

**SPECIAL COMMISSION OF INQUIRY
INTO OFFENDING BY
FORMER CORRECTIONS OFFICER WAYNE ASTILL AT
DILLWYNIA WOMEN'S CORRECTIONAL CENTRE**



**CLOSING SUBMISSIONS
OF
CORRECTIVE SERVICES NEW SOUTH WALES
(CSNSW)**



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PART 1. EXECUTIVE SUMMARY

1. CSNSW is a division of the Department of Communities & Justice and runs the State's Correctional Centres managing remand and sentenced inmates and supervises offenders in the community. CSNSW's vision is to provide a world class correctional service that contributes to making the community safe and enables people to change their lives for the better. The outcomes that this vision achieves includes (but is not limited to) reducing reoffending, ensuring secure and decent environments for people in custody and supporting and engaging a competent workforce. CSNSW employs approximately 10,700 staff (including full time, part time, temporary and casuals) across the State to assist in managing 33 State run Correctional Centres and 79 community corrections offices which requires the management of approximately 12,000 people in custody and 36,000 people within the community.
2. The submissions on behalf of CSNSW to the Special Commission of Inquiry into Offending by former Corrections Officer Wayne Astill (**Astill**) at Dillwynia Women's Correctional Centre (**Commission**) can be summarised as set out below:
 - (a) accepts Counsel Assisting's Submissions (**CAS**) on evidence and facts except for those identified at Sections E to G of these Submissions (see paragraphs 80 to 168 below);
 - (b) agrees with 18 of the recommendations proposed by Counsel Assisting (see 1, 2, 7, 8, 9/10 (duplicate), 11/13 (duplicate), 12, 16, 18-20, 23-26 and 33 of Annexure A);
 - (c) agrees in principle, or in part, with 11 of the recommendations proposed by Counsel Assisting (see 3, 14-15, 17, 22, 28-32 and 34 of Annexure A);
 - (d) agrees to consider 5 of the recommendations proposed by Counsel Assisting (see 4, 5, 6, 21 and 27); and
 - (e) proposes 1 additional recommendation not raised by Counsel Assisting at Section M of these Submissions.

PART 2. SUBMISSIONS

3. The submissions made by CSNSW address the following matters:
 - (a) an update to the apology delivered on 17 October 2023;
 - (b) identification of the reasons why Astill's crimes were not detected or prevented;
 - (c) the credibility of the witnesses before the Commission;
 - (d) summary of evidence;
 - (e) response to CAS on evidence and facts;
 - (f) Ms Shari Martin;
 - (g) operation of the Investigations Branch (**IB**);
 - (h) the lack of effect of the 12 September 2017 email policy;
 - (i) Terms of Reference and suspension of Mr Michael Paddison and Mr Neil Holman;
 - (j) recommended findings against Mr Glenn Clark, Ms Judith Barry and Ms Renee Berry;
 - (k) Commissioner Corcoran and Mr Hamish Shearer;



- (l) other investigations;
 - (m) referrals; and
 - (n) recommendations generally.
4. The submissions made by CSNSW are guided in part by its ongoing employment relationship with officers who have given evidence in these proceedings both in writing and/or orally. CSNSW understands that among those officers are individuals who have suffered personal injury as a consequence of the actions of Astill and the associated management failures in dealing with him. The Commission, it is submitted, should not be an unintentional occasion for further traumatising already injured persons be they inmates or officers, past or present. There are parts of the submissions made by Counsel Assisting which may have that unintended effect and this is addressed by CSNSW in these submissions.
 5. It is evident that CSNSW has given significantly increased focus in supporting staff and changing the culture as evidenced in the Towards 2030 Strategic Plan launched in October 2022 (**Strategic Plan**). This Strategic Plan saw the organisation align itself to pay much more attention to both staff and inmate safety and wellbeing, including with new performance measures that assess these areas.
 6. A new CSNSW Executive Structure was implemented from early 2023 to align the organisation to the Strategic Plan which also saw the departure of some employees previously overlooking the issues raised throughout the Commission. This new structure also saw the creation of a new Professional Standards and Investigations Branch, merging the former Professional Standards Branch (**PSB**) and IB to overcome a number of the challenges that had been identified in independent reports tendered to the Commission as well as heard in witness evidence.
 7. CSNSW now has a senior team which includes personnel whose work ethic, initiative and dedication to improving both the living environment of inmates and the working environment of staff could not stand in sharper contrast to those officers who failed to discharge their employment duties during the period of Astill's offending. It is submitted to the Commission that there now exists, in places of seniority within CSNSW, persons dedicated to reform and capable of implementing meaningful change.
 8. It is also evident from the Commission that there are a large number of officers who acted with great persistence and courage in endeavouring to bring Astill to account such that any criticism of any failure in those attempts should not be given weight.
 9. There has been a concerted effort by senior (including very senior) employees of CSNSW to remedy serious faults in the management of Dillwynia Correctional Centre (**DCC**) - many of these people have also been institutional witnesses. Much of this work has been in addition to the ordinary duties of the senior employees. Any criticism of any mistakes in that proper and challenging pursuit should likewise not be given any weight.

A. Apology

10. On 17 October 2023, Senior Counsel for CSNSW read out an apology made by CSNSW to inmates and staff: T179.5-T180.5.
11. Since that time, and over the course of six weeks of hearing, CSNSW has had an opportunity to hear from and see a large number of witnesses, including affected inmates as well as present and former employees and professional visitors to DCC. In addition, CSNSW has had an opportunity to read the police statements of those witnesses, their Commission Statements and transcripts of evidence of the criminal proceedings before Judge O'Rourke in *R v Astill 2019/56907*. As well, in the case of two victims, Witness L and Witness O, their victim impact statements read out by them, or on their behalf, during the sentencing hearing of Astill have been considered by CSNSW.



12. The Commission has also had the opportunity to read Judge O'Rourke's remarks on sentence from Astill's criminal trial.
13. While CSNSW had a significant understanding of the gravity of the crimes committed by Astill at DCC over an extended period of time, the opportunity to hear and read the evidence as set out above (at paragraph 11) amplifies greatly its sorrow and shame as to what occurred at the hands of Astill and what was allowed to occur because of the failings of CSNSW systems and staff.
14. CSNSW reiterates its regret and unreserved apologies to the inmates, staff, and all others affected by these failings. It is committed to ensuring that the bravery of those who came forward and told their story will enable CSNSW to improve its systems and safeguard against anything of the sort occurring again.

B. Identification of the reasons why Astill's crimes were not detected or prevented

15. CSNSW considers that Astill's numerous crimes were caused by, or contributed to, at DCC by the following factors:
 - (a) **Astill's obvious criminality** - Astill's criminal behaviour appears to extend back as far as his time as a police officer in the mid-1990s. The nature of Astill's offences as a police officer, and then as a CSNSW officer, contain elements of opportunism but also significant deception and planning which has evidently increased in severity over time. Astill was not charged with any crimes arising from his employment as a police officer and the details behind his resignation from the NSW Police Force does not appear to have been known by CSNSW at the time of Astill's recruitment: T2734.30-47;¹
 - (b) **failure to ensure that officers were not alone in the company of inmates** - given the multitude of Astill's crimes which occurred while he was alone with inmates over an approximate four-year period, it is clear that there were significant failings such that he was able to commit various offences while he was in the company of inmates alone and, seemingly, at will;
 - (c) **poor leadership and management** - from the various inmate and officer accounts given to the Commission, the standard of DCC management was insufficient including, for example, the use of inappropriate language both between officers and between officers and inmates, inappropriate relations between inmates and officers, the lack of reporting of inappropriate behaviour, the lack of general oversight of performance of officers and poor training standards. The evidence suggests that officers' training was occasional and superficial and that there was no regular performance review of officers to determine how well they were performing and to address any deficits in that performance: T2520.28-T2521.8; T1823.5-20;
 - (d) **poor understanding of reporting guidelines** - the insufficient leadership/management standards meant that only a small number of complaints made it out of DCC for investigation external to DCC and/or management. Those matters that made it out of DCC were not dealt with in accordance with the professional misconduct processes operating within CSNSW at the relevant times as they were either terminated or stalled at the IB level; and
 - (e) **failure to protect inmates** - another critical failure was the failure to take any reasonable steps to protect inmates who made complaints against Astill.
16. In relation to 15(e) above, CSNSW submits that:

¹ See also, Ex. 3, TB3, Vol 17, CSNSW.0002.0024.7058_0001-02.



- (a) as best as it could, it has sought to support affected inmates and staff from the time Ms Trudy Sheiles bravely disclosed the crimes committed upon her by Astill to Mr Stephen Virgo, which followed from the diligent and determined work of Mr Clark in October 2018.
- (b) with respect to Witness O, she provided important information in good faith to assist CSNSW and Ms Sheiles. That information was mishandled by a senior DCC officer, Mr Brian Bartlett, in a way which 'permitted' Ms Martin to do nothing with the information. Moreover, Witness O's information was disclosed to Astill.² As a result, Astill used that information as a trigger to commit very serious crimes in relation to Witness O which led to a finding in his criminal trial that those crimes were committed in aggravated (i.e. punitive) circumstances.³
- (c) further, Ms Martin and Mr Paddison had knowledge that at least one witness, Witness M, may have feared reprisal at the hands of Astill and were of the view that she was justified in that fear so as to preclude her return to DCC.⁴ Notwithstanding that knowledge, Ms Martin, in particular, failed to take any reasonable steps to protect several other inmates who she knew were making complaints concerning Astill, including, for example, Witness O.

17. It is evident that Astill's offences were not relevantly detected for the following reasons:

- (a) no meaningful action appears to have been taken against Astill for alleged breaches of him being in the High Needs block;
- (b) staff working together who are also in close relationships with each other, giving rise to an actual or perceived conflict of interest;
- (c) the living environment for inmates and the working environment for officers meant that particular courage and persistence was required for allegations against Astill to be brought to the attention of senior management. For instance, only eight Intelligence Reports were received by IB concerning Astill and none of the Intelligence Reports were referred to the PSB: T2728.13-29. Notwithstanding the power to do so, Ms Martin, and to a lesser extent Mr Shearer, failed to assess the risk of leaving Astill at DCC and alternatives for his work placement;
- (d) intelligence information concerning Astill was mishandled by the IB to the extent that the IB closed off two Intelligence Reports which detailed extensive misconduct without referring the matters to the PSB and otherwise failed to refer the balance of intelligence information which it received to the PSB; and
- (e) the PSB, through Mr Doug Greaves and Mr Peter Robinson, when fortuitously made aware of serious allegations against an officer, were prepared to endorse a process which, to put it extremely mildly, was "*a bit odd*."⁵

C. The Credibility of Witnesses

- 18. CSNSW make submissions concerning the credibility of some of the witnesses who appeared before the Commission. Witnesses of particular note have their credibility addressed in the below sections which address their evidence.
- 19. Further, CSNSW submits that all the past and present inmates who appeared before the Commission were generally credible. CSNSW agrees with CAS concerning some of the evidence of Witness P which should not be accepted.⁶ CSNSW submits that it is doubtful that

² Ex. 3, TB1, Vol 5, Tab 17A, AST.002.013.0028_0005 at [25].

