. Yes, she did.

Q. What did she say?

50 A. She told me that she was scared of Mr Astill, and that she didn't wish to attend. I advised her that if she was paged to the boss' office, to take a

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witness with her.

Q. Did she tell you why she was scared and did not want to attend?

A. She told me that she would tell me at another time.

5

Q. At some point later, did H say something else to you about her feelings for Mr Astill; how she felt about him?

A. Yes.

10

Q. What did she--

A. She said that - words to the effect that he disgusted her, that she - she was frightened of him, and that he'd asked her to - invited her to wait whilst he entered an office and returned outside, and then she - she went on from there.

15

Q. Where did that conversation take place?

A. That conversation took place outside of the high needs office.

Q. Who was present for that conversation with Ms H?

A. I was. Myself and Ms H.

20

Q. When you say she went on from there, what did she--

A. Yes.

Q. --tell you on that occasion, Mr Clark?

25

A. She - she said that she'd didn't want to see him, and that she was feeling unwell, and that she retired back to the wing.

Q. Was there ever any conversation about a cup?

A. Yes, there was.

30

Q. Who was that conversation - sorry, I don't mean to talk over you. It's perhaps a bit harder with video mode. How was that conversation between?

A. The conversation was between Inmate H and myself.

35

Q. Where did that conversation--

A. She told me that--

Q. Where did that conversation take place?

A. That conversation took place outside the high needs office.

40

Q. When did that conversation take place?

A. That was April 2018.

Q. Tell us what she said and what you said as though you were her, and you're recounting it as though you're in a play, Mr Clark.

45

A. Right. She said, "Mr Clark, he even got me to drink from a cup". I said, "What do you mean by that?", and she said, "He got one of the red cups, he went - said, 'Wait here', walked inside of the high needs office and returned a short time later and said, 'Here, drink this'". I was unsure what she was talking about. I said, "What do you mean 'drink this'?", and she said, "He said, 'Drink

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this". I said, "What is it?", and she said, "It's his cum". I said, "What do you mean by that?", and she said, "He went and had a wank into the cup and come back and said, 'Drink that'".

5 Q. Did you speak to her having heard that, about what should happen?

A. Yes. I said, "H, this is a very very serious matter. You need to report it. She said, "Mr Clark, I'm not in the right frame of mind at the moment. At the appropriate time I will make a statement, but I'm not willing to at the moment". I said, "In that case, we haven't had this conversation because I can't raise a
10 serious issue like this internally without evidence".

Q. I want to ask you now about June 2018. You told us that on 29 June 2018, Ms H was moved to the BIU?

A. Yes, I believe that's the date.

15

Q. Whilst she was there, did you have any contact with Ms H?

A. Yes, I did.

Q. Did you speak with her when you had contact with her?

20

A. Yes, I did.

Q. What did she say to you, if anything?

A. She said, "Mr Clark, I've - I'm in fear". She was in fear, she said, "He's going to kill me". I said, "Who do - who are you referring to?", and she said,
25 "Astill". She said, "If anything happens to me, can you hand this to the authorities?". She passed me a note. I said, "What is this?", and she said, "They are the dates that he raped me".

Q. Mr Clark, have you retained that piece of paper that you were handed, the
30 note?

A. I did retain it, and I handed it to Detective Sergeant Tessariero.

Q. Did you sign the bottom of that note on 7 September 2020 and date it?

35

A. Yes, I did.

Q. It's got three dates on it. And you've seen that--

A. Yes.

Q. --recently?

40

A. Yes, I have.

Q. Yes?

A. Yes.

45 EXHIBIT #Q COPY OF NOTE TENDERED, ADMITTED WITHOUT
OBJECTION. SHOWN TO JURY

CROWN PROSECUTOR: Your Honour, we don't have jury copies yet of that
50 at the moment.

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HER HONOUR: Maybe the court officer can just hold it up and just walk past the jury. Just hold it up. It's just got dates on it, ladies and gentlemen, three dates.

5 CROWN PROSECUTOR: We'll have copies of that after lunch, your Honour.

Q. After she gave you that note and said that to you, did you say anything back to her?

10 A. Yes. I said, "What is this?". She said, "They are - they're the dates that he raped me. If anything happens to me, at the appropriate time can you pass this on to the authorities?". I said, "Yes. You have my word".

Q. Did she say who he was? Did she mention any name?

15 A. Yes. Wayne Astill.

Q. On 5 October 2018, did you speak to H with respect to Mr Vergo?

A. Yes, I did.

Q. What was said in that conversation?

20 A. My recollection is Inmate H had said to me, "Who - who's Mr Vergo?". I said, "Mr Vergo's the intelligence manager of Dillwynia". H said to me, "Can you trust him?". I said, "Yes, I can". H said, "Would you trust him with your life?". I said, "If it came down to it, yes, I would". H then said to me, "If that's -
25 if you will trust him with your life, that's good enough for me". She then said, "Can you get Mr Vergo, I'd like to make a statement, please?". I then - I left there and contacted Mr Vergo.

Q. Did he come to the BIU after you spoke - after you contacted him?

30 A. Yes, he did. Yes, he did.

Q. And did he speak to Ms H at that stage in an interview room?

A. Yes, he went into the interview room with Ms H. I sat in the wing office where I had a visual of the proceedings, but I couldn't hear it.

35 Q. Did you know an inmate at Dillwynia by the name of K?

A. Yes, I did.

Q. When an inmate is released from the jail, so their sentence is expired, or entering parole, and they're physically living the jail--

40 A. Yes.

Q. --is there any ordinary practice as to who takes them to the gate and sees them on their way, as it were?

45 A. Well, to my knowledge, the normal practice would be that the officer in charge of the centre would escort the inmate to the gate, and then release them into the community.

Q. When you say, to your knowledge, have you been a corrective services officer since 2006?

50 A. Yes, I have. So I believe that would be the correct practice.

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Q. Was there an occasion in October 2018 where you noticed Mr Astill processing an inmate for release?

A. Yes. Yes, I did.

5

Q. Do you remember who that inmate was, or not?

A. No, I don't remember who the inmate was.

Q. Now, when you say processing, or you agree with the word processing, what does that mean?

10 A. He goes through a series of checks and balances with - to do with paperwork upon release. As the reception officer, I issue - I print out and issue a release certificate, which the inmate carries on them in case the police speak to them, parole officer, et cetera. I hand that to the officer in charge, and they
15 normally would then proceed towards the gate for release.

Q. So, when you saw this inmate being processed, was the inmate with Mr Astill?

A. Yes.

20

Q. Did you see that inmate being escorted towards the gate to be released?

A. Yes, to the back gate of the reception area.

Q. Who was escorting that inmate?

25 A. At that stage, Mr Astill.

Q. Who took him--

A. Shortly--

30 Q. Sorry?

A. So, shortly thereafter, through a window, I observed that another officer, a Mr Joshua Gibson, was escorting the inmate to the rear of the gate for release.

Q. Were you able to see Mr Astill when you saw the other officer escorting--

35 A. Not at that time. Shortly thereafter, I looked across and saw the door of the BIU ajar, which I found to be unusual at that time of night, and there was no--

Q. Why was that?

A. Well, there was no reason for that door to be unlocked and open.

40

Q. What time of night are we talking about?

A. Around 7 o'clock.

Q. Just before we go on, that officer who you've seen taking the inmate towards the gate--

45 A. Yes.

Q. --what sort of rank are we talking about, do you know?

A. He would've been a casual correctional officer at that stage.

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Q. How do you mean in terms of rank?

A. Well, the lowest - the lowest rank.

Q. Now, you've told us you saw the door open--

5 A. Yes.

Q. --back at the BIU?

A. Yes. Yes.

10 Q. What did you see, just telling us what you saw and what you heard?

A. I opened the door fully, and I saw a cell door open with a person I identified as Mr Astill, who was standing in the threshold of the cell door. He had one hand on the top of the doorframe, and there was an inmate standing in the cell behind him, who I identified as K. I could - she was trying to look around

15 Mr Astill, and I could see her mouthing to me the words, "Help".

Q. Were you able to see Mr Astill's face as she did that, or not?

A. No. Mr Astill's back was turned toward me.

20 Q. How far away from you was Ms K when you saw her mouthing that word?

A. 5 metres.

Q. Now, just going back a little, you said you opened a door, and you saw, what, another door open?

25 A. Yes, the cell door.

Q. So, which door did you have to open?

A. The external door to the BIU, which was half ajar.

30 Q. Now, those cells at the BIU, there are a number of them on the right hand side as you walk through that external--

A. Yes.

Q. --door, aren't there?

35 A. Yeah.

Q. Do you remember--

A. Cell three.

40 Q. Right, just so we put that in context, was it cell three that--

A. Yes.

Q. --Ms K was in?

A. Yes, that is correct.

45

Q. When you saw her there mouthing that word, are you able to describe her demeanour, how she presented to you at that stage?

A. She appeared to me as being frightened and concerned.

50 Q. What was it that you saw, if anything, that made you think she was

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frightened and concerned? Tell us what you saw.

A. Her body - her body language, and - and the - the fact that she was mouthing "Help" to me.

5 Q. When you say her body language, you saw her mouth the words--

A. Yes.

Q. --did she have any particular facial expression? Did you notice anything about her face at that time?

10 A. Well, a worried look.

Q. After you saw that, did you speak to Mr Astill?

A. Yes. I approached to three - 3 metres, and I say, "Wayne, what the fuck do you think you're doing?" Mr Astill turned towards me, was muttering, I couldn't understand what he was saying, then a short time later, he walked out of the BIU.

Q. After he walked out, did you speak to inmate K?

A. Yes.

20

Q. What did--

A. I - I said - I said, "K, has he done something to you?" And she said, "No. But Clarky, thank Christ you turned up when you did." I said, "What do you mean?" She said, "You know what I mean." And I said, "No, K, has he done" - "has he touched you?" And she said, "No, not yet. But thank Christ that you turned up." I said, "Do you need to go to the clinic, or do you need to speak to someone?" And she was very upset, she was sobbing and crying, and she said, "No, I'll be okay now." When I was satisfied that she was okay, I secured the cell, and then secured the BIU.

30

Q. Did she say anything to you as to any physical movements off--

A. Yeah.

35 CROWN PROSECUTOR: Your Honour, I wish to raise something in the absence of the jury.

HER HONOUR: Well, is there an objection?

TYLER-STOTT: There is, your Honour.

40

HER HONOUR: What's the objection?

TYLER-STOTT: I fear my friend might be leading.

45 HER HONOUR: Leading?

TYLER-STOTT: Yes.

HER HONOUR: Is that as to leading?

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TYLER-STOTT: Yes, your Honour.

HER HONOUR: Right, there you go. Do you need to raise it?

5 CROWN PROSECUTOR: I won't raise it at this stage, your Honour, but that may change.

HER HONOUR: The objection, as I understand it, is as to leading.

10 CROWN PROSECUTOR: Yes, I know, I understand that, your Honour, and I understood that, your Honour.

Q. Apart from what you have told us, did she say anything else to you about Mr Astill at that time?

15 A. Yes, she did. I said, "K, what did he want?" I heard K say, "He wanted a kiss."

Q. Did she say anything else to you about that situation?

20 A. Yes, she also said that he wanted a kiss, and she said - and she reiterated, "Thanks, Clarky, you turned up at the right time." So she appeared to me as though she was concerned.

Q. Was anything said about why she thought he wanted a kiss?

25 A. No, I don't recall.

CROWN PROSECUTOR: Would your Honour excuse me? Your Honour, there is an application under s 38. It may be that your Honour could deal with it without sending the jury out.

30 HER HONOUR: 38 or 32?

CROWN PROSECUTOR: It's 38 again, by virtue of the timing of the particular document.

35 HER HONOUR: Any objection to the application?

TYLER-STOTT: Yes, there is, your Honour.

40 HER HONOUR: Yes, ladies and gentlemen, we might just need you just outside at the moment. Mr Clark, there's just a matter to raise at the moment, so just hold on there.

WITNESS: Thank you, your Honour.

45 AUDIO VISUAL LINK DEACTIVATED

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IN THE ABSENCE OF THE JURY

CROWN PROSECUTOR: Your Honour, on the application I tender a copy of the statement of Glenn Thomas Clark dated 7 September 2020.

5

HER HONOUR: What date was it?

CROWN PROSECUTOR: 7 September 2020.

10 HER HONOUR: Yes, you can approach if you want.

TYLER-STOTT: Is the witness muted, your Honour?

HER HONOUR: Yes.

15

TYLER-STOTT: Thank you.

HER HONOUR: Paragraph?

20 CROWN PROSECUTOR: 35, your Honour. I opened it up. The pages aren't numbered unfortunately. Fourth line of paragraph 35.

HER HONOUR: Right.

25 CROWN PROSECUTOR: "He tried to grab me", he says in the statement. He attributes these words to Ms Ward.

HER HONOUR: He's basically given evidence of everything else except for the words, "He tried to grab me".

30

CROWN PROSECUTOR: Yes, but he's--

HER HONOUR: So how's that fall within 38?

35 CROWN PROSECUTOR: Because he's given evidence that she didn't say anything else about that.

HER HONOUR: He can't remember saying anything else, he said. "I don't recall" or "I can't remember if she said anything else".

40

CROWN PROSECUTOR: I must say I took it that it was clearer than that. No doubting your Honour's note, but I just--

HER HONOUR: Well, does it take it that much further in any event?

45

CROWN PROSECUTOR: Well, it does. Why I want it is because this--

HER HONOUR: I know that, but you might to a certain degree. It's complaint evidence.

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CROWN PROSECUTOR: It is. Your Honour, of course, is quite right.

5 HER HONOUR: I mean, s 38's not there for the Crown to get every aspect of the statement in on the basis that he might forget something, or that he doesn't say everything that's contained within the statement. It has to fit within - it's not a prior inconsistent statement.

10 CROWN PROSECUTOR: No, it's not. I accept that now. Sorry, your Honour. I accept he says he doesn't recall. I might leave it, your Honour.

HER HONOUR: Okay.

15 CROWN PROSECUTOR: Perhaps an informal way of saying I'm abandoning the application.

HER HONOUR: Okay. Withdraw the application. Yes. I might mark it MFI, Mr Crown.

MFI # STATEMENT OF GLENN CLARK DATED 07/09/20

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IN THE PRESENCE OF THE JURY

5 HER HONOUR: Yes, thank you, ladies and gentlemen, we'll resume with the evidence of Mr Clark, and I understand the Crown has withdrawn their application.

AUDIO VISUAL LINK ACTIVATED

10 CROWN PROSECUTOR

Q. Mr Clark, you told us that you asked her if she wanted to go to the clinic, and you said she said, "No, I'm okay"?

A. Yes, that's right.

15 Q. Was that the end of that meeting with her?

A. Yes, it was.

Q. Around late 2018 did you become aware that Mr Astill was suspended from duty at Dillwynia?

20 A. Yes, I was aware of that.

HER HONOUR: What date was that, Mr Crown?

25 CROWN PROSECUTOR: It's simply late 2018, your Honour.

Q. In early 2019, did you become aware that Mr Astill came back to work at the Dillwynia centre?

A. Yes, I was aware of that.

30 Q. On 13 February 2019, did you speak with Mr Astill about particular inmates?

A. Yes, I did.

Q. Where did you have that conversation?

35 A. The conversation was between Mr Astill and myself at his request in the reception room, or the reception office. I - I attended there and spoke with Mr Astill at his request.

Q. Was there anybody else present at that time, Mr Clark?

40 A. No.

Q. What was said in there? Did he say something to you, or ask you something?

45 A. Yes. He - he said to me, words to the effect, he said, "I've figured it out. It's that fucking H, isn't it?". I said, "Wayne, what are you talking about?". My recollection Mr Astill said to me, "Have you ever had any dramas at all with her?". My reply was, "No, I never have". And he said, "She grabbed me on the cock, and said, 'When I get out of jail, I'd like to have another baby'". I said, "Wayne, I've never had any drama with an - with that inmate, or any other inmate". I then said to him, "Have you reported this matter?", and he said,

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"No". I then left that office and returned to my normal duties.

Q. Do you know a gentleman by the name of Adam Schreiber?

A. Yes.

5

Q. Was he at that time operating as the governor of the jail?

A. Yes, he was.

Q. Did you speak to Governor Schreiber shortly after you had that conversation with Mr Astill?

10

A. Yes, I did.

Q. A few days after that conversation--

15 HER HONOUR: Which conversation? With Schreiber or with the accused?

CROWN PROSECUTOR: Sorry, your Honour. I'll clarify.

Q. A few days after the conversation that you had with Mr Astill at reception, did you speak to him again at Dillwynia?

20

A. Yes, I did.

Q. Did you become aware at some stage that he was arrested by the police?

A. Yes, I did.

25

Q. Are you able to say whether this conversation took place before Mr Astill was arrested or not?

A. It was before.

30 Q. What did he say to you?

A. He said to me, he said, "Mate, I've figured it out". He said, "It's that fucking K, isn't it?", and I said, "Wayne, what are you talking about?".

Q. Just stop you there.

35

A. Yes.

Q. Where did this conversation take place?

A. This conversation took place in the car park of the Dillwynia Correctional Centre, about 3.40pm after work.

40

Q. I interrupted you. Go on, "I figured it out" you said. He mentioned K. What was said?

A. Yeah, he said - and I said, "What are you talking about?", and he said, "Mate, that's who it is". He said - and I heard Mr Astill say, "That night in the BIU", and I said, "Wayne, what are you talking about?" He said, "Good on you, mate", and I walked away, that was the end of the conversation.

45

Q. Now, when he said, "Good on you, mate"--

A. Yeah.

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Q. --after you said, "What are you talking about"--

A. Yeah.

Q. --did you see his face, did you notice any particular facial expression?

5 A. The facial expression appeared to be one of relief. One that - okay, I - so you've done nothing about it. That was the impression I - I had from Mr Astill.

Q. Now, you had this conversation, you said, in the carpark. How did that come about, that you were in the carpark talking to him? Why were you there talking to him?

10

A. Mr Astill had contacted me earlier in the day via telephone and asked to speak to me after work in the carpark, as he believed that he was being watched.

15 Q. Did he say that?

A. Yes, he did. He said, "I think they're watching me."

Q. After that phone call where he said he wanted to speak to you in the carpark, but before you had the meeting in the carpark that afternoon, did you report to Governor Schreiber the fact of this meeting?

20

A. Yes. Yes, I did.

CROWN PROSECUTOR: Excuse me, your Honour. That's examination in chief of this witness, your Honour.

25

HER HONOUR: Cross examination?

TYLER-STOTT: Your Honour, bear with me a moment.

30 HER HONOUR: Yes. That's examination in chief, Mr Clark. Mr TylerStott for the accused will now cross examine, okay?

WITNESS: Yes.

35 <CROSS-EXAMINATION BY MR TYLER-STOTT

Q. Mr Clark, I'll suggest to you that Mr Astill did not have a conversation with you about Ms K after work at 3.40pm.

A. That is not correct.

40

Q. The only conversation he had with you was concerning H?

A. No, that's not correct.

Q. Did you make a note of the conversation that you had with him regarding Ms K?

45

A. Yes, I did.

Q. Did you provide that to anyone?

A. No, not at the time I didn't.

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Q. What about concerned Ms H?

A. No, not at the time.

Q. Do you have it with you, the note that you made regarding Ms K?

5 A. I believe it'd be with my statement here.

Q. If you can dig it out, if you wouldn't mind? Did you find it, sir?

A. Yep, the conversation with Mr Astill and myself, with H, that conversation?

10 Q. No, I'm talking about the one with Ms K.

A. With Ms K. No, I can't see it here, I'm sorry.

Q. Sir, that conversation didn't happen. That's why it's not there.

15 A. I disagree. The conversation did happen.

NO RE-EXAMINATION

HER HONOUR: Yes, Mr Clark, thank you. That concludes your evidence for today.

20

WITNESS: Thank your Honour.

HER HONOUR: Thank you very much for making yourself available.

25 WITNESS: Thank you.

<THE WITNESS WITHDREW

AUDIO VISUAL LINK CONCLUDED AT 11.24PM

30

CROWN PROSECUTOR: Your Honour, if it's an appropriate time, I now have copies of the exhibit, if they could be distributed.

HER HONOUR: Yes. That's exhibit Q, ladies and gentlemen, we'll just hand those out.

35

CROWN PROSECUTOR: Thanks, Madam Court Officer.

HER HONOUR: That was Mr Clark's evidence that H gave him this note.

40

CROWN PROSECUTOR: Your Honour, I note the time. I do have another witness ready to go.

HER HONOUR: Yes. Well, we did start late. If there's a witness there, let's utilise them.

45

CROWN PROSECUTOR: Yes.

HER HONOUR: Ladies and gentlemen, you're all okay? We did start a little bit late today, so let's utilise the time.

50

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578

CLARK XXN WD

VIQ:SND

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CROWN PROSECUTOR: Yes, your Honour.

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579

VIQ:SND

D10

<MARK WILSON, SWORN(11.26AM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

- 5 Q. Sir, is your name Mark Wilson?
A. That's correct.
- Q. Have you been with corrective services New South Wales since 2006?
A. That's correct.
- 10 Q. Was there a time where you worked at Dillwynia Correctional Centre?
A. That's correct.
- Q. Are you still working there?
15 A. I am.
- Q. I want to ask you about an occasion in January 2016. Was there a particular occasion where you were working with Officer Clark?
A. Yes, that's correct.
- 20 Q. Did you start working on that day at 2.30pm?
A. Yes, that's the start of the shift.
- Q. What time was lockdown?
25 A. Approximately 3.30.
- Q. And who was the senior officer on for that shift?
A. It would've been Mr Astill.
- 30 Q. Did you go to the high needs area to send an inmate to the clinic?
A. Yes.
- Q. Now, was that inmate coming from K unit?
A. Yes. Yes, that's right.
- 35 Q. Whilst you were walking the inmate from K unit, did you see Officer Astill?
A. Yes, we did.
- Q. Where was he?
40 A. He was heading around to the rear of J unit, the protection unit.
- Q. Was he with anybody?
A. No.
- 45 Q. Did he go out of your sight?
A. Yeah, yes, that's right.
- Q. How long after that did you next see him?
50 A. Ten, 15 minutes, tops.

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580

WILSON XN

VIQ:SND

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Q. When you saw him going to that place, was he alone at that time?

A. Yes.

Q. Was there any particular procedure about officers going alone there, or--

5 A. Well, we shouldn't - shouldn't go to units on our own.

Q. Did you speak to Mr Astill at that time about what he was doing?

A. We spoke to him when he came out, and he said he'd gone up to check the lock on the back door.

10

Q. Now, so far as locking up doors in jails, is there a particular procedure as to making sure that the locks properly locked?

A. Yeah, we had one of - rolling, like, lock in where several officers go round, one checking, so we don't leave doors open.

15

Q. One locks and one checks?

A. Yeah.

NO CROSS-EXAMINATION

20

HER HONOUR: Thank you very much, Mr Wilson, for your lengthy evidence.

WITNESS: Thank you.

25

HER HONOUR: You're free to go.

WITNESS: Thank you so much.

<THE WITNESS WITHDREW

30

CROWN PROSECUTOR: Your Honour, the next witness I anticipate calling is S. I just need to check--

HER HONOUR: Yes, okay. You need the morning tea?

35

CROWN PROSECUTOR: Please, your Honour.

HER HONOUR: Yes, okay. Ladies and gentlemen, just, if you'd like to go out for morning tea now, we'll resume in, say, 15 minutes. Thank you.

VIQ:SND

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IN THE ABSENCE OF THE JURY

HER HONOUR: Yes, so how long do you think you'll need?

5 CROWN PROSECUTOR: Your Honour, the last update we got, which was about 20 minutes ago or so, was the estimate was that the hearing would finish about midday. Depending if she comes first or second, it may be she's required after that. I don't know what the matter's about, but--

10 HER HONOUR: Who else is to give evidence?

CROWN PROSECUTOR: After that, we've got Ronald Brumwell.

15 HER HONOUR: Well, is there anyone else who can fill in before that, I suppose, is what I'm asking.

CROWN PROSECUTOR: No, we're up to Ronald Brumwell, who's coming from the UK at 2pm.

20 HER HONOUR: That's not Scott Brumwell? I must have written that down wrongly. What's his name?

CROWN PROSECUTOR: Ronald Brumwell. Ronald Scott Brumwell.

25 HER HONOUR: Ronald Scott Brumwell, right. And anyone else after him this afternoon?

CROWN PROSECUTOR: No. His wife was going, but she's not required now.

30 HER HONOUR: Right. FF

CROWN PROSECUTOR: FF is not required. Deborah Gayner, your Honour might have her on the list. She's not required.

35 HER HONOUR: Who's left?

CROWN PROSECUTOR: Governor Schreiber. Mr Vergo. Police. Ms A, subject to availability.

40 HER HONOUR: You mentioned a Dr Nislam and Corville.

CROWN PROSECUTOR: Yes. There are going to be some agreed facts about that evidence, your Honour.

45 HER HONOUR: All right. And the OIC?

50 CROWN PROSECUTOR: The OIC who is now Palmer, and Cambridge is no longer a police officer, he was the officer in charge originally, he's going to be giving some evidence.

VIQ:SND

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HER HONOUR: Shari Martin?

CROWN PROSECUTOR: No.

5

HER HONOUR: Okay. So when do you expect to close the Crown case?

CROWN PROSECUTOR: Probably Monday, I think, your Honour.

10 HER HONOUR: All right.

CROWN PROSECUTOR: Well, maybe Monday, Tuesday. Certainly, all things going well, not late next week. Before late next week.

15 HER HONOUR: Okay. Right, then. So, what do you want me to do?

CROWN PROSECUTOR: Could we advise as soon as we get an update? I don't know if the court officer can get a message through to your Honour, or an email to your Honour's associate, that advises to how we're placed. I can only
20 crack the whip so much.

HER HONOUR: Okay.

SHORT ADJOURNMENT

VIQ:SND

D10

IN THE PRESENCE OF THE JURY

AUDIO VISUAL LINK COMMENCED AT 12.26PM

5 < S, SWORN(12.26PM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

Q. Is your name S?

10 A. Yes.

Q. Are you currently an inmate in New South Wales corrective services?

A. Yes, I am.

15 Q. Ms S, have you previously been housed at Dillwynia Correctional Centre?

A. Yeah.

Q. Did that include 2018? Were you there during 2018?

A. Yes, I was.

20

Q. At that time, whereabouts in the jail were you being kept?

A. I was in medium needs and high needs.

Q. Did you know an officer there by the name of Mr Astill?

25 A. Sorry, what was that?

Q. Did you know an officer there by the name of Mr Astill?

A. Yeah.

30 Q. Did you know what rank he was?

A. He was a senior, as I believe.

Q. Were you aware of what sort of decisions he could make as a senior?

A. Yeah, I was.

35

Q. What sort of decisions did you understand he was able to make?

A. He was able to make most decisions in jail, where people were placed, where - all - pretty much all decisions in the jail.

40 Q. In 2018, were you working in the jail?

A. I was working in BIAPS.

Q. Did you ever go to the low needs office during that time, 2018?

45 A. Only in the times that Mr Astill asked for us to go there, in the occasions that I've stated.

Q. Did your role in BIAPS require you to go to Mr Astill's office or not?

A. Sorry?

50 Q. Did you need to go to Mr Astill's office because of your job in BIAPS?

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VIQ:SND

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A. No.

Q. So, where did you work when you were in BIAPS? Where were you based and what did you do?

5 A. So it was basically just sort of outside the - a bit off the jail. It was still in the jail, but a bit off the jail. I don't know how to explain it.

Q. When you went to Mr Astill's office, do you remember any particular occasions as to why you had to go down there?

10 A. So, I was told to clean the office.

Q. Did you have any job there which required you to clean, or not?

A. No, I didn't.

15 Q. Are you able to say, during your time at Dillwynia, on how many occasions you went to Mr Astill's office, even roughly?

A. Roughly, it would've been about four times, to see Mr Astill down in that office.

20 Q. Did you know an inmate by the name of N?

A. Yes, I did.

Q. Was she the head of hygiene among the inmates?

A. Yes, she was.

25

Q. Was that a cleaning role?

A. Yes.

Q. When asked to go to clean, did you in fact ever clean Mr Astill's office?

30 A. On one occasion.

Q. I want you to tell us about that occasion. Was there anybody else there when you went to clean it on that occasion?

A. N.

35

Q. Was Mr Astill there?

A. He was. So I only cleaned that office - N was cleaning at, like, both times that I went down - I went down there four times. The first two times I didn't clean at all. I just sat there and we spoke. Me, Mr Astill and N ourself -

40 herself.

Q. I'm sorry to cut you off, Ms S, but just dealing with those first two times. What did you speak about?

A. Well, I actually didn't remember who he was from 2016. Apparently he said that he remembered me from a previous jail sentence. I didn't remember him because there's so many officers. I didn't actually remember him. I was quite young back then. Yeah, I didn't remember. He would ask how I've been, what I've been up to, comments that I looked good, commented, asked me about my life, really, and what I'm doing back in there. Yeah, just basic

50 conversations like that.

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VIQ:SND

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Q. So that was the first couple of times. I want you to go the third time you went there. Did something happen on the third occasion?

5 A. Yeah. The third time that I went there, he was sitting on a chair with his legs up on the table. Where me and N were sitting on the other side of the table. Were speaking to him in general conversation. N went out to clean just outside the door, and I was still sitting there. He came and sat himself on the table right in front of me--

10 HER HONOUR: Mr Crown, can you just wait one second, please.

CROWN PROSECUTOR: Pause there, Ms S

15 HER HONOUR: Just in relation to the recording. We record the complainant's giving their evidence, ladies and gentlemen, and apparently the recording isn't very good at the moment. It's hearing Ms S, but the colour is a bit difficult to ascertain. So I think it might be important to have that recorded properly. Five
20 minutes I think it will take, ladies and gentlemen. I might just have you go into the waiting room.

VIQ:SND

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IN THE ABSENCE OF THE JURY

SHORT ADJOURNMENT

5 CROWN PROSECUTOR: Does it need to go back at all?

HER HONOUR: No. It just had a green line down the bottom. We could've really batted on, but anyway, it was a green line that was distorting the picture.

10 CROWN PROSECUTOR: Best it's raised.

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VIQ:SND

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IN THE PRESENCE OF THE JURY

HER HONOUR: Yes, it seems we've fixed it, the problem's been fixed. Well, I didn't fix it, the IT people fixed it, so we're ready to go. Ms S, can you see and
5 hear me?

WITNESS: Yeah, I can.

HER HONOUR: Okay, we'll continue on with your evidence. Yes, thank you,
10 Mr Crown.

CROWN PROSECUTOR: Thank you, your Honour.

Q. Ms S, just before I continue, can I just check, do you have a copy of your
15 statement in the room with you?

A. I do.

Q. I wonder if you'd do me a favour? Just so you're not distracted by it, would
20 you just put it to one side so you can't look at it?

A. Yeah, that's fine.

Q. Thank you. Ms S, before that break, you'd just told us that you'd been in
the office, N went out, and you'd got to a point, I think Mr Astill came over, you
25 said he sat. Where did he sit?

A. He sat directly in front of me. I was on a chair, and he sat directly in front of
me on a table - on his table.

Q. What distance was he from you?

A. He was pretty much - he was very close. He pretty much could touch me,
30 like, while he was sitting there.

Q. What did you do? Did you stay there at that stage, or not?

A. I did just sit there at that stage, yes.

35 Q. And what happened? Just tell us what happened from there.

A. So, he was - he was talking. I can't remember exactly what he said when
he sat right in front of me, but he was talking. I knew it was inappropriate, so I
did get up to walk away, and as I walked away, he's pulled me back. I did just
40 freak out, like - when I get nervous and feel uncomfortable, I do just freeze, so
I did just freeze, and he did have me, like, in a bear hug. Yeah, and I was sort
of really uncomfortable. I was - not knowing what was going on. Like, I knew
what was happening, but I just - I was spinning out, and he was - he was just
talking to me as he was hugging me, asking me if I'm shy, and I was trying to
45 wriggle out of that bear hug. I was in the bear hug for a couple of minutes until
I could finally get out of it. It was quite firm, his hug, so - yeah. And then I
walked outside to N at that stage.

Q. Now, this hug, from what angle was he to you? Where was he in relation
to you when he hugged you, that is, in front, behind, side on?

50 A. So - so he was sitting on a desk, on the desk, and I was - yeah, he was

VIQ:SND

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sitting on the desk, and I was in a bear hug, so - yeah. I was looking at the door, so I was pretty much faced to the door, so my back was on his stomach, if that makes sense.

5 Q. Were you able to feel anything in particular when he had you in that bear hug you described?

A. When I started wriggling out, I did start wriggling out of that bear hug, cause I did start feeling him - his erection coming on. That's when I freaked out and starting wriggling out of it.

10

Q. When you say you started feeling his erection coming on, just tell us, what exactly did you feel?

A. Something hard on the back of my back, and it was his penis.

15 CROWN PROSECUTOR: Your Honour, this is dealing with the evidence relied upon by the Crown as count 49 on the indictment.

HER HONOUR: Yes.

20 CROWN PROSECUTOR

Q. How long did you remain in that bear hug, Ms S?

A. For the whole time? Like, a couple of minutes, it was. It was possibly - it was probably about a minute until his - I could feel the erection come on.

25 That's when I started wriggling out of the bear hug.

Q. When you started wriggling out, did you get out of the hug, or did he let you go, or what happened? How did it end?

30 A. At - it was - it was quite firm, and he is a big man, so - at the start, I thought he'd let go, shy away, but he - he didn't, he was - it was very firm until I pushed quite hard and got out of it.

CROWN PROSECUTOR: Now, you've just indicated "pushed quite hard".

35 Your Honour, if this is a fair description, with both hands open and palms facing camera, a pushing motion jutting outwards.

HER HONOUR: Yes.

CROWN PROSECUTOR

40

Q. When you say you pushed out, you've indicated you pushed forward, is that right?

A. That's right.

45 Q. When you pushed forward, how was he positioned at that stage?

A. His arms were like this around me, so I pushed his arms from me.

HER HONOUR: You made a circular motion with your arms held out. Yes.

50 CROWN PROSECUTOR

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Q. Where did you go from there?

5 A. I walked out to the next room where N was cleaning, and literally for 30 seconds I grabbed a cloth to pretend I was doing something, and then I said, "Let's go".

Q. Did you tell anyone what had happened at that stage, Ms S?

A. No.

10 Q. Just tell us why didn't you tell anyone at that stage?

A. Because I - I not told anyone in custody, no I hadn't told anyone in custody, because I don't have friends in custody or family or anyone I can trust in custody. But I did tell my partner of that at that time.

15 Q. I want to ask you now about a few days later. Was there another occasion a few days later where you went to Mr Astill's room?

A. Yeah.

20 Q. Just so we're clear. Where was this office, what section of the jail was this?

A. The same place, low needs.

Q. So it was all low needs?

25 A. All low needs, yes.

Q. What caused you to go back to Mr Astill's room a few days later, Ms S?

30 A. Because - because of his ranking really, of how high he was, and because I was asked to be - like, I was asked to do something, so in jail we get punished if you don't do what the officers do tell you to do.

Q. You said you went there because you were asked to do something. What were you asked to do?

A. Clean.

35 Q. Did you go there with anybody else?

A. N.

Q. When you went there, did you see Mr Astill?

40 A. Yes.

Q. Was anything said when you walked in?

A. When I walked into the office?

Q. Yes.

45 A. Just general conversation. But really with him and N, not - not really myself.

Q. Did you go outside after that initial discussion you've told us about. Did you and N go outside his office?

50 A. Outside his office to clean?

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D10

Q. Yes.

A. Yes, we did, we did clean, yes, that time until - until he called me back in the office while cleaning.

5

Q. When he called you back in, what did you do?

A. I went back into the office.

Q. When you went back in, was there anybody in the office?

10 A. Just himself.

Q. Did he say anything to you at that time?

A. He - he was - yeah, he was saying things. Just general conversation again, and why am I shy, and what am I in jail for, blinking his eye, blowing kisses, yeah.

15

Q. Was there an occasion where you saw some tobacco?

A. Yes.

20 Q. Was that something that happened on this occasion?

A. It was the last occasion, yes, after the - yes, it was the last occasion.

Q. What happened there?

A. So, now thinking about it, he had it in his boot and because of the last occasion, I - I don't - fuck, I'd say it was some sort of bribe, trying to bribe me with--

25

Q. I'm sorry to cut you off, but just there's rules about--

A. Of course.

30

Q. I'm just asking you now, what did you see and what did you hear about that?

A. I seen tobacco in his boot, and he told me that he's got tobacco there, and do I smoke.

35

Q. What happened then, Ms S?

A. Again I started feeling really uncomfortable, and I went to walk out of his office, and he's pulled me back by my arm. He has again held me quite firm, and rubbed himself up against me, kissing my neck, whispering things in my ear. I couldn't even tell you what he was whispering. Yeah, telling me that I look good, and he was saying that. He's telling me I look good as well as whispering things. He's rubbed himself up against me, and put his - his hands up my top and down my pants. Again, I could feel an erection against my back.

45

Q. How was he holding you on that occasion?

A. The same way he was holding me last time.

50 CROWN PROSECUTOR: Your Honour, this is evidence dealing with count 50 on the indictment.

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Q. Did you say anything to him when that was happening?

5 A. Both times I did go to walk out because I knew it wasn't right what he was doing. It was really uncomfortable. I did say to him, "What are you doing?", and that's when I got the response, "Are you shy?". As I said, he was mumbling things, I couldn't really understand what he was saying. I did - I did continuously ask him what he's doing. Like, why are you doing it.

10 Q. Did anything happen to bring that to an end? How did that stop, that occasion?

A. I sort of - like I was trying to get out of it. Also I yelled quite loud so that N could hear.

Q. What did you yell?

15 A. I - like when I was talking to him, I yelled quite loud to stop and basically, what are you doing, like just so that N who was just outside the door would be able to hear because the door was slightly open at that time.

Q. Did he respond when you yelled?

20 A. Did who, sorry?

Q. Did he respond in anyway to your yelling, Mr Astill?

25 A. Yeah, he - he did - he had a word he used to say, and I can't remember what he used to say. Inhouse voice, that's right. And I did not write that in my statement. But he did used to say, "Use your inhouse voice", and he used to say that on a number of occasions.

Q. Inhouse voice. Is that what you said?

30 A. Yep.

Q. Did you see his state of dress at any stage, his clothing?

A. His clothing was - well, the officers are usually all the same. So the pants with his top with his stripes on.

35 Q. Did Mr Astill's state of dress change at any time during your time in that room?

A. Yeah, he used to have his shirt tucked out.

Q. Tucked out?

40 A. Of his pants.

CROWN PROSECUTOR: There might've been a little glitch there, your Honour.

45 Q. What was tucked out of his pants, Ms S?

A. His shirt, because usually have them tucked in, but his shirt was tucked, like, out of his pants.

Q. Did you see how that came to happen, or not?

50 A. No, I couldn't tell you, no.

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Q. Did you see whether his shirt remained tucked out, or not?

5 A. It was tucked out, but where - because I only noticed that it was tucked out when we were going to leave the office, he was fixing himself up. So that shirt was tucked.

Q. Do you remember even roughly what time of day it was, that last time?

10 A. It was definitely in the afternoon, because we finished buy up at 1.30 sometimes. So it was definitely after work.

Q. The time before that, that third time you went there, and the first time you told us about the bear hug, do you remember what time of day that was?

15 A. So I work at buy up, so it'd have to be the same sort of time, roughly around 2, 2.30, possibly, yep.

Q. After that fourth visit, the second time he'd touched you, did you go back to clean the office any more times after that?

A. No.

20 Q. Were you asked to go back to clean the office?

A. I think that last time he knew that--

Q. That's all right, I'm sorry to interrupt you, but I'm just asking you after that time, were you asked after that time, if you remember. Were you asked after that time to clean his office ever again?

25 A. I actually don't remember, because he was going on holidays.

Q. Did you ever see Mr Astill after the pill time?

A. Yes.

30

Q. Is that known as a pill parade?

A. Yes.

Q. Was there a set time for pill parade?

35 A. So, it's roughly - if it's the same as now, it's roughly 7 o'clock, 7.30, once they get around.

Q. Can you describe the medium house. How many bedrooms does it have?

40 HER HONOUR: Is that relevant?

CROWN PROSECUTOR: Yes, because it's relevant to what's about to come, your Honour. It's to set the scene.

45 WITNESS: Nine. Roughly nine.

HER HONOUR: I note the time, Mr Crown.

CROWN PROSECUTOR: Yes, your Honour.

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AUDIO VISUAL LINK DEACTIVATED

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VIQ:SND

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IN THE ABSENCE OF THE JURY

LUNCHEON ADJOURNMENT

5 CROWN PROSECUTOR: Not to hold up the jury, your Honour, but I'm just going to indicate, as I said to my friend I would. When we come before too long to the witness, Ronald Scott Brumwell, known as Scott, there is a particular part of that evidence which I'm going to lead him to a point, and there's a reason for that, because I'm going to be curtailing some of the
10 evidence I lead from him. We're agreed that the safest way for that to be done is--

HER HONOUR: Leave.

15 CROWN PROSECUTOR: --with ..(not transcribable)..your Honour.

HER HONOUR: Are we finishing off S first?

CROWN PROSECUTOR: Yes, indeed.

20

HER HONOUR: And that's it for the day?

CROWN PROSECUTOR: Yes, after Brumwell, yes.

25 HER HONOUR: This would be a closed Court.

VIQ:SND

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IN THE PRESENCE OF THE JURY

HER HONOUR: Yes, Mr Crown.

5 CROWN PROSECUTOR: Your Honour, I should indicate there's a lady in the back of the Court who's a witness assistance support person. I wonder if she could remain during the evidence of--

10 HER HONOUR: In relation to the complainant's evidence?

CROWN PROSECUTOR: In relation to the complainant's evidence.

HER HONOUR: Yes. We'll continue with the evidence of S.

15 AUDIO VISUAL LINK ACTIVATED

HER HONOUR: You're on your former oath. The promise to tell the truth, okay?

20 WITNESS: Yes.

CROWN PROSECUTOR

25 Q. Ms S, before lunch I just asked you about the medium needs house, and you told us it was a place with nine bedrooms. Was there a common room in there as well?

A. There is, yes.

30 Q. Is there a glass pane or window in the common room?

A. So there's a common room, which is a lounge room, where there was a lounge room, plus a kitchen coming off that, plus down at the end of the hallway is like a balcony, maybe even would say veranda.

35 Q. Did you ever see Mr Astill after pill time in that medium needs part of the jail?

A. Yes, I did.

Q. Did he ever speak to you there?

40 A. He did, but not for too long.

Q. Was there anybody else he spoke to that you remember in that part of the jail at that time of day?

A. It was actually of a night time. It was me and N he was calling.

45 Q. You told us earlier the pill time or pill parade, what time of night was that?

A. So, it started at 7 o'clock, but by the time they go around a whole jail, it roughly - they'd get to us in medium needs, all different times, but roughly around 7 to 8 o'clock, in between those times.

50 Q. Ms S, did you report this to the authorities, to anyone at the jail, or the

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police at the time?

A. No.

5 Q. Did the police come and speak to you at sometime and ask you whether anything had happened?

A. They came numerous times to come and see me. They came in that year to my place when I just got out of custody. They came to my house. They came to me at Dillwynia. They also came to me at Marywade. They also came to me again at Silverwater, and they came numerous times, yes.

10

Q. Did you provide them with a statement until recently?

A. Not until recently.

Q. Why is that?

15 A. Well, my daughters are now 14 and 16 and for that to happen to any of my kids, any of my daughters, like I wouldn't know what to do honestly. It's not right, and I feel that if other girls are in that situation, there needs to be - something needs to be done with that.

20 <CROSS-EXAMINATION BY MR TYLER-STOTT

Q. Ms S, if I can please go to the first incident you say that Mr Astill grabbed you. You described it as a bear hug. Is that correct?

A. Yep.

25

Q. He had his arms around the front of you. Is that right?

A. Yes.

30 Q. Where did his arms sort of cross on your body. Was it upper body, lower body, are you able to say?

A. Like my stomach, where my bellybutton is.

Q. Around your stomach. How long did his arms remain there for?

35 A. It felt like it was a long time to me. So it did feel like two to three minutes, like quite a while, and to have someone have you like that is quite a long time, two to three minutes.

Q. It was only through your physically pushing him that his grip broke on you. Is that correct?

40 A. Yeah, the harder I got, yes.

Q. When you were giving your evidence, you indicated a push, sort of out the front of you. Would you agree with that?

A. Yep.

45

Q. As opposed to pushing downwards, where his arms would've been?

A. Yeah, no push - yeah, I pushed, yeah. His arms were here, and I pushed his arms off me.

50 Q. So your hands are around stomach level, and you're pushing with both palms facing outwards?

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- A. Yep. That's right.
- Q. Was he seated or standing?
A. Basically half half. He was sitting at the edge of his table. So, I don't know,
5 can you imagine yourself sitting on a table, and he was half standing, half leant
on the table.
- Q. You've given evidence about feeling his erection on your back.
A. That's correct.
10
- Q. Was he seated or standing when that occurred?
A. His bum was on the table, sitting, but it was - he was sort of, like, half half, if
you--
- 15 Q. Where were his knees if you're able to describe?
A. His knees?
- Q. Yes, or his legs. Could you feel where they were or see where they were?
A. They were out - like, I was in between his legs pretty much.
20
- Q. Did you feel the desk on your body?
A. No, I - no, no, I couldn't.
- Q. Are you fairly confident that the - when you felt his erection, it was on your
25 back?
A. Definitely, yes.
- Q. Anywhere else?
A. On my back and like my bum, my bottom, yeah.
30
- Q. So it changed? Your position changed, did it?
A. My tailbone, my tailbone, that's where it was.
- Q. Where was N when this first occasion, this first bear hug was taking place?
35 A. She was out cleaning.
- Q. She was out cleaning, you said?
A. Yes.
- 40 Q. Did you speak to her about what had happened with you?
A. No, I didn't, no. But I felt like she - the second time may have heard me
scream.
- Q. You screamed, did you?
45 A. Yeah, I screamed so that I could get out of his arms the second time, yes.
- Q. On the second occasion, not the first?
A. The second occasion, I yelled, not screamed, but I yelled quite loudly so
that N could hear me, just a "Stop. Stop", and I asked him what he was doing.
50

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Q. Did you see where N was when you eventually got out on the second occasion, if I can skip forward?

A. When I eventually walked out?

5 Q. Yes.

A. She was cleaning the next room.

Q. The door was open, is that correct, to the office?

A. Just slightly open.

10

Q. Was there anyone else around other than N?

A. No.

15 Q. Did you talk to N about what had happened after the second occasion that you say Mr Astill touched you?

A. I felt like she knew. She had known maybe the second time, but I'm - I'm really uncomfortable talking about things like that, so I didn't have a full conversation in what had happened, no.

20 Q. So the answer is no, you didn't. Is that correct?

A. Not - no, I didn't.

Q. Ms S, Mr Astill didn't offer White Ox or tobacco to you, did he?

A. No, he did.

25

Q. He didn't touch you in the way you've described on the first occasion?

A. Sorry?

30 Q. He didn't touch you in the way you've described on the first occasion, the bear hug, the erection?

A. He did. No, he did.

Q. I know it appears confusing. I'm just asking you to agree or disagree or elaborate if you wish.

35 A. He definitely did.

Q. On the second occasion, I'm going to suggest to you--

HER HONOUR: He definitely did, she said.

40

TYLER-STOTT: I beg your pardon, your Honour?

HER HONOUR: You just spoke over her. She said, he definitely did.

45 TYLER-STOTT: Yes.

Q. On the second occasion, I'll suggest to you that that didn't happen either; the bear hug, you having to struggle to get out of his grip?

A. No, it did happen.

50

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Q. Ms S, you're in Court today for something else. Is that correct?

A. Yes.

Q. I beg your pardon?

5 A. I am.

Q. And you are pleading guilty as I understand it to a break, enter and steal. Is that right?

A. That's correct.

10

Q. On your record, you've accepted responsibility for over 60 frauds. Is that correct?

A. Yes, I have.

15 Q. You've also accepted responsibility for around eight occasions where you've taken property from houses. Is that correct?

A. Not from houses, but from a storage unit, yes.

Q. So that's on about eight occasions. Is that right?

20 A. That's right, yes.

Q. I'll just suggest to you that nothing improper ever occurred between yourself and Mr Astill?

A. It definitely did.

25

NO RE-EXAMINATION BY CROWN PROSECUTOR

AUDIO VISUAL LINK CONCLUDED AT 2.23PM

30 <THE WITNESS WITHDREW

CROWN PROSECUTOR: Your Honour, the next witness is Ronald Brumwell. He'll be dialling in on AVL from United Kingdom, Bedfordshire.

35 AUDIO VISUAL LINK COMMENCED AT 2.23PM

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<RONALD SCOTT BRUMWELL, SWORN(2.24PM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

- 5 Q. Is your name Ronald Brumwell?
A. Ronald Scott Brumwell, yes.
- Q. Were you previously employed as a corrections officer at the Dillwynia Correctional Centre?
10 A. Yes, sir.
- Q. What rank did you attain in those duties?
A. Just a standard prison officer, first class.
- 15 Q. Did you meet Mr Wayne Astill at Dillwynia Correctional Centre?
A. Yes, sir, I did.
- Q. Was that around 2009?
A. Around that time.
- 20 Q. Did you become friends with him?
A. I did.
- Q. Did you know his partner, Tanya Hockey?
25 A. I did.
- Q. You're no longer at Dillwynia, are you?
A. No. I left about a year ago.
- 30 Q. Was there an occasion where you spoke with Mr Astill about C and something which he'd said to have done with her, about a can of coke?
A. Yes, I spoke to Wayne twice on the issue of C.
- Q. What was said in the first of those conversations?
35 A. Well, the first interaction was outside an area in Dillwynia called high needs, where I brought up with Wayne that I'd heard rumours that he drunk a can of coke and didn't share any of it with C. He got a little bit irate with me that I'd even brought it up. He said it's, you know, I'm the chief, meaning I'm running the jail tonight, and I can share a can of coke and drink a can of coke
40 with ever who I like, and then he got up and walked off. He was a little bit irritated with me that I even brought the subject up. And I said, "Well, you know, it doesn't look very good that you're sharing a can of coke with an inmate. You know, it's all about perception". And that was really the first conversation.
- 45 Q. Do you remember even roughly when that conversation took place?
A. Off the top of my head, no.
- Q. Was there an occasion where you and your wife went on an overseas trip
50 with Mr Astill and Ms Hockey?

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- A. Yes, around - to the best of my recollection, around September 2018.
- Q. Was that to the United States of America?
A. It was.
- 5 Q. Did your trip include a visit to Orlando and Florida?
A. It did.
- 10 Q. Did you have a particular conversation with Mr Astill at a bar in Orlando?
A. I did.
- Q. Was that in a resort?
A. It was.
- 15 Q. Who was present for this conversation?
A. Was only two people present, myself and Mr Astill.
- Q. Do you remember what time of the day the conversation was?
A. At best recollection, probably about 2pm, early afternoon.
- 20 Q. At the time of this conversation, had either of you had anything to drink, that is alcoholic?
A. Yes. By the time the conversation started, we'd probably had about a mouthful of alcohol.
- 25 Q. What were you drinking, what sort of alcohol?
A. We were drinking beer.
- 30 Q. Had you been with Mr Astill earlier that day?
A. I had.
- Q. Had there been any alcohol consumed before the mouthful of beer?
A. No, that was the first drink we had that day to my knowledge. I'd been with Mr Astill pretty much all day, along with his wife and my - my - well his partner, Tanya, and my wife.
- 35 Q. Did Mr Astill speak to you about particular inmates at Dillwynia?
A. He did.
- 40 Q. Did you know an inmate by the name of K?
A. Yes. K was reception sweeper at Dillwynia Jail.
- Q. Was she referred to in this conversation you had with Mr Astill?
A. Yes, she was. Do you want me to elaborate on the conversation?
- 45 Q. What was said?
A. Basically Mr Astill said that he'd at some period in time, I don't know when it was, slapped Ms K on the arse.
- 50 Q. Were those the words he used?

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A. Yep.

Q. Did he say anything else at that stage about her?

5 A. No, I asked - yeah, I said, I actually said to him, "Bloody hell, what did she do?", or words to that effect, and he said, "Nothing really. She just walked away".

Q. Did he make any further comment about her in that conversation, having told you he, to use the words, slapped her on the arse?

10 A. Yeah. She said - he said she had a great arse.

Q. Did you know an inmate by the name of H?

A. I certainly did.

15 Q. In which part of the jail was she housed?

A. She was in BIU, behavioural intervention unit, which was the equivalent, I suppose, for common language would be the segregation unit at that particular time. She was in cell 5.

20 Q. Ms H, was she mentioned in that conversation that you had with Mr Astill?

A. She was.

Q. What was said and by whom?

25 A. Well, Mr Astill said that whenever her opened the door basically to the cell, she'd be straight on the cock, meaning, I presume--

Q. I'll just stop you there. I'm asking you before you go on meaning. I only want to hear what he actually said. Did he elaborate on that, or not?

30 A. He said, "She really wanted it" or words to that effect.

Q. Did he say, if anything, what in particular happened, if anything, apart from what you've told us?

35 A. Yeah. He said he had sex with Ms H on several occasions. Didn't elaborate any further.

Q. Did the name, C, arise in this conversation?

A. Yes, it did.

Q. What was said and by whom?

40 A. To the best of my recollection, he - he said - I said, "Well, this all started with C ", and he said, "Well, no, not really". I said, "Well, what do you mean?", and he said, "Well, nothing ever happened with C ", and I said something along the lines of "Well you wouldn't know about it considering what people are saying at the jail. You know, everybody thinks, you know--

45

Q. I'll stop you there.

A. --stuff's been going on with C ". He said, "No, nothing ever happened with C ", or words to that effect.

50 Q. Did you say anything to encourage him to keep talking?

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- 5 A. Yeah, I was a bit intrigued, to be honest. I, you know, I found it a little bit sort of humorous that he'd be telling me this stuff. So I - I said, "Well, you're not going to stop now", you know, "Elaborate further", because he said, "I've said enough", you know. I said, "Well, you're not getting away with that. Tell me more", so he elaborated a bit further.
- Q. Did you know of an inmate by the name of F?
A. F; yes I did.
- 10 Q. Did that name arise in the conversation that you're telling us about?
A. Yes, it did.
- Q. What was said about F, and by whom?
A. Wayne said that he had sex several times with F.
- 15 Q. Did you know an inmate by the name of O?
A. Blimy. Yes, I do.
- Q. Was she a SMAP inmate?
20 A. She was.
- Q. Did Ms O's name come up in this conversation?
A. It did.
- 25 Q. Who mentioned Ms O?
A. Wayne said that - Wayne - Wayne did. Mr Astill.
- Q. What did he say about Ms O?
A. He said that he had sex with O. Used to have her across the table with her
30 legs open, and used to lick her pussy. He said she had a wonderful snatch, soft and smooth, basically, as I think the terminology he used. And then he would at the particular time, just stuck his tongue out like he was having oral sex with a female.
- 35 Q. Did he say anything else about a particular occasion where he was performing oral sex, as to what happened?
A. Yes. He said he also had interactions with, to the best of my memory, an inmate who was a SMAP inmate, called I, in the - I think at the time it was the SAPO's office in high needs.
- 40 Q. Before we move to Ms I, Mr Brumwell, I'm asking you still about the discussion about Ms O.
A. Yep.
- 45 Q. I'd asked you was there anything else said about an occasion where he was performing oral sex, based on what Mr Astill said to you.
A. Well, he said he nearly got caught once.
- Q. Did he elaborate on that?
50 A. Yes. He said, Officer Giles nearly caught us, because the area was called

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The Chief's Hub, or that's the description we used to use. Chief is a rank of officer at the time, I think that's gone now. But he said we were in the chief's hub, and Mr Astill - sorry, Mr Giles almost caught us one day when he came in, so I - we quickly got dressed when we heard the, you know, someone coming
5 in, the door rapping or whatever. And then from memory, I think he said he - he used the excuse that he was telling her off, telling O off. When Mr Giles actually got into the building, and then told her to go.

10 Q. You started to tell us about an Inmate I. You believed that you thought her name was.

A. Yep.

Q. What did he say about that?

15 A. He said that he used to go in the high needs SAPO's office and have - or one of the girls used to give him oral sex, and the other one used to show him her vagina. And I said, "Bloody hell, how did you get away with that?", and he said, "I just used to close the blinds".

Q. How long did that holiday go for overseas?

20 A. Well, I originally thought it was about five - five weeks off the top of my head, but later on my wife informed me that it was closer to a month, I believe. Three and a half weeks, a month.

Q. Was there a couple of occasions where you had arguments with Mr Astill, where there was some falling out on the trip?

25 A. Yes, there were two incidents where we fell out on the trip.

Q. Were they incidents which were unrelated to this conversation?

30 A. Not - not really. The first one was kind of related to this because we had an argument with Mr Astill. It was a bit tense for the afternoon. He told me to, you know, basically fuck off. He actually used those words, "Why don't you fuck off". I said, "Right I will fuck off", and we separated company for a few minutes. He then kind of got Tanya to apologise to me and you know, I was going to take a taxi back to the hotel or the resort where we were staying. I got
35 back in the vehicle; things were a bit tense. Things were a bit tense that sort of evening, from memory, and then the next morning at breakfast it chilled out a bit. By lunch time--

Q. I'll just stop you there, Mr Brumwell.

40 A. Sure.

Q. Did you end up going, when you returned, did you go back to work after your holiday?

45 A. Did I go back to work after my holiday, yes.

Q. Did you see Mr Astill there?

A. Yeah, I did.

Q. Did your friendship resume or not?

50 A. No.

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Q. Did you end up speaking to Governor Adam Schreiber and telling him about the conversation that you had with Mr Astill?

A. I did.

5

Q. That is the conversation about the inmates, about things that had happened with the inmates?

A. Correct, what I've been explaining today.

10 CROWN PROSECUTOR: Your Honour, that's examination in chief.

HER HONOUR: Yes.

<CROSS-EXAMINATION BY MR TYLER-STOTT

15

Q. Sir, can you see and hear me okay?

A. Yes, thank you very much.

20 Q. Was it in the evening you were having this discussion with Mr Astill where he was talking about the various inmates he's had sexual relations with?

A. No, it was about 2 o'clock in the afternoon.

Q. It was September 2018, was it, that the holiday was?

A. Yeah, I believe so.

25

Q. When did you get back to work?

A. I think we were there for about three and a half, four weeks, and then we came back to work. I pretty much came back to work within a few days. I think Wayne came back to work about the same period of time, he only spent a short period of time there, and then he went off again because he was having a, I believe it was an ankle operation.