³ Ex. 3, TB1, Vol 4, Tab 2B, AST.002.010.0001_0018 at [35].

⁴ Ex. 25, TB2, Vol 8, Tab 84, AST.002.013.0055_0007 at [37].

⁵ [Ex. 3, TB 3, Vol 14, Tab 452, CSNSW.0001.0032.0130_0001](#).

⁶ CAS at [905].



Ms Sarah Ward is correct in her account of attending upon police officers at DCC who were in a room in the presence of Ms Martin. It appears very unlikely that police officers would interview a witness in the presence of another potential witness (namely, Ms Martin).⁷ It is also doubtful that Ms Ward's account of her dealings with Ms Berry and Ms Barry concerning an allegation that Astill used to grab her bottom is correct.

20. CSNSW says that Witness C's evidence should also be treated with caution. The primary reason for this is that Witness C made serious allegations in her Commission Statement against Ms Barry and Ms Berry including an assault in the context of what is generally known as the 'ring incident' in February 2016 (**Ring Incident**).⁸ In the Ring Incident, Astill intervened on behalf of Witness C in an abusive and aggressive way towards Ms Berry. Witness C's specific allegations are not consistent with Ms Berry's account⁹ and such rejection is in accordance with Ms Berry's contemporaneous file note.¹⁰ Ms Berry, in the presence of other officers at DCC, voiced her opposition to Astill at the time thereby confirming her credibility and that, coupled with her contemporary file note, favours a finding that the assaults alleged by Witness C did not occur. Moreover, the evidence of Witness C generally suggests her being in contention, at all times, with CSNSW at large so as to suggest that her account of events such as that involving Ms Berry and Ms Barry is coloured by a hostile perspective towards CSNSW. Furthermore, Witness C has a criminal history which includes a dishonesty related offence.¹¹
21. Aspects of Mr Michael Hovey's evidence in relation to the operation of the IB, PSB and Professional Standards Committee (**PSC**), should also be given limited weight on the basis of his credibility. As outlined below (at Part G, [173]-[192]), evidence before the Inquiry demonstrates consistent inexplicable failures by the IB (under the direction of Mr Hovey) to act on intelligence relating to misconduct by Astill. These failures resulted in eight Intelligence Reports regarding Astill's misconduct not being provided to the PSB, two matters being closed without any authority and no genuine investigation into Astill's misconduct being initiated. Mr Hovey was unable to offer any meaningful explanation for these failures and plainly has an interest in overemphasising systemic concerns (such as resourcing or policy issues) and obfuscating the misconduct process. Accordingly, significant caution should be exercised when considering Mr Hovey's evidence regarding these issues. There are several witnesses whose evidence was partly credible and partly of concern. Mr Westley Giles falls into this category. He took some steps that should have brought Astill to account concerning Witness P: T2583.3-46.¹² So did Mr Paddison and Mr Holman.¹³ In the evidence, there were very serious allegations made against Mr Giles, several allegations made against Mr Paddison and fewer allegations against Mr Holman. As such, findings against each of them on credibility should be muted.
22. Mr Shearer was generally credible. One part of his evidence which is not credible is his acceptance, albeit reluctantly, that somehow the change of policy in September 2017 (which he confirmed did not actually result in "any change" to what had been done previously: T2478.25) contributed to his decision not to take any steps in respect of Astill in November 2017 and approve a process of mediation: T2553.21-25.¹⁴
23. CSNSW invites the Commission to find that all other witnesses were generally credible.

D. Summary of Evidence

24. CSNSW provides the following summary of the key propositions that emerge concerning Astill from the evidence of various witnesses who appeared before the Commission for the purposes

⁷ Ex. 3, TB 1, Vol 5, Tab 14A, AST.002.013.0003_0003 at [9] - [10]; CAS at [1097].

⁸ Ex. 3, TB1, Vol 5, Tab 8A, AST.002.013.0001_0006 at [22].

⁹ See also, Ex. 18, TB2, Vol 7, Tab 48, AST.002.002.0055 at [21]-[24].

¹⁰ Ex. 18, TB2, Vol 7, Tab 48, AST.002.002.0055_0019.

¹¹ Ex. 4, AST.002.002.0002_0062-0070.

¹² See also, Ex. 20, TB2, Vol 8, Tab 65, AST.002.002.0079_0014-15, 17-18.

¹³ Ex. 28, TB2, Vol 8, Tab 80, Annexure 1, AST.0002.013.0053_0019-22.

¹⁴ See also, Ex. 3, TB3, Vol 17, Tabs 519, CSNSW.0002.0022.0226.



of the Commission being aware of the salient points that CSNSW relies upon and considers should be given primacy in any analysis, including in relation to available findings.

- (a) *Witness M*
25. The events involving Witness M represent circumstances in which Ms Martin, and the management beneath her, took some steps to raise the allegations against Astill. Notwithstanding their other leadership failures, these actions are to their credit. It also represents circumstances in which the system in place for detecting and dealing with misconduct worked to a degree and should have resulted in Astill's criminal behaviour being exposed much sooner. Witness M is also a useful case study because of the large number of officers involved at DCC and beyond in the matter who managed to successfully report Astill's misconduct.
26. Witness M was at DCC until May 2017. It appears that Witness M's preference was to stay at DCC, other than having to interact with Astill. On more than one occasion, Witness M asked Astill at a time when she was relocated (presumably for court attendance purposes) to "keep her cell": T258.41-45.¹⁵
27. Witness M's evidence commences at T244.31 and finishes at T260.30. Her Commission Statement is in Exhibit 3, Tender Bundle 1, Volume 5, Tab 10A. Witness M gave the following relevant evidence in relation to Astill:
- (a) that Astill was known as someone who could do favours for inmates, for example holding someone's room while they were away: T248.20-28;¹⁶
 - (b) that Astill said words to her about her appearance and that he would think about her (T249.29-32);
 - (c) that Astill tried to kiss her and inappropriately touched her arm and hand: T249.45-250.5;
 - (d) there were also further statements made by Astill at a time when Witness M was in one of Astill's offices when he had shut the door behind her: T250.22-26;
 - (e) that she confided in Witness R in April or May 2017 about Astill's behaviour: T250.33-37;
 - (f) that she was aware of threats made by Astill to inmates about being transferred to a different part of the gaol: T252.1-3; and
 - (g) that she disclosed to Witness R and other inmates what had happened at the hands of Astill: T255.44-256.1. A written record of her complaints was set out in the notebook maintained by Witness B, in which Witness V appears to have done most of the writing.¹⁷
28. Witness M also gave evidence about her fears that her mail was being read by officers: T253.4-34.
29. The allegations concerning Witness M arose at a time after she had left DCC and was at Wellington Correctional Centre, soon to be transferred back to Silverwater Women's Correctional Centre.¹⁸ They emerged as part of statements made by Witness R and Witness V in the context of the broader complaints against Astill, including acts of intimidation.

¹⁵ See also, Ex. 3, TB1, Vol 5, Tab 10A, AST.002.013.0006_0001 at [5].

¹⁶ See also, Ex. 3, TB 1, Vol 5, Tab 10A, AST.002.013.0006_0002 at [6].

¹⁷ Ex. 3, TB1, Vol 5, Tab 11, AST.002.002.0030_0004-37.

¹⁸ Ex. 25, TB2, Vol 8, Tab 84, AST.002.013.0055_0023.



30. Witness M gave evidence about the red dot being put against her name and she was therefore not transferred back to DCC: T256.13-46.
31. As set out above, the system of recording and acting upon complaints within DCC operated with a moderate degree of success in relation to complaints from Witness R and Witness V, including in relation to Witness M. Their complaints to Mr Holman were recorded in an incident report.¹⁹
32. Appropriately, in the circumstances, Mr Holman passed on the information which he had received to Mr Paddison. Presumably because of the gravity of what was being alleged, the complaint was brought to the attention of Ms Martin who attended a meeting with Witness R and Witness B. The meeting took place on 21 July 2017. There were officers present at this meeting, including Mr Scott Westlake: T1691.16-1693.2.
33. It appears that Ms Pamela Kellett was also present at this meeting. She was acting as the Intelligence Officer at the time, instead of Ms Deborah Wilson, and was the primary author of an Intelligence Report which was submitted in respect of this matter using the Special Investigations Unit (**SIU**) function, i.e. one to be brought to the attention of the IB as a matter of officer misconduct rather than as intelligence related to inmates which gets sent to the Corrections Intelligence Group (**CIG**).²⁰
34. Ms Kellett prepared a substantial Intelligence Report concerning the disclosures of Witness R and Witness V. Of particular note in relation to Witness M, is the reference to unsolicited touching by Astill: T1623.35-1625.45.²¹
35. Separately, Mr Holman received information concerning possible intimidation by Astill of inmates.
36. The Intelligence Report which includes Ms Kellett's record of what she had been told, plus the addendum from Mr Holman, was reported to the SIU on 30 July 2017. It is not clear whether the Intelligence Report was reported previously, including before the additions were made. The reason for that uncertainty is what appears to be action on the part of the IB in respect of the complaints made prior to 30 July 2017: T2151.6-19, T1639.9-12.²²
37. It appears that, independent from the submission of the Intelligence Report on 30 July 2017, other action was taken to reflect the perceived gravity of what was being said were the actions of Astill against Witness M.
38. Although this could not be confirmed, CSNSW submits that it is likely that Ms Martin and Mr Hovey discussed the Witness M allegations of 21 July 2017.²³ This is because of what appears to be actions taken swiftly in relation to Witness M. For example, on 22 July 2017, being a Saturday, Mr Paddison sent an email to the then Governor of Wellington Correctional Centre, Mr Craig Smith.²⁴ The terms of that email suggest that an investigation was being undertaken by Mr Paddison and the then Acting Manager of Security (**MOS**) at DCC, Ms Leanne O'Toole.
39. The terms of Mr Paddison's email are troubling because they refer to an investigation being undertaken outside the usual process by officers who were not trained to undertake such investigations. No one, including Mr Paddison, is suggesting that would have been the course undertaken by the MOS (although there had been similar activity undertaken by Mr Bartlett in

¹⁹ Ex. 28, TB2, Vol 8, Tab 80, Annexure 1, AST.0002.013.0053_0019-22.