30

Q. You would've come back to work in October?

A. Yeah, somewhere around there, yep.

35

Q. You didn't speak to Governor Schreiber until, was it January 2019?

A. That's correct.

40 Q. Did you make any notes of the conversation that you have with Mr Astill?

A. Didn't need to make any notes, it's embedded in my head. It was pretty graphic.

40

Q. Did you make any notes?

A. No.

45

Q. You're a former police officer, aren't you?

A. I am.

Q. How long did you serve in the police?

A. 12 months.

50

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- Q. You would have understood that these disclosures would be fairly important, sir?
- 5 A. Correct.
- Q. Why didn't you see the need to make notes, even when you got back to work?
- A. Because when I originally got back to work, I didn't really want to be involved in this whole thing. I actually thought that Mr Astill would be, I thought
- 10 he was probably being investigated, and I didn't really want to be involved in the whole situation to be dead honest with you.
- Q. That's why you didn't make the notes?
- A. Well, no, I didn't make the notes because I didn't need to make notes. I think I've explained that fairly clearly that I've got it fairly clear in my head what
- 15 happened, what was said.
- Q. You provided your statement in September 2020, is that correct?
- A. It'd be around that time.
- 20 Q. Did you make any notes even after having spoken to the governor?
- A. No, didn't need to, got a very good memory.
- Q. Did Mr Astill refer to any of the ladies as "Columbian"?
- 25 A. Three of them, I think. "South American", I think he referred to them as.
- Q. Could it have been "Columbian", the word that he used?
- A. No, I think probably "South American".
- 30 Q. You say, no you think South American. Is there any doubt in your mind?
- A. As I say, it's been three years. I mean, I have a good memory, but it's not perfect.
- Q. Did Mr Astill talk to you about Ms H providing oral sex?
- 35 A. Yes.
- Q. On what occasion was this? The first or the second time you spoke about interactions with inmates?
- A. I've only ever spoke to him once about his interaction with inmates.
- 40 Q. Wayne advised you that she – I'm just trying to read from your statement, sir – she "Let him fuck her". Is that correct?
- A. That is correct.
- 45 HER HONOUR: She let him what?
- TYLER-SCOTT: "Fuck her".
- Q. You saw it as humorous originally?
- 50 A. Sorry, I didn't catch that?

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BRUMWELL XXN

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- Q. You said in your evidence earlier you thought of it as humorous at the time you were speaking to him?
A. Yes.
- 5 Q. You didn't see it as a serious issue at the time?
A. I did see it as a serious issue, but I didn't actually believe him to begin with.
- 10 Q. Is that, potentially, why you didn't make your notes? Because you didn't believe him?
A. Well I didn't need to take any notes, because I've got a very good memory.
- 15 Q. Sir, I'll suggest to you that Mr Astill did not mention in any way Ms Ward?
A. Well, you would. You're the defence. I can assure you he did.
- Q. Other than your wife, who was the first person you spoke to about Mr Astill's disclosure?
A. My wife – other than my wife?
- 20 Q. Yes.
A. After Mr Astill was arrested, I think I did mention it to a couple of people at work.
- 25 Q. It would have been quite a topic of conversation, is that right?
A. Yes, you could say that.
- Q. All the various ladies who were complaining would no doubt be mentioned in those conversations you were having?
A. Some.
- 30 Q. Was Ms K one of those who was mentioned in the conversations?
A. Probably.
- 35 Q. Could it be the case instead of beers you were drinking bourbon and Cokes?
A. No, we started on beers. We had literally got through maybe a mouthful of beer – I probably got through one mouthful, maybe two. Wayne, he's a little bit bigger gentlemen than myself, he probably took two or three swills of his beer, the conversation started, lasted ten minutes, and we still have most of our
40 beers left before the conversation ended. So, he wasn't drunk, he's perfectly sober.
- Q. How long did you remain there?
A. After that conversation that lasted about ten minutes, we did continue to
45 drink later on that evening. I believe I had another beer or two, and Wayne, I think, had a couple of bourbons and Coke. He might have had another beer as well.
- 50 Q. When you say "evening", you commenced at 2 o'clock. Is that right?
A. Yeah, yep.

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Q. And then you were drinking into the evening. How many drinks do you think you would have had?

5 CROWN PROSECUTOR: I object, your Honour.

WITNESS: Off the top of my head, probably—

HER HONOUR: Wait, Mr Brumwell. Yes?

10

CROWN PROSECUTOR: To the relevance of the drinking post-conversation.

HER HONOUR: I allow the question.

15 CROWN PROSECUTOR: Your Honour, please.

WITNESS: Well, the prosecution is right, it's irrelevant, because it was post-conversation.

20 HER HONOUR: Just answer the question, I've allowed the question, Mr Brumwell.

WITNESS: No problem, I would probably have had two or three beers. Wayne would have probably had a couple of beers, and maybe a couple of bourbons and Coke, and that probably went on to, at the best of my recollection, maybe two or three hours, at the most.

25

TYLER-SCOTT

30 Q. You said, "in the evening", you used those words earlier, when you were—
A. Yeah.

Q. —continuing to drink. Is 5 o'clock evening to you?

35 A. Mm-hmm. Yeah, 5, 6 o'clock. Somewhere around there, that would be early evening to me.

Q. Did you go out for dinner?

A. Can't remember.

40 Q. Could you have had more than the amount of alcohol you've given evidence of drinking, sir?

A. I can't remember. I don't think so.

Q. And Mr Astill, can I suggest to you, did not drink bourbon?

45

HER HONOUR: When? Ever?

TYLER-SCOTT: On the occasion we're talking about, your Honour.

50 Q. He did not drink bourbon on the occasion that you were with him and he

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made these disclosures?

A. Me?

Q. No, Mr Astill didn't.

5 A. No, Mr Astill definitely had a bourbon and Coke. He definitely had one, if not two.

TYLER-SCOTT: Thank you.

10 NO RE-EXAMINATION

<THE WITNESS WITHDREW

HER HONOUR: Yes, Mr Crown.

15

CROWN PROSECUTOR: Your Honour, that concludes the witnesses we have to call today.

20 HER HONOUR: Yes, we seem to be running through the witnesses. Ladies and gentlemen, an early mark today. Can I just let you know for the rest of the week, so you can plan, on Friday I have a sentence at 2 pm, so we'll be concluding at 1, and on Thursday, tomorrow, I think there is a matter that needs to be dealt with with the parties a bit later on in the afternoon, but we'll try to accomplish as much as we can through the day, it just may be another
25 early mark like now. We'll keep you informed as to that, but other than that please have a good night tonight, and we'll see you for a start at 10 in the morning, thank you.

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IN THE ABSENCE OF THE JURY

HER HONOUR: Yes, so tomorrow what time do you need to leave here?

5 CROWN PROSECUTOR: 2:30, I think. It's a 3 o'clock at Queen's Square, your Honour.

HER HONOUR: Ten minute jog down the road?

10 CROWN PROSECUTOR: I don't jog these days as much as I should, your Honour, that may not be obvious, but I'll get a cab, I'll get a taxi.

HER HONOUR: Okay, well we'll see how we're going with the course of the day. It might be that we start at quarter to 2 and try and get some in in the
15 afternoon, so we'll just maybe have a 45 minute lunch, or whatever, but we'll work it out to try and just make the most of the day.

CROWN PROSECUTOR: Your Honour, I expect it will be in a significant part of tomorrow will be playing surveillance device warrants.

20 HER HONOUR: Right.

CROWN PROSECUTOR: Depending on how we travel, Friday will be probably into the—

25 HER HONOUR: ERISP?

CROWN PROSECUTOR: ERISP. Depending on how we're going, I say prefer to do the ERISPs in one day, and it—

30 HER HONOUR: Could always start at 9:30 on Friday.

CROWN PROSECUTOR: That might be a way just to make sure that we're done by the lunch time.

35 HER HONOUR: You know the timing of the ERISP, factoring in, say, a 15 to 20 minute – by the time it's a turnaround from JMT that I don't walk over there and walk back – for morning tea. I'm happy to start at 9:30.

40 CROWN PROSECUTOR: Yes, your Honour. If we can confirm tomorrow—

HER HONOUR: Okay, we just need to give them a heads up in relation to that to get them here by 9:15.

45 CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: Okay, 10 am tomorrow. Thank you.

ADJOURNED TO THURSDAY 11 AUGUST 2022

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VIQ:SND

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IN THE DISTRICT COURT
OF NEW SOUTH WALES
CRIMINAL JURISDICTION

5 JUDGE O'ROURKE SC
AND A JURY OF FIFTEEN

ELEVENTH DAY: THURSDAY 11 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, having been advised to the problem
at 9.32am today by Justice Button's associate, about five minutes ago, his
Honour vacated the directions hearing for this afternoon. The accused has
COVID and he's required to be there – the directions hearings, so, I'm sorry,
but nothing that I can do about that. There's a further development and we're
25 ready to proceed. We've got Mr Virgo and Mr Schreiber to give evidence and
play those recordings. Ms A is likely to be available to give evidence. It may
that we can get to her this afternoon. We're making efforts to do that. I must
say, I'd prefer that we call her in the morning, given recent events, so that we
can confer with her and speak with her before she gives evidence. We can do
30 that potentially this afternoon, but this has all happened in the last half an hour
we've been advised of these things, so it's perhaps a play it by ear thing, as I
understand.

HER HONOUR: Okay.

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IN THE PRESENCE OF THE JURY

<STEPHEN VIRGO, AFFIRMED(10.13AM)

5 <EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

Q. Sir, is your name Stephen Virgo?

A. Yes, it is.

10 Q. Is Stephen with a P-H?

A. That's correct.

Q. Do you work for Corrective Services New South Wales?

A. I do.

15

Q. How long have you been working with them for?

A. 34 years.

Q. What is your current role there?

20 A. Principal corrections officer. Currently functional manager of security.

Q. Now, is the "principal" – is that a rank within the Corrective Services?

A. Yes, it is.

25 Q. And is "functional manager" a role?

A. That's a role, yeah.

Q. What are the functions of the functional manager?

30 A. Basically the officer in charge of an area. You have staff under your control, and the section of inmates. My role, currently, is to oversee the security of the centre, so all security items, weekly and monthly security checks, making sure all the security systems for the centre are operational, yeah.

35 Q. Do functional managers have particular different duties? So could you be a functional manager, for example, in the intelligence section?

A. Intelligence, security, accommodation and case management.

Q. And have you worked in that role in an intelligence capacity?

40 A. I did up until May this year, and I've been moved into security.

Q. And were you performing that role in October 2018?

A. I was.

45 Q. And before.

A. Yes.

Q. Were you working at the Dillwynia Correctional Centre at that time?

A. Yes.

50

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VIRGO XN

VIQ:SND

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Q. Mr Virgo, I want to ask you about 5 October 2018. Did you speak to an officer by the name of Glenn Clark on that day?

A. Yes, I did.

5 Q. What did he say to you?

A. He said an inmate would love to speak to me in regards to a sensitive matter.

Q. Did he say who the inmate was?

10 A. Yes, inmate H.

Q. Did you speak to Ms H as a result of that?

A. Yes, I did. Yeah.

15 Q. Where did you speak to Ms H?

A. She was housed in the behavioural intervention unit, so I went there and opened an interview room. I had the inmate placed in the interview room and I went and spoke to her there.

20 Q. Was it just you and her at that stage?

A. Correct, yeah.

Q. What was said there?

25 A. Ms H, she alleged that she'd been the recipient of unwanted sexual advances and was made to perform sexual acts under duress by an officer at the Dillwynia Correctional Centre.

Q. Did she say who that officer was?

A. Yes, she did.

30

Q. Did she describe any of those unwanted acts?

A. I informed her that I don't investigate staff, but she can – she informed me that – I informed her that whatever she told me, I would report to the right – to the right areas, and if it was factual, something would be done.

35

Q. But as to specific acts, did she say anything that you recall?

A. She said she was made to perform oral sex, full sex and was made to drink semen from a cup.

40 HER HONOUR: What was the date of this conversation?

CROWN PROSECUTOR: That was 5 October 2018, I think.

Q. As a result of that, what did you do with that information?

45 A. I raised an intelligence report for CIG--

Q. Sorry to cut you off, but what's CIG?

A. That's all good. Central – sorry, I'm just a little bit--

50 Q. Is that Corrective Services Intelligence Group?

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VIRGO XN

VIQ:SND

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- A. Yeah, correct. Yeah, yeah.
- Q. You live in a world of acronyms and abbreviations.
A. Yeah, yeah.
- 5 Q. On 4 February 2019, did you speak with and meet with a couple of detectives by the surnames Cambridge and Palmer?
A. Correct, yes.
- 10 Q. And was that at a location in Windsor?
A. That's right, yep.
- Q. Was anybody else at that meeting?
A. The governor. Governor Adam, yeah.
- 15 Q. Is that Adam Schreiber?
A. That's correct, yep.
- Q. Were you shown at that meeting, by Detective Cambridge, a handwritten letter?
A. Yes.
- 20 Q. And did it bear the name H as the author?
A. Yes.
- 25 Q. Was it addressed to V, Dillwynia?
A. Yes, it was.
- Q. Did that letter make reference to a name Wayne Astill?
A. Yes, it did.
- 30 Q. Did Detective Cambridge tell you that it was intended that Mr Astill be provided a copy of that letter to read it sometime?
A. Yes, he did. Yep.
- 35 Q. I want to ask you now about three days later, 7 February 2019. Were you working at Dillwynia at that day?
A. Yes, I was.
- 40 Q. Were you given an envelope by Adam Schreiber that morning?
A. Yes.
- Q. Did you recognise that letter?
A. Yes, I did.
- 45 Q. Is that which you'd been shown a few days earlier, yes?
A. Yes.
- Q. 10am that morning, did you contact the reception area of Dillwynia and ask for Wayne Astill?
A. Yes.
- 50

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VIRGO XN

VIQ:SND

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A. Yes, I did.

Q. Did you ask for him to go to your office?

A. Yes, I did.

5

Q. Where was that?

A. The intelligence office in the admin building of Dillwynia Correctional Centre.

10 Q. At that stage, you're a functional manager?

A. Yes.

Q. Were you a principal at that stage?

A. Yes.

15

Q. So you were higher in rank than Mr Astill. Is that right?

A. Yes.

Q. Did Mr Astill come to your office after you'd requested him to come?

20 A. Yes, he did.

Q. How long after, roughly?

A. Five minutes.

25 Q. Did you speak to him at that stage when he first came in?

A. Yes.

Q. What did you say?

A. I said that I'd located a letter with some horrendous things written inside with his name attached, and I showed him the letter.

30

Q. You're aware, are you, that the conversation that took place as between you and Mr Astill was recorded by the police?

A. Yeah.

35

Q. Was that, without going into how that was done, was it a covert; that is it was not done in a way that Mr Astill - it would've been brought to Mr Astill's attention?

A. No.

40

CROWN PROSECUTOR: Your Honour, I tender a disc, being an audio recording of that conversation.

HER HONOUR: Yes, any objection?

45

TYLER-STOTT: No, your Honour.

CROWN PROSECUTOR: I then ask that it be played. It goes for just short of 15 minutes.

50

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VIRGO XN

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HER HONOUR: All right.

EXHIBIT #R DVD OF CONVERSATION BETWEEN MR VIRGO AND
ACCUSED ON 07/02/19 TENDERED, ADMITTED WITHOUT OBJECTION

5

CROWN PROSECUTOR: Your Honour, we do have copies of a transcript,
only intended as an aid to the jury's memory.

MFI #R1 TRANSCRIPT

10

HER HONOUR: Again, ladies and gentlemen, you receive the transcript, but
again, the evidence is what's contained in the words that you hear on the CD,
not in the transcript. It's only there to assist you. Yes, we'll play that. Looks
like it's a DVD, Mr Crown.

15

EXHIBIT 4 PLAYED TO COURT

HER HONOUR: Ladies and gentlemen, that is a very good example, as you
can see, that there is a lot more that could be picked up from words than was
contained in the transcript.

20

CROWN PROSECUTOR

DOCUMENT SHOWN TO WITNESS

25

Q. Do you recognise that as a copy of the handwritten letter to which you've
made reference in your evidence?

A. I was, didn't say yes.

30 MFI #20 HANDWRITTEN LETTER

<CROSS-EXAMINATION BY MR TYLER-STOTT

35 Q. Mr Virgo, you have been down to the hub before?

A. Pardon?

Q. The hub?

A. No.

40 Q. You've never been down to the hub before?

A. No, that was, it wasn't being used when I returned to Dyllwynia.

Q. Are you familiar with the hub?

A. Yes, it's a different building now, yeah.

45

Q. The locking within the hub, are you familiar with that, the doors--

A. Key doors, I'd, I'd suggest, yeah. I, I don't go in there, sir.

Q. Do you know whether or not it can be locked from the inside?

50 A. I'm not aware of that, no.

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VIRGO XN XXN

VIQ:SND

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Q. So as far as, you were in intelligence and security.

A. Yes,

5 Q. As far as contraband coming into the gaol, does it come through ILU sometimes?

A. It can do, I, yeah.

Q. Contraband can be just lobbed over--

10 A. Minimal, comes--

Q. --lobbed over the fence?

A. Over the fence, through visits and staff, obviously.

15 NO RE-EXAMINATION

HER HONOUR: Thank you, Mr Virgo, that concludes your evidence. You're free to go.

20 WITNESS: Thank you.

HER HONOUR: Thank you.

<THE WITNESS WITHDREW

VIQ:SND

D11

<ADAM SCHREIBER, SWORN(10.40AM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

- 5 Q. Sir, is your name Adam Schreiber?
A. It is.
- Q. Are you employed by corrective services New South Wales?
A. I am.
- 10 Q. What is your rank within that organisation?
A. Governor.
- Q. At what point did you first become acting governor?
15 A. In 2019.
- Q. By February 2019, were you already acting governor?
A. I was.
- 20 Q. Were you based at Dillwynia at that time?
A. That's correct.
- Q. Now, had you taken over that role from the previous governor by the name of Shari Martin?
25 A. I did.
- Q. And she retired--
A. That's correct.
- 30 Q. --creating that vacancy, is that right?
A. That's correct.
- Q. On 4 February 2019, did you meet with Detectives Cambridge and Palmer at a location in Windsor in north western Sydney?
35 A. That's correct.
- Q. That's near where the jail is, is that right?
A. Yes.
- 40 Q. That was in the early afternoon?
A. That's correct.
- Q. Were you with the functional manager, Stephen Virgo?
A. That's correct.
- 45 Q. Did Detective Cambridge show you a handwritten letter which appeared to be written by H?
A. Yes.
- 50 MFI 20 SHOWN TO WITNESS

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SCHREIBER XN

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- Q. Do you recognise that as the document that you saw that afternoon from Detective Cambridge?
A. Yes.
- 5
CROWN PROSECUTOR: That might be returned.
- Q. On 7 February 2019, were you working at Dillwynia again in that role as acting governor?
A. Yes, I was.
- 10
Q. On that morning, did you meet with Detective Cambridge once again?
A. Yes, I did.
- 15
Q. Did he give you an envelope?
A. He did.
- Q. And did he tell you that it contained that letter?
A. That's correct.
- 20
Q. Did you facilitate then arrange for a meeting between Detective Cambridge and V?
A. That's correct.
- 25
Q. Did you see, at that stage, Wayne Astill in the corridor as you came out of your office?
A. I did.
- Q. Did he ask you what you were doing, something with respect to V.
A. He did.
- 30
Q. What did he say?
A. I'd have to refer to my notes, but something along the fact of - along the lines of, "What does she want? What are you doing with" - "with the inmate?"
- 35
Q. Did you make up a story just to explain why you were talking to her?
A. I did. I did.
- Q. Now, you're aware that, later that morning, there was a meeting with Stephen Virgo and Wayne Astill?
A. Yes.
- 40
Q. On 13 February 2019, did you arrange for Mr Astill to meet you in your office?
A. Yes.
- 45
Q. Were you aware that that conversation would be recorded?
A. I was.
- 50
Q. Now, at that time, had Mr Astill put in an application for promotion?

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A. He had, yeah.

Q. Did you use that as a premise to arrange the meeting?

A. I did.

5

Q. Had you spoken, before that meeting with him, with Detectives Palmer and Cambridge just about what you should talk about?

A. I don't recall.

10 Q. Were you aware at that stage, in just general terms, of any complaint of misconduct by Wayne Astill?

A. Yes, I was.

15 Q. Were you provided with a number of inmate names to drop into the conversation with Wayne Astill?

A. That's correct.

Q. Did those names include H, C, M, E, and GG?

A. That's correct.

20

Q. Now, you were aware that the conversation would be recorded?

A. That's correct.

Q. And, to your knowledge, did Mr Astill have any idea that it was recorded?

25

A. No.

EXHIBIT #S DISC DATED 13/02/19 TENDERED, ADMITTED WITHOUT OBJECTION

30 CROWN PROSECUTOR: I ask that it be played, and I have a transcript once again.

EXHIBIT S PLAYED TO COURT

35 HER HONOUR: We'll have morning tea, now.

CROWN PROSECUTOR: Yes, your Honour.

40 HER HONOUR: Ladies and gentlemen, go up to morning tea, and we'll come back in 20 minutes.

VIQ:SND

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IN THE ABSENCE OF THE JURY

SHORT ADJOURNMENT

5 CROWN PROSECUTOR: Just before they come in, your Honour, would your Honour consider it appropriate at this stage to say to them - because it's obvious at times there have been edits - that there have been edits?

10 HER HONOUR: Did you want me to say something?

CROWN PROSECUTOR: Yes. I could say it to your Honour for their benefit.

HER HONOUR: Yes, maybe.

15 CROWN PROSECUTOR: Your Honour, the next two recordings will be the totality of the recordings. They're 19 minutes and then 12 minutes. Perhaps before the jury do come in, I'll just give your Honour an update as to how the afternoon could play out. We've come to further agreements on edits, and we're racing to--

20

HER HONOUR: For what? For the ERISP?

25 CROWN PROSECUTOR: For the ERISP interview. There are still going to be about three hours in that, I think. But to use the time this afternoon, because A is not going to be ready till tomorrow morning, so we could potentially do her after the playing of the ERISP. We're not going to finish the ERISP even if we start this afternoon, but I'm certainly content to use the time to start with it. We're aiming for two--

30 HER HONOUR: The only thing is, I did tell them yesterday - so, in case some of them have got plans to pick up or drop off, we'd better raise that with them. Did I indicate a time that we would finish?

35 CROWN PROSECUTOR: No.

HER HONOUR: All right.

CROWN PROSECUTOR: Your Honour said there may be another early mark tomorrow--

40

HER HONOUR: Around this time, yes. Well, I might just inform them that we can utilise the time now, and if there are any issues with that because of what I said yesterday, they can let me know in a note.

45 CROWN PROSECUTOR: Yes, your Honour. I might just be getting an update now as to whether we can have the ERISP--

HER HONOUR: We'll just utilise the time in the way you see fit, Mr Crown.

50 CROWN PROSECUTOR: Yes, your Honour.

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HER HONOUR: But Ms A tomorrow?

5 CROWN PROSECUTOR: A tomorrow, yes. In any case, we'd be finished with the ERISP by Monday, and we'd be getting close to the end.

HER HONOUR: So end the Crown case by Monday?

10 CROWN PROSECUTOR: We'd be getting close to the end. Perhaps Tuesday, certainly still Wednesday at the latest.

HER HONOUR: Okay.

15 CROWN PROSECUTOR: Yes, probably Tuesday.

HER HONOUR: All right. And is there a defence case?

TYLER-STOTT: I'm just finalising those instructions, your Honour.

20 HER HONOUR: Okay.

TYLER-STOTT: Sorry I'm ambiguous on that.

HER HONOUR: That's okay.

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IN THE PRESENCE OF THE JURY

HER HONOUR: Yes, thank you, ladies and gentlemen. Yes, Mr Crown.

5 CROWN PROSECUTOR

Q. Mr Schreiber, before you've had this meeting which we've just heard with Mr Astill, did the police indicate to you that you should speak with him and sort of modify what you say and how you say it, in a way so it makes him more relaxed?

10 A. Yeah, that's correct.

Q. So some of the things you've said that you wouldn't otherwise say, but you've said--

15 A. I wouldn't normally talk like that, no.

Q. On 14 February 2019, did you speak with Mr Astill in your office again?

A. Yes, I did.

20 Q. Did he tell you that he needed to speak with you?

A. He did.

Q. Did you go and see him at about 10.30 that morning whilst he was working in the reception area at Dillwynia?

25 A. That's correct.

Q. Now, at that stage, were you in possession of a listening device given to you by the police?

A. That's correct.

30

CROWN PROSECUTOR: Your Honour, just for the jury's benefit, there's no dispute that it's the case that this was properly done, and was a lawfully recorded conversation.

35 Q. Was that listening device in position - please don't tell us how it was positioned, but was it positioned such that Mr Astill would not have been made aware of it?

A. That's correct.

40 Q. Or it would not have been apparent to an onlooker?

A. That's correct.

EXHIBIT #T DISC OF AUDIO RECORDING DATED 14/02/19 TENDERED,
ADMITTED WITHOUT OBJECTION

45

HER HONOUR: And you want that played now?

CROWN PROSECUTOR: Yes, your Honour.

50 EXHIBIT #T(1) TRANSCRIPT OF AUDIO RECORDING TENDERED,

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ADMITTED WITH OBJECTION.

5 Yes, before we do play it – I'm sorry to interrupt the court officer's work – I
should just say this. The jury would have noticed that in parts of these
recordings, there's obviously been some editing, and that's reflected by the
transcript. There's spaces in the transcript at points and what have you. The
parties have agreed as to what should come out of the recordings, only
because it's not relevant to the case, and it doesn't take the case any further.
10 We don't want to be wasting time. We're just presenting them with the
evidence with the parties are agreed is relevant in what they should see.

HER HONOUR: Yes, thank you.

15 EXHIBIT T PLAYED TO COURT

CROWN PROSECUTOR

Q. Mr Schreiber, on 18 February 2019, did you speak further with Detective
Cambridge, after which you received some photographs?
20 A. That's correct.

Q. And were they three pages of what appeared to be a police statement in
the name H
A. That's correct.
25

DOCUMENT SHOWN TO WITNESS

Q. Do you recognise those as being images of the statement that you
received?
30 A. I do.

MFI #21 IMAGES OF STATEMENT

Q. In that statement, there was reference made to the following people: Z, Y,
35 P, X, CC and Kathleen Asher.
A. That's correct.

Q. Was there also reference, in this statement, to an inmate by the name of I?
A. There was.
40

Q. Did you speak to Detective Cambridge to the effect that you would be able
to formulate a story about how you came in to be in possession of that
statement, for the benefit of Mr Astill? That is, to tell Mr Astill.
A. Yes, I did.
45

Q. Did that involve the fact that you previously worked within the investigations
branch of corrective services?
A. That's correct.

50 Q. At 7am the following day, so 19 February 2019, did you, again, ask Mr

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Astill to come to your office to talk to you?

A. That's correct.

5 Q. During that discussion, did you show him those images of that police statement of H?

A. I did.

Q. During that, did you know at the time that there would be video recording, again, of your office and audio recording of that meeting?

10 A. That's correct.

Q. Was that done in such a way that it would not have been apparent to a visitor to your office, such as Mr Astill?

A. That's correct.

15

EXHIBIT #U DISC OF RECORDING DATED 19/02/2019 TENDERED,
ADMITTED WITHOUT OBJECTION

20 EXHIBIT #U(1) TRANSCRIPT OF RECORDING TENDERED, ADMITTED
WITHOUT OBJECTION

EXHIBIT U PLAYED TO COURT

CROWN PROSECUTOR

25

Q. Mr Schreiber, in the recordings that you've heard played as you've been giving evidence this morning, did you recognise the voices as being your own and that of Mr Astill?

A. That's correct.

30

Q. I want to show you a document now, Mr Schreiber. Do you recognise that as a print out of the rostered shifts of Wayne Astill from 9 December 2014 through 21 February 2019?

A. Yeah--

35

Q. Sorry, I'll try that again. 9 December 2014, if I didn't say that, to 21 February 2019?

A. Yeah, I do.

40 EXHIBIT #V DOCUMENT TENDERED, ADMITTED WITHOUT OBJECTION

CROWN PROSECUTOR: There's a working copy for your Honour.

HER HONOUR: Yes, thank you. Yes, they can be handed out, sorry.

45

CROWN PROSECUTOR: Yes, your Honour. I'm sorry, I didn't know if Mr Tyler-Stott had said anything about that.

TYLER-STOTT: No, I didn't object.

50

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HER HONOUR: No, no objection.

TYLER-STOTT: No, that's all right.

5 CROWN PROSECUTOR: I'm sorry, your Honour.

Q. Mr Schreiber, if you just go across that document, I just want you to explain a few bits of terminology. Firstly, there's a code, is it, WFDILC1? So, top left hand column?

10 A. Yes.

Q. Is that the code for the Dillwynia Correctional Centre?

A. That's correct.

15 Q. Does it refer to the centre generally, or any particular part of the centre?

A. That is just the centre in general.

Q. Now, we've got Dillwynia Correctional Centre. The next along, that's the date to which the entry relates, yes?

20 A. Yes.

Q. The employee, in this case, Mr Wayne Astill in each case, yes? Yes?

A. That's correct.

25 CROWN PROSECUTOR: We just need to get your answer on tape.

WITNESS: Sorry, sorry, sir. Yep.

CROWN PROSECUTOR: That's all right. Because we're audio recorded, you see.

30

Q. Now, going along, do you see it says "DO", and then "rest day", and it says "DO" again. Do you know what the "DO" stands for?

A. Day off.

35

Q. And, going down a couple of entries there, it's got "XR", and it says, "crossed RDO". Is "RDO", rostered day off?

A. A cross rostered day off.

40 Q. What does the cross refer to?

A. It means that he can't work on that day, so he can't be called in on overtime.

Q. Going across, it gives the times, doesn't it, of the shift? So 8am goes through to 4pm, is that right?

45

A. That's correct.

Q. For example, on the 13th. Now, where it says "no, no, no", and I think it's in every entry, do you know what that's a reference to?

50

A. I actually don't. So, yeah.

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- Q. Just going down the page, right in the middle where it's got, for example, at the top, "rest day", if you go down that column, it's got "sup C oblique watch". What's that a reference to?
- 5 A. Supervisor.
- Q. And "C watch"?
- A. Is an afternoon shift.
- 10 Q. Further down, this is for 20 December 2014, it says "sup visits PR". Is that the visits section of the jail?
- A. Sorry, sir, whereabouts are you? 20th of the 12th, is that what you said?
- Q. 20th of the 12th.
- 15 A. Supervisor visits.
- Q. Do you know what the "PR"--
- A. Yeah, so he's the - the senior of the visits for that day.
- 20 Q. Do you know what the "PR" stands for there?
- A. I don't - rosters - no.
- Q. You didn't write the software?
- A. No, I didn't.
- 25 Q. So variously it'll say, for example, "chief sector 1A". What's the "1A" in reference to? I'm sorry, this 5 January, the first page. If you go down, 5 January 2015, it's got "chief sector 1A".
- A. Chief sector 1 - he would be - he would be acting up into the chief position in - in sector 1A, which is part of the centre.
- 30 Q. If you go to the last page of 39 pages, the description there of the duties is "DETs duty A watch"?
- A. That's detached duty. So he's actually not on a - on a - on a post for that day. So he's been put on a--
- 35 Q. Sorry?
- A. He's not actually on a post for that day on the roster, so he's placed on detached duty for whatever reason.
- 40 Q. If someone's suspended, would that be an example of being not on an attached roster?
- A. Usually they would say suspension.
- 45 Q. Where it's got "A watch", and then variously it'll otherwise say "B watch", does the A refer to the shift, an A shift?
- A. That's correct.
- Q. That's a day shift?
- 50 A. That's a day shift, and a B watch is a night shift.

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Q. B watch is 10pm. So, as at 2019, were the shifts typically 8 hour shifts?

A. Sorry - 20th of the first, is that, or the 20th of the second? Detached--

5 Q. I'm just asking generally. As at 2019, did officers generally work 8 hour shifts?

A. That's correct.

10 Q. Would you go to page 2? The second last entry, 24 February 2015. I'm just pointing to these as examples, so we get what some of this refers to. "Supervisor VBL"?

A. That would be supervisor of the - it's not my centre anymore, we have different codes at Long Bay, but I think that might be video link. I'm not quite sure.

15 Q. If you go further up that page, 15/20/15, do you see it's got "sup RIT coord"?

A. Yep. That's supervisor of the - the RIT, so, inmates that are at risk of self-harm.

20

NO CROSS-EXAMINATION

HER HONOUR: Thank you, Mr Schreiber, that's your evidence. You're free to go, thank you.

25

WITNESS: Thank you, your Honour.

<THE WITNESS WITHDREW

30 HER HONOUR: Ladies and gentlemen, it's close enough to one that we'll have some lunch. Can I just raise with you - I'll just let Mr Schreiber go - I did raise with you yesterday afternoon that we may finish early this afternoon. It appears that that doesn't need to be necessarily so this afternoon, now, there's been a change in circumstances. But, because of what I said to you

35 yesterday, if you have made plans or that causes you some inconvenience, can you let me know in a note? Otherwise, we'll just continue as normal for this afternoon. But if that causes you some concern because of what I said yesterday afternoon, just put it in a note and give it to the court officer, and I'll attend to that. Okay, thank you very much, have a nice lunch.

VIQ:SND

D11

IN THE ABSENCE OF THE JURY

LUNCHEON ADJOURNMENT

5 CROWN PROSECUTOR: Your Honour, I don't know if it is--

HER HONOUR: I heard some murmurings of edits and the like.

10 CROWN PROSECUTOR: Yes. Your Honour, the edits have still not been
done. It's going to be some time, as your Honour well knows, to burn them,
check them, and the like. We want to make sure that it's done properly. We
still don't have an update from the multimedia unit as to how long it's going to
take. Efforts were made to contact them. No response. So we're left
15 somewhere in the dark. We had made it known to them that we wanted it
down by 2 o'clock. Initially, that was earlier today, we were given some, I won't
say assurance, but indication that that could work. I'd hoped at that stage that
if it didn't work by 2, it could be worked by 2.30, or we could make use of the
afternoon. It's not eventuated, and for my part, your Honour, not knowing how
long it could take, I don't want to wait around and then, in an hour, say I'm
20 sorry, it's not going to happen.

HER HONOUR: There's no one else. What are we left with, then? In the
Crown case?

25 CROWN PROSECUTOR: There's going to be some telephone intercepts.
There's not going to be much of that. We're going to settle that, but that will be
early next week. A --

30 HER HONOUR: But nothing, though, that this afternoon that can be dealt with.

CROWN PROSECUTOR: No, I'm sorry, your Honour.

HER HONOUR: Right. So tomorrow it will be ready?

35 CROWN PROSECUTOR: It will be ready, yes.

HER HONOUR: What's the length of time? Should we start at 9.30 so we can
finish it at one go with morning tea?

40 CROWN PROSECUTOR: Yes, please, your Honour.

HER HONOUR: Yes?

45 CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: Yes. We can utilise the time, then. So then it would be a
basically ERISP done, and then just some remaining witnesses on Monday,
Tuesday, and that will be Crown case Wednesday.

50 CROWN PROSECUTOR: Yes, your Honour.

.11/08/22

630

VIQ:SND

D11

HER HONOUR: Okay, well we're still heading way ahead of schedule. Okay. We'll get the jury in and I'll send them home.

.11/08/22

631

VIQ:SND

D11

IN THE PRESENCE OF THE JURY

HER HONOUR: Yes, thank you, ladies and gentlemen. I've just had a
discussion with counsel and I understand the next aspect of the Crown case is
5 the ERISP, or what is the recorded interview between the police and the
accused, but as you heard before with the other material that's been tendered
before you, there's edits that are done to the material just to remove irrelevant
material so you don't get distracted or it doesn't take up further time. But the
10 editing has not been completed in relation to the ERISP, which the Crown had
anticipated would be done by 2pm.

So in those circumstances, we're up to that stage, so the Crown cannot
proceed with anything further this afternoon until those edits are done, so I'm
backtracking on what I said to you before the luncheon break, and now you do
15 have an early mark again. As I said to you before, though, we are tracking well
ahead of schedule. It will not be running for six weeks or anywhere near that,
so take heart in that. I'll release you now, and what I was proposing to do,
though – the ERISP goes for around three hours, or a bit over, Mr Crown?
Around three hours is the expectation.

20

CROWN PROSECUTOR: Around three hours.

HER HONOUR: We would like to do it all in one hit. You know, we're not
sitting past 1 o'clock tomorrow, so is there any issue with starting at 9.30
25 tomorrow morning? No? Great. Well, if you could all make it here so that we
can start for 9.30, and we'll commence – the Crown will call and play the
recorded interview before you, and we can complete it by 1 o'clock. At least
then, we've got a good part of that trial done. Other than that, please have a
good night tonight. Please don't discuss the evidence with anyone, and we'll
30 see you tomorrow. 9.30 start. Thank you.

VIQ:SND

D11

IN THE ABSENCE OF THE JURY

HER HONOUR: So I take it not Ms A tomorrow morning? Next week.

5 CROWN PROSECUTOR: So we finish early, we'll finish her on Monday morning. I'll get her--

HER HONOUR: Okay. That's fine. Okay, 9.30 tomorrow. Thank you.

10 ADJOURNED TO FRIDAY 12 AUGUST 2022 AT 9.30AM

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VIQ:SND

D12

IN THE DISTRICT COURT
OF NEW SOUTH WALES
CRIMINAL JURISDICTION

5 JUDGE O'ROURKE SC
AND A JURY OF FIFTEEN

TWELFTH DAY: FRIDAY 12 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: Interview is ready, your Honour.

HER HONOUR: We're ready to go?

25 CROWN PROSECUTOR: We're ready to go. Your Honour, I should say I will
ask to interpose the witness. I'm taking the officer-in-charge's case evidence
in part. So I'm only at this stage going to, interpose is the wrong word, but lead
evidence from him of arrest and interview.

HER HONOUR: Yes.

30

CROWN PROSECUTOR: I'll come back to other evidence, and resume his
evidence later.

35 HER HONOUR: Yes. There is just one issue I wanted to raise. For personal
reasons, there's something that has to occur on Monday morning, and would
mean though I wouldn't be able to be here until 12.

CROWN PROSECUTOR: Yes, your Honour.

40 HER HONOUR: So we might just have a late start on Monday morning; will be
Monday afternoon. So I'll just let them know that. I can't do anything about it.

CROWN PROSECUTOR: It would be a bit rich of me to complain, your
Honour.

45

HER HONOUR: But in any event, I apologise, but I've got no choice.

CROWN PROSECUTOR: There's two hours and 40 minutes in the interview.

VIQ:SND

D12

HER HONOUR: In the video, okay. Well we'll have some breaks so that they can listen to it and concentrate. 2.40, we'll get that clearly done today. We may evidence do more of the evidence in chief then, with the officer.

- 5 CROWN PROSECUTOR: We might be able to. I think it'll go very close to 1, but anyway.

VIQ:SND

D12

IN THE PRESENCE OF THE JURY

<JOSHUA PALMER, SWORN(9.39AM)

5 <EXAMINATION IN CHIEF BY CROWN PROSECUTOR

Q. Is your name Joshua Palmer?

A. It is.

10 Q. You're a detective sergeant of police?

A. I am.

Q. As of 2019 were you based in the Corrective Services Investigation Unit?

A. I was.

15

Q. Were you investigating allegations with respect to Mr Astill, along with another then detective by the name of Michael Cambridge?

A. Yes.

20 Q. Mr Cambridge has moved on to other things. He's no longer in the police force?

A. That's right.

Q. And you've effectively taken over as the officer-in-charge of the case?

25 A. Yes.

Q. I want to ask you this morning specifically about the morning of 20 February 2019. Did you go with Detective Cambridge to the accused's home in Kurrajong Heights in North Western Sydney?

30 A. I did.

Q. Did you there speak, between you and Mr Cambridge, speak to Mr Astill?

A. Yes.

35 Q. Did Detective Cambridge say to him, "My name's Detective Senior Constable Cambridge, I'm placing you under arrest for a sexual assault"?

A. Yes.

Q. Then you've indicated in your statement, "Astill looked surprised", what makes you say that?

40

A. Just his reaction on his face he looked surprised.

Q. Did he say "What?"?

A. Yes.

45

Q. Did Detective Cambridge say, "Just so you know, you don't have to say or do anything unless you want to. Do you that?"?

A. Yes, he said that.

50 Q. Did Mr Astill reply, "Yeah"?

.12/08/22

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PALMER XN

VIQ:SND

D12

A. Yes.

Q. Did Detective Cambridge say, "I'll record what you say and do. I can use this recording in Court. Do you understand that?"?

5 A. Yes.

Q. Was he then invited to put some shoes on?

A. Yes.

10 Q. Was he told that the police would be taking him to Windsor Police Station, and more of the allegations would be explained to him?

A. Yes.

Q. Did he accompany you and Cambridge to the police car?

15 A. Yes.

Q. Did he say this in the car, "This has to be some sort of a joke"?

A. Yes, he did.

20 Q. Did Detective Cambridge say, "I can assure you, Wayne, that this is not a joke at all".

A. That's right.

Q. Was he then taken to Windsor Police Station?

25 A. Yes.

Q. Were his rights explained to him by an officer known as a custody manager?

A. Yes.

30

Q. And they include, do they, the ability to have a legal representative contacted or attend if required?

A. Yes.

35 Q. Did he require that?

A. No.

Q. There's the so-called right to silence was explained to him again, that if he didn't wish to participate in the interview he didn't have to?

40 A. That's right.

Q. But he did participate in an interview. Is that right?

A. Yes.

45 Q. Was that interview recorded both electronically, meaning by audio visual link equipment?

A. Yes.

Q. Did that interview start at 10.32am?

50 A. Yes, it did.

.12/08/22

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PALMER XN

VIQ:SND

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Q. Was it conducted by both yourself and Detective Cambridge with Mr Astill, obviously, also present?

A. Yeah, just the three of us, yes.

5

Q. Has that recording been placed on to a DVD disc?

A. Yes.

CROWN PROSECUTOR: Your Honour, I tender that disc.

10

EXHIBIT #W DISC OF INTERVIEW WITH ACCUSED TENDERED,
ADMITTED WITHOUT OBJECTION

Your Honour, I ask that it be played, and I have a copy for your Honour,
including a separate working copy.

15

HER HONOUR: Of the transcript?

CROWN PROSECUTOR: Of the transcript, I apologise. Of the transcript.

20

MFI #W1 TRANSCRIPT OF RECORDING

HER HONOUR: But again, ladies and gentlemen, it's an aide. I won't repeat myself, but you understand the limitations of the transcript, and the evidence itself is what's contained in the DVD. Can I also, as they're being passed out to you, just inform you of the right to silence. You heard that Mr Crown referred that to the officer-in-charge. Everyone in Australia has a right to silence.

25

That means that there's a right not to have answer questions by authorities, except for basically the fundamentals of name and address and things like that. But anyone who has been accused or been arrested, unless it's for a specific traffic offences, do not have to engage or participate in a recorded interview. So you've heard that he'd been given his right to silence, and exercised or waived that right to participate in this recorded interview which you're about to watch. Thank you. I understand the edited version, as you referred, that there was some irrelevant aspects taken out today, Mr Crown. But the edited version runs for about 2 hours and 40 minutes. Is that right?

30

35

CROWN PROSECUTOR: Yes, your Honour, and those edits have been done by agreement between the parties.

40

HER HONOUR: Yes. So ladies and gentlemen, it's 2 hours 40 minutes. It's a length of a feature movie, but we'll have at least one break in between it.
thank you.

45

EXHIBIT W PLAYED TO COURT

Might stop there, Mr Crown. That's over half way. We'll have a bit of an early morning tea, then we can complete the rest of the interview. It's got about an

50

VIQ:SND

D12

hour 20 to go.

VIQ:SND

D12

IN THE ABSENCE OF THE JURY

SHORT ADJOURNMENT

5 HER HONOUR: We'll go through to completion. I think there's about an hour, 20, 21 or something to go.

CROWN PROSECUTOR: ..(not transcribable)..to one, yes.

10 HER HONOUR: Yes.

VIQ:SND

D12

IN THE PRESENCE OF THE JURY

5 HER HONOUR: Thank you, ladies and gentlemen, we'll resume the playing of
the recorded interview. I think we're up to page 47 if you need to find it, and
around question 434.

EXHIBIT W PLAYED TO COURT

10 CROWN PROSECUTOR: Your Honour, that takes us, I think, squarely to
lunch time.

15 HER HONOUR: Ladies and gentlemen, as I said, I will let you go home, and
have the lunch that's there. You've heard the evidence today. Please again,
over the weekend don't discuss it socially or with anyone. In regards to
Monday, there is a, for my own purposes, a personal thing that I need to do, so
we won't be starting till 12 o'clock on Monday morning, or afternoon. So if you
could get here at say 20 to, half past 11, 20 to 12 for a 12 o'clock start.

ADJOURNED TO MONDAY 15 AUGUST 2022 AT 12PM

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VIQ:SND

D13

IN THE DISTRICT COURT
OF NEW SOUTH WALES
CRIMINAL JURISDICTION

5 JUDGE O'ROURKE SC
AND A JURY OF FIFTEEN

THIRTEENTH DAY: MONDAY 15 AUGUST 2022

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

**STATUTORY NON-PUBLICATION ORDER RE IDENTITY OF
COMPLAINANT**

15 **CLOSED COURT FOR COMPLAINANT'S EVIDENCE**

20 IN THE ABSENCE OF THE JURY
AUDIO VISUAL LINK COMMENCED AT 12.11PM

A

25 HER HONOUR: Yes, Mr Plunt.

PLUNT: Your Honour, Mr Tyler-Stott's just stepped outside. My solicitor's gone to get him. And that's the Accused's solicitor name for our table's service representative.

30 HER HONOUR: Yes, can I just - I understand that there's someone in for JMT in the - we need more notice.

35 PLUNT: Yes, your Honour.

HER HONOUR: We're lucky to have a court officer available. Otherwise we wouldn't have been able to proceed.

40 PLUNT: Yes, your Honour.

HER HONOUR: So please be booked into far more notice than just letting the court officer know as we come in.

45 PLUNT: Yes, your Honour.

HER HONOUR: Thank you. Yes, are we ready to go? We can get the jury?

PLUNT: Yes, your Honour.

50 HER HONOUR: Okay. Yes, thank you. And this is, Mr Crown?

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VIQ:SND

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CROWN PROSECUTOR: Sorry, A.

5 HER HONOUR: Yes, Ms. A. Can you see and hear me? Okay. Well, you're just on mute at the moment, but we'll just wait for the jury to come in, and then you can give your evidence, okay? Okay, thank you.

10 CROWN PROSECUTOR: Your Honour, can I just - I want to come in, but not to hold them up.

HER HONOUR: Yes.

CROWN PROSECUTOR: After this witness we'll be into the police.

15 HER HONOUR: Yes.

20 CROWN PROSECUTOR: There's about 20 minutes of telephone intercept recordings only in the police electronic recording and then there's a couple of police officers and I think we may finish after lunch. In fact, I'm pretty confident we'll finish after lunch.

HER HONOUR: For the ground case?

25 CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: Okay. Better get cracking. So what - defence case? Mr Tyler-Stott?

30 TYLER-STOTT: It is highly unlikely, your Honour. I'll take instructions at the end of the ground case, but--

35 HER HONOUR: Okay. At the end of the ground case, then, that's fine, but we'll also need to spend a bit of time on directions and how we're going to go forward.

TYLER-STOTT: Yes, your Honour.

40 HER HONOUR: So we'll see where we are at the time and work out from there.

TYLER-STOTT: Yes, your Honour.

VIQ:SND

D13

IN THE PRESENCE OF THE JURY

HER HONOUR: Yes, thank you, ladies and gentlemen. We will continue with the evidence and I think we have Ms A appearing via AVL according to record.

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VIQ:SND

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< A, SWORN(12.14PM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

5 Q. Is your name A?

A. Yes, it is.

Q. Ms A, were you previously an inmate with Corrective Services New South Wales?

10 A. Yes, I was.

Q. And did you come to be housed at the Dillwynia Correctional Centre?

A. Yes.

15 Q. Did you move to Dillwynia in late 2017?

A. Yes.

Q. And did you remain there until your release on 15 January 2019?

A. Yes, that's correct.

20

Q. During your time at Dillwynia did you come to be placed in the low needs area?

A. Yes.

25 Q. When you were in the low needs area did you have any interactions with the Chief Correctional Officer by the name of Mr Astor?

A. Yes, I did.

30 Q. Towards the end of 2018 were you having some personal difficulties so far as inmates? Some of the inmates in the unit?

A. Yes.

Q. Did you go to anybody to speak about that?

A. Yes.

35

Q. Who did you go to speak to?

A. I went to the low needs office and Astor opened the door and let me through.

40 Q. Now, just taking your time, could you tell us what happened after he opened the door and let you in?

A. We - I followed him into his office and I was explaining to him at the time, "I've got some issues with some people and I wanted to discuss", but I had no time to discuss. He started touching himself on the penis and it threw me right
45 out. I just said to him, "Look, I'm here to discuss some issues with you" and he asked if I wanted to have sex, and I responded as "No."

Q. Just before we continue on there, Ms A. When you said he started rubbing himself on the penis, how was he positioned?

50 A. He was facing me on his side of the desk and I was literally standing on the

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WITNESS A XN

VIQ:SND

D13

opposite end of the desk. The other side.

Q. So was he--

A. Face-to-face.

5

Q. So, he was on the other side of his desk. Was he seated or was he standing?

A. He was standing.

10

Q. How long did he continue to rub his penis for?

A. Until I said to him, "Can you please stop doing it?" And then he approached me.

Q. Just one final thing about that rubbing action - was that on the outside of his clothes or on the inside of his clothes or what?

15

A. It was on the outside.

Q. And he approached you. What did he do or say then?

20

A. He approached me and I literally took a step back because I was thrown and he pretty much groped me on my chest.

Q. Are you able to - just wait there a moment, Ms A. And you said he pretty much groped you on the chest. Would you be able to just indicate, like with your hand or hands, how he's done—

25

A. (No verbal reply)

Q. The witness has just held up her hands cupped and placed them on her breasts.

30

A. Over each breast, yes.

Q. Over each breast. How was - how was he positioned at that stage? That is - was he standing?

A. He was still facing me.

35

Q. All right--

A. He was still facing me.

Q. All right, and were you standing up? Was he standing up? How were you placed?

40

A. We're both - we were both standing up.

Q. Was anything said by one or both of you whilst he was doing that?

A. Yes. He offered if I wanted to have sex and I said no and then pretty much put his arms around me and started touching my bottom.

45

Q. Now, when he started touching your bottom, how did he do that?

CROWN PROSECUTOR: And, your Honour, if the witness is able to demonstrate that--

50

VIQ:SND

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WITNESS: Well, he pretty much put his arms around--

HER HONOUR: Well, she's just then putting his - her arms - two arms stretched outwards and around, basically.

5

CROWN PROSECUTOR

Q. Did you do anything physically after he did that?

10 A. I pretty much, you know, just stopped him and ended up running pretty much out of the office to my wing.

HER HONOUR

• Q. Ran out of office where, Ms A?

15 A. From the low needs office.

HER HONOUR: From the low needs office. Thank you.

CROWN PROSECUTOR

20

Q. Ms A, when you say you pretty much stopped him, what did you actually do?

A. I had to physically move his hands away from my - my arse.

25 Q. Was there any other - after you moved his hands away from you in the way you've just indicated, was there any other physical contact between you and he before you left the room?

30 A. No, that was the last contact; I pushed his arms away, and literally walked out as if it was all normal. But by the time I got to the door, I was literally running to my wing.

Q. When you got back to the wing, did you tell anybody, at that stage?

A. No.

35 Q. Ms A, can you just tell us--

CROWN PROSECUTOR: Your Honour, I should say, those were counts 46 and 47 on the indictment in this order. The first was the grabbing of the breasts, count 46, count 47 was the grabbing of the buttocks.

40

HER HONOUR: Yes.

CROWN PROSECUTOR

45 Q. You just explained, Ms A, why you didn't say anything to anybody at that time?

A. I was too afraid.

Q. What were you afraid of in particular?

50 A. Just getting trouble with other inmates if I spoke to him about it.

.15/08/22

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WITNESS A XN

VIQ:SND

D13

Q. Ms A, you told us that you went in there to discuss some problems about other inmates, did Mr Astill – at any time in the office – deal with that, or ask you what that was about?

5 A. There was no time, he didn't want to even know – like – he pretty much did what he did, and he didn't even care.

Q. Did he ever follow up with you what were the problems, Ms A? What you wanted to discuss?

10 A. No, never.

<CROSS-EXAMINATION BY MR TYLER-STOTT

Q. Ms A, were you also in Dillwynia from September 2016 to March 2017?

15 A. No.

Q. Are you 100 per cent sure about that?

A. Yes.

20 Q. Did you not perform maintenance whilst you were in Dillwynia in 2016?

A. I've been locked up plenty of times, but I was a groundskeeper at one point, yes.

Q. Was that at Dillwynia?

25 A. Yes.

Q. And was that in 2016, or you don't know?

A. I can't answer that.

30 Q. Mam, you've indicated that Mr Astill asked you to have sex, on how many occasions did he do that?

A. Just the once.

Q. And was that before or after he touched you?

35 A. Before.

Q. So, it wasn't after he touched you on the breasts?

A. No.

40 Q. How many times did you push him away?

A. Twice.

Q. And you've indicated on the occasion that he had hold of your backside, you pushed his arms away, is that correct?

45 A. Yes.

Q. All right. When you gave the action, can you – I don't think it was

explained for the record – can you show us how you pushed his arms away?

A. That's – on my bottom, I moved my arms like that.

50

.15/08/22

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WITNESS A XN XXN

VIQ:SND

D13

TYLER-STOTT: Okay. Just for the record, you've put your arms just slightly outstretched in front of you with your palms facing down, and then you've moved each arm out to the side in an outward sort of sweeping motion.

5 CROWN PROSECUTOR: That is correct.

TYLER-STOTT

10 Q. Did you touch his hands on your backside, or did you touch his arms?
A. Just his arms.

Q. All right. You were able to break his grip, were you?
A. Yes, I pushed him away.

15 Q. When you say you pushed him away, what do you mean by that?
A. To stop him touching me.

Q. Okay. Where did you push him, to push him away?
A. I pushed his arms away like that.

20 Q. You have just repeated the same action. Did you push him anywhere else?
A. No.

25 Q. Is that the only time you pushed him?
A. When he had his hands on my chest, I did stop him doing that as well.

Q. How did you stop him from doing that?
A. Just pretty much grabbing his arms and trying to push him away, I didn't
30 want him to touch me.

Q. Okay, grabbing his arms and pushing them away. Can you just please show us the action again you've just given us?
A. (No verbal reply)

35 Q. Just for the record, the witness has placed her hands near her breasts but not touching her breasts with palms facing inwards, sort of a clasping motion, and then you've moved your arms outwards. Did you grab his hands and then pull them from your body?

40 A. No, more his arms, I didn't grab him, it was more pushing him away and pushing his arms away.

Q. You didn't grab his hands that were on your breasts, you pushed his arms?
A. No, of course not, no.

45 WITNESS: Can I – can I have a break please?

HER HONOUR: Yes, okay. We will just hold it there. Ladies and gentlemen, I won't send you back, perhaps if you can just wait out there for five minutes and
50 we'll come back in, thank you.

.15/08/22

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WITNESS A XXN

VIQ:SND

D13

AUDIO VISUAL LINK DEACTIVATED

.15/08/22

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WITNESS A XXN

VIQ:SND

D13

IN THE ABSENCE OF THE JURY

HER HONOUR: I will just take a moment in the inter-rooms.

5 SHORT ADJOURNMENT

AUDIO VISUAL LINK ACTIVATED

Q. We are ready to go. Yes, Ms A, are you ready to go?

10 A. Yes, your Honour.

HER HONOUR: Okay, good.

VIQ:SND

D13

IN THE PRESENCE OF THE JURY

HER HONOUR: Yes, thank you, ladies and gentlemen, we'll swing back over to Ms A.

5

TYLER-STOTT: Ms A, can you see and hear me?

HER HONOUR: No, probably not yet.

10 TYLER-STOTT: I am sorry, your Honour.

HER HONOUR: This has to be recorded as well, Mr Tyler-Stott, yes, all good. Thank you.

15 TYLER-STOTT

Q. Can you see and hear me, Ms A?

A. Yes, I can.

20 Q. Ms A, what block were you in?

A. N-1.

Q. Ms A, you provided a statement in 2019, is that correct? In July 2019?

A. Yes.

25

Q. I am not going to take you to it, but were you approached by police to provide a statement?

A. Yes.

30 Q. Ms A, have you also made a claim for compensation against the state?

A. Yes, I have.

Q. Ms A, my suggestion to you is that you've made up what you said took place with Mr Astill.

35 A. I did not make it up.

Q. And you've done so, so you can claim compensation against the state.

A. That's a total lie, I did not make it up, it actually happened.

40 NO RE-EXAMINATION

<THE WITNESS WITHDREW

AUDIO VISUAL LINK CONCLUDED AT 12.36PM

VIQ:SND

D13

<MICHAEL CAMBRIDGE, AFFIRMED(12.37PM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

5 Q. Sir, is your name Michael Cambridge?

A. Yes, it is.

Q. Were you previously a detective sergeant attached to New South Wales Police Service?

10 A. That's correct.

Q. Mr Cambridge, you're no longer with the New South Wales Police but have moved onto a Commonwealth agency?

A. Yes.

15

Q. Were you previously involved in the investigation subject to this trial regarding Mr Astill?

A. Yes, I was.

20 Q. As part of that investigation, did you arrange for certain telecommunications to be lawfully intercepted by police?

A. Yes.

Q. We will put the jargon aside, to listen in on some phone calls?

25 A. Yes.

Q. Did those phone calls variously involve a mobile phone service used by Mr Astill, as well as a landline used by him, his home phone?

A. Yes, initially it was the mobile, and then it was a landline after that.

30

Q. Have you listened to those various recordings, and you understand that there are certain of them to be played to the jury today?

A. Yes.

35 EXHIBIT #X DISC CONTAINING THREE RECORDED PHONE CALLS
TENDERED, ADMITTED WITHOUT OBJECTION

CROWN PROSECUTOR: Your Honour, if we could hand out transcripts as aids to the jury, as usual.

40

HER HONOUR: Yes.