²⁰ Ex. 26, TB3, Vol 7, Tab 60A, AST.002.013.0048_0011 at [84].

²¹ See also, Ex. 26, TB3, Vol 7, Tab 60A, Annexure C, CSNSW.0001.0021.1167_0002.

²² See also, Ex. 3, TB3, Vol 14, Tab 452, CSNSW.0001.0032.0130_0001.

²³ Neither Ms Martin nor Mr Hovey could recall in their evidence the meeting precisely but Mr Hovey was on at least part of the email exchange involving the concerns raised by Mr Greaves and communicated to Mr Shearer which gave rise to Mr Greaves' discussion with Ms Martin which she was meant to refer to Mr Hovey and did not, apparently, send any email suggesting ignorance of the matter: Ex. 3, TB3, Vol 14, Tab 453, CSNSW.0001.0032.0132_0001.

²⁴ Ex. 25, TB2, Vol 8, Tab 84, Annexure D, AST.002.013.0055_0023.



relation to allegations earlier that year – see section regarding Witness O and Witness T below). Mr Paddison, in his evidence, indicated that he had no skills or training in relation to conducting investigations: T1578.47-1579.2, T1579.10-15. Ms Martin described it as an investigation and also said that it could be described as a welfare check, however, that very description underscores the need for action being taken against Astill on an interim basis: T2282.1-T2284.33, T2377.18-24.

40. What is also troubling is that Mr Smith, as the Governor of Wellington Correctional Centre, considered that what Mr Paddison was engaged in was common practice.²⁵
 41. Nothing appears to have arisen from this attempt to communicate with Witness M at Wellington Correctional Centre, possibly because she was moving to Silverwater Women's Correctional Centre: T1580.30-33.
 42. Separately, at least in the opinion of Mr Paddison, Mr Hovey engaged one of his investigators, Ms Lee Williams, to conduct an investigation in relation to the matter. No email concerning that investigation, or other note recording what Mr Hovey instructed Ms Williams to do, is available to confirm her involvement. The engagement of Ms Williams to conduct an investigation in relation to the matter is consistent with Mr Hovey's involvement a few days beforehand (the email sent by Ms Williams is dated 24 July 2017).²⁶ That, in turn, is consistent with Ms Martin and Mr Hovey having had a discussion about the matter which likely occurred on or shortly after 21 July 2017.
 43. Ms Williams' involvement, if that was the case, appears to be limited to making an enquiry about the availability of CCTV footage.²⁷
 44. The evidence is also unclear as to whether Mr Shearer became involved at this point or specifically became involved in speaking with Mr Paddison or anyone else at DCC concerning Astill at this time.²⁸
 45. Steps were also taken at DCC involving Ms Martin, Ms Berry, and one or two others to prevent Witness M from returning to DCC. Mr Paddison described the reasons for this as including fear of intimidation.²⁹ If that is correct, then concern at the level of the Governor and Acting MOS (at that time being Mr Paddison) that Astill represented a potential threat to inmates required immediate action concerning his placement as well as notification to the IB or PSB. Neither occurred, nor were any steps taken to protect other inmates.
 46. As will emerge from the analysis in relation to the IB, the investigation concerning Witness M was closed off and terminated without Witness M being interviewed at the direction of Mr Hovey. This was inexplicable and therefore no satisfactory explanation or justification for doing so was advanced.
- (b) *Ms Sheiles*
47. Ms Sheiles' evidence commences at T182.15 and finishes at T244.4. Her Commission Statement is in Exhibit 3, Tender Bundle 1, Volume 5, Tab 6A. Ms Sheiles gave the following relevant evidence:
 - (a) that one of the overseers, Ms Cheryl Douglas, reported the inappropriate relationship between Astill and Witness C (T188.41-45) and that Ms Douglas told her that: "*nobody was listening or gave a rats*": T189.33-34. At T190.39, Ms Sheiles described her perception of Witness C performing oral sex on Astill;³⁰

²⁵ Ex. 25, TB2, Vol 8, Tab 84, Annexure D, AST.002.013.0055_0022.

²⁶ Ex 25, TB2, Vol 8, Tab 84, Annexure E, AST.002.013.0055_0025.

²⁷ Ex. 25, TB2, Vol 8, Tab 84, AST.002.013.0055_0025.

²⁸ Ex. 3, TB3, Vol 14, Tab 452, CSNSW.0001.0032.0130 0001.

²⁹ Ex. 25, TB2, Vol 8, Tab 84, AST.002.013.0055 0007 at [37].

³⁰ Ex. 3, TB1, Vol 5, Tab 6A, AST.002.013.0005_0002 at [6].



- (b) that Astill was involved in inappropriate touching of inmates and spoke to a lot of inmates especially in the J Unit;³¹
- (c) she accepted a reference to Astill grooming inmates: T191.31-37;
- (d) she described the targeting of Witness P by Astill and the complaint which she submitted which gave rise to the mediation involving Witness P, Astill, Mr Timothy Peek and the Chaplain: T194.32-35, T216.24-31 Ms Sheiles also referred to Astill's comment in relation to Witness P that "*bigger uglier*" or "*bigger, stronger, uglier people have tried to bring me down. She is not gunna succeed.*": T194.15-23;
- (e) she referred to Astill threatening her by saying he would send her to Wellington Correctional Centre where she would be 'stomped on', a power which she believed he had: T195.30-34, T196.4-7;
- (f) she described Mr Mirza Mohtaj as "*an absolute gem*", free of fault, and who inadvertently delivered her to Astill for one of his assaults: T201.25-202.16;³²
- (g) she described the situation at DCC where officers of higher ranks could be alone with a female: T204.29-35. Her evidence was that this was different to other prisons (T204.35-37), and that Astill was the only officer who would shut the door when inmates were in his office: T205.1-26;
- (h) she did not consider it to be a good idea to report any complaints to Ms Martin because she said that Ms Martin "*wasn't interested*" (T210.1-27) and she described Ms Martin as never being present at DCC. This is consistent with evidence given by Witness C: T373.14-44;
- (i) that none of the available means of communicating outside the gaol were trusted by inmates, including, for example, to the Ombudsman which she believed was monitored: T212.45-213.16 and T238.23-29. She also gave evidence that she suffered her own retribution while an inmate at Berrima Correctional Centre concerning complaints or information known about her and Astill: T213.33-214.2.
- (j) that she believed some officers knew something about Astill behaving inappropriately with inmates, however, not the seriousness of his conduct: T214.8-23 and T215.1-6;³³
- (k) she refers to the group of at least 15 inmates that she organised to meet the MOS to raise their complaints against Astill: T218.17-31. What eventuated was individual meetings between the inmates and the MOS, described as Ms Wilson (although she was in reality the Intelligence Officer): T220.20-24.³⁴ Ms Sheiles described the MOS, i.e. Ms Wilson, as not being particularly interested: T221.25-28;
- (l) in relation to her interactions with Mr Clark (T222.34-223.46),³⁵ she said that he would regularly check up on her: T224.45-225.7.³⁶ Ms Sheiles stated, by reference to Mr Clark, that: "*The blessed little man kept pushing and pushing and pushing because he knew there was something not right and he was not accepting my 'I'll tell you later'*".³⁷ According to Ms Sheiles, he wanted answers so he could "*fix the problem*": T229.41-44. Ultimately, through the meeting with Mr Clark, Ms Sheiles had access to Mr Virgo and disclosed to him the sexual assaults which she had suffered by Astill: T230.44-231.3;

³¹ Ex. 3, TB1, Vol 5, Tab 6A, AST.002.013.0005_0002 at [8].

³² See also, Ex. 3, TB1, Vol 5, Tab 6A, AST.002.013.0005_0004 at [22].

³³ See also, Ex. 3, TB1, Vol 5, Tab 6A, AST.002.013.0005_0005 at [33].

³⁴ See also, Ex. 3, TB1, Vol 5, Tab 6A, AST.002.013.0005_0007 at [45]-[48].

³⁵ See also, Ex. 3, TB1, Vol 5, Tab 6A, AST.002.013.0005_0008 at [50]-[51].

³⁶ See also, Ex. 3, TB1, Vol 5, Tab 6A, AST.002.013.0005_0008 at [52]-[53].

³⁷ Ex. 3, TB1, Vol 5, Tab 6A, AST.002.013.0005_0008 at [57].



- (m) that obtaining a copy of the Women's Handbook was like "*hen's teeth*": T233.42. She also gave evidence that the use of phones in J Block where she was housed was "*an absolute nightmare*": T235.13-19.
- (c) *Ms Ward*
48. Ms Ward's evidence commences at T266.45 and finishes at T315.32. Her Commission Statement is at Exhibit 3, Tender Bundle 1, Volume 5, Tab 14A. Ms Ward gave the following relevant evidence:
- (a) that a complaint was made against her in which she was summoned to Astill's office who told her that he could get rid of the complaint: T270.9-14. It was on this occasion that Astill first sexually assaulted Ms Ward: T270.30-33. Further sexual assaults were perpetrated upon Ms Ward by Astill and are referenced in evidence at T271.28-38;
- (b) she reported to Ms Berry her concerns relating to Astill's actions in grabbing her backside: T273.40-44. Ms Berry relayed to Ms Ward that she was worried that if she passed any of this information onto Ms Martin she would not be believed: T274.19-29;
- (c) that she observed Astill bullying Ms Berry: T274.1-9;³⁸
- (d) that Ms Barry believed Ms Ward's complaints: T276.5-30;
- (e) that she was unaware, until recently, that complaints could be made to the Ombudsman without such calls being monitored (T278.11-30) and that general monitoring of inmate communication was a problem at DCC. She cited an example where Astill came to her after she had spoken to her mother by telephone and summarised the conversation that she had had with her mother: T278.38-279.2;
- (f) she described the circumstances in which Astill came to her cell, including one instance where he opened her cell door and talked about her body: T286.39-46. This is one of the occasions where Mr Clark came upon Astill in Ms Ward's cell at a time when she was in the Behaviour Intervention Unit: T287.3-11. This came shortly before Mr Virgo's arrival at DCC as the new MOS and his enquiries of Ms Ward, while in the company of Ms Kellett, concerning Astill visiting inmates: T287.36-46;
- (g) she said that, previously, she had told Ms Barry and Ms Berry about what was happening in relation to Astill but does not appear to have specified a time for when this conversation occurred: T289.11-15;
- (h) she said that police officers were arranged to speak to her in Ms Martin's office and that Ms Ward refused to speak: T292.19-22. Ms Ward also described how she never got to the point of ascertaining whether Ms Martin was going to leave prior to the discussions because she left herself;
- (i) she described how officers would not enter the buildings at night if they were checking doors etc: T303.11-15;
- (j) she gave evidence about the use of the tablet device at the Clarence Correctional Centre and its use now at DCC: T305.6-25; and
- (k) she gave evidence that she thought the calls to the Ombudsman were monitored by DCC officers: T308.24-33.