CROWN PROSECUTOR: I could hand up a copy as an aid and working copy, and one to be marked, your Honour.

45

HER HONOUR: Yes, and we'll have some for the jury.

MFI #X1 TRANSCRIPT OF FIRST PHONE CALL

50 So, X-1, ladies and gentlemen, again just as an aid, the evidence itself comes

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from the calls.

5 CROWN PROSECUTOR: This is – firstly – the first recording. Just for the record, on 11 March 2019, starting at 10.44am. Your Honour, before that's played, my friend might confirm there is no dispute that Mr Astill is one of the voices in that phone call.

HER HONOUR: It has him as V1 as Wayne Astill.

10 TYLER-STOTT: Yes, in this case, yes.

EXHIBIT X PLAYED TO COURT

15 CROWN PROSECUTOR: Can we just pause it there?

HER HONOUR: Just hold it there.

20 CROWN PROSECUTOR: Your Honour, the next recording only goes for about five minutes so, noting the time, if we could do that now?

HER HONOUR: Yes, let's do that.

CROWN PROSECUTOR: We've got transcripts of that.

25 HER HONOUR: What's the last one, how long?

CROWN PROSECUTOR: The last one's two minutes.

30 HER HONOUR: We'll play all of them.

EXHIBIT #X2 RECORDING 2 TENDERED, ADMITTED WITHOUT OBJECTION

35 CROWN PROSECUTOR: This one was near 4 April 2019 at 1.25pm.

HER HONOUR: Yes, thank you.

EXHIBIT X2 PLAYED TO COURT

40 Different call? Stop that please. Female, not male, too.

CROWN PROSECUTOR: Yes, your Honour.

45 HER HONOUR: Is it the third call?

CROWN PROSECUTOR: No, this is the second call, your Honour. Can we have the transcript have that one.

50 HER HONOUR: You don't have the transcript for that?

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CROWN PROSECUTOR: We do, we do. I'm just asking if we could get the transcript for that call, perhaps might be the better way to do it so we can continue on in order.

5 HER HONOUR: Yes, do we have the transcripts?

CROWN PROSECUTOR: Yes.

MFI #X2 TRANSCRIPT OF SECOND PHONE CALL

10

HER HONOUR: The other one you've just held, is that the last one, or is that being played? The one the transcript that's just been handed out.

15 CROWN PROSECUTOR: The one that's just started to be played was 15 April 2019, and we do not have that transcript as yet.

HER HONOUR: Right, no, the one that's on 4 April, can we play that instead, and play it in order?

20 CROWN PROSECUTOR: Yes, that might make more sense, sorry.

HER HONOUR: Yes, okay.

CROWN PROSECUTOR: Confused, sorry.

25

HER HONOUR: That's all right.

EXHIBIT X2 PLAYED TO COURT

30 CROWN PROSECUTOR: If we could now play 15 April 2019.

EXHIBIT #X3 RECORDING 3 TENDERED, ADMITTED WITHOUT OBJECTION. PLAYED TO COURT

35 HER HONOUR: Yes, Mr Crown.

CROWN PROSECUTOR: Your Honour, that concludes the recordings.

40 HER HONOUR: The recordings? Okay. Well, we'll have lunch now, ladies and gentlemen, we'll return at 2 o'clock. Thank you.

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IN THE ABSENCE OF THE JURY

HER HONOUR: Yes, okay, I'll adjourn.

5 LUNCHEON ADJOURNMENT

CROWN PROSECUTOR: Your Honour, just before we resume, can I just indicate this. Detective Cambridge will resume his evidence shortly. I don't have much more for him and I don't understand my friend to either. I would
10 deem that I only mention that for timing purposes of course. I then have two sets of agreed facts to tender. I raise it now in case your Honour wanted to see them before the jury is here. Can we do that? I'll formally hand those to your Honour if that assists.

15 Then I'll call Detective Palmer, the officer in charge. Again, he's not going to take long either. Can I raise this? I spoke to my friend, in terms of the length of our addresses, I understand that his position is firmed up, as to not going into a case. So, predicated on that assumption, I say this. Our addresses are not both going to start and finish on the same day. That is, if I start at
20 10 o'clock--

HER HONOUR: How long do you think you'll be? There's a few things I want to ask you about first, with directions, cause if I'm starting to prepare the summing up, I want to know what I'm preparing. So, your saying, basically this
25 afternoon, is that what you are talking about?

CROWN PROSECUTOR: What I was going to ask your Honour is this. I'd ask for a later start tomorrow on this basis, that, one I'm juggling other commitments, I don't say I'm Robinson Crusoe in that regard, but I am. If I
30 could start at 11.30 tomorrow, I would expect to finish it tomorrow. I'm pretty confident with that.

HER HONOUR: And then Mr Tyler-Stott can start on the Wednesday. How long do you think you will be, Mr Tyler Stott? I'm not putting it down, but I'm
35 just trying to prepare because I think if they are going to be lengthy, I think one at a day is sensible as well, particularly with having breaks. In any event, how long do you think you will be?

40 TYLER-STOTT: Two to three hours, your Honour.

HER HONOUR: And then whether I start my summing up and then go in. But I mean, we're running ahead of schedule, that's fine if we don't sit the rest of the afternoon. And we do have a late start tomorrow, do you have any objection? It will give us all time, but I do want to raise a few things after the
45 evidence is in, so that I know where we're going. For example, particulars aspects of, if you're going to close on lies, Mr Crown, I'd like to know what lies you're going to rely upon and as to what purpose.

50 Same with if the LD's are in for as admissions, I want to know what admissions you're relying upon and what you say they go to. Are they adverse to interest

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or are they admissions to guilt, that type of things. Yes, I think that's about all, and of course to tendency, but I've raised that before with you, just so that I know where you're going with that, because a tendency is not just to the sexual acts, it's also to the misconducts is it not?

5

CROWN PROSECUTOR: That's right.

HER HONOUR: Because it's all sort of convoluted so, for example, the bodies of evidence that you're relying upon for tendency, include for example, the plea of guilty to E, and I take it the LD material that was just lead, as to the admission of bringing in some tobacco for E, which would go to tendency for the misconduct charges, on the basis of bringing in commodities for other inmates. I mean I'm listening carefully obviously, to your address, but it would just give me a start to know where you're going. Okay, well, we'll get the jury. So, we should conclude the evidence by 3 today?

15

TYLER-STOTT: Yes.

CROWN PROSECUTOR: Yes, your Honour.

20

HER HONOUR: And are you in a position to say that you're not going into the defence case?

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

25

HER HONOUR: Okay, well, we can let them know that and they know then that the evidence is concluded and we're moving into the next phase of the trial.

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IN THE PRESENCE OF THE JURY

HER HONOUR: Yes, thank you ladies and gentlemen. Yes, Mr Crown.
Mr officer, come back into the witness box. You are on your former promise to
5 tell the truth.

CROWN PROSECUTOR

Q. Mr Cambridge, on 14 March 2019(as said), did you go to Silverwater
10 Women's Correctional Centre with Detective Palmer?
A. Yes, I did.

Q. Did you speak there with inmate C?

15 HER HONOUR: I'm sorry, Mr Crown. What date was that on, I missed the
date.

CROWN PROSECUTOR: 14 May 2019, your Honour.

20 Q. And that was in a private room, is that right?
A. Yes.

Q. Did you have a discussion there with C, about her making contact, that is, a
25 plan for her to make contact with Wayne Astill?
A. Yes, I did.

Q. Did she indicate a willingness to participate in a phone call to Mr Astill,
whilst you were present?
30 A. Yes.

Q. Now, was it made clear that the purpose of the call was to talk with Mr Astill
about his recent charges?
A. Yes.

35 Q. And so at that stage, he's just recently been charged with matters now
before the Court.
A. He was - that's correct, yes.

Q. And did you give her any prompts or tell her what to say in that phone call?
40 A. No.

Q. Did you provide her with Mr Astill's phone number?
A. Yes.

45 Q. Was that phone call audio recorded?
A. Yes, it was.

Q. And that was under a warrant to record - have phones.
A. Yes.
50

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Q. And was that fact, the fact of it having been recorded, was that brought to Ms C's attention?

A. No.

5 Q. Just so I'm clear. At the time the call was being made, I'm asking, did she not know that--

A. No, she didn't know.

10 Q. She didn't know. All right. Did you meet with her partner, Mr Patrick Kogan on 16 May 2019?

A. Yes.

EXHIBIT C SHOWN TO WITNESS

15 Q. Mr Cambridge, you'll see there's an index on the front effectively. If you go to the second item.

A. Second page?

Q. Yes.

20 A. Yes.

Q. Is that a copy of a note that was handed to you by Mr Kogan on 16 May 2019?

A. Yes, it is.

25

CROWN PROSECUTOR: Thank you. That might be returned by the Court officer.

NO CROSS-EXAMINATION

30

<THE WITNESS WITHDREW

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<DETECTIVE JOSHUA PALMER, RECALLED AND RESWORN(2.17PM)

<EXAMINATION-IN-CHIEF BY CROWN PROSECUTOR

- 5 Q. Detective, you've previously given evidence in these proceedings, but just for the transcript, your name is Joshua Palmer?
A. Correct.
- 10 Q. Detective on 24 January 2019, did you travel to Grafton Correctional Centre?
A. I did.
- 15 Q. Did you speak there with an inmate by the name of H?
A. Yes.
- 20 Q. Did you speak with her about writing a letter to another inmate by the name of V?
A. Yes.
- 25 Q. Did she write such a letter--
A. Yes.
- 30 Q. --whilst you were there?
A. Yes.
- 35 Q. Did you provide her with notes to guide her, as to the content of the letter?
A. Yes.
- 40 Q. Did the letter leave out blank spaces for inserting a mobile phone number, and the date?
A. It did, yes.
- 45 Q. Why was that?
A. We didn't have the mobile phone number at that time.
- 50 Q. Once the letter was complete, did Ms H write V's name and her MIN number, that is, master index number for the jail?
A. Yes.
- Q. On an envelope, and did you arrange for that to be done to give it the allusion or give it the appearance of being inter-jail mail?
A. Yes.
- Q. And on 4 February 2019, was that letter the letter which was shown to Mr Virgo and Mr Schreiber of the Dillwynia Jail Complex?
A. Yes.
- Q. Detective, as part of your investigation, did you make and examination of Dillwynia's Jail, so far as the availability of close circuit TV?
A. Yes.

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- Q. So far as the – firstly – the BIU area, can you tell us about the CCTV such as it was available, not available, at that centre?
- 5 A. There is a camera in the BIU, which sort of faces from across the – the sort of foyer bit, I suppose how you'd describe it – where each door is along a wall here, door, door, door, door, door, the camera is facing that way, sort of across the room, that's the view.
- Q. Is there any camera angle that shows inside any of those cells?
- 10 A. No.
- Q. And these are where the women are and where they change and all the rest, yes?
- 15 A. Yes, that's right.
- Q. What about in the high needs office for the chief?
- A. No, no CCTV.
- Q. You are aware that there was a change in that office, that is, where the chief sits, changed during the timeframe we're concerned with?
- 20 A. Yes.
- Q. Was there any CCTV in either of those offices?
- 25 A. No.
- Q. So far as the medium needs, where the chief sits there?
- A. No, no CCTV.
- Q. So far as office?
- 30 A. No CCTV.
- Q. Is there cameras in the reception area?
- A. Yes.
- 35 Q. As to the availability of the CCTV – such as there may be captured – how long is that available for?
- A. So, we made the inquiry originally in relation to the CCTV, and the way that the centre's CCTV was set up is that the higher traffic areas, obviously the system records more frequently, so I think the furthest we could go back was a
- 40 month on any of the cameras at the time.
- HER HONOUR: For the jury, meaning that you could only get a month's worth of--
- 45 WITNESS: Yes, on some cameras less, your Honour.
- HER HONOUR: --of recorded, some less, so if it was past a month then it had been recorded over.
- 50 WITNESS: Overwritten, yes.

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HER HONOUR: Okay.

CROWN PROSECUTOR

5

Q. Was it 8 April 2019 when you went out to Dillwynia with the police photographer – who's got a fancy name – and forensic imaging section, yes?

A. Yes, that's correct, yes.

10

Q. Where these photos were taken, which are before the jury.

A. That's right.

Q. It was at that time you confirmed the situation with the CCTV?

A. Yes.

15

Q. Detective, as part of the investigation, was there a search warrant taken out and issued by the Court, and executed – or carried out – at the premises of Mr Astill?

A. Yes.

20

Q. Do you tell the Court that there was nothing of interest or relevance found in that?

A. Correct, yes, there was nothing of interest found.

25

<CROSS-EXAMINATION BY MR TYLER-STOTT

Q. Detective, I just wanted to confirm a few dates with you, and just for the benefit of the jury, we've sat outside and gone through some dates, just to speed the process up.

30

A. We have, yes.

Q. Ms T, she was in the BIU from 22 August 2017 to 23 August 2017, is that right?

A. That's right, yes.

35

HER HONOUR: Can you say those a bit slower, Mr Tyler-Stott?

TYLER-STOTT: Sure can.

40

HER HONOUR: August 27?

TYLER-STOTT: I beg your pardon, your Honour, it was 22 August.

HER HONOUR: Right.

45

TYLER-STOTT: To 23 August 2017.

HER HONOUR: Yes.

50

WITNESS: One day, yes.

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TYLER-STOTT: One day, yes.

HER HONOUR: One day, and that's Ms T?

5

TYLER-STOTT: That's right, yes.

Q. Ms G, she was on ground and maintenance between 16 November to January 17?

10 A. That's right, yes.

Q. Ms A was on ground and maintenance between 16 September and 16 December?

15 A. Yes, that's right.

Q. Ms K was on pack and assembly between 2 and 9 December 2016?

A. Yes.

Q. Thank you. As far as the motorcycle group that Mr Astill is a part of, can you just give a description of what you understand it to be?

20

A. It's just a social riding club, is what I understand.

Q. It is certainly not an outlaw motorcycle gang, or anything of that nature?

A. No, no.

25

Q. As far as the text message sent by Ms DD to Mr Astill back in February 2019 with the reference to \$50 000, is it the case that you and Detective Cambridge did not advise Ms C that the telephone intercepts had been in place, is that correct?

30 A. That's correct.

Q. And you had not asked them to communicate with Mr Astill, is that correct?

A. That's right.

35 Q. Just excuse me for a moment. Can you confirm – and I know we didn't go over this date, so if you need to, please let me know – that Ms C's first statement was 7 May 2019?

A. If that's the document you've got, I'm happy to accept that.

40 HER HONOUR: Is that when it was commenced, or when it was signed, Mr Tyler-Stott?

TYLER-STOTT: I will just confirm that. Both commenced and signed, your Honour. Nothing further, your Honour.

45

NO RE-EXAMINATION

<THE WITNESS WITHDREW

50 HER HONOUR: Yes, Mr Crown?

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PALMER XXN WD

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CROWN PROSECUTOR: Your Honour, I tender now some further agreed facts, and I do tender those separately. First is a document dated 15 August 2022 signed by myself and Mr Paul Blakeford, a representative of Mr Astill. To
5 distinguish it from the next document, I might say this refers to F.

HER HONOUR: So, that's the two documents?

CROWN PROSECUTOR: That is just the one document I'm tendering for
10 now, and then I'll tender the next one separately.

EXHIBIT #Y F DOCUMENT DATED 15/08/22 TENDERED, ADMITTED
WITHOUT OBJECTION

15 HER HONOUR: You have copies for the jury, Mr Crown?

CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: Have them handed out, and I'll read this onto the record. And
20 that's count 38 that this relates to, Mr Crown?

CROWN PROSECUTOR: It does, yes.

HER HONOUR: I understand this is the part of the Crown case on tendency?
25

CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: All right, so what I said to you before, ladies and gentlemen,
30 that is that you'll note that count 38 was the count, Mr Crown, that the accused pleaded guilty to?

CROWN PROSECUTOR: Yes.

HER HONOUR: And so this is effectively a statement of agreed facts in
35 relation to that count, and even though that's not your decision making, count 38, because there's already a plea there, the Crown is relying upon this as part of its case against the accused as saying that he had a tendency to act in a particular way. I will be giving you further directions as to this. Does everyone have the document? Yes? Just mark that exhibit Y, ladies and
40 gentlemen, you can see it's headed, "The District Court...Dillwynia Correctional Centre." The statement of agreed facts, the background one, "Dillwynia Correctional Centre...for the inmates." I assume that's the accused, Mr Crown?

45 CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: "Who viewed the...the correctional centre." That has been signed by the legal representatives. Yes, Mr Crown.

50 EXHIBIT #Z AGREED FACTS RE ERECTILE DYSFUNCTION DATED

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15/08/22 TENDERED, ADMITTED WITHOUT OBJECTION

5 You can mark this, ladies and gentlemen, exhibit Z. Again, they are agreed facts, ladies and gentlemen, so these matters in here are not in issue between the parties.

EXHIBIT Z READ TO COURT

10 And that has been signed by the parties.

CLOSE OF CROWN CASE

NO CASE FOR ACCUSED

15 Ladies and gentlemen, that means that there is no further evidence in the trial, and we move to the next stage of the trial. The next stage of the trial involve the closing addresses of both counsel. Of the Crown and Mr Tyler-Stott. They're going to go for sometime as you could imagine. We have spoken about this in your absence. I need to discuss with counsel some various
20 issues of legal directions and the law, and I'm going to do that this afternoon with them.

25 What that means for you is that the Crown will commence, and he expects to complete his closing address tomorrow to you, but we won't start till 11.30 so that we all have time to do that legal directions and discuss the law and not have you sitting in there waiting for us to start. So we'll start earlier no doubt, but if you can be here to start at 11.30. Mr Crown will commence and should complete. If not, it'll go over to the next day's closing address to you. We'll have breaks throughout the course of the day because it's hard to listen to
30 someone speaking to you for a long period of time. So perhaps every 40 to 45 minutes we'll have a short break. Then what will happen is Mr Tyler-Stott will give his closing address to you, which will be on Wednesday. So he will give his closing address to you, and then however long that takes, and then I will commence the summing-up to you.

35 What that sort of means for you is that I should complete the summing-up by around Thursday. So at this stage without making any promises, I'd expect that you would be starting to deliberate Thursday, if not Thursday, Friday for your verdicts. So as I said, it has moved quicker than was originally estimated,
40 but yes, we've reached that next stage of the trial.

45 So what I'm going to ask you now is take leave. Please don't discuss the evidence. It's reaching the critical stage of the trial now that all the evidence is in, and please if you could be here tomorrow for 11.30 start, and we'll continue then, and then commence the Crown closing address.

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IN THE ABSENCE OF THE JURY

HER HONOUR: Okay, directions. Do you have a list, Mr Crown?

5 CROWN PROSECUTOR: Not at this stage, I don't, your Honour. There'll be complaint. I mean, I can go through--

HER HONOUR: We'll need to spend some time on this.

10 CROWN PROSECUTOR: Yes.

HER HONOUR: I know that you're asking for 11.30 start for your closing address tomorrow.

15 CROWN PROSECUTOR: Yes.

HER HONOUR: But I think we'll need to 11, and then we can discuss some aspect at 11 o'clock, and just go through just so I know where you're going, and what I'm meant to be doing. But in relation to complaint, I will need to
20 know who for each complainant, you're relying upon and under what basis. I think the vast majority are section 66 in any event and they're making a summary and list as I go, but just so that we're all ad idem in relation--

25 CROWN PROSECUTOR: Yes.

HER HONOUR: --to the complaint evidence. I don't think there was any 108 complaint.

30 CROWN PROSECUTOR: No. There wasn't.

HER HONOUR: Yes. Motive to lie. You raised it.

CROWN PROSECUTOR: Yes, your Honour.

35 HER HONOUR: And in relation to your raising, and I think the vast majority, if not all, have been writing them down as we go, but I think it's on the basis of false complaint for the purpose of compensation.

40 TYLER-STOTT: That's right, yes.

HER HONOUR: Nearly for all complainants?

TYLER-STOTT: I think it was in the - without--

45 HER HONOUR: And there was one--

TYLERSTOTT: S. S did not. I didn't put it to her.

50 HER HONOUR: You didn't put it to--

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TYLER-STOTT: I'll have to check.

CROWN PROSECUTOR: We'll check. Right.

5 HER HONOUR: You specifically didn't know which ones - what you're alleging it to or which - where you put that to?

TYLER-STOTT: Yes, your Honour.

10 HER HONOUR: I suppose Markuleski for each particular complainant, but what do you say in relation to, for example, what if there's a complainant like A who had one incident? One - there's two counts that is on one aspect of it. Does that require a Markuleski direction? You can just think about that.

15 CROWN PROSECUTOR: I'll think about that. Could I--

HER HONOUR: Really goes against the purpose of Markuleski, really. Different if they were on different days and different counts relating to different days, but anyway.

20

CROWN PROSECUTOR: Something of an all or nothing in a case like that.

HER HONOUR: Yes, yes. Murray direction is not--

25 CROWN PROSECUTOR: No.

HER HONOUR: It's not really - what I tend to do, though, for each of the complainants is to tell the jury they must be satisfied, ultimately, beyond reasonable doubt on the reliability and truthfulness of each complainant. Each particular complainant.

30

CROWN PROSECUTOR: Yes.

35 HER HONOUR: And that the Crown says that you would do so because of these various reasons, and Mr Tyler-Stott on behalf of the question says you would not find such-and-such a truthful and reliable witness because of these reasons. What you do is a matter for you.

CROWN PROSECUTOR: Yes.

40

HER HONOUR: Effectively. So outlining the areas that you're both saying as to what supports and what doesn't support, but without giving any direction as to it. I don't it's required here as to that you've got to examine with close scrutiny.

45

TYLER-STOTT: That's right. I'm content with that.

CROWN PROSECUTOR: Your Honour, there's - yes, your Honour.

50 HER HONOUR: Liberato? No, Liberato. No Liberato?

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5 CROWN PROSECUTOR: As to - I managed to legally and procedure act it in my round bit as to these statutory warnings 293-D I think it is - inconsistency of accounts and delay.

HER HONOUR: 293-A and 294?

TYLER-STOTT: 294.

10 HER HONOUR: The delay the - if that's still in the - I know it's - a lot of the numbers have been changed around, but I think it's - yes, but you mean the inconsistency. But who does that relate to? Which one?

CROWN PROSECUTOR: That's what I'll need to identify.

15

HER HONOUR: Yes.

20 CROWN PROSECUTOR: Because there's so much detail, but - and depending on if it's - I think it's 293-A. If it had been rebandaged then that's what I'm talking about - inconsistency - it specifically says that in order for us to consider it after addresses - that's not to say we're going to--

25 HER HONOUR: I know. I don't think we're going to get into a position that it's going to be all - and I know you're still both of you are doing your closing addresses as well, but I wanted to raise these things so maybe even after Mr Tyler-Stott's address, that is when we can fully go through these things--

CROWN PROSECUTOR: Of course.

30 HER HONOUR: --but I wanted to flag them now so that both of you know where I'm looking and what I'm--

CROWN PROSECUTOR: Yes.

35 HER HONOUR: --enquiring about. For example there, for lies, you may need to know what you can submit on because you might say something's a lie, but I might say no it's not for the purpose. Like, for a defence. Like saying you've got a defence is not a lie if you're pleading not guilty.

40 CROWN PROSECUTOR: No. I'm not a Crown who goes down that path. I've heard that argument made, but no, I'm not going to be suggesting that. He's given an account to the police, of course.

45 HER HONOUR: Yes, but what aspects of it? It cannot just be "Oh, here's the ERISP. It's full of lies." And I want to know if - so pick out the lies that you say are lies--

CROWN PROSECUTOR: Yes.

50 HER HONOUR: --and what you're saying - they go to his credibility or

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consciousness of guilt.

CROWN PROSECUTOR: Yes.

5 HER HONOUR: So whether it's a Zoneff or a Edward direction.

TYLER-STOTT: Yes, your Honour.

CROWN PROSECUTOR: I must say--

10

HER HONOUR: And your position on that, Mr Tyler-Stott.

CROWN PROSECUTOR: I must say, given the admitted misconduct by virtual
15 pleas and other - any and other ways that will have an affect on the use of the
time--

15

HER HONOUR: I know. It's a difficult one because in relation to, for example,
the aspect of H - the denial, the denial and then the admission. So are they
20 lies? But then he's ultimately pleaded guilty to it. Are you going to use that as
to his credibility or are you just going to accept that he's changed his plea in
relation to that? Because the aspect have right to silence and the like as well,
so it makes it a bit difficult, so that's why I certainly want to know how the
Crown's putting it's case in relation to that.

20

25 And also the admissions. What admissions - for example, his admission for H,
is it really his admission to his plea of guilty? And are they adverse to the
interest of the admissions? Tell you what, that may take a little time,
Mr Crown, but you're going to need to know that depending on how you
address.

30

CROWN PROSECUTOR: Yes.

HER HONOUR: What else was there. So, admissions and lies. The tendency
bodies of evidence the Crown's relying on each complainant as
35 cross-admissible as tendency.

35

CROWN PROSECUTOR: Yes. You have a--

HER HONOUR: And that includes the ones that he's pleaded guilty to.

40

CROWN PROSECUTOR: Yes

HER HONOUR: And the plea of guilty one - it's the second body - is then the -
45 as to misconducts between those ones.

45

CROWN PROSECUTOR: Yes.

HER HONOUR: Which is including, then, another body which weren't
50 complainants of Q.

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CROWN PROSECUTOR: Yes.

HER HONOUR: And, who else was there? There was another person.

5 CROWN PROSECUTOR: X.

HER HONOUR: X, and was there anyone else?

10 CROWN PROSECUTOR: I don't think--

HER HONOUR: I have a feeling there was someone else. I've written it in down.

15 CROWN PROSECUTOR: There was some evidence from N about GG.

HER HONOUR: Yes, yes. So N as to GG. So that's another body, so the ones that are noncomplainants - and then the plea - I suppose the agreed facts document is really the body, isn't it? The agreed facts documents as to the other misconduct charges.

20 CROWN PROSECUTOR: Yes.

HER HONOUR: Which is including contraband.

25 CROWN PROSECUTOR: Yes, that's right.

HER HONOUR: So that means basically - are you relying on each complainant as being tendency for each count? For their own counts?

30 CROWN PROSECUTOR: Not for their own--

HER HONOUR: Or just cross-admissible?

35 CROWN PROSECUTOR: --no.

HER HONOUR: Okay. So, each complainant: one body. Two: the agreed facts body, and then the other non-complainant body. Okay, so there's three bodies of evidence. Right--

40 CROWN PROSECUTOR: There's some evidence, your Honour - sorry if I'm moving on too--

HER HONOUR: That's all right.

45 CROWN PROSECUTOR: While I think of it - and this is tying with complaint - and there's some evidence of distress from the phone call between--

50 HER HONOUR: That ties in with complaint evidence. So, complaint with distress where evidence of - just the normal ones. I suppose a certain Liberato in relation to the ERISP.

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CROWN PROSECUTOR: Yes.

HER HONOUR: Mr Tyler-Stott?

5

TYLER-STOTT: I think that's - yes, your Honour. The complainants summarised--

HER HONOUR: I mean because if they accept his version--

10

TYLER-STOTT: Yes.

HER HONOUR: --in the ERISP then that would raise a reasonable doubt in relation to all counts that are left on the indictment because he's only pleading to a consensual relationship with H and yet denying still all the contraband.

15

TYLER-STOTT: Yes, your Honour.

CROWN PROSECUTOR: I'm sorry, your Honour, would your Honour repeat that for me please?

20

HER HONOUR: Well, in his case, if you were to accept his ERISP, his account given in the ERISP even though it was untested, if that was accepted then that would raise a reasonable doubt and it would mean that the Crown is not satisfied on the balance on the - beyond reasonable doubt in relation to all counts remaining on the indictment because he's only in acceptance of guilt as to H misconduct.

25

CROWN PROSECUTOR: That's right. That is right, yes.

30

HER HONOUR: Yes, okay. What others? Anything else that you can think of right now? Let me have a quick look.

CROWN PROSECUTOR: I can look. I have ample resources on this, I just don't - sorry, I haven't reduced it to all this, I should have.

35

HER HONOUR: Are there any statutory alternatives?

CROWN PROSECUTOR: No.

40

HER HONOUR: Character?

TYLER-STOTT: That's not relied upon, your Honour.

HER HONOUR: Not relied upon. Disavowed from.

45

TYLER-STOTT: Just not pressed your Honour.

HER HONOUR: Okay. Not sought.

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TYLER-STOTT: Not sought.

HER HONOUR: What about context, Mr Crown? Is it context though really, or is it part of the misconduct charge? Did you have a think about that?

5

CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: Because some of the complainants refer to other incidents that are not on the indictment, like it happened multiple times or the like, or is that just part and parcel of the Crown's evidence to go towards a misconduct charge?

10

CROWN PROSECUTOR: Yes, a small voice in my head saying don't overcomplicate this more than it already is. but at the same time, that doesn't relieve me of the obligation if..(not transcribable)..that way.

15

HER HONOUR: No. So, you need to have a think about that and speak to Mr Tyler Stott about it, because it's also not just that you rely upon it, it's what they can do with it and what they can't do with it. Well, have a look at the other ones. Look I know you've got a bit on now, in relation to everything, but if we can meet at 11.00 o'clock tomorrow, and particularly the main things really at this stage, would be for me to know what you are proising are going to be the lies and the admissions and the complaint. And if there are any other directions that you are seeking, statutory or otherwise. Because, with a delay, what are you saying the delay is to, to which ones, because none of its a great deal of delay, is it. They all basically say they didn't speak up straight away, on the basis of fear.