³⁸ See also, Ex. 3, TB1, Vol 5, Tab 14A, AST.002.013.0003_0001 at [4].

(d) *Witness W*

49. Witness W's evidence commences at T316.4 and finishes at T336.6. Her Commission Statement is at Exhibit 3, Tender Bundle 1, Volume 6, Tab 22A. Witness W gave the following relevant evidence:

- (a) she described that Witness B had passed on information concerning Astill's inappropriate behaviour towards inmates to Ms Martin (T322.17-20) and the fact that nothing happened thereafter in relation to Astill being disciplined: T322.35-38;
- (b) that Astill made a remark to Witness B and Witness V that it "*smells like dog in here*": T324.34-42;
- (c) that the reference to "*smells like dog in here*" was meant to imply that they were an informant by making a complaint against him: T325.30-34;
- (d) that Astill was aggressive towards Witness B and Witness V and "*would often ramp their rooms and take some of their possessions away from them*" following the above incident: T326.3-6; and
- (e) that Witness GG had gone missing and an unidentified inmate, in the presence of unidentified officers, yelled out that Witness GG was "*sucking his [Astill's] dick*": T328.8-18, T328.43-47.

(e) *Witness C*

50. Witness C's evidence commences at T341.28 and finishes at T436.12. Her Commission Statement is at Exhibit 3, Tender Bundle 1, Volume 5, Tab 8A. Witness C gave the following relevant evidence:

- (a) that Astill would come into her cell block during the evening by himself on multiple occasions (T344.7-16) and that this was not in accordance with proper practice or in accordance with any policy: T344.7-12;³⁹
- (b) that Astill would open the hatch of cell doors of inmates so they could see out and that he would sometimes "*crack the door*" and speak to inmates through the door: T345.7-13;
- (c) that Astill would talk to her in the smoke-out which was a caged area at the end of the Unit block: T346.38-41. She also gave evidence that Astill would summons her on a number of occasions: T346.35-347.4;
- (d) she provided a unique version of events involving the sharing of the can of Coke (**Coke Can Incident**) in that Astill was sharing it with a number of inmates: T347.29-30;
- (e) that the number of occasions in which she went to Astill's office was so often "*that sometimes the door was open; sometimes the door was closed*": T350.1-2;
- (f) she gave evidence about being given a hard time by Ms Berry, Ms Barry, Mr Giles, Ms Michelle Robinson as well as other officers who have not given evidence before the Commission: T351.1-11;⁴⁰
- (g) that Mr Giles disregarded complaints that she made to him: T353.25-41. Witness C gave evidence that she believes that she was regarded as a "*pest*" by officers, including by Mr Holman: T354.1-10;

³⁹ See also, Ex. 46, TB5, Vol 25, Tab 8, CSNSW.0001.0175.0001 at [105].

⁴⁰ See also, Ex. 3, TB1, Vol 5, Tab 8A, AST.002.013.0001_0009 at [35].



- (h) that the Official Visitor may not be seen if the inmate was working and that any conversations with them were not private. She also gave evidence that the complaints made to the Official Visitor would be known to officers: T357.1-16;
 - (i) Witness C also had an unsatisfactory experience with the Ombudsman: T358.1-12;
 - (j) that there was a significant distinction between officers who regarded themselves as having "*the most power*" and those who did not: T360.27-29;
 - (k) that she made a complaint of being inappropriately touched by Mr Ronald Brown to Mr Giles who just "*laughed*": T361.40-362.13;
 - (l) that she was bullied by Ms Barry and Ms Berry in relation to the Ring Incident: T363.8-11. The motivation for the bullying, in Witness C's opinion, was because Astill would frequently call her to come and see him: T363.13-18;
 - (m) that the meeting with Ms O'Toole and Ms Martin (T370.17-20) involved a "*sexual undertone*" in the way officers were treating the female inmates, including going into their cells by themselves: T371.19-31. To her observation, neither Ms O'Toole nor Ms Martin was impressed with what she was saying and neither sought any additional information from her: T371.33-41. This appears to have been conveyed to Ms O'Toole and Ms Martin at the meeting on 23 February 2016: T374.40-45;
 - (n) that Mr Giles, as a consequence of a complaint being brought to him by Witness C, cancelled her visits and undertook more searches of her cell: T386.28-37;⁴¹ and
 - (o) that Mr Giles may have some connection with Witness P and that she was the likely person who it was suggested wanted to "*bash*" her: T387.37-388.37. Witness C also identified Mr Giles as someone who would read inmate mail and then leak its contents to other inmates: T390.1-6.⁴²
- (f) *Witness V*
51. Witness V's evidence commences at T441.11 and finishes at T488.6. Her Commission Statement is at Exhibit 3, Tender Bundle 1, Volume 5, Tab 11A. Witness V gave the following relevant evidence:
- (a) that she lived in the same block (M Right) as Witness M and Witness R (T443.19-22) and was a participant in the discussion when Witness M disclosed the assaults that she had suffered as a result of Astill's actions (T443.24-46). Witness V observed that Witness M was "*absolutely distressed*": T443.24-46;⁴³
 - (b) thereafter, Witnesses V, R and M spoke to Witness B: T444.15-38.⁴⁴ In addition, Witness V said that she was informed by Witness B that Astill was "*gunning for her*" as a result of a suggestion that Witness V had described Astill as a "*kiddy fiddler*". Witness V said that she did not describe Astill as a "*kiddy fiddler*" but instead said "*What a disgusting pig for him to make women in this centre feel in fear of him while they're in a vulnerable position*": T446.5-32;
 - (c) she recalled a meeting which involved Mr Paddison, Mr Holman and Mr Westlake to which Ms Martin was called to attend after allegations were made about Astill in relation to his sexual misconduct with Witness M: T450.24-453.47.⁴⁵ Importantly, as part of this process of disclosure, at the meeting, statements were made by Witness V concerning Astill's harassment and intimidation of her: T447.26-43 and T451.28-452.9. Witness V was asking the officers for help to stop Astill harassing

⁴¹ See also, Ex. 3, TB1, Vol 5, Tab 8A, AST.002.013.0001_0003 at [11].

⁴² See also, Ex. 3, TB1, Vol 5, Tab 8A, AST.002.013.0001_0004 at [13].

⁴³ See also, Ex. 3, TB1, Vol 5, Tab 11, AST.002.002.0030_0001-0002 at [6].

⁴⁴ See also, Ex. 3, TB1, Vol 5, Tab 11, AST.002.002.0030_0002 at [7]-[8].

⁴⁵ See also, Ex. 3, TB1, Vol 5, Tab 11A, AST.002.013.0002_0002-0003 at [10]-[11].



and intimidating her and other inmates: T451.8-15. In addition, Witness V disclosed what had been told to her by Witness M, being that Astill was "*touching Witness M in the face, holding Witness M's hands and just touching her inappropriately*": T452.23-34;⁴⁶

- (d) that the officers when these disclosures were made to them, including before Ms Martin attended, looked at each other and felt uncomfortable, based on her observations: T453:37-42. Witness V also gave evidence that, after various allegations were disclosed to Ms Martin about Astill, Ms Martin said "*you do know inmates lie, right*": T455.21-24;
 - (e) that, during the meeting, Ms Martin had a smirk on her face and began whispering to Mr Paddison. Witness V said that Ms Martin then said "*Okay, we'll look into this*": T455.32-44;
 - (f) that she participated in a mediation with Witness B, Ms Suellen Johnson (Chaplain), Astill and the then acting Governor Mr Thomas Woods (T460.31-46)⁴⁷ and that after the mediation she observed that Witness B was pale: T461.6-21. Witness V described the process as not a mediation at all, but rather, an exercise "*to cover Astill's arse*". The mediation was overseen by Mr Woods who she described as a "*poor man... caught up in all that*": T462.10-23;
 - (g) that there was increasing intimidation and bullying suffered at the hands of Astill after disclosures were made to Ms Martin: T463.12-27. Witness V gave evidence that one incident involved the placement of items in her cell, such as dental dams and creams such that her room was "*made to look like some sort of sexual thing happened in there*": T463.45-464.20.⁴⁸ This culminated in a disclosure to Mr Woods concerning Astill's intimidation of Witness V: T465.31-466.2. Mr Woods' apparent view was that the matters had all been resolved: T465.31-466.2;
 - (h) in her Statement to NSW Police dated 17 July 2019, Witness V attached extracts of a notebook.⁴⁹ This appears to be the diary book of Witness B into which events involving both Witness B and Witness M are set out: T470.29-471.16;
 - (i) she gave evidence about how Astill was very frustrated with her, Witness R and Witness W: T475.10-16. Witness V also described the circumstances where her entitlement to have a single cell was changed by Astill when he "*found a very... old medical... alert... [a]nd used that... old paperwork to remove me from my one-out cell which I had been sleeping in for the last two years*": T475.31-44.
- (g) *Elizabeth Cox*
52. Ms Cox's evidence commences at T488.42 and finishes at T539.17. Her Commission Statement is at Exhibit 3, Tender Bundle 1, Volume 6, Tab 46. Ms Cox gave the following relevant evidence:
- (a) that she was frequently called over to Astill's office through the loud speaker (see: T490.15-21);⁵⁰
 - (b) that on one occasion she had a discussion with Ms Jean Dolly in which she said "*please don't make me go in there*", being a reference to Astill's office: T491.2-3;⁵¹
 - (c) that she had concerns that Astill would interfere or tamper with her urinalysis results. Ms Cox also gave evidence about a meeting with Astill where she

⁴⁶ See also, Ex. 3, TB1, Vol 5, Tab 11A, AST.002.013.0002_0002-0003 at [10]-[11].

⁴⁷ See also, Ex. 3, TB1, Vol 5, Tab 11A, AST.002.013.0002_0004 at [10]-[11].

⁴⁸ See also, Ex. 3, TB1, Vol 5, Tab 11A, AST.002.013.0002_0005 at [19].

⁴⁹ Ex. 3, TB1, Vol 5, Tab 11, AST.002.002.0030_0004-0037.

⁵⁰ See also, Ex. 3, TB1, Vol 6, Tab 46, AST.002.013.0009_0002 at [11].

⁵¹ See also, Ex. 3, TB1, Vol 6, Tab 46, AST.002.013.0009_0004 at [26].



attempted to leave the room but Astill grabbed her, at which time Mr Grant Riddle came into the room. Ms Cox stated that Astill directed Mr Riddle to hold onto her, to which Mr Riddle declined to do: T492.26-35.⁵² Consequently, Ms Cox's evidence was that Astill had her moved to a High Needs area on account of what she described as a "*false dirty urine*" test: T493.2-27. In respect of being located in High Needs, Ms Cox believed it was easier for Astill to access her there: T493.22-36;

- (d) that after making complaints in relation to Astill's misconduct, Ms Martin gave orders that she be escorted when moving around DCC: T496.7-20;
- (e) that she had seen Astill bringing tobacco into DCC and that she was told that Astill was receiving sexual favours in return for supplying tobacco: T499.1-7;
- (f) that she wanted to have an Apprehend Violence Order taken out against Astill: T499.42-45;⁵³
- (g) that at a meeting in Ms Martin's office which also involved Mr Giles, Ms Cox became aware that Astill had made a complaint against her: T501.28-34.⁵⁴ Ms Cox told Ms Martin that she had seen Astill bringing in tobacco and that sexual favours was not the only payment Astill was getting: T502.22-28;
- (h) that she recalled supplying notes in a notebook to Ms Martin and Mr Giles which appeared to have been photocopied by Mr Giles and given to Ms Martin: T505.11-22. Ms Cox gave evidence that Ms Martin told her not to go anywhere near Astill and that Ms Martin would make sure that Astill would not approach her: T507.34-37;⁵⁵
- (i) that a decision to transfer her to Berrima Correctional Centre was made. Ms Cox also gave evidence that before she was meant to be transferred to Berrima Correctional Centre, she was taken out of the transport vehicle and taken to Astill: T510.31-511.40; and
- (j) that she did not know where she could go to make a complaint of serious misconduct: T515.13-17.

(h) *Witness P*

53. Witness P's evidence commences at T544.41 and finishes at T585.21. Her Commission Statement is at Exhibit 3, Tender Bundle 1, Volume 5, Tab 12A. Witness P gave the following relevant evidence:

- (a) she recalled observing interactions between Witness C, Astill and Ms Sheiles in which Astill would come to JA Unit where they were housed: T546.31-38. Witness P's evidence was that Astill would come to the wing and hand over envelopes, including Tiger Balm: T547.10-18;
- (b) she recalled observing three or four inmates entering Astill's office at lunchtime: T548.29-45. She also stated that these inmates would often be late back to muster causing officers in attendance to roll their eyes including Mr Mohtaj, Mr Clark and Mr Peek: T550.3-6;
- (c) she recalled observing the Coke Can Incident and, different to Witness C's account, did not include other inmates other than Witness C: T550.19-24. Witness P was in the company of Ms Barry at the time who commented, "*that's a bit inappropriate, Wayne*": T550.31-33;

⁵² See also, Ex. 3, TB1, Vol 6, Tab 46, AST.002.013.0009_0005 at [27].

⁵³ See also, Ex. 3, TB1, Vol 6, Tab 46, AST.002.013.0009_0006 at [33].

⁵⁴ See also, Ex. 3, TB1, Vol 6, Tab 46, AST.002.013.0009_0007 at [40].

⁵⁵ See also, Ex. 3, TB1, Vol 6, Tab 46, AST.002.013.0009_0007 at [44].



- (d) that she was singled out by Astill for extra cell inspections: T551.31-38;
- (e) that she and other inmates would call Astill names such as "*Rolf Harris*" and that this occurred in the presence of other officers: T551.45-552.7;
- (f) that Officer Clark mentioned to her that there appeared to be intimacy between Astill and Witness C and Ms Sheiles: T555.1-9;
- (g) that she recalled meeting with Mr Giles to make a request to see Ms Martin in relation to the way she was being treated by Astill: T556.3-32. Witness P also recalled that she put in a request form to speak with Ms Martin in relation to Astill's conduct with other inmates: T557.1-28;
- (h) that she wrote a letter to Witness HH: T558.31-46.⁵⁶ This occurred after the meeting with Mr Giles and Ms Martin (date unknown): T559.7-10 and T556.3-10. The letter referred to Witness P's perception and beliefs concerning the interactions between Witness C and Astill. Witness P recalled that she was spoken to by Ms Kellett about the letter: T561.1-9. Witness P also gave evidence that she became aware that Astill knew about the letter because he arranged for her cell to be searched to check her handwriting: T561.27-36;
- (i) that she was fearful to discuss the matters in her letter with anyone else. Her fear included being moved out of DCC or sent to another area within DCC: T565.29-38;
- (j) she recalled that she was forced to participate in a mediation with Astill because Ms Martin told her that she would be moved out of DCC if she did not attend the mediation: T573.43-46;⁵⁷ and
- (k) that she believed that her letter to Witness HH never left DCC and that, as a result, she was subjected to punishment. She also gave evidence that nothing happened in relation to her letter after Witness C had left DCC: T582.3-29.

(i) *Witness R*

54. Witness R's evidence commences at T586.17 and finishes at T605.19. Her Commission Statement is at Exhibit 3, Tender Bundle 1, Volume 6, Tab 21A. Witness R gave the following relevant evidence:

- (a) she recalled that, after a short period of time at DCC, she moved into the Medium Needs section of DCC and was in the same Unit Block as Witness M: T588.4-13;
- (b) she observed Astill becoming progressively more inappropriate with Witness M: T590.10-21;
- (c) she recalled that, when Astill was working in Medium Needs, he would repeatedly call Witness M to attend to his office: T592.4-8. Witness R said that she began accompanying Witness M (T592.29) and that Astill would openly admit to Witness R that he was just calling Witness M so he could see her: T592.45-593.1-2;
- (d) she recalled reporting to Ms Martin the incident in relation to Astill attempting to kiss Witness M: T595.40-596.10. Witness R also recalled Witness M being upset and distressed about what Astill had done (T596.12-17) and recalled the discussion between Witnesses B, V, M and herself concerning Astill's attempts to kiss Witness M;
- (e) she recalled that she approached Mr Holman in relation to reporting what she knew had happened to Witness M: T597.8-17. Mr Holman indicated that Ms Martin would

⁵⁶ See also, Ex. 3, TB1, Volume 5, Tab 12, Annexure A, AST.002.002.0008_0009.

⁵⁷ See also, Ex. 3, TB1, Vol 5, Tab 12A, AST.002.013.0007_0003 at [18].



have to be part of the discussion given the seriousness of the allegations:
T598.40-43;

- (f) she described the responses from Ms Martin and Mr Holman which, according to Witness R, seemed to suggest little regard for Witness M: T600.8-14. Witness R remained concerned about the consequences for inmates, including herself such as being "*tipped*" into "*maximum security*": T600.36-41; and
- (g) she recalled giving a letter from Witness M, which concerned the incident involving Astill trying to kiss Witness M, to Ms Martin: T604.8-13.

(j) *Witness O*

55. Witness O's evidence commences at T608.8 and finishes at T651.6. Her Commission Statement is at Exhibit 3, Tender Bundle 1, Volume 5, Tab 17A. After Witness O gave oral evidence to the Commission, Witness O's Victim Impact Statement in relation to Astill's trial was also received by the Commission.⁵⁸ Witness O gave the following relevant evidence:

- (a) she described the incident in which she saw Ms Sheiles kneeling in Astill's office: T611.5-13;⁵⁹
- (b) she relayed what she saw to Mr Peek who then arranged for Witness O to meet with Mr Giles, an Officer with whom Witness O had not had a good experience with: T613.7-23. Witness O recalled speaking to both Mr Giles and Mr Peek, after she described seeing Ms Sheiles in Astill's office, who indicated that it was necessary to "*put a full stop on what's happening*": T614.30-42;
- (c) she described discussions that occurred inside the Units amongst other female inmates in relation to Astill's conduct and how he could provide inmates with things that they need: T617.39-47;
- (d) she recalled inmates having discussions about other inmates attending Astill's office to "*...suck for him - like, suck him to get what they need...*": T619.18-20;
- (e) she recalled the details of what she observed, in relation to Astill's misconduct against Ms Sheiles, being written down by Mr Giles on an Inmate Application Form, specifically that she said there was "*something wrong*": T620.38-621.40, T623.1-8;
- (f) she described an incident where Astill called her into his office and showed her a register containing her signature, presumably in relation to her complaint concerning her observations of Astill's misconduct in relation to Ms Sheiles: T624.9-17, 41-44;
- (g) she described what appears to be her discussions with Mr Bartlett concerning her complaint of Astill and his misconduct towards Ms Sheiles: T626.20-627.37;
- (h) she recalled feeling betrayed as a result of either Mr Peek or Mr Giles recording her complaint in the register which would have been viewable by Astill: T630.28-631.7, 632.14-23; and
- (i) she gave evidence in relation to Ms Martin shouting at her after she relayed information concerning Witness I and Witness J about "*why [Witness O] didn't report it... before*". Witness O then responded "*I did, and I did many time[s]*": T636.1-40.

⁵⁸ Ex. 3, TB1, Vol 5, Tab 17B, AST.002.009.0005.

⁵⁹ See also, Ex. 3, TB1, Vol 5, Tab 17A, AST.002.013.0028_0001-0002 at [6]-[8].