20

25

CROWN PROSECUTOR: Fear. Consequences variously from accused.

30

HER HONOUR: Other inmate and correctional from officers.

CROWN PROSECUTOR: And correctional officers.

HER HONOUR: Yes, okay. Well, 11 o'clock then, tomorrow. Anything else?

35

TYLER-STOTT: No, your Honour.

CROWN PROSECUTOR: Not from my party.

40

HER HONOUR: Okay. 11 o'clock tomorrow.

ADJOURNED TO TUESDAY 16 AUGUST 2022 AT 11AM

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IN THE DISTRICT COURT
OF NEW SOUTH WALES
CRIMINAL JURISDICTION

5 JUDGE O'ROURKE SC
AND A JURY OF FIFTEEN

FOURTEENTH DAY: TUESDAY 16 AUGUST 2022

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

**STATUTORY NON-PUBLICATION ORDER RE IDENTITY OF
COMPLAINANT**

15 **CLOSED COURT FOR COMPLAINANT'S EVIDENCE**

IN THE ABSENCE OF THE JURY

20

CROWN PROSECUTOR: Your Honour, can I start firstly with the request by your Honour for an indication of what lies are to be relied upon. We have a document.

25 HER HONOUR: Yes, I have that marked. You've seen it Mr Tyler-Stott?

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

30 CROWN PROSECUTOR: I'll make a correction when that goes up. I know your Honour's reading, it might assist if I just interrupted your Honour briefly for this reason. Firstly, would your Honour go to p 3 of this and item 3. Down the bottom, it says "April 2017 response to O," that should be a "subtle complaint".

HER HONOUR: Sorry, April 2017 Response to?

35

CROWN PROSECUTOR: It says "O v P", it should be "O v T". It should also be Mr Bartlett. We'll have a transcript reference there for your Honour but. Can I say this because it may save your Honour from digesting that initial information, p 1 deals with erectile dysfunction. I've been speaking with my
40 friend about that since this document was forwarded and I think we're ad idem on this to the extent that the accused indicated that he was incapable or alluded to any impossibility at some points to receive, for example, fellatio, not in those words. I think it's accepted that that's a lie. I asked my friend to indicate that.

45

TYLER-STOTT: I agree.

CROWN PROSECUTOR: But as to the state of erectile dysfunction, I'm not suggesting that he did not have some impairment, and certainly, he was

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medicated for it and the like.

HER HONOUR: So as to the erectile dysfunction to the extent that he was unable to obtain an erection or engage in sexual activity.

5

CROWN PROSECUTOR: Yes.

HER HONOUR: So should that be the lie is that he had to such an extent.

10 CROWN PROSECUTOR: Yes.

TYLER-STOTT: I'd ask that it would be simply limited to engage in sexual intercourse because I think he's given some evidence and even with Ms I, the issue was inability to maintain an erection. I know there's different states of an erection but perhaps it might be simpler if it was just limited to the ability to engage in sexual intercourse or inappropriate sexual relationships or something of that nature.

15

HER HONOUR: I suppose the Crown's relying upon it as to the extent, I suppose, what you just said, that it was - the Crown's saying that any representation that his erectile dysfunction was to such an extent that to engage in any sexual activity would be impossible is really what the Crown's - isn't that what the nub of what the Crown--

20

25 CROWN PROSECUTOR: Yes, yes, that's it, your Honour.

HER HONOUR: So the lie that any representation he may have made to imply or to state that he was completely incapable of engaging in sexual activity.

30 CROWN PROSECUTOR: Yes, to the extent that he asserted that.

HER HONOUR: For example, like in the conversation that he had with Virgo, that is what it was effectively implied, was it not?

35 CROWN PROSECUTOR: Yes.

HER HONOUR: Okay. So on that topic going to credit so it's on a direction.

40 CROWN PROSECUTOR: Yes. They're all going to credit, your Honour, and credit only, I say.

HER HONOUR: Yes. The next one was that he has never brought tobacco or contraband. Did you wish to say anything in relation to that table which I'll mark.

45

MFI #22 TABLE

Did you wish to say anything?

50 CROWN PROSECUTOR: Not beyond what I've already said about the first

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issue, your Honour.

5 HER HONOUR: So you can see that the Crown is in the position to go to the jury with such a thing as to say or to say lies. But you'd be seeking us on a direction in relation to those going only to credit.

CROWN PROSECUTOR: That's right, your Honour, yes. Yes, thank you, your Honour.

10 TYLER-STOTT: Your Honour, as to the issue of admissions, importantly, admissions to trial counts. There's no evidence. There's no admissions relied on which goes specifically to trial counts.

15 HER HONOUR: Right. What about adverse to interest? There is to some degree because if he is saying that he had on three occasions sexual activity and that he had sex in that way to H in that three of the incidents, for example, the BIU, that's something sexual occurred there. So that's a clear admission to a count on the indictment just not as to consent.

20 CROWN PROSECUTOR: He's pleaded guilty to the misconduct.

HER HONOUR: I know but there's the admissions that he's made, has he not, in relation to those specific acts when it's put to him in the ERISP.

25 CROWN PROSECUTOR: Yes. So that's true. It's not a confession, it's an admission in that sense. Yes.

30 HER HONOUR: Yes, so admission is to engage in sexual activity in the way she described to a certain extent. But just that the issue of consent is still a live issue, so that has to still be regarded as an admission, is it not?

CROWN PROSECUTOR: It is, yes, by very definition.

35 HER HONOUR: The other aspects are going through the evidence then for the purpose of why it was led. So the reference in the evidence of Peter Barglik. He gave evidence that there was a conversation with the accused with regard to Governor Martin and the accused stated there were two inmates, which I presume, him and V and B, who had made allegations that he had touched up another inmate and he said that:

40

“Shari does look after staff. Shari and I both interviewed both inmates, both the crims, while 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.”

45

What is the purpose of that, I suppose. Are you relying upon that for a purpose?

50 CROWN PROSECUTOR: Only that it forms part of the intimidation of intimates.

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HER HONOUR: So for the tendency.

CROWN PROSECUTOR: Only for that. Yes.

5

HER HONOUR: And the LD material then. So just to the extent that he had engaged with - it's all in relation to H's material. So that H on three occasions engaged in sexual activity with her.

10 CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: What are you relying upon in relation to Fiona Baker's evidence then? "As I was leaving, he asked me to tell her," that is, N, "not to breathe his name or say his name and he said this through gritted teeth."

15

CROWN PROSECUTOR: What simply supports that is intimidation, albeit, intending to do it via a third party. He's using her as a conduit for his intimidation. So it's tendency as well.

20 HER HONOUR: Okay, so we're done with the lies and H would only be the aspect of admissions.

CROWN PROSECUTOR: Yes.

25 HER HONOUR: And the tendency itself.

CROWN PROSECUTOR: The tendency, we've gone through.

30 HER HONOUR: The tendency itself. The thing that worried me about the tendency is it's not just a tendency, it's tendencies. Because normally, it might have say if there's a tendency to have a sexual interest in children under 16. Just that generalised one that they do. But there will be common features of it, whereas your tendency, it's not just common features, it's attendance. It's different tendencies. There's a tendency to intimidate. There's a tendency to do this. There's a tendency, they're all separate acts rather than common features. Are they not?

35

CROWN PROSECUTOR: They are. Yes.

40 HER HONOUR: So that's what I was concerned about, and I've raised it a few times before, because it's different than - normally, the Crown's relying on a tendency and these are the common features of that tendency with that particular state of mind. Yet here, because you're including aspects like intimidation of other inmates, are not even complainants. That's a different

45

CROWN PROSECUTOR: It is, but I don't think there's anything - and I accept what your Honour says, it ordinarily is, typically at least, there's a tendency, but I don't think it's the Crown's - or any party is precluded from asserting different

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5 HER HONOUR: No, they're not. But I just wanted to know what you're doing, I suppose, for how you're going to be - I suppose I'll listen to the way you are using the tendency of what you say is the tendency in this. But how that tendency to intimidate inmates, how that is applicable to a fact in issue in the trial. We're ready for the jury then.

10 CROWN PROSECUTOR: Sorry, your Honour. Just before we bring them in count 1 was amended and I don't think that was brought to their attention.

HER HONOUR: I thought we did. Did we not? If we didn't, we can do that gain but I'm pretty sure we did.

15 CROWN PROSECUTOR: Do you remember that?

TYLER-STOTT: I have no recollection of it, your Honour. Doesn't mean it wasn't done. But I've just remembered to remind Mr Crown.

20 HER HONOUR: I'll do that in any event again. That's fine.

CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: Are the jury here? So we're ready to go if you're ready to go.

25 CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: Okay, let's go get them. And 40 minutes at a time, Mr Crown.

30 CROWN PROSECUTOR: That would be good, your Honour.

TYLER-STOTT: Thank you.

35 HER HONOUR: So 40, 45 in that you get two before lunch, basically, two periods of time.

CROWN PROSECUTOR: Just before they come in, your Honour, did your Honour have a difficulty with - I don't want to be presumptuous - me saying to them, they only have to ask for a copy of the transcript and they'll get it? I know that they do, but--

40 HER HONOUR: --I expected them to have asked for it by now.

CROWN PROSECUTOR: So did I.

45 HER HONOUR: You just have to be careful what you say about any - oh no there's no pre-recorded evidence, so no.

CROWN PROSECUTOR: That's my invitation to prompt them.

50 HER HONOUR: We also have to at the end of my summing-up, do the ballot.

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CROWN PROSECUTOR: What was that?

5 HER HONOUR: We'll also have to remember to do the ballot at the end of my summing-up.

CROWN PROSECUTOR: Of course, of course. It could be rather awkward if we didn't do that.

10 HER HONOUR: Amaaya, also, I'll give you a copy soon of the elements document but also a verdict document that I tend to give for larger matters, so that they can write down their verdicts for the four-person when they're announcing the verdict, so they don't get it mixed up.

15 CROWN PROSECUTOR: Yes, your Honour.

HER HONOUR: I'll give you a copy of that, though, first.

CROWN PROSECUTOR: Of course.

20

SPEAKER: The jury, your Honour?

HER HONOUR: Yes, thank you.

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IN THE PRESENCE OF THE JURY

HER HONOUR: Good morning ladies and gentlemen. We're about to commence the closing address for you, on behalf of the Crown. I'm not sure
5 that I did, but do you all have a copy of the indictment with you? Yes? Can you just turn to count 1 on the indictment? I didn't do it at the time, I'm sorry, but some time during the trial, the dates on count one have just been amended. That's with the consent of both parties.

10 If you have a pen, if you could see count one, it says that between the 29 January 2016 and 23 December 2016, can you change that to between 17 January 2016 and the 25 January 2016? So that's just the changing of the dates in relation to count one. You see that? Okay. So what I'm proposing to do, Mr Crown will commence shortly, and we'll go for around 40-45 minutes
15 and then have a break, and we'll do that through the addresses and my summing -up. Thank you Mr Crown.

CROWN PROSECUTOR: Thank you, your Honour. Members of the jury, I said to you in my opening address about the benefit of the jury system; I'm not
20 going to go through that again, other than to remind you about what I said. When you're asked to find facts, which is what you are doing as judges of the facts, as your Honour's told you, you're the only judges of facts in the case, and her Honour's the only judge of the law. Now when you find facts, you shouldn't be overwhelmed or intimidated by that task, because you're doing
25 only what you do all the time, from the time you wake up, and you remember I gave you some examples about that.

Now members of the jury, when you ply the wisdom of a collected knowledge that you have, and life experience, it'll tell you this: sometimes witnesses can
30 look like they're people of virtue and they will tell you absolute lies, other times people can be rough around the edges, unsophisticated, and there is a rawness about what they say, there is a credibility or believability about what they say, how they say it – we refer to that of course as demeanour. A person's demeanour.

35 Now as I say, people can look like butter wouldn't melt in their mouth – that was an expression used in another part of this trial, and you might be familiar with this expression. People who might look you right in the eye and lie to you. Demeanour can be misleading, but you're entitled to rely on your own
40 experience, and I would encourage you to do that with every witness in this case. I better give you an example of where that might have told you something.

45 D, I'll come back to her – she was one of the women who gave evidence quite late in the trial in the scheme of things. But you'll remember that she had her head down at one stage. She said she was ashamed, she became upset, and indeed, abusive, to Mr Tyler-Stott. Now, just to put this to bed, Mr Tyler-Stott was obviously doing no more than 1. His job and his duty. There's a lot of criticism of him, and you might have thought that he was being rude to him, to
50 say the least, when she called him particular things. All right.

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5 But you might have thought as well, that there was a rawness to her testimony, and when she was challenged about it, and that it was very real. It wasn't just her truth, it was the truth. What she told you, I suggest - and when I come to her in evidence I'll suggest to you - was the truth, and she's a very good example of a witness who was, in no way being disrespectful, to the fact that she presented, you might think, as an unsophisticated person. Plenty of sophisticated liars, plenty of sophisticated honest people, and the like.

10 But she's a good example, I'd suggest of somebody who is a very impressive witness in the sense of her evidence being reliable, that she could act on with that degree of say until you need in a case like this. And her Honour will, of course, give you clear directions and remind you again of the matters you need to be satisfied of beyond reasonable doubt in the matters that D knows
15 important matters that she told to you - D I'm sorry, she prefers to be called. D is a very good example of one such witness.

20 Now, there are some other witnesses, apart from at which who I'll come to in my address to you today. I'm not going to go through every witness, but I'll go through a lot of them and of course all the complainants, all the women who gave evidence about things that they've said to you happened to them. You will look, naturally enough, for where support could be found for what they've said. Whether it's support to be found by reason of, what I refer to is, other
25 tendency evidence, and I'll come to that after lunch.

You've already been told about that, particular tendencies on the part of the accused behaved in particular ones, or by what other officers might have observed. For example, Mr Clark with K. Of course, you recall with K that it was suggested that there was no contact with her at all. No physical acts were
30 committed towards her at all. But what Mr Brumwell recorded with his overseas trip in Orlando in Florida, about what he recalled Mr Astill was saying. As I say, Mr Clark who used so compelling evidence of support for part of Ms K says, and an important respect, I suggest.

35 Now, with a number of these witnesses, these women, it was, a suggestion was made that ah, well you're getting, you're claiming compensation from the State, aren't you? And they answered variously as you'll recall. A number of them were pursuing, your might think, their rights, as is their perfect entitlements. If what has happened to these individual women has indeed, if
40 what they say has happened, has happened.

45 Now, to that I would just say this; and so, what if they are. Because, as I said to you in my opening address, and there was evidence from Ms Barry, the first witness in the case, the purpose of people going to gaol is in part so that they can be punished. It's a significant part. Punishment, retribution on behalf of society, liberties taken away from you, you're not able to mix in the general community as a free person, obviously. It's to promote.

50 Another reason is to a purpose of the corrective services system is to promote rehabilitation. And there's an obligation, which you might think is an obvious

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one, when the State takes away someone's freedom to that extent to ensure that they are in a safe place. We're not dealing with some civil case here, but it becomes relevant, because what's raised is the suggestion, by inference, and Mr Tyler-Scott may say more to you about this. The suggestion seems to
5 be, well this has got a smell about it because they're pursuing some civil claim. That is complete false logic members of the jury, and I'd ask you this; we've been suggesting that if a woman did not make a claim that it therefore didn't happen or that it did happen because she didn't make a claim.

10 The making of a claim is perfectly consistent with these things having happened. Are they going for compensation with respect to some of the things that they've said happened to them? Yes, they are. Absolutely. That is, members of the jury, I suggest, a something of a red herring in this trial. I'm not suggesting that the accused or his barrister was not entitled to ask those
15 questions, or that you're not entitled to consider it. Of course, you are. But when you do consider it, I'd suggest you could put that pretty quickly to one side. Now that applied to a number of witnesses, not all, a number of complainants rather, not all of them, and not to Ms K, for example.

20 I'll go through the evidence now as you are all too aware – there's 51 counts on the indictment and then there's a number of matters which have been pleas of guilty. I'm going to go through as I'm required to do, the evidence that I rely on for those various accounts, and some points point out some of the evidence which can be found to support those various pieces of evidence as relied
25 upon. There's some recurring theme, members of the jury, as we go through the evidence now we come to those.

I'm not going to be suggesting to you that all of the witnesses in this case were equally impressive. I'm not going to stand here and say that to you. And you
30 might think that some were more compelling than others, and we've got a number of different women here, and all telling you particular things that have happened to them, and you will of course bear evidence individually as well as ultimately you will consider all of the evidence but look at the evidence and remember these women are individuals.

35 I say this to you, members of the jury too, before we start going through the evidence. Some of these women have made variously in calendar entries, provided dates and the like, and you need to look carefully at what they've said about when they made particular diary entries and the like, and also, so far as
40 the exhibits, for example, the calendars that C has written on, where it's not on the diary on the line itself, and what the witness has actually said about the significance and the placement of where things were written down, and when it was written down.

45 So, what I am suggesting to you is firstly this; if you ask her Honour for a copy of the transcript of a particular witness's evidence, then it doesn't have to be just one, obviously, then that will be provided to you. Because sometimes the devil is in the detail and you need to look closely at it, and know that the best memories in the world, you perhaps won't have remembered every part of it
50 even with reminding you of parts of it, which I'd suggest to you are of some

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importance where I address you today.

When I address you today, members of the jury, remember this, that there may be things that I say in which you don't think are particularly important issues.

5 You think, oh that's a bit of an extraction itself, well that's not so important, or so what, and there might be things that I don't mention which you think that's important, and I think that is significant, one way or the other.

10 I'm going to go, as I think promising to do very shortly, not quickly necessarily, but shortly I'll go to the accounts..(not transcribable)..what I will do after that is, and this will be this afternoon I fully expect, I'll talk to you about what I'd suggest to you are some lies told by the accused and what the significance is in the Crown's argument, what the significance of those lies is. I will talk to you
15 this afternoon about particular evidence that's relied on as tendency reports and how in evidence I would suggest you would use. Tendencies, that is of the part of the accused, behaving in a particular way.

20 All right. C. C went to Dillwynia. She got a new case officer by the name of Tanya Hockey, Ms Hockey. That was the accused's partner. You'll recall she said to you that they'd – quite early in her association with Mr Astill – there were things said to her that you might consider inappropriate. For example, he referred – she said – to her having it all over town, and that he was surprise – I don't want to give my he's and she's mixed up, forgive me I'll try not to – he was surprised that she didn't have tan lines and that he'd said he'd like to see
25 her tits.

30 Now, that's her words, and if I use those words it'd be quoting the evidence, not my own colloquialisms, but she made a diary entry about that, referring to it. He mentioned that she told you that he had the ability to get a boat, that he'd like to see her topless, preferably on the boat, preferably topless, and he made some diary entry about that. He made comments to her. She told you about having a 'tight arse', and that he said he liked how she looked in leggings. We'll review the exhibits which you'll have in the jury room, where she's made entries AX. And she said it means, that he was attempting to kiss
35 her or did kiss her.

40 You've heard what her Honour just told you about the amendment to count 1 on the indictment, and you need of course to bear that in mind when you consider Ms C's evidence. Now as to dates, generally, you might think that it's to be expected that witnesses being asked to recall events of years before – and a lot of these cases, as the evidence shows – there was some time before women came forward. Certainly before anything was documented or before they went to authorities.

45 One of the recurring themes of the trial is why that was so, and you might think it just accords with your own common sense and knowledge of life, that these are people who are very much subordinates in a jail system, a relationship is one of jailer and prisoner, to use the old language. And there's various reasons why they'd avoid trying to go through, there's a recurring theme. They
50 didn't want to speak up, because of their role in the jail, where there have a

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role with respect to other inmates, and what might be thought of them, or their role with respect to the corrective services authority. Green vs Blue, as it was put by a witness.

- 5 Now, count 1, I'm going to tell you about. This is C and it's a count of indecently assaulting her. She says this in the managers office: that he pressed up against her, she said, "He tried to touch my breasts and he also tried to touch my legs." I asked her "Can you particularize the first occasion?" You said it would be a cuddle action, and then she could feel his erection.
- 10 Already that would sound familiar to you, members of the jury. She said this, "On that particular occasion I stepped back and sort of rushed him away and found him almost trying to laugh, like laugh it off, like a nervous kind of laugh, and requesting to be taken back."
- 15 Members of the jury, I asked her about this ring, the wedding ring. Now this takes on some significance in time because of how this evidence is dealt with. And you'll recall this evidence of Mr Astill losing his temper in front of C and in front of other corrective services officers, at the fact that she was being required or asked to hand over this ring, in a way which was an example,
- 20 members of the jury, of favouritism shown towards C. Even a willingness to show that favouritism, even to the point of berating a junior colleague in front of her. And you'll remember Ms Berry's evidence about that. Now, she gave some evidence about another occasion where she was called to reception. This is count two. She said she went in, sat down,

- 25 "A. When I stood up to leave he lunged straight onto me, 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. She said, he sort of lunged onto me and I'm sort of pulling back his face, and his mouth came straight onto my mouth.
- 30

Q. Did he put his tongue into your mouth?
A. Yes, he did."

- 35 Now count two on the indictment is relied upon for that. Now, she is asked as to this stage whether or not she'd reported at that stage to anybody, and she said this,

- 40 "I had lots of concerns about the position I was in, being an inmate. The officers were treating me differently and quite poorly because of the rumours. I was worried I was going to be punished by them, segregated again from my unit. But I was also worried about the inmates finding out because in jail these sort of behaviours, anything that seemed to be a connection with the officers, can get you attacked, ostracized, bullied,
- 45 and I was really worried that if I told somebody that there'd be really harsh consequences for both."

- That's where she said that she'd made an entry after that. Subsequent of that, she'd made an entry of an AX. Count three on the indictment is a count where you might recall, it might have been a new experience or a new term, for you to
- 50

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hear his words were “a hot slice” – if you recall this. This happened in J Block, Ms C told you, and they a lot of them were moving things off the truck into the stores room. She said that,

5 “When the girls were retrieving some things off the truck, out the back, when I was loading things up onto the shelves, he would ‘hot slice’ me, or run his hands between my legs and touch my vagina. He was very physical when the girls were outside of the room.”

10 She went on to explain that and she said that she was the hot slice turn, and she was wearing, she believed, a T-shirt and a pair of shorts. And you heard as evidence, ladies and gentlemen of the jury, that there’s a limited wardrobe at the jail obviously, and these shorts are a part of it. There’s evidence of her receiving some underwear, an underwear from Mr Astill. A gift. Gratuity,
15 favour. You might think trying to win her over. I asked her this,

 “Q. Were there other occasions when he did something by grabbing your hand?

 A. On multiple occasions.”

20 Now, bearing in mind, in light of, members of the jury, us being witnesses in this case of ongoing behaviour. I would invite you not to hold them to a high standard of human memory that perhaps none of us or few of us could reach when witnesses, as I say, are being asked to look back, in some cases, years
25 or even months, even if there are significant events happening where you’ve got a number of events, particularly ongoing contact.

 These things, and I’m sorry if I’m telling you what’s no more than common sense, but these things can bear upon whether the precise details are right,
30 but as to how long things went on for, the order of things and the like. It doesn’t mean that a human being and a witness does not have a perfect memory, does not mean that they’re not a witness who’s reliable and is truthful. Reliable and truthful in the relevant respects.

35 You’ll remember part of exhibit C. She received a note, she told you. “Sorry, I startled you last night. Knickers looked hot. Loved yesterday. You feel beautiful under your shorts.” That might say something of what Mr Astill was in fact up to. There’s no dispute in this trial, there’s been nothing since it’s been -
40 never suggested that that was not a note written by Mr Astill. We’re satisfied that it was. And then it speaks, you might think, volumes to his state of mind and his actions at that particular time.

 She described these underpants, which were not plainly forming part of this inappropriate relationship. And she said that, “He’d said, ‘I’d like to see you in
45 sexy underwear.’ I kind of laughed it off and it was just, when we’d talk, I’d get really uncomfortable and try to close the conversation off or laugh it off.” That he’d come to her cell and given it from the side of his work pants. She told you this, this is with respect to, firstly, to count five on the indictment, the inciting charge. That he’d come to the cells, he was whispering and gesturing, blowing
50 kisses and saying, like she said, “Lift it up, lift it up,” and you’ll recall that she

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demonstrated an action which you would be left in no doubt was an indication that he was asking her to flash him.

5 She said in the end, she did so and she believed it would have been high
 enough so that he would have been able to see her undies. She said, "At first,
 I, like, shooed, like a shooing action to shoo him away, like, to be quiet
 because I was so afraid the other girls would hear him at the door. He just
 remained there, he was still doing this" - that action she described - "and I just
 10 turned and flipped up the back of my robe." That's count 5, inciting her to do
 that, in all the circumstances. He's a senior prison officer. She's an inmate.

What did the note – p 1 of exhibit C - that note that I referred to a short time
 ago, what did that refer to? She said this, "The day before," this was the note,
 the shorts, that I read out to you. "Sorry, I startled you last night. Knickers
 15 looked hot. Loved yesterday. You feel beautiful under your shorts." She said,
 "This was 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
 20 hands 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, like, to get in under my
 underwear." Fits perfectly with the note he gave her. She said it lasted for - it
 was very brief, just a few seconds. She said, "oy," and she said, "I've got to
 get back". He walked her back to the unit. That's count 4 and she went on to
 say that, briefly, his hand managed to touch her genitals on that count.

25 Count six on the indictment relates to this. She referred to another occasion
 where he put his hands inside her underwear in the low needs manager's
 office. It was after that last occasion I've just spoken to about count 4.

30 "He called me over loudspeaker in the lunch break. My friend and I
 were running around the compound. I did hear it and ignored it. Girls
 come up and said, 'you've been called to low needs', which was
 unusual because I was a high needs inmate. I tried to avoid going,
 avoided the area, and then every inmate that passed me, said, 'You're
 35 being called to low needs'."

She eventually goes across there and she went with Z. You'll recall that Z
 gave evidence of accompanying C when she'd go to see Mr Astill. She said
 when she got there, Mr Astill was there. Ms Z was told to wait outside. She
 40 said this. This goes to count 6 on the indictment:

"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. He was just talking to me, asking what I've been doing.
 45 He said, 'I haven't seen you in a while. What have you been doing?'
 Small chatter like that. Asked what was going on the wing."

He said this, "You should stay here a bit longer." C said that she said, "There's
 people watching, there's people outside. Someone's going to catch us out.
 50 You're going to get in trouble. We're going to get into trouble." She tried to

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stand up, he put his hand up, "As I was moving forward, he put his hand and slid it up the front of my shorts and again, was trying to get in under my underpants". And I asked her this,

5 "Q. Did his hand go in your underpants?

A. Yes.

Q. Did he touch your genitals?

10 A. Yes, his fingertips were on the top of my vagina."

10

And that's count 6 on the indictment, members of the jury. Another case of assault. I'll say something about this. Your Honour will be telling you very clearly what the elements of each offence are and you'll recall that I said to you that there are particular things which have to be proved beyond reasonable
15 doubt in a case.

Not every single fact that's asserted in a case has to be proved beyond reasonable doubt. But for any particular offence, there are particular essential
20 elements which need to be proved beyond reasonable doubt. Where that element is under authority, in many of the charges, I'd suggest to you that you'll have no difficulty in that you would not need to spend long on that issue noting that he is a senior correctional and they are the inmates. They are very much under his authority.

25 She gave evidence that she also received a note. This is in p 2 of the exhibit C, a note sent, she told you, to her boyfriend, Mr Kogan, and the note said this, "Lay in bed tonight, close your eyes and remember what I said. Like never before." You'll recall that Mr Astill has pleaded guilty before you to
30 misconducting himself in office with respect to C by engaging in an inappropriate sexual relationship. It's at odds with what he told the police in his interview and has said elsewhere, but we'll come to that.

Mr Kogan I've mentioned, I'm not going to suggest to you that Mr Kogan was an impressive witness. Mr Kogan, you might've been surprised to hear
35 couldn't remember that where it was 50,000 which was asked for, and you might think that all those circumstances of that with DD and Patrick Kogan were very suss. I'm not going to stand here and suggest to you that it's not.

There was some evidence about whether there had been a discussion about C
40 needing money, but you are entitled members of the jury, to take into account the circumstances of the phone call where which ultimately DD has Wayne Astill, and following on from a text message. Now, is that the end of that? No. It's also consistent of course with Mr Astill having done these things to C and there being an approach from whatever purpose, to get some money from him.
45

Plainly not on the face of it, the right thing to do, the right way to go about it, but certainly from Mr Kogan and Ms DD, the request was made. You can take that into account, but as I say, albeit, what it is, is a claim to get compensation without going, bypassing the Court system, obviously that's not the right thing
50 to do, if that's the case. But it doesn't mean that C was not telling the truth with

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respect to what Mr Astill has, she said, done to her, and there is support for that in some other respects, including that tendency evidence, which I'll come to after lunch.

5 Remember Ms U's evidence. She said this, that she saw Mr Astill making contact with her arm for rather too long, effectively. And she said this when asked, "Did you see...not like that." She continued on later, she said this, "She had made mention", this is U talking about C, "She was a...by the calls", that is calls by Mr Astill to go and see her. Ms U said this, "In March
10 2019...visited C". And she said they spoke about Astill's dealings with her. What did she say, she said this, "Things I guess...more sexually explicit", and she clarified that was Mr Astill. C telling her friend as to what had taken place between them, in a general sense. Certainly making complaint at that stage of unwanted, not consensual, but unwanted sexual contact, in brushing past her
15 and the like.

Members of the jury, you might think that Ms K, K, and it might be that you can - because it was sometime ago, you can remember these people and their demeanour well, perhaps you've made notes of it. But I'm going to suggest to
20 you that K was a very impressive witness. You'll recall that she told you that she'd made at one stage a comment to an Indian - an officer, of background, Australian but of Indian descent, who she believed to be of Indian descent.

She agreed that it was a joke which was made in poor taste, and she was
25 called to Mr Astill's office, and he basically said, look there's been a complaint but we can shred this, or I can throw this out if you like. And this was in an area known The Hub. He said the paperwork stayed on his desk and he just looked, what I could see was typing, and he picked it up and said he could actually get rid of it, and he could shred it, and she would shred it. And she
30 was of the belief at that stage that she'd been charged internally, a disciplinary matter with respect to that.

I asked, "Did he do that?", that is shred it, and he said, "Yes he did". The end
35 of the conversation, we discussed other things, well I can get rid of this, I'll shred it. She said well I was confused whether it was a charge because usually I have to sign off on it and read what the charge is against you, so I was confused. "What happened when...pinched my bottom".

That's interesting, members of the jury, because you'll recall what Mr Brumble
40 said. Mr Brumble was talking about the, I'll call it the Orlando conversation, being specifically, early afternoon, he said they'd only just started drinking, they were not intoxicated, he'd been with the party that morning, as in the group that morning. It was just he and Mr Astill at this bar. Pretty much first drink of the day. I asked him this, "Did Mr Astill...just walked away". It was
45 suggested to Mr Brumble that that conversation didn't take place. It fits, you might think, very nicely with what Ms K said. He just slapped her on the backside as she was walking away, didn't say anything she said. Count 8 on the indictment.

50 This was K who Mr Clark came upon with Mr Astill somewhere in no man's

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land, you might think, at a time and a place where he shouldn't have been, when he was challenged. And I'll come to that shortly. She said this, that on one occasion she found a bit of paper towel, "Hi Se Bare you weren't here when I dropped here to see how you're going." She said it wasn't signed. And
 5 you recall she said to you that there was an occasion, this is count 9, where he had a jacket on his side. That is Mr Astill. She said this, "I was standing at the large desk laminating." This is the reception counter.

10 "A. My boss was at the computer which is at the other end of this big desk. Mr Astill walked out the back where I usually work and came through with his jacket over his shoulder. He walked past me and said hi. And as he walked past me grabbed my backside and I was shocked. There's a camera above me and I had officers there, I was shocked so,
 15 yeah.

Q. When you say there were officers there, which officers were there?
 A. I think, Ms Berry, but she didn't see it happen, but Officer Berry was at her computer."

20 Now you will recall the first witness in the trial Judith Barry gave some evidence about K and what she'd been told by her. And I had Ms Judith Barry this,

25 "Q. Do you recall having a particular conversation with K?
 A. Yes, it was in the reception near the BIU. She's right near her desk, and we had the conversation.

Q. What did she say to you?
 A. She said to me that Wayne Astill slapped her on the bottom.
 30

Q. Did you say anything back to her when she said that?
 A. No, I didn't.

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."
 35

Now, Ms K didn't say that she spoke to Ms Barry, she said she spoke to Ms Berry about that and you might think that I led her into this by asking her about
 40 the conversation with Ms Berry. The conversation with Ms Berry, according to Ms Berry, was not specifically as to the touching on the backside, but that she was uncomfortable around Mr Astill, and she, Ms Berry, said to Ms K, "Make sure you stay under the cameras." But there is evidence you would accept
 45 from Ms Barry that a complaint was made to her in the reception area about this slap on the behind.

So, Ms K's evidence I support, (1), some tendency evidence I'll go to after lunch. The fact she made this complaint to a boss, one of the bigger bosses Judith Barry. The fact she'd spoken of her feelings of disquiet or discomfort
 50 with Ms Berry with Mr Brumwell, Mr Astill's then friend, overseas. And I didn't

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make a note, and you might think Mr Brumwell was spot on what he describes fits, members of the jury. So, members of the jury, that was count 9, and as I say, I'm not speaking out of turn, if you require a transcript you have to ask for it, but it will be provided to you because I can't possibly go through all of what the evidence was. Now, Ms K also gave evidence of admitting to using drugs in jail. And she said this that as a result she went to segregation in the BIU. It was night-time. I asked her,

10 "Q. Did you receive a visit at that stage that you weren't expecting?
A. I did, yes, from Mr Astill.

Q. Was it night-time?
A. Yes, I think so.

15 Q. Getting dark?
A. Yes.

Q. What happened during that visit, what was said?
A. I was in my cell, I had a shower, put my pyjamas 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 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."

And she said this, that after saying "I'm disappointed in you" he said, "Look after your arse." She said he said to look after my arse, look after that arse of yours. The following night she said he came to the cell. She said on that occasion - to you this is count 10, on that occasion she said,

35 "I recall not having a shower, getting into my pyjamas because I was concerned he was going to come back. I 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 7.00 and he was standing at the door with the door sort of closed onto him. I can't recall what he was saying, but I do recall he moved sort of forward, but didn't come into the cell. He was at the door and he actually came forward with his hands and went to grab me. I think he tried to pull me in a bit and I lent back. And then as that happened, another officer turned up and opened the door further."

And, members of the jury, enter Mr Clark.

45 "I think he said, 'What's going on?' That is this other officer, 'What's happening? What's going on here?' And I can 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

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sort of mimed it to him. He saw me. He didn't hear me. And so I think he stood there for a bit while Mr Astill closed my door and walked away."

5 And I asked her this,

"Q. You told us about pulling at you, where?

A. He went for my waist. So, he went to grab my waist but I've stepped back and he moved his head in as I was stepping backwards."

10

And it was at that point she said that Mr Clark came in. Now, that takes sorry some really importance because that inmate K is not alone when she told you that. It's not a sole voice describing that incident because Mr Clark was here for this. This is where Mr Clark referred to go into the BIU. What time, he says
15 around 7 o'clock. Just before that, you will recall he said that he saw another officer more junior officer taking someone to the release gate. It was normally done by a senior officer and you might think that Mr Astill had something else on his mind. He says this he's at the BIU with Mr Clark, he told you that he saw the door open and I asked him this,

20

"Q. What did you see?

A. I opened the door fully and I saw a cell door open with a person I identified as Mr Astill who was standing in the threshold of a cell door. He had one hand on the top of the door frame and there was an inmate
25 standing in the cell behind him who I identified as K. She was trying to look around Mr Astill and I could see her mouthing to me the words 'Help.'"

25

Mr Astill's back he said was turned towards him. He was only about five
30 metres away from Ms K at this stage. So, the door that he was referring to he clarified, he comes through the door, that's the external door and he sees the door open and Mr Astill's in the door frame. He put that into context.

30

"Q. How did she present when she was mouthing the words 'Help'?"

35

A. She appeared to me as being frightened and concerned."

Body language. The fact that she was medical would help.

40

"Q. After that did you speak to Mr Astill?

A. Yes, I approached 2 to 3 metres and I say, 'Wayne, what the fuck do you think you're doing?' Mr Astill I turned towards me, was muttering. I couldn't understand what he was saying. And then a short time later, he walked out of the BIU."

45

Members of the jury, you know what he was doing, so did he, and there was nothing to do with his legitimate corrective services duty which he was charged with the responsibility to which he was charged and paid to do. He said he spoke to inmate K, K. And I said, "K, has he done something to you?" And she said, "No, but Clarkie thank Christ you turned up when you did." I said,
50 "What do you mean?" She said, "You know what I mean." And I said, "No, K,

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has he touched you?" She said, "Not yet, but thank Christ you turned up."

5 You heard, members of the jury, as various witnesses have given evidence in
this case, a number of things that they have said, which were challenged when
the opportunity arose to cross-examine that witness, for example, that didn't
10 happen. I suggest to you that that didn't happen. What in fact happened was
this, that meeting in those circumstances is unchallenged in this trial. That is
what Mr Clark's evidence is on that point. And you would accept it as being
the truth.

10

HER HONOUR: Is that an opportune time, Mr Crown?

CROWN PROSECUTOR: It is, your Honour, yes.

15 HER HONOUR: Ladies and gentlemen, just go and have a quick break
perhaps just 5 to 10 minutes outside, stretch your legs. Go to the bathroom if
you need to, and we'll come back in.

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IN THE ABSENCE OF THE JURY

HER HONOUR: Mr Crown, isn't Brumwell's evidence admissions?

5 CROWN PROSECUTOR: As far as K is concerned, it is.

HER HONOUR: H, O.

10 CROWN PROSECUTOR: Well, in the sense again with those, with H and O he's pleaded to misconduct.

HER HONOUR: Yes, but it still makes them admissions so those are specific acts that she says occurred.

15 CROWN PROSECUTOR: Yes.

HER HONOUR: What else are they in for if they're not admissions?

20 CROWN PROSECUTOR: Yes, I think that's right.

HER HONOUR: You just might need to look at that and see what you're addressing on in relation to his evidence because otherwise what's the use of calling him? Yes, okay, so 10 minutes I'll just be in the anteroom.

25 SHORT ADJOURNMENT

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IN THE PRESENCE OF THE JURY

HER HONOUR: Thank you, ladies and gentlemen. Yes, Mr Crown.

5 CROWN PROSECUTOR: Members of the jury, just before I move on to
count 11, I spoke to you about count 10. Count 10, of course, is one of these
counts alleging misconduct in public office via an inappropriate sexual
relationship, in this case with inmate K. Public misconduct: I spoke to you a
10 little about that in my opening address, and that it has to be serious
misconduct. I spoke to you about abuses of the public trust and that to your
mind warranting punishment, it needs to be serious; not some minor breach of
the rules, but serious.

15 As part of count 10 I rely on the incident which Mr Clark came upon, but in
addition to that the other sexual acts that Ms K has described, including the
slapping and also the offer to shred this complaint. Now, what's serious about
that? You might think that really what it's saying to an inmate is that this
system can be corrupted. And it is apt, members of the jury, to undermine the
20 discipline in the gaol, the confidence of inmates in the system, to work
precisely against - apart from anything else - that objective to promote
rehabilitation, for people to go back in the community. It is to send them the
message that favours can be done and this complaint can just go away.

25 H, members of the jury; this was a SMAP prisoner, high needs. You probably,
when you started in this trial, never realised you'd learn so much about the
gaol system, but there you are. You'll remember she described firstly speaking
to Mr Astill, and she said he used the tone of a conversation. He seemed like
a genuinely nice officer, but it progressed into more and more inappropriate
and sexual topics of conversation, sly comments, inappropriate bumping into
30 and touching.

And I asked her this, which relates to count 11 - count 11, members of the jury,
is another a count of assaulting and indecency - she said that she was in the
common room of the J unit near one of the lounges and there was something
35 on TV. The women were watching TV. There was an older gentleman, she
said, on the TV. Mr Astill said something to the effect of: "Us older guys go all
right.' And turned and commented to me" - This is Ms H, of course - "You don't
mind an old fellow, do you, H?" Whether or not you interpret there "old fellow"
as some euphemism or "old fellow" meaning an older man, it's plainly
40 inappropriate, members of the jury, you might think. And she said this when
asked,

"Q. Did you see him leave that area?

A. Yes, I did.

45

Q. And what happened as he left, if anything?

A. He brushed against me and grabbed my arse as he left."

50 She said at the time she was standing: "I was standing sort of almost next to
him. I thought it was his left hand." She said it would have been the right

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cheek, the right part of her buttocks. And she was asked this,

5 "Q. Did he say anything immediately before or during that grabbing, possibly something to the effect of 'Whoops. Did I bump into you?' or something like that?

A. I'm not entirely certain."

10 When you're listening to witnesses, members of the jury, just as you listen to people in ordinary life, where they conceive things - they're not sure about things or what have you - it may in a particular case say something about whether they're at that time trying to be truthful. But they don't pretend that they can remember every single thing, and they are willing to say, "I don't remember that," or, "I might be confusing this," or, "I'm a little vague on this incident," or what have you. It's just something that I suggest, which may in a
15 particular case give you some guidance. And you might look for that when you are revisiting the evidence of these various witnesses. She said this,

20 "Q. Well, what's your memory; are you entirely certain that he said anything?

A. Right now I don't remember him saying anything."

25 She went on to say, the grabbing feeling, she said, "I could feel his hand clasp my bottom." She said at that stage she did not report that to any staff at the gaol. That was count 11. Before I go on, there are a number of witnesses who described Ms H as being flirtatious. The first thing is whether she was friendly, convivial, bubbly with inmates, with officers or what have you, you might think that that may not necessarily be so surprising in people trying to survive in the gaol system.

30 That is not to say that that should not override your consideration of her and what she says happened to her behind closed doors, well, literally behind closed doors or otherwise, when it was just her and Mr Astill, because there's a number of witnesses, and I'll come to some of them, who have said that she would repeatedly say, "I don't want to be with him alone. I want someone to go
35 with me," and you'll recall a couple of witnesses referring to, and she referred to, this red rash which would come up when he was approaching and the like. Members of the jury, that might say more to you of what her feelings towards Mr Astill, in fact, were at the time and how she might appear when there's others around in that gaol setting.

40 Count 12 on the indictment and another count of assault or indecency. This is the photo copy room incident. So you'll recall that Ms H gave evidence that she would do cleaning. She was working at the SAPO area. She said Mr Astill was in the high needs area at that time, and she was asked about a time when
45 she was working in the admin building and went in the photocopy room. She said that Mr Astill had beckoned her to come down to the per cent room. So you'll recall in the photocopy room, went in there, what happened, "Mr Astill grabbed my hand and put it on his crotch."

50 Later in this closing address, members of the jury, I'll remind you of some

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patterns of behaviour on the part of Mr Astill. But she says this, this is
count 12, "Mr Astill grabbed my hand, put it on his crotch." It's not a big room
and you'll recall she described it was about 3 metres by 2 and a half metres.
She went in, having been beckoned there. He was already in there. It was
5 closed, not completely closed, but enough so she said he could see out and he
checked the hallway just prior.

She said this, "He placed it on his crotch and asked me did I like that, and I
pulled away." "Did you say anything when you pulled away?" She said, "To be
10 honest, I don't remember." Members of the jury, you might think, well, she
wouldn't necessarily remember all these things. But she remembers the
essential part of that, a significant part of that. She said at that stage she
described his penis as being almost erect at this stage. She said that was
from outside of his pants.

15 Thereafter, members of the jury, she described a series of events and she
says this, that he said to her - he undid his zipper, got his penis out, told her to
get on her knees and said something to the effect of, "Do you want a move?"
It was suggested that, well, Mr Astill couldn't make people move. Mr Astill was
20 a senior officer in the gaol. These women are down there, members of the jury,
and he's up there, and you might well expect they would have every reason to
think that big Mr Astill with a high rank had a lot of clout, a lot of influence in
that gaol.

25 "Do you want a move?" She said at first it confused her, then she put two and
two together. She says this at that stage, as she says, he says to her - "Gets
his penis out, 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?'" She said this as to whether
she had a preference for where she should be, "Well, Dillwynia, there's only
30 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 comm band at Silverwater."

35 That's one SMAP, Silverwater, where she's been severely assaulted, and the
other one is at Dillwynia, which is why she said, "I was put into SMAP in the
first place. So I was terrified being reassigned to the main," and she went on to
explain what that is, in the general population of prison, "And the girls that hurt
me always had a very long arm." Members of the jury, if we talk about an
imbalance of power she was without any power, I'd suggest to you at this
40 stage in this relationship. She's under the threat of a move to somewhere she
had previously been assaulted, and it's a senior correctional officer.

"He said, 'Suck it.'" "What happened from there?" "He had a hand on my
shoulder, pushing me to my knees, holding me on my knees. I reluctantly took
45 his penis in my mouth and sucked it." "What was in your mind?" She said it
wasn't willingly done at all, and that might not surprise you, members of the
jury. "What was on your mind when you complied with it?" She said, "Pure
fear. He is a person of power and authority. My thoughts were if I don't
comply, my gaol time is going to be even harder than it already has been and
50 he could make my life a living hell." She said she couldn't say for how long it

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went, "I honestly didn't know." There was a noise in the corridor which reacted to, panicked.

5 That is count 13, members of the jury. That is the fellatio without consent, is under authority. It's not true consent. She's not a willing party. He must have known that, or considered a possibility that she's not up for this. You'll recall she gave some evidence about Mr Astill being asked a question. This is at a muster, him saying, "I'll just check the crystal balls and find an answer for you." I'll tell you how that fits in later in this address. She then told you, members of 10 the jury, about an afternoon muster. I said the evidence was that this was either 3.30 or 5.30 of an afternoon. She said this when asked what role, if any, that Mr Astill would have:

15 "He would - he would - there would be about three or four officers who would come and do lockin muster. He would always make sure he was the last to come through the unit. He would stand out on our doors. We have 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."

20 This is we're coming to another count of this inciting, that he's encouraging somebody to commit an act of indecency. So she then focus on a particular incident where she said he incited her, my words, but encouraged her to flash her breasts. She said, "He motioned to the fact of doing so pointing at my 25 breasts and saying, 'Go on, show us.'" She said she did comply with that. I'm going to, members of the jury, now go to tab 15 on the indictment. This might take a little while, your Honour.

30 HER HONOUR: We'll have lunch now, then at 1 o'clock. Ladies and gentlemen, go and have some lunch and we'll resume at 2. Thank you.

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IN THE ABSENCE OF THE JURY

HER HONOUR: Yes. 2 o'clock.

5 LUNCH ADJOURNMENT

All good to go?

10 CROWN PROSECUTOR: Yes, your Honour. I'll say what may have already occurred to your Honour, but I don't see myself finishing this this afternoon.

HER HONOUR: That's okay. Take your time.

15 CROWN PROSECUTOR: What I propose to do is leave the tendency to the end, and that way give the opportunity to--

20 HER HONOUR: Just let me know. I know it's only been since 11.30, really, for them, but get to a point where you think it's appropriate. We obviously want to utilise the time as much as we can.

CROWN PROSECUTOR: I can. I'm not moving as quickly as I thought.

HER HONOUR: We'll see where were at, at the end of the day.

25 CROWN PROSECUTOR: Yes, your Honour.

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IN THE PRESENCE OF THE JURY

HER HONOUR: Thank you ladies and gentlemen. We'll start again, and as I said, will go for around 40 to 45 minutes and have another break. Thank you.
5 Yes, Mr Crown.

CROWN PROSECUTOR: Members of the jury, I'm now going to go to count 15 in the indictment. This is a count of still on the complainant H of sexual intercourse that was said she was not consenting and, again, whilst Mr Astill
10 was in a position of authority over her. You'll recall she said this. She was asked about events of 1 December 2016 and she said that she needed to get access to the SAPO office.

On that day she said there was nobody working there because it was closed,
15 and Mr Astill got her into the SAPO area. "I think I asked somebody else," she said, "but they didn't have the key to let me in." "Why did you go in?" I asked, and she said, "For vacuuming and cleaning." I asked, was there anyone in the SAPO area after you went in and Mr Astill went in apart from yourself?" "No. He closed the door behind me. I was vacuuming, moving furniture around, and
20 he grabbed me and kissed me." She said this. "He just pulled me into him and kissed me front on. I pulled away. I resisted. He's told me not to."

Again, members of the jury, already. As if he needs to be told, he's told through her actions. You don't have to, a woman or indeed a man, nobody
25 has to as an obligation physically resist, but where they do, you might think it makes it pretty clear it's not on. "After the kiss he told me to remove the vacuum off my back, undid his pants." He told her to keep it running, that is the vacuum cleaner, to keep it running. I think that's for a particular purpose, to create some noise, a wall of noise, if you like. "He undid his pants and told
30 me to suck his penis again briefly. He told me to turn around and he's removed my pants and had sex with me."

Count 15 is the fellatio count, where she says this, that she was positioned on her knees. She said, again, why she had complied at that stage with that part
35 of it and reiterated for you that there were these threats of being moved, and also she was concerned that - she was aware that he, Mr Astill, was an ex police officer. She said, "He would be able to have more charges put on me. He'd make comments to the effect he'd be able to have more charges put on me because of his police friends."
40

She said that didn't go on for very long, the sucking, just until it was hard. After that, and this is count 16 we're moving on to, "He told me to stand up and turn around. He removed my shorts, not all the way off, told me to bend over and had sex with me." She went on to clarify that that was penile/vaginal
45 intercourse. He stayed dressed, but he'd undone his belt and his button - or his pants.

The topic of contraception came up. She said she was not on any contraception. She said that only lasted, that form of the intercourse, only
50 lasted for a few thrusts. Then he told her to turn around and get on her knees

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again, and then he ejaculated in her mouth. That's count 17, that intercourse relied on there being the fellatio. After that she said that on that occasion she said that his penis was in her mouth and no more than 30 seconds. She said, "I'm not sure. It wasn't long. After he ejaculated he asked if I was okay and did I like it." She said, "I didn't completely verbalise but I sort of nodded and 'Mm-hmm.'" That was 1 December, and she told you that she'd later wrote on 1 December, exhibit G, item 3 in your exhibits, "AW" she wrote. She's written some diagrams there to assist you to understand the setting out.

10 The next incident, count 8, the next count, I should say, this involved an officer by the name of Mr Mirza, who told Ms H to go and see Mr Astill. Mr Mirza took her to SAPO office 3 in the building to see Mr Astill. That's in the diagram, the exhibit that I just referred to. She goes in. It's only Mr Astill there. Mr Mirza left. The door was not completely open or closed, but she surmised that it was not open enough for people outside to be able to see in. I asked her this,

"Q. Is that something that would happen frequently, just you and a male officer?"

20 A. No. The only time that it would happen was if it was a senior male officer. The majority of the time if it was just a general officer, they would have two officers or a female one as well, but not always a female's available. It usually would have to be a senior officer."

25 A position of trust, members of the jury. So, what happened in room 3? She says this,

30 "I initially thought I was there because there'd been some issues in the house, but I hadn't been any part of those issues or a bit confused as to why I was there. And he said, 'And I know you've got nothing to do with it, but I thought this might be a good chance to catch up.'"

We're coming now to count 18 on the indictment. Ms H said this,

35 "I'm not entirely sure of the chronology. But he kissed me and at this point, I can't remember, I was made to suck his penis again, but then instructed me to kneel on the chair with my pants down, and he proceeded to have sex with me from behind."

40 You'll remember there was some clarifying of this, and she said that she was able to see his face and gleaned from that that he did on that occasion have her perform fellatio on him. Count 18. I'm sorry. Count 18 is the vaginal intercourse. Count 19, fellatio, so immediately after is the fellatio, and he told her to swallow it. Count 19 of the indictment, members of the jury.

45 HER HONOUR: Will you please repeat that, Mr Crown?

CROWN PROSECUTOR: I'm sorry, your Honour.

50 HER HONOUR: Just what counts related to what.

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- CROWN PROSECUTOR: Count 18 was the vaginal intercourse; count 19 the fellatio. Count 20. She was asked this in the morning of 27 January, in the SAPO area performing her duties. Yes. She was vacuuming at that stage, and she says this, "This situation I'm not as clear on as the others, but I was in
- 5 SAPO room 3 vacuuming and Mr Astill was there once again." Members of the jury, I remind you and I don't belabour the point, but the way the evidence is given can tell you something about the honesty of witnesses, whether they're doing their best to be honest.
- 10 She says, "I'm not as clear on as the others on this." She goes on, "Instructed me to take the vacuum off and, once again, instructed me to take my pants down to around my knees and went ahead and had sex with me from behind." She said she had to stabilise herself. She wasn't sure whether it was a table or a chair. She was standing and she was bent over, she said. She was not
- 15 doing that willingly. I asked her, "Was there any occasions that Mr Astill had any sort of sexual contact with you where you were up for it or agreeing to it?" And she said, "Not in any way." That intercourse went, she said, "Not very long. It was brief, very brief, and then he pulled out and this time ejaculated into my underwear."
- 20 Members of the jury, in the record of interview that the police, Detective Cambridge and Detective Palmer had, this is a video interview that you saw on Friday, Mr Astill before the recording of him and Mr Schreiber was played to you where you might think his tune changed considerably, before that time he
- 25 made you might think some interesting comments about that, that idea that he would ejaculate into pants. In circumstances where the allegations, so before the recording is played with Schreiber and he's being asked about specific allegations with H, the police officer said this,
- 30 "Q. She then said that as you finished, you have ejaculated into her underwear. Is there anything you can tell me about that?
A. Well, I'd be a fool to, wouldn't I. If that was the case, I'd be silly to, no."
- 35 Later the police officer revisits that answer, reminds him that you said to us, "You'd be a fool to do that. What do you say that, you'd be a fool to ejaculate into someone's underwear?" Answer, "If it would have your DNA there, wouldn't there?" And I think he is really mocking the idea at that stage that he'd been so foolish. I say his tune changed, we fast forward after the
- 40 Schreiber interview is revealed, and he's asked this in the interview, "And is it the case that you ejaculated into her mouth?" Answer, "That's what she wanted. Yep, and into her panties her underwear, again what she wanted at the time."
- 45 He was lying, and I'll come to a number of lies that he's told, members of the jury. Lies which you can take into account when you make that assessment of his credibility. When you're looking at particular parts of his record of interview things that he said, accounts of the police, when you're assessing his credibility, you're entitled to take into account particular lies that he's told, and I
- 50 suggest to you that was very clearly a lie that he told earlier on in that

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interview.

Back to K who has said and Mr Astill as of today by virtue of an interview you would think, admits to the truth, is that she's telling the truth whether it was
 5 foolish of Mr Astill or not as I've recounted, she said, "It was brief, he pulled out and ejaculated into my underwear." "Was anything said?" "Not that I remember." Was anything said after that?" "He said, 'Usual, did I like it and was I okay?'" And she said that following that occasion she wrote down AW on 27 January. And again, she didn't tell anybody at that time. And you might
 10 think, members of the jury, why would she?

You might take a very good indication of how the jail dealt with complaints anyway, it might have been Mr Bartlett's evidence, he didn't even bother asking H whether she was on her knees in that room. He didn't even bother.
 15 There's evidence from various of the women to the effect of this, they didn't have confidence in making a complaint. That's the effect of their evidence. And you might think, why would they..(not transcribable)..that intercourse was count 20 on the indictment.

20 I asked Ms H this and she told you that she returned to..(not transcribable)..on the Mid North Coast. The Mid North Coast being a correctional facility itself. That's the name it goes by. She went and she came back. There was no rooms available at that point in the J house so she went into BIU, the smack was full. And I asked her about events around 4 to 8 August when she was in
 25 the BIU. She said this,

"I'd recently come back from a trial, BIU, we were locked in, it was dark. I heard a knock on my door and my door was open, it was Mr Astill at my door making a comment to the effect, 'I heard you were back. I
 30 needed to come and see you.' The area behind him was dark except I could see the light from reception, he proceeded to tell me that he missed me and kissed me, then proceeded to have sex once again. And he asked, 'These rooms aren't cameraed, are they?' And she said, 'I don't think so unless behind the mirror in the corner.'"
 35

Now, you will recall, and there's a series of photographs and one of the BIU units you can see in the corner there's the mirror which when you go through those, and I invite you to do that when you're deliberating, you'll see that.
 40 "After kissing you what happened?" "Again, he turned me around, pants down on my knees, and he took me vaginally from behind once again. This time was probably the shortest of all, the episode and once he was ready to ejaculate, he pulled out and ejaculated into my underwear. Told me to think of him later when I was playing with it." And that's count 21. And she recalled that he said that he had to return the keys to somebody.
 45

Now, I'll move to count 22 shortly. You will recall this evidence she gave of being in Mr Astill's office, "He walked into the general high needs and into the bathroom, and he returned carrying a white foam cup. And he told me to swallow it." She had looked in it and she could see what it was and you will
 50 recall that. And you will recall when Mr Clark gave some evidence about

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having being told by Ms H that that's what she was required to do. Made to do, members of the jury, let's not beat around the bush in the reality the reality of that situation for her, made to do.

5 And I asked the complainant Ms H about another day where she was in the compound. She saw Mr Astill, this in the high needs area and she went to his office. There's was nobody apart from the two of them there. There were other officers, but in the general officers' areas, so not in his office. There was some chit chat she says. Now count 22 you'll recall is another count of inciting
10 an act of indecency. I'll just remind you of that as I go to her evidence now on this particular count, and she says this, she went in and he said he has a present for her and she said, "Oh, really?" He reached over - the desk is an Lshape, reached over, it was a lunch box and he retrieved a Lebanese cucumber.

15 She said, "I don't remember his exact words, but made it very clear that he wanted her to go to the bathroom and put it in the vagina." And she went on to clarify it was words to that effect. There was no mistaking from the words he used that that was what he was encouraging her to do, so that's what she did.
20 She returned after that back to his office and the two of them went into the SAPO area, and he felt her vagina to make sure the cucumber was there, she said, and proceeded, as she said, excuse the language, "But fuck myself with it." The feeling of - the inciting in count 22 deals with encouraging her to go and put the cucumber in.

25 Count 23 is where she says after she came back, went to the SAPO area, "And he felt my vagina to make sure the cucumber was there." She couldn't remember whether that was on the outside of the clothes or not. That's count 23. Another indecently assaulting her, assaulting her that with act of
30 indecency and indecent in all the circumstances and under authority. So she complied with this request effectively to move the cucumber in and out of her, she said basically that she made some noises to make it look like she was actually enjoying it so that he would stop.