(k) *Witness B*

56. Witness B's evidence commences at T651.30 and finishes at T700.27. Her Commission Statement is at Exhibit 3, Tender Bundle 1, Volume 5, Tab 23A. Witness B gave the following relevant evidence:

- (a) that she observed other inmates collecting drugs from Astill: T653.37-654.2;
- (b) she recalled inmates describing how sexual favours were being performed by them on Astill in exchange for drugs: T654.1-26;
- (c) that Astill could arrange for urinalysis results to be 'clean' for inmates who did not want to fail the tests: T655.9-18;
- (d) that she had a discussion with Witness V who was concerned about Astill interfering with her urinalysis test. Witness B raised Witness V's concerns about the dirty urine test with Ms Barry: T656.1-23;
- (e) that Witness M disclosed to her the treatment she had suffered at the hands of Astill: T658.9-12.⁶⁰ She also gave evidence about speaking to Ms Martin concerning Astill's behaviour: T658.42-44;
- (f) that she was not in the room during the discussion that was held between Ms Martin, several officers and Witness R and Witness V, however, she gave evidence that she spoke to them afterwards: T659.12-13;⁶¹
- (g) subsequent to the meeting, Witness B gave evidence about being at the Health Clinic and becoming aware that Astill knew about the complaint that had been made in relation to him concerning Witness M: T661.3-19. Afterwards, there was a discussion between Ms Robinson and Witness B. Witness B gave evidence that Ms Robinson said that she should write things down in relation to Astill: T661.42-662.11;
- (h) she described an incident in which Astill went into her cell and undertook an extended search during muster which was unusual: T662.39-663.8;
- (i) she gave evidence about Astill's reference to "*this place smells like dog*": T663.6-664.15. Witness B responded "*well you would know*" which gave rise to an outburst by Astill: T663.40-664.10, T664.28-32. Witness B relayed this to Mr Riddle: T664.34-36.
- (j) she maintained a diary as advised by Ms Robinson. Witness B gave evidence about extracts in her diary which included discussions about the meeting with Witness V and Witness R, Ms Martin and the other officers: T668.36-39;
- (k) that she had discussions with Witness B and Ms Wilson concerning the diary: T670.10-671.16. There were four or five other meetings which involved discussions concerning Astill: T671.31. The attitude of Ms Wilson was to wait until a complaint was made to her rather than hearing second-hand what had occurred: T672.7-9, 24-26;
- (l) that she had a meeting with Ms Martin in which she told Ms Martin that Astill was trying to intimidate her with threats of violence against her daughters and parents – Astill had revealed that he knew their addresses and mentioned his membership of a bikie gang. This was a face-to-face meeting. Witness B's evidence was that Ms Martin called her a liar and that nothing happened: T683.44-684.26. On another occasion, Witness B had told Ms Martin that some inmates were being inappropriately touched and intimidated and that people were afraid of Astill and

⁶⁰ See also, Ex.3, TB1, Vol 5, Tab 23A, AST.002.013.0030_0002 at [11].

⁶¹ See also, Ex.3, TB1, Vol 5, Tab 23A, AST.002.013.0030_0002 at [37].



that he was "going into the wings": T683.45. Witness B said that Ms Martin called her a liar again and told her that she was "a waste of her time": T683.43-48;

- (m) that a substantial number of officers (50 to 100) engaged in abuse towards inmates every day. Her evidence was that such abuse included treating people like "*they are lesser people... like they are just... cattle*" and this will continue until even after the Commission is finished: T690.18-24. Witness B felt under pressure, even now, at DCC and as a result of giving her evidence at the Commission: T691.10-39, 692.17-23. She was not willing to provide the names of such persons, even privately: T691.1-7; and
- (n) in relation to the Commission, Witness B said that she was told that if she was not careful, she might be moved out of DCC or lose her job: T699.35-36. She did not reveal who said this to her.

(l) *Julijana Miskov*

57. Her evidence commences at T701.23 and finishes at T723.44. Her Commission Statement is at Exhibit 7, Tender Bundle 2, Volume 8, Tab 76. Ms Miskov gave the following relevant evidence:

- (a) she worked at DCC for only about a month in 2016: T702.23-33, T703.6-17;
- (b) she met Mr Paddison at DCC who introduced her to Astill: T703.44-704.3. During Ms Miskov's first meeting with Astill, Astill made her feel uncomfortable because he said that she resembled a former girlfriend of his: T704.24-33. In addition, Astill made inappropriate comments about Ms Miskov's appearance and body in front of other officers: T705.35-44. Eventually, Ms Miskov complained about what was being said about her by Astill and thereafter was bullied, falsely accused of making mistakes during the course of her employment, and she would be called vile names and shouted at: T707.30-707.44;
- (c) she was then made the subject of a complaint by Astill, Ms Robinson and Ms Patricia Peek: T710.2-35. Ms Miskov was made to go before Mr Paddison who told her to "*pull her head in*" and to listen to senior staff: T711.37-41. On return from leave, she was accused of leaving doors open in the Correctional Centre and had to appear before Mr Paddison again along with Ms Martin: T712.3-14;⁶²
- (d) she recalled an incident involving Ms Peek, Ms Robinson, Mr Giles and Astill, who were having lunch together. At the end of lunch, Astill approached Ms Miskov and rubbed his crotch in her face in view of the other officers who laughed at what had occurred: T712.26-714.9. Ms Miskov reported what had happened to her and she was called into Ms Martin's office again for a meeting with Mr Paddison and Ms Martin. Ms Miskov recalled that her report was ripped up, and that Ms Martin stated that the matter would be dealt with inhouse. Ms Miskov was unable to recall whether it was Mr Paddison or Ms Martin who ripped up her complaint: T717.19-31. After this meeting, Ms Miskov went home and did not return to DCC: T718.23-35.⁶³

(m) *Glenn Clark*

58. Glenn Clark's evidence commences at T730.28 and finishes at T788.40. His Police Statement is at Exhibit 8, Tender Bundle 2, Volume 7, Tab 63 and his Commission Statement is at Exhibit 8, Tender Bundle 2, Volume 7, Tab 63A. Mr Clark gave the following relevant evidence:

- (a) that he was not familiar with some of the vile names being directed towards inmates: T735.6-20;

⁶² See also, Ex. 7, TB2, Vol 8, Tab 76, AST.002.013.0024_0003 at [18].

⁶³ See also, Ex. 7, TB2, Vol 8, Tab 76, AST.002.013.0024_0004 at [23].



- (b) that he was aware of the animosity between Astill and Ms Dolly: T736.1-4;
- (c) if he was aware of misconduct, he would report it directly to the Principal Correctional Officer or Chief on duty. Matters involving sexual misconduct would be reported straight to the Governor: T738.29-46;
- (d) he recalled subtle statements made towards him which gave him a lack of trust in management. For example, he noted that senior officers would make comments to the effect of: "*Don't you like working here, mate? We can always get you moved*": T741.16-33. Mr Clark noted that one person responsible for those types of implied threats was Mr Paddison: T741.24. Mr Clark said that Ms Martin was "*gruff*" and he described having no confidence in going to her or Ms O'Toole who was friendly with Astill: T742.4-37. Mr Clark also stated that the management of DCC was unprofessional: T743.1-9;
- (e) that he was unaware of the SIU function of reporting matters in the Integrated Intelligence System (IIS) until after Astill's arrest: T746.30-747.2;
- (f) that Witness Z came to speak to him in March 2018: T758.39-43. Witness Z told him that Ms Sheiles was scared of Astill: T760.2-11;
- (g) that Ms Sheiles approached him in April 2018 at which time she made allegations of impropriety against Astill: T762.2-25;
- (h) Ms Sheiles told him that Astill had raped her and gave him a note with dates on it which were the dates when the rapes occurred: T765.2-15. Ms Sheiles told Mr Clark that she trusted him and that, when she had enough courage, she would make a statement: T765.13-15;
- (i) that he accepted that Ms Sheiles was in a highly distressed state and in a very bad position at the time that she made disclosures to him in April 2018: T767.24-34. Mr Clark also stated that he had his own fear of retribution if any allegation that was made was not written: T767.21-22. He felt like he was working out for himself what to do: T767.36-45;
- (j) if the situation in 2018 repeated itself now, Mr Clark would have no hesitation in reporting the matter directly to the Governor: T768.21-28;
- (k) he agreed that it would be a good system to be able to report serious misconduct to the Governor and outside the gaol, but that he would prefer to report to a totally independent body separate from CSNSW: T769.40-47;
- (l) he described a separate scenario in which he reported information provided to him by Ms Cox to Ms Martin: T771.38-46. The incident involved Astill bringing drugs and other contraband into DCC: T772.9-25;
- (m) it appeared that Ms Martin told Ms Kellett to attend upon Ms Cox without any discussion with Mr Clark: T772.31-38. This event occurred on 28 June 2018: T776.10-11;
- (n) in September 2018, Mr Virgo arrived at DCC and Mr Clark disclosed to him what he had been told by Ms Sheiles concerning Astill's offences to her: T778.40-44. Mr Clark told Ms Sheiles how he had worked with Mr Virgo previously, that he trusted him and that he facilitated a meeting between Mr Virgo and Ms Sheiles: T781.35-782.2; and
- (o) he indicated that he was not aware of any present officers who still supported Astill: T782.45-784.2.



(n) *Stephen Virgo*

59. Mr Virgo's evidence commences at T789.9 and finishes at T851.8. His Commission Statement is at Exhibit 9, Tender Bundle 2, Volume 7, Tab 64A. Mr Virgo gave the following relevant evidence:

- (a) he observed that he had no real problems at Emu Plains Correctional Centre where Ms Martin was also the Governor and that he had no problem with her: T791.19-24;
- (b) he described Ms Sheiles disclosing the horrendous details of what occurred to her over a period of years: T792.5-15;
- (c) he described the DCC Intelligence Unit as being understaffed at the time that he arrived at DCC: T793.39-43. He considers that two persons are required as a minimum within the DCC Intelligence Unit: T794.33-45;
- (d) he described the process of how he would send out a report via the SIU function, which would include informing the Governor verbally: T798.25-40. Mr Virgo also gave evidence that, if an officer was informed about the occurrence of serious criminal conduct, they would become duty-bound to report it to the Governor, the MOS and to the SIU, including in circumstances where the inmate is not prepared to make a formal complaint: T800.34-801.2;
- (e) he described the steps he undertook after being told by Ms Sheiles of the rapes that she had suffered at the hands of Astill: T811.18-815.46;
- (f) he described the process by which Mr Bartlett undertook an interview at the direction of Ms Martin of Witness O and Witness T as something that should never have happened: T831.30-832.43; and
- (g) he gave some evidence about changes at DCC with "*the culture of the place... coming good*": T838.30-839.2.

(o) *Mirza Mohtaj*

60. Mr Mohtaj's evidence commences at T852.23 and finishes at T890.27. His Commission Statement is at Exhibit 11, Tender Bundle 2, Volume 8, Tab 72. Mr Mohtaj gave the following relevant evidence:

- (a) he indicated that it was his duty to report allegations of inappropriate behaviour on behalf of an officer which he would formalise in writing and take to his immediate Manager. Mr Mohtaj said that he knew about the capacity to make reports that went outside DCC but that he was not aware of the SIU function: T860.42-861.18;
- (b) he could not remember the allegation made by Ms Sheiles concerning circumstances in which she was escorted by him to Astill's office (on 8 January 2017) and that he then came back later on and saw Astill "*red-faced*" T866.21-867.42, T867.28-32;
- (c) he described Ms Martin as "*approachable*": T872.42, T874.41-45;
- (d) he was not aware of any suggestion that Astill was a "*sleaze*" (at T876.1-12) or that he was a bully or intimidated inmates: T876.38-41. The only nickname that he was aware of for Astill was "*Poppy*" which was used by a couple of fellow officers: T877.23-31;
- (e) he had no memory of Astill using the expression "*smells like dogs in here*" in and around Witness B and Witness V: T880.20-29; and



- (f) he denied having any knowledge at all concerning any of the activities that Astill was up to over at least a two-and-a-half-year period that he was working with Astill at DCC: T886.40-887.5.

(p) *Scott Westlake*

61. Mr Westlake's evidence commences at T890.37 and finishes at T943.41. His Commission Statement is at Exhibit 12, Tender Bundle 2, Volume 8, Tab 78. Mr Westlake gave the following relevant evidence:

- (a) at DCC, he held the role of Senior Correctional Officer and also had a role within the Staff Support Unit: T893.13-16 and T894.31-34;
- (b) he described some of his work involving teaching at the CSNSW Academy at Brush Farm from around 2017. One of his current roles is delivering the 'Five Minute Intervention' training which is an initiative reflecting the importance of working collaboratively with inmates and helping them target particular areas of concern: T896.13-37. The Five-Minute Intervention training also involves "*treating them [the inmates] more humanely*": T897.28-33;
- (c) about an occasion in which Astill approached him to do work on a website for a club called the 'Southern Cross Cruiser Club': T904.49-905.2. The Southern Cross Cruiser Club was a motorcycle club: T905.41-46;
- (d) he was given a large number of photographs and his analysis of the photos showed the presence of outlaw motorcycle gang members. Mr Westlake said they were recognisable as such because of the patches on the back of their jackets: T906.44-907.10;
- (e) he recalled contacting the PSB and sending them copies of the photographs which potentially contained images of outlaw motorcycle gang members: T907.45-908.2;
- (f) he described himself as a "*fan*" of the IIS and noted that he taught staff at DCC how to use it: T909.21-23. Mr Westlake noted that the use of the IIS was not part of the standard training at the CSNSW Academy: T914.27-29;
- (g) he described Ms Martin as being approachable and supportive: T917.35-38;
- (h) he said that he received information from Ms Pam Hotham that she had been mistreated while at DCC by Ms Martin, Mr Paddison and Mr Holman (T918.15-47) and that Astill demeaned her including by using derogatory language: T919.14-46. Mr Giles was another person who would do this: T919.21. He did not remember the meeting at which Witness R and Witness V were in attendance concerning Witness M: T923.16 and T924.16-19. He accepted that if the matters suggested by Witness R and Witness V had been raised at the meeting concerning Astill touching Witness M, there would have to be a complaint made and the inmates should be asked whether they want to refer the matter to NSW Police. If the inmates did not agree that police action was necessary, then the matter should have still been reported to NSW Police for information only: T925.18-33; and
- (i) he described his own capacity to put information through the IIS without having to go into the office of the DCC Intelligence Unit: T934.45-935.1. He observed that information concerning misconduct by an officer would not be handled at the local level of the Correctional Centre: T935.23-27.

(q) *Paul Foster*

62. Mr Foster's evidence commences at T943.45 and finishes at T983.15. His Commission Statement is at Exhibit 13, Tender Bundle 2, Volume 7, Tab 56A. Mr Foster gave the following relevant evidence:



- (a) he gave evidence of a "boys' club" at DCC but that they were not involved in bullying, just socialising: T947.23-948.1;⁶⁴
- (b) he described an incident in which Ms Hockey and Astill had arguments which became "vocal and nasty": T953.12-26;
- (c) he was aware of suggestions about things being brought into DCC which involved Astill: T954.39-955.14;
- (d) he gave some evidence about the incident involving the Coke Can Incident and his dealings with Ms Barry: T956.39-957.13;
- (e) he gave evidence about a deceased officer, Mr Ron Scott, who he believes put in a report concerning an incident involving Ms Sheiles which was handed to Ms Martin. His evidence was that Ms Martin's instructions were to give it to the Intelligence Officer at the time, which was Astill, so Mr Scott destroyed his own report in response to Ms Martin's instruction: T959.16-963.3;
- (f) he described a concern that Mr Scott had, which he shared, concerning the well-being of people if the information was shared which he agreed reflected a lack of trust by inmates and officers in the senior management at DCC: T962.21-30;
- (g) he gave evidence about Witness Q approaching him in November 2018 to report Astill's conduct and he decided, notwithstanding her request for confidentiality, to pass the information on to Mr Virgo: T965.44-968.16; and
- (h) he noted that DCC now has a new Governor who is compassionate and a new MOS, both of whom are working together to ensure the workplace environment at DCC is safe: T980.28-32.
- (r) *Deborah Gaynor*
63. Ms Gaynor's evidence commences at T983.27 and finishes at T1006.8. Her Commission Statement is at Exhibit 14, Tender Bundle 2, Volume 7, Tab 58A. Ms Gaynor gave the following relevant evidence:
- (a) she worked as a Service & Programs Officer;
- (b) She described an incident in which Astill burst in and started yelling about Witness P: T988.4-23;
- (c) that she had heard rumours that Astill was picking on inmates: T989.23-32;
- (d) she gave evidence about Astill being in his office with an inmate for over two hours and believing that they had actually moved into an adjacent storeroom: T992.1-34; and
- (e) she wrote a note about the incidents: T993.45-994.3. The notes refer to Ms Gaynor's observations concerning Witness E being in Astill's office and Witness N standing at the front of the office door when Ms Hockey arrived: T995.11-32.
- (s) *Grant Riddle*
64. Mr Riddle's evidence commences at T1008.16 and finishes at T1089.14. His Commission Statement is at Exhibit 15, Tender Bundle 2, Volume 8, Tab 70. Mr Riddle gave the following relevant evidence:

⁶⁴ See also, Ex. 13, TB2, Vol 7, Tabs 56A, AST.002.013.0032 at [20].



- (a) he worked at DCC between 2009 and 2022 although, in the latter part of this period, he was placed on several secondments outside of DCC: T1009.8-39;
 - (b) he gave evidence as to how he dealt with issues between inmates which included having house meetings: T1012.17-32. If a circumstance arose where an officer assaulted an inmate, he said that the process was to take the inmate to Justice Health and report the matter to the MOS: T1013.11-19;
 - (c) he recalls being trained in the management of female inmates: T1014.19-36;
 - (d) he described a clique of officers that worked together and socialised together. The clique included Mr Giles, Mr Brown, Ms Robinson and Mr and Ms Peek: T1017.4-1018.15. Separately, there was a management clique involving Ms O'Toole, Mr Holman and Mr Paddison but not Ms Martin and Ms Wilson: T1017.17-28, T1017.17-32;
 - (e) he also observed Astill bullying Ms Berry (T1017.38-1018.40) and said that Ms Dolly was also bullied by Astill: T1019.1-8;
 - (f) he described there still being a reluctance on the part of officers to report other officers which was known as "*papering*" although it is no longer as "*severe*": T1019.15-42;
 - (g) that Astill tried to determine which inmate should be moved from Medium Needs to Low Needs: T1028.46-1029.6;
 - (h) he gave evidence about rumours concerning Astill entering one of the High Needs Units (J Left) after hours and going to Witness C's cell: T1033.19-25. The only other rumour that Mr Riddle was aware of was the Coke Can Incident: T1036.29-37;
 - (i) he observed an unusual incident in which Astill was talking to Witness C at her cell door with the cell door open at the time of locking: T1038.31-42;
 - (j) he also knew about the Ring Incident from February 2016. His first knowledge of it was in his capacity of running the Reception. Ms Berry outlined how Astill had been abusive towards her: T1048.9-36. Mr Riddle gave advice to Ms Berry that the matter should be raised with Ms Martin: T1049.31-34;
 - (k) he gave evidence that he observed Ms Martin to be blunt towards staff: T1058.21-30;
 - (l) he agreed that the email sent by Ms O'Toole in November 2015 reflected ineffective management: T1078.33-36;
 - (m) he gave evidence about the standard practice in every Correctional Centre concerning an officer attending a cell and entering Units: T1081.3-34; and
 - (n) he also gave evidence about the culture had changed at DCC: T1083.34-1084.4. This included participating in a meeting with the Professional Standards Group including giving advice as to who should be spoken to when there was evidence of inappropriate behaviour between officers and inmates;
- (t) *Jean Dolly*
65. Jean Dolly's evidence commences at T1089.25 and finishes at T1171.26. Her Commission Statement is at Exhibit 16, Tender Bundle 2, Volume 8, Tab 77. Ms Dolly gave the following relevant evidence:
- (a) she was frequently the subject of verbal abuse by Astill (T1093.23-29) with vile language being used in her direction: T1093.35-42;