35 She said he wanted her to eat the cucumber after that was finished. She said this, that she had spoken to a manager of security, Ms Wilson, but she didn't go so far as to say the things that he was doing to her, but rather the things that Mr Astill was - inappropriate language, but didn't go on to that and said again because she was in fear of being moved.

40 Members of the jury, we now go to - you'll recall count 24 is a plea of guilty, that is, the accused told you by his plea of guilty that he did engage in an inappropriate sexual relationship with K. Members of the jury, I referred earlier to some evidence of a rash on her chest she told you about, as did Ms P.

45 She said this when I asked Ms P, "Was there ever any change in her body language that you saw during the time she was there towards Mr Astill?" "She would get like a rash on her chest. She'd get very nervous and, yeah, like, she'd get very nervous and scared." "When did you first notice that
50 happening?" I said to Ms P. She said, "When she started taking other girls to

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the office with her because she said that he was being sleazy.”

Ms H didn't want to be with Mr Astill, members of the jury, as must, I'd suggest, be made plain by the fact she wanted to be accompanied when she would go
5 there, and the evidence of how she would react when she learned that he required her attendance, and a number of witnesses. Y on that issue gave evidence. I asked this, “Did H say anything to you about him?” that is, Mr Astill. “She said she was scared of him.” “Did she say to you”, I asked, “At
10 that stage why she was scared of him?” “Because of the things, some of the conversations that he was having and the way he was standing.”

I asked Ms Y, “As time went on, was there any sort of changes to how H was describing Wayne Astill?” Answer, “Creepy.” “To your knowledge”, I asked Ms Y, “After the period that H was saying that she was scared of Mr Astill and that
15 she found him creepy, did you see her do anything or take any measures to avoid him?” “Yes, she did take measures to avoid him.” She went on to give an example, that was, “Any time that Mr Astill would 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.”
20

I'll move now to Ms O's evidence, O. Mr Brumwell had something to say about her which might be some terminology which rings a bell and I'll come to that. Ms O, to remind you, was a woman who at times used the interpreter. It became, you would conclude, genuinely very emotional at the end of my
25 examination in chief just before Mr TylerStott was to ask her his questions.

Ms O, you will recall, came to the conclusion that she was missing some mail, and you'll recall that she said that she went to see Mr Astill and he showed her four birthday cards, the inference being certainly that she drew that the mail
30 was being withheld from her. Ms O had made the complaint with T to the Corrective Services which I made scant reference to earlier which Mr Bartlett investigated, to use that word very loosely, but made some inquiry about whether or not H was in the room with Mr Astill and there was something inappropriate going on there.
35

Ms O said that she was called in. She spoke to Mr Astill. She thought that these complaints would be confidential presumably, she denied having made any complaint and she was shown the book where she had signed. She recalled that there was that meeting a couple of days later at the pill window.
40 Mr Astill came through and said, “We can be friends,” and she said, “I'd like to be friends and we'd be civil.” He said, “Come and talk to me later if you'd like to be friend, have to be civil, and that's something good for me.” This was where there was some discussion, members of the jury, you'll recall, about a lawyer and whether or not Mr Astill could provide some assistance in that
45 regard. She says she went into the chief's office,

“He was in the office, sitting there. He was alone in that office and he asked me if I think about it, and it's about the friendship. Then I told him I didn't take him serious - like - I thought he was testing me. He asked

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me if I brought my paperwork with me for the lawyer, because he spoke to him and briefed him briefly about my case. And he's waiting for my paperwork, to read it, to see how he can help."

5 That's what she's saying. "He was seated at the desk. After I entered the room we just exchanged greetings. He came behind his desk. He was standing in front of me" - I think he came from behind his desk - "standing in front of me. He tried to come closer just to hold me or something. He tried to touch me."

10

This is count 25, members of the jury. "He put his hand on me, tried to hug me and touch me. He was trying to touch me. Then he tried to move his hand down - around to my boobs and down, but I pushed him." Further I asked,

15 "Q. Did he actually make contact with them?" -

being a reference to her breasts; that is -

20 "On the outside of clothing, did he make contact with your boobs?
A. Yes."

And that's count 25 on the indictment. She said that he said, "It's okay. Don't be scared. No one will know. No one's here." And she said back, "Like - I'm scared - like - I'm scared. I was, like, nervous. Like, I don't know that his friendship will be like this. It was a sort of relationship" - she went on - "he'd want."

25

Members of the jury, count 26, then, is another count of assault with an act of indecency on Ms O. She then told you there was another occasion at the case manager's office. She said Mr Astill was there, and there was some discussion about how old he was. And she said, "You're, like, my grandpa's age," and that he said,

30

35 "'Why is that matter? Not like we going to have relationship,' then he started touching my hair, my face, trying to kiss me. Start touching my hair, and as I said, my face. Then he tried to go lower than that to my boob. He tried to go lower, but I said to him, 'Let's take it slowly.' And he said, 'We go as slowly as you want,' but he didn't" -

40 she went on - "he didn't take it any slower, he just kept - kept coming lower than that, moved his hand lower, put his hand down and touched my vagina." She said, "I think he was trying to touch me inside the clothes, like, he tried to move my pants up with his hands inside my pants, to touch my vagina." She went on to say, "Yes, he did put his hands" - his hands did go inside her pants.
45 And she clarified that and agreed to the suggestion that his hands touched her vagina. That's count 26, members of the jury.

Then there was the topic of Ms O menstruating. She told you some evidence of that, and discussion which revolved around that. This was a few days later.
50 She said that Mr Astill had asked her to go and see him. "I said to him, 'I have

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my period; I can do nothing.” She said that was not in fact the truth at that stage. He said, “It’s okay. We’ll wait.” “And he called me to go back after a while.” This was about a week later, she went back. She said, “I still have my period.” He said, “It’s okay, we’ll talk.” Then there was some conversation
 5 about an appeal that she was pursuing, and some paperwork with lawyers. The next day she returned to his office, knocked on the door, asked for the paperwork; normal conversation, it started out. I’m coming to count 27.

10 She went in. He moved towards her. “Because when I said to him about the period”, she said that “he said I’m a liar; it’s been over a week. So he just came to me and he wanted to touch me. That’s when” - she goes on - “he took my pants off to check if I had my period. And he separated my leg and he said to me, ‘you’re a liar. You don’t have any period.’”

15 That’s count 27 on the indictment, being the assault, being checking between her legs in that invasive way. She said she was shaking, she was scared. She apologised for lying, and that he said, “It’s okay. You don’t need to be scared. You should know better not to lie.” And after that he said, “Fix yourself, go back to the unit and don’t do it again.’ I said, ‘Thank you,’ and I
 20 just went back.” She told you that he came back before the muster that afternoon effectively checking on her. He asked if she was okay. She said about three days after that, she had not seen him for a couple of days and she was told again to go to Mr Astill’s office.

25 “I went in there. He left the door a little bit open. There was nobody in there apart from him. We started normal conversation, ‘How are you?’ normal things. Then he moved towards me. He started kissing me, touching me. He touched me on my arse, my boobs - that I am attractive. And he said that I am” -

30 She was asked if he said anything - “He said I’m attractive. He said that I’m attractive and he never seen someone have such a smooth body like mine - like me, like my hair.” If we go back to what Mr Brumwell says, I asked Mr Brumwell,

35 “Q. In the context of that, the Orlando conversation, did Ms O’s name come up in this conversation?
 A. It did.

40 Q. Who mentioned Ms O?
 A. Wayne said that - Wayne did, Mr Astill. He said that he had sex with O, used to have her across the table with her legs open and used to lick her pussy. He said she had a wonderful snatch, soft and smooth.”

45 Basically, as I think, the terminology he used. And he went on. And then he at the particular time just stuck his tongue out like he was having oral sex with a female. “Smooth”. That’s the word Ms O describes him as having said when he described her body. So after he’s saying these things to her she said, “He
 50 took off my pants, my underwear. He was facing my back. How am I going to say - he put his penis in my vagina, started having sex with me.” She said,

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"For me, it felt like a lifetime." "He ejaculated in the bin," she said, and they spoke of contraception when he said he checked her record and knew that she had a Mirena on or in, "But just in case to be safe."

5 Then she gave evidence about this back-door character, Michael Weatherly, where she had made a comment to another corrective services officer, and she said that she said if she saw him outside the gaol she might have dated him. Mr Astill got wind of this and told her that she could be moved from the gaol. She said, "He said there's a complaint been put out at me. It's a big
10 deal. They might move me from the gaol. He said, 'Leave it with me,' and he was going to try to help me and sort it out."

About two weeks later she said she went back into his office. At this time she was, in fact, menstruating. They walked in, they greeted each other. She said
15 to Mr Astill, "I can't stay long. I have my period on and I have to go back." He said, "Okay, let's just chat." "He started to take his pants off, and I told him, 'What you doing? I told you I have period on. You can even check,' and he said, 'No, I do believe you, just taste it.'" He took his pants off, his penis out, said, "Just taste it a little bit." "He sat me down. I sat down on my knees. He
20 held my head and let me practise oral sex with him, do oral sex to him." This is count 29 on the indictment, members of the jury. Not consensual, and he knew it.

He ejaculated in her mouth, she vomited into the bin. He said, "You can wash
25 yourself. There's a sink there. Wash up, fix yourself and go back." She clarified that before that he was standing up in front of her. She was right in front of him and then she went down to her knees. "He told me to," she said. Members of the jury, I've asked this, "When you went down to your knees, did you go down to your knees on your own?" "He told me to." My next question,
30 "And could you just explain to us why did you go down to your knees at that time?" Witness, "Don't have an option."

Members of the jury, can I suggest if you put yourself in the place of Ms O at that time in all those circumstances, as difficult as it may be, you would well
35 understand that in her mind she did not have an option. What option did she really have? Freely, voluntarily consenting, not on your nelly, not at all, nothing free, nothing willing about this, stark power imbalance. That was count 29. I'll move now - I'm minded to ask, your Honour, if your Honour does think it's an appropriate time.
40

HER HONOUR: Yes. Are we moving onto a different complainant?

CROWN PROSECUTOR: Yes. Not different complainant, but a different
45 incident.

HER HONOUR: Just go - there's only been 40 so far.

CROWN PROSECUTOR: Okay.

50 HER HONOUR: Maybe finish off with Ms O's alleged counts and then we'll

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have a break.

CROWN PROSECUTOR: Yes, of course. This was the evidence you'll recall from Ms O about some grapes. She was told to go there, she said. She went
5 in. It was just Mr Astill. It was lunchtime, she thought, after 12.00, "That's the only time we can get out." She went into the management office. "He offered me some. I said, 'I don't want'" - that's the grapes. "I don't want. I'm okay. Thank you." "He asked me to sit on the desk. He took off my pants and he
10 wanted to put the grapes inside my vagina. I said, 'No, you crazy. What are you doing?'"

"When you say he wanted to take off your few pants," I asked, "How did you know he wanted to take off your pants?" "He took off my pants. That's the thing he does when I go to his office." "As he wanted to put things inside but
15 then he said, 'We need to add some flavour to it.'" "Did he say what things he wanted to put inside?" Answer, "The grape." "What did he do then?" "He put the grape inside my vagina." That, members of the jury, is count 30 on the indictment being the penetration of Ms O's genitals with an object, in this case being the grape.

20 She said she was on the desk at that stage, didn't stay there long, tried to take it out. "What happened when you took it out?" "He ate it." "What happened after that?" She said, "He had sex with me. He put his penis in my vagina and then had sex." "How long did that last for?" "I don't count the time," she said,
25 perhaps a fair response, no-one has got a stopwatch. "I don't count the time. It's always don't count the time, it's not - it feels like hell, it's lifetime like I don't count the time." She said he ejaculated again in the bin. She then moved to describe she became that Mr Astill went on a holiday. She said this, I said,
30 "Just tell us why you did not tell anybody at that time about why you did not report it at that time?" She said this,

"In the first report I put in, I was first scared to put that report in, the complain, the request complain, I put it about what I saw between him and H, but they promised me that noone will know about it from that
35 office, this paper will go to governor and noone will know about it. I will be okay, then nothing happened and he did know about it."

It went on, "I became his capture and noone will believe me anymore, and I don't have noone here to tell and I don't have no family here and noone will
40 believe me. I was scared. I was terrified," and you'll recall her demeanour, how she presented at that time and, as I say, you'll recall that she became visibly distressed and I'd suggest, members of the jury, she was genuinely distressed at that time. Ms O was a witness, members of the jury, I'd suggest was a very impressive witness indeed.

45 Some of these people may not be impressive so far as what you think they've done or what you've heard they've done in other areas, but I'm talking about being impressive in terms of their evidence. There's a rawness to Ms O's eye, you might think, and an honesty there as she recounted genuinely the truth
50 what happened with Mr Astill and you'll note that there was a plea of guilty, that

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is Mr Astill admitted to you that he had engaged in serious misconduct by virtue of having a sexual relationship with Ms O. Your Honour, that concludes Ms O's evidence.

- 5 HER HONOUR: Yes. Let's have a break, ladies and gentlemen. Just go out. Go to the bathroom if you need be and we'll come back about ten past.

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IN THE ABSENCE OF THE JURY

5 HER HONOUR: Mr Crown, Mr Tyler-Stott, the new provisions of the consent and that don't apply in this trial, do they, in relation to the directions in light of the commencement of proceedings? Mr Astill was arraigned somewhat before the commencement of the new provision.

CROWN PROSECUTOR: Yes, he was. It was, like, two years ago, I think.

10 HER HONOUR: Right. Okay.

CROWN PROSECUTOR: It's had two false starts, this trial.

15 HER HONOUR: Yes, thank you. Okay. I'll adjourn, just five - ten minutes.

SHORT ADJOURNMENT

Thank you.

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IN THE PRESENCE OF THE JURY

HER HONOUR: Yes. Thank you, ladies and gentlemen. Yes, Mr Crown.

- 5 CROWN PROSECUTOR: Members of the jury, count 33 - as you know - is another charge of misconduct in public office. In this case, engaging in an inappropriate relationship of..(not transcribable)..sexual inappropriate relationship. And it relates to inmate G.
- 10 And you'll recall that she gave some evidence. She'd been at Dillwynia from - initially from 5 August 2016 to 15 May 2017, and returned 8 December 2017 and was there until February 2018. Back on 24 March 2018; she returned to Dillwynia, and she's remained there. And she told you that her stepdaughter was pregnant, and she was concerned, and she wanted to make - try to make
- 15 some contact with her. Now, she spoke to Mr Astill about that, having spoken to H. And spoke to Mr Astill with a view to seeing if he could help. In that conversation, and subsequent conversations, he told her that he had police officer friends that may be able to help her look her up and track her down.
- 20 Before I go any further, members of the jury, you'll remember that there's evidence before you that was tendered through the first witness, the high-ranking officer Judith Barry from Corrective Services, as to codes of conduct and the like. And personal relationships, obviously enough, are not appropriate between Corrective Services officers and inmates. And here we
- 25 have - already, on what's said - there is offers by Mr Astill to have his police friends make private investigation inquiries with - for an inmate. He then went on; he said they have investigator-type friends, and they're very good at finding people.
- 30 And she said at first, you know, "what's it going to cost?" And she said - she said that, because it's jail; nothing happens for free in this place. Now..(not transcribable)..showed you was a fair thing for her to think, and I say that because it may well put into context why she said "what's it going to cost" - nothing comes for free. "I'm in jail".
- 35 He said to her, she said, that he'd do it because - he could do it cause he knew she was stressed. "I really wanted it, and knew - he knew that I had no outside support or phone calls, or anything like that". But two weeks later, he's called back into - she's called back later into the high-needs chief's office. Mr Astill is
- 40 there, just Mr Astill. "He said he had the information that I needed in regards to my daughter, and that it would cost me a hand job."
- He said - she said that she said to him - "Well, you said you were going to just help me, because you'd said I was stressed. I don't want to do it." She - he
- 45 said to her, "You're not 18". Words to the effect, "I'm not 18 and fresh to the jail system". She gave some evidence about seeing C interacting with Mr Astill. And I'll remind you of that. And she told you that she'd been in a fight with - a physical fight with P, and that Mr Astill had said to her - put in a statement, and that he would get her - that is, P - moved out of the jail. And
- 50 he's asked for that a couple of times. So, you might think that in the

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circumstances of the relationship then existing, that of itself was inappropriate. He's encouraging her to make a - a statement so that he can get rid of P.

5 He said that he would talk to SORC, which, she told you, was - there's other evidence, was the Serious Offenders Review Council. And G said she knew that it watched over serious offenders. And she's - she would - that he would talk to SORC, wielding - buyin - that's what he's saying. Whether he intends to do it or not, members of the jury, he's saying to an inmate that he would, in those circumstances, look to lean on the SORC tribunal as to is with the
10 placements of prisoners and the like. Later he speaks to her again. This is - she was called out to the smoke out by Mr Astill.

He said come have a conversation with him in the office. And there he said, words to the effect of, that she had to give him a sexual favour, and now it's a
15 head job. She said, "I can't. I need psych myself up to be able to do it". He said to her, "As long as...at some point". It's not suggested that either of those acts, the masturbation or the fellatio took place, but it was an inappropriate relationship, members of the jury, in the extreme, having regard to what he asked her to do, what he said to her about her age, and that "It's not your first
20 time in jail". What he said to her about..(not transcribable)..totality of it, what he said to her about that he could do her favours. None of which was his role, and which in it's totality was improper in the extreme, I'd suggest.

25 Tomorrow, members of the jury, I'll be going through what a number of witnesses - because I'm not going to finish this today - I'm going through a number of witnesses have said, and I won't go through chapter and verse, but the complainant's have said to other people, and what they have said about complaints which were made. Evidence which we call complaint evidence, or
30 evidence of complaint.

Come to M. Members of the jury, to jog your memory, M is a witness who's mother gave some evidence. Her mother Jane. There was a phone call played, exhibit P. She's a witness who you would recall Mr Astill was recorded as describing variously as a lovely young girl. Is evidence in that phone call
35 that she made you'll recall, and I'm not going to play it to you. You can listen to it again at your leisure should you wish to do so.

40 But of the crying on the phone, it's not long before Mother's Day, there's photographs taken and M points out Mr Astill and things are said at that point about him whilst at the jail to the mother, Mrs M . You'll recall M, and again I'd suggest to you that this witness, she was an impressive witness as to how she presented, what she said, and she was a witness who was doing her best to tell the truth. She had contact with Mr Astill because she wanted to get extended visit passes, as could be granted to people who's relative were
45 coming a long way, perhaps to make it worth their while.

50 She went in there, she spoke to him, she said this, that "He always whenever he'd speak to me, tell me that I had a beautiful smile, and that I was - he didn't look at me like the other inmates, just very uncomfortable comments". In the record of interview, the recorded interview between the detectives and the

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accused, you'll recall that he said yes he did. He probably would've said that to her. It lends some support to the account of M.

5 M said that she became friends with R who you'll recall her name was changed to R, R. And I asked M this, "Did you ever speak to her about what Mr Astill had said?" that is R. "Yes, all the time, she knew everything. She was the only one that I could really speak to about it." She recalled Mr Astill moved offices. She thought it was 2017. Not sure what month, but he moved to the low needs one which was just behind the M right house which is where she
10 was and she was in the medium needs at that stage. And she said this of the musters,

15 "He didn't speak to me on muster because he wasn't allowed to do that, but he definitely would walk past me and smile, give me a look. Just a bit of a sly look, yeah, and then he gave me a big grin and say goodnight, but he'd say "Goodnight, girls," and then he looked at me and smile. Just kind of hold attention to me rather than any other girl in the house."

20 Count 34, members of the jury, is a count of assault again with indecency. And she said this, she went to sign a referral for an extended visit in Mr Astill's office and she said this,

25 "What happened, I was by myself, he'd come up to me in the compound, asked me if I would accompany him to the office to sign a referral form. And so I did. I walked in the office and he closed the door behind me, and I heard the snib of the lock. And then he told me to go to his office, so I did. And as his penis was erect, he leaned in to try and kiss me. And I was very, very, very nervous and uncomfortable.
30 So, I just kind of, like, ducked out of his area, like, out of where he was, and I quickly walked out of the office."

I asked how she knew that his penis was erect, "Well, he grabbed my hand and he started stroking it." That will sound familiar to you, members of the jury,
35 beyond what you heard M say it and the first time you heard that. I'll come to that. "Like, and then, like, cause I was close to him he, like, pulled me in and pushed his penis against my stomach area. That's how I knew his penis was erect because it was up against the stomach."

40 Members of the jury, there was a diagram she drew, exhibit O that you have there, but those actions of taking her and pushing his penis up against her, grabbing her hand, that whole action is what you recall as count 34 on the indictment. There were two diagrams in exhibit O as you've heard. Now, she said that he leaned in and tried to kiss her. And she said this;

45 "Well, he was patting my hands, stroking my hand, and he was quite close to me. And so he just, yeah, like, he had - like, he had my hands so he just, like, pulled me a little closer - a bit closer with his hand, and, like, starting pushing his penis around my side area. And then he just,
50 like, leaned and because we quite close, you know, because it was, like,

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obviously body to body, and so, yeah, he just tried to kiss me. Like, he just leant into to kiss me because he's quite tall so, you know, he had to come down a bit and then I just weaved out of it."

5 And demonstrated by ducking. What her Honour described as a ducking motion. Ducking her head down. "How did you get out through the door?" I asked because she'd said earlier the door was locked. "Well, you can unlock it from the inside." So, it was locked. Nobody could come in from the outside but you could unlock it from the inside. She went outside. She said she told R
10 what had happened in the room. She said this of whether or not there was any discussion about reporting it at that stage, that is the discussion with R. "After every time...was just me".

15 Well, it's not just M, members of the jury, there's evidence which I'll come to tomorrow of tendency to behave in particular ways which I call on for support. And when you reason towards verdicts of guilty with respect to M, there's evidence of her distress in that phone call, there's evidence of her having made that complaint to R, also known as R. There is support to be found in what she said happened to her, including the stroking of her hand. Something
20 Mr Astill, you will conclude, did at other times to other people.

She gave some evidence of R wanting to get some photographs approved, so she went and saw Mr Astill about these photographs. But this is the photographs that he ultimately took when M's mother came from the country to
25 visit around that Mother's Day. Got approval to take some photographs with some children and the like. She went with R to the room for that request.

Mr Astill said to R to wait outside. "He pat my arm" she said, "So that's what he started doing, stroking my hand, and then he tried to kiss me again by
30 grabbing my arm and pulling me closer, because where we were standing, I stood right at the doorway, so where R was. She could see, like, she could see me on an angle". "And just pulled me closer, and I just stepped back". I asked her to spell it out. "Because he leant...laugh it off". Said when she was pulled in, she just looked down at the ground. "He'd speak to...to the ground".
35 That was, members of the jury, count 35 on the indictment, and count 35 is again another assault. That is pulling her in, trying to kiss her in the way - and the evidence which I just read out and which you've heard that witness give.

40 You'll recall, again, with respect to count 36, that the accused has admitted to having an inappropriate sexual relationship with M. He said, at one stage, "Well, she was - she made an advances to him". Members of the jury, you would not accept that, and you would exclude it as a possibility beyond reasoning doubt. He's approached her.

45 Her distress is manifest when she's on the phone as to what's happened and what does she do? She goes from having that incident where he's tried to kiss her, and goes and reports it to a number of women, including with R, including V and a number of others, and says, "This is what's happened." I'll come to their evidence tomorrow, but there's a number of descriptions of he being
50 visibly upset at the time. Now, I would suggest to you, members of the jury,

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she wasn't upset at being rebuffed by Mr Astill. She was upset because she was molested in the way she said.

5 N. N's evidence relates to counts 39 to 42 on the indictment. You'll recall she was perhaps an older woman than some of the others, she gave some evidence of seeing GG and Mr Astill, so..(not transcribable)..together in a - as having some sexual contact and that forms part of what that tendency evidence - because there was no charge relating to GG for you to consider, it's - shows a tendency, and I'll go into detail tomorrow but it's part of that body of
10 evidence of tendency evidence, which is to be used in a particular way.

Ms N said this - she spoke to overseer, Fiona Baker. She went and saw Mr Astill at the hub and she said, "We spoke about the cleaning. F and GG with there. I continued the cleaning. After I finished cleaning, I went into the
15 office". She goes on, she says she continued cleaning, then she saw Mr Astill in there. There was kissing him, touching him, he was kissing them back.

There was conversation with Mr Astill about some notes. She said that she'd been at, one stage - she said she'd been given tobacco by Mr Astill and she
20 said she wouldn't run notes for him anymore, for Mr Astill. "What did he do or say after you said that to him?", I asked. "He got angry. He said, "You'll do as you're fucking told"". There was later - a couple of days later, they're in the hub again. "I was putting the stores down." There was conversation about the notes,
25

"I was putting the stores that I had taken there in the cupboard. I was just finishing, shutting the cupboard when he was behind me, and I turned around. He said something, he wanted me to pass this bag. I said, 'No, we will not pass this. If I get caught, I'll be in serious trouble.'"
30

She said, "He then put his arm forearm against my throat. He said, 'You will fucking do as you're told.' I couldn't breathe properly," she said, "He had his other hand - he started saying sexual things to me. He asked me did I want to have sex with him and I said no." She went on to describe that, "He touched
35 my top," which you'll recall she gestured with her hand down the top of her top, which was count 30 and is count 39 on the indictment with respect to N being that indecent assault. She said, "He pulled out my top, made a comment about my breasts, did he like - and he said he liked big breasts." She went on to say that he put his hand up her shorts, "The leg of my shorts and started to touch my vagina." Count 41, members of the jury, relates to the touching of
40 her vagina.

This witness appeared at some stages to be confused about the order of what happened, exactly what had happened, but it's a matter for you, but bearing in
45 mind, of course, that witnesses are being asked to recall events which, if they happened, were traumatic, you would expect, and were of sometime before, of sometime earlier. Count 41 then, if I didn't say, relates to the touching of the vagina.

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Count 40 she gave some evidence of, which was that he took her hand and placed her hand on his penis and left it there for a couple of minutes. That's count 40. There was evidence also from her that Dencorub was given to her by Mr Astill. She was cross-examined about this. Firstly, there is evidence of
5 the Dencorub being a danger, it's a security risk because it could be put in the eyes of officers. So it's one of those things that she's not to have, and she agreed with Mr Tyler-Stott that she had said elsewhere that another inmate had given it her.

10 Members of the jury, you wouldn't necessarily be surprised if earlier in the piece Ms N was reluctant to nominate the person, Mr Astill, as having, in fact, given the Dencorub to her. Again, he's an officer. He's a senior ranking officer. She's an inmate. She said - and this is relevant to count 42, the misconduct, inappropriateness of their relationship, there's the Dencorub,
15 there's also tobacco given to her on a number of occasions.

She gave evidence of seeing D come out of Mr Astill's office looking upset, and you'll recall that she said she spoke to Mr Astill about D and the fact that she was pregnant, because he said that he liked D and he said, "That doesn't
20 matter." Later she said she saw D crying and sobbing. She said that she'd seen an officer and she started to have bad flashbacks about Mr Astill.

Count 43, you'll recall, that's a matter where the accused has admitted to having had an inappropriate and sexual relationship with E, and those agreed
25 facts are before you, and he admits to having brought in tobacco. It's one of the tendencies he had, was to introduce contraband into the jail. Your Honour, I wonder if we could pause there.

30 HER HONOUR: Yes. You've reached a point?

CROWN PROSECUTOR: I think so, yes.

35 HER HONOUR: Ladies and gentlemen, it's hard listening to someone speak to you, and it's hard speaking on your feet for a long period of time. We'll call it a day. If you could be here for a 10 o'clock start tomorrow, it'd be appreciated.

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IN THE ABSENCE OF THE JURY

5 CROWN PROSECUTOR: Sorry about that. I wanted to use the other half hour. Frankly, I'm just feeling bit of a point of exhaustion, and I was starting to jumble things, I could sense it.

HER HONOUR: All right. How long do you think you have to go tomorrow? Just so planning things, I suppose for Mr Tyler-Stott as well?

10 CROWN PROSECUTOR: Yes, of course.

HER HONOUR: No rush.

15 CROWN PROSECUTOR: Probably an hour and a half, a little more maybe.

HER HONOUR: Just let's say 12 o'clock.

CROWN PROSECUTOR: Yes.

20 HER HONOUR: We need to give them sometime, Mr Tyler-Stott, with listening to it, so we might commence you at around 2, might be the better way of doing it, I would've thought, give them a decent break between the two of you; unless you want to start - it'd be otherwise, be about 20 past 12 in any event.

25 TYLER-STOTT: Your Honour, I think starting at 2 would be the lesser of - well, I'd rather not have the afternoon shift, if I can put it in that way. I can just sense that they'll probably fall asleep by the end of the day. I would be content to start--

30 HER HONOUR: Okay, we'll start and we'll see how we go, and if it feels like they're tiring by the end of the day, we can call stumps at 3 o'clock or something.

35 TYLER-STOTT: Thank you, your Honour.

HER HONOUR: We'll do 45 minutes or whatever before lunch might be best.

TYLER-STOTT: Yes, your Honour.

40 HER HONOUR: Do you still expect to be around?

TYLER-STOTT: Between two and three hours, I'd say, your Honour.

45 HER HONOUR: Okay. Again, I say to both of you, there's no rush.

ADJOURNED TO WEDNESDAY 17 AUGUST 2022