- (b) she observed Astill and Ms Hockey fighting while together on duty at DCC and also his use of vile language towards her: T1096.30-34. She reported the verbal abuse in writing to Ms Wilson: T1098.1-8;
- (c) Ms Dolly observed Astill rubbing himself up against Ms Kerri Keogh and Ms Pauline Cody: T1103.18-19;
- (d) she recalled preparing 35 reports during the time that she was working with Astill with the majority of them involving Astill: T1105.10-14;
- (e) she recalled reporting Mr Giles in relation to his treatment of her at DCC, including using vile language towards her: T1108.19-44;
- (f) she described the "golden circle" of staff at DCC which included Mr Giles as the leader: T1109.6-12;
- (g) she recalled raising matters concerning Astill with Ms O'Toole and being told forcibly to leave the office: T1112.13-21. One of the matters she raised was the question of shredding of reports which caused Ms O'Toole to describe Ms Dolly as a "troublemaker": T1112.30-1113.2;
- (h) she became frustrated that reports were going in about Astill and nothing was happening. She knew that Ms Barry and Ms Berry were putting in reports about Astill as well: T1116.5-18. She became concerned that Astill was getting access to the reports and that he was becoming more aggressive towards her: T1117.25-31;
- (i) she gave evidence about an incident in which Ms Martin, in or around 2016 or 2017, told those present that the rumours about Astill would stop before she called them a vile name: T1120.44-47. Ms Dolly was called several names by Ms Martin and had a finger pointed at her and doors slammed behind her partly because she challenged Mr Giles. As a consequence, Ms Dolly would be summoned to Ms Martin's or Ms Wilson's office: T1121.15-20;
- (j) she gave some evidence of an incident involving Ms Cox: T1123.30-1124.5. The incident related to concern about urine samples being swapped. Ms Dolly recalled Ms Cox going to see Astill and yelling something out about changing urine samples, which Ms Dolly overheard: T1125.10-16;
- (k) she gave evidence about she and Mr Davey Jeans being loudly called foul names by Astill: T1126.5-8. Astill barked at her to suggest that she was a dog in the sense of "dogging on him": T1126.10-24;
- (l) she gave some evidence about a second incident report that she completed after Astill, while at a muster, used the expression "smells like dog in here" in relation to Witness B: T1129.4-37. She described putting in a report using the SIU function concerning this incident: T1128.15;
- (m) she gave evidence about seeing a security camera moving while Astill was over in the High Needs area and that it was unusual that he was alone there without a radio call: T1134.32-1135.46;
- (n) she gave evidence about hearing the name "Poppy" being used for Astill and understood that it may have related to him bringing in tobacco or drugs. This appears to have been in the context of a discussion with an unidentified inmate: T1138.45-1139.40;
- (o) she gave evidence about being directed to mediate with Astill (T1145.1-33) and Mr Paddison was the mediator: T1146.13-14. During the mediation, Astill again used vile language towards Ms Dolly. Ms Dolly asked Mr Paddison to produce



minutes of the two mediation meetings, however, none were ever provided to her: T1147.1-16;

- (p) she also described being blocked from promotions at DCC and recalled an incident in which Mr Shearer came out and told her that she was being blocked because of a PSB report, which appeared to be historic and that Mr Shearer apologised to her: T1148.5-19;
- (q) she described information given to her by Ms Sheiles concerning the sexual assaults which she had suffered at the hands of Astill and the fact that she prepared a report which she says that Astill was shown. Astill then shredded the report in front of her: T1154.34-1155.25;
- (r) she described Mr Holman as being in a relationship with another officer which she described as "*very uncomfortable*" and that Mr Paddison would sleep with whoever he could at DCC: T1162.1-8. She also gave evidence that Mr Paddison was referred to as "*dick first*": T1162.38; and
- (s) she also described verbal abuse being suffered at the hands of Mr Paddison: T1162.25-44.

(u) *Judith Barry*

66. Ms Barry's evidence commences at T1173.8 and finishes at T1121.9. Her Commission Statement is at Exhibit 17, Tender Bundle 2, Volume 7, Tab 62A, and her Police Statements are at Exhibit 17, Tender Bundle 2, Volume 7, Tab 61 and Tab 62 respectively. Ms Barry gave the following relevant evidence:

- (a) she worked at DCC between 2011 and 2018, with some movement around other centres during that period for promotion: T1174.36-42. She returned to DCC in 2021: T1175.22-28;
- (b) she identified a group of officers called "*Ms Martin's boys*", who were supported by Ms Martin and Ms O'Toole and who "*could do no wrong*";⁶⁵
- (c) she said that Ms Martin used to swear at people, although Ms Barry did not observe this and was told so by other officers: T1177.7-19. Ms Barry also referred to an incident on 25 November 2017 where Astill told Mr Brown to trash the cells of Witness P and another inmate in the High Needs area. Ms Barry was the Chief Correctional Officer that day in High Needs.⁶⁶ Ms Barry told Mr Brown not to trash the cells. Ms Barry's evidence was that Mr Brown then told Astill about his conversation with her: T1177.36-43;
- (d) that, in terms of any complaints about misconduct by inmates, if these were communicated to Ms Barry she would get them to complete an application form. The application form would be recorded in a register and she would personally take it to the Governor: T1178.27-46;
- (e) she said that officers, like herself, were reluctant to report issues in DCC because they did not trust Ms O'Toole as she and Ms Martin were considered to be close friends: T1179.31-47. Ms Barry said that she had told Ms Martin about that problem;
- (f) she described that there was a general ignorance amongst officers of the capacity to use the SIU function to report misconduct: T1181.25-30;
- (g) she was aware of rumours between 2015 and October 2018 in relation to Astill bringing contraband into DCC. Ms Barry would get Astill to accompany her on

⁶⁵ Ex. 17, TB2, Vol 7, Tab 62A, AST.002.013.0045_0002 at [7].

⁶⁶ Ex. 17, TB2, Vol 7, Tab 62A, AST.002.013.0045_0002 at [23].



searches "*because he'd come in and be quite intimidating to staff*". She noted that Astill was very blasé during his searches: T1185.32-38;

- (h) she said that it was widely discussed that Astill was bringing drugs into DCC, but Ms Barry did not specify amongst who this discussion was had: T1186.7-21;
- (i) she observed that officers would bring drugs in plastic packages without detection: T1187.5-17;
- (j) she recalled Astill would have inmates attend his office within the part of DCC known as the Hub over lunchtime with the door closed: T1189.29-1190.3. For example, Ms Barry said that Witness N was constantly in the office: T1190.17;
- (k) she gave evidence in relation to the Coke Can Incident involving Astill and Witness C. Ms Barry recalled that she received a call from Ms Anne O'Reilly in relation to the Coke Can Incident. Ms Barry and Ms O'Reilly then made an attempt to locate the CCTV footage of the Coke Can Incident in the MOS's office but she says that the footage had disappeared: T1193.26-1194.10;
- (l) in relation to the Ring Incident, Ms Barry prepared a document titled Incident Witness Report on 14 February 2016 and provided the document to Ms Martin: T1196.44-1197.22;
- (m) in relation to the management of DCC, she recalled receiving an email from Ms O'Toole in November 2015 which was indicative of the ineffective management of DCC. Ms Barry was also of the view that the quality of management had not changed much by 2018, but rather had gotten worse: T1199.1-41;
- (n) she recalled telling Ms Martin and Ms O'Toole about rumours concerning the Ring Incident and that Witness V was giving "*Astill head jobs for the payment*": T1202:6-40, T1202.34. Ms Barry told Ms Martin that staff do not feel comfortable approaching Ms O'Toole in relation to complaints involving Astill as Ms O'Toole went on holidays with Astill: T1203.12-25;
- (o) she was not aware of any actions being taken against Astill as a result of her complaints to Ms Martin or Ms O'Toole, nor did she expect anything to happen: T1208.1-13. Ms Barry confirmed that she was informed by another officer that Astill "*was out to get [her]*": T1208.25-27;
- (p) she was not aware that she could report what she knew directly to Professional Standards: T1209.1-12;
- (q) eventually, she reported her understanding that Astill was "*out to get [her]*" directly to Ms Martin to which Ms Martin said: "*You guys make these problems and now you want me to fix them*": T1209.37-1212.10;
- (r) she was also aware of incidents involving Ms Ward and observing her with Astill in the storage room at the back of the Reception Area: T1210.43-44, 1211.5-6. Ms Barry recalled that there may have been several instances where Astill inappropriately interacted with Ms Ward. In one instance, Astill had taken out a picture of himself in full police uniform which Ms Barry regarded as some form of intimidation: T1211.12-18. The other event was Ms Barry being made aware by Ms Ward that Astill had "*slapped her on the arse*": T1211.45-47;
- (s) she did not report the incident involving Astill "*slapping [Ms Ward] on the arse*" although she believed that Ms Barry had reported the first: T1211.12-18 and T1212.19-40;
- (t) she was aware of another incident involving Witness V where Astill made comments that it "*smells like dog*". Ms Barry was not familiar with the details



although she believed that Witness B and Witness V were targeted by Astill: T1213.8-28; and

- (u) she described the reporting lines at CSNSW now as more open and accessible, with CSNSW being more transparent when it comes to accessing directors and other supervisors above the officer's chain of command: T1218.5-13.

(v) *Renee Berry*

67. Ms Berry's evidence commences at T1221.16 and finishes at T1277.2. Her Commission Statement is at Exhibit 18, Tender Bundle 2, Volume 7, Tab 49A. Ms Berry gave the following relevant evidence:

- (a) she worked at DCC from September 2006 until Astill's arrest in February 2019: T1222.35-39;
- (b) once she had achieved the rank of Senior Correctional Officer, she was required to do three-month rotations in different areas within DCC and was lectured to by Mr Holman and Mr Paddison: T1223.31-1224.3;
- (c) she gave evidence about being forced to work with Astill when she returned to work after the death of her father in 2018. This was ordered by Mr Holman who did not care about her dealings with Astill and that even Ms Martin felt powerless to overcome that decision: T1224.30-1225.2;
- (d) she gave evidence of having experienced the culture under Ms Martin and Ms O'Toole since 2006 and being bullied, harassed and treated badly by Mr Giles who was described by other officers as one of "*Shari's boys*": T1226.32-36;
- (e) she gave evidence about a proposal to mediate with Astill over their differences and that she feared that he might hit her. Accordingly, she refused to participate in any mediation with Astill: T1227.29-47;
- (f) she gave an example of an act of intimidation by Astill against her when she refused to permit inmates to have identification out in the compound: T1228.10-36. This was a circumstance where she was fearful of being hit by Astill and Ms Kellett attempted to intervene: T1228.29. As a result, it was necessary to organise a safety plan with Mr Riddle, organised by Mr Jeans, in relation to Astill: T1228.34-40;
- (g) she gave evidence that, in her view, Ms Martin made an impression that she was working at the other Correctional Centre she managed, however, her suspicion was that Ms Martin was actually at home. This meant that Ms O'Toole was left in charge of DCC: T1232.24-31;
- (h) she gave evidence as to how, as a Senior Correctional Officer, she would deal with an inmate alleging sexual assault and that she would normally operate through a female chain of command if that was to occur: T1235.8-14. If the allegation was against a staff member, then the matter would have to be reported to PSI: T1235.43-45;
- (i) she recalled assisting in intelligence gathering and assisting Ms Wilson in some of the work involving the detection of drugs entering DCC: T1237.9-25;
- (j) she described Mr Giles as a "*bully*": T1238.23;
- (k) she described the relationship between Ms Martin and Ms O'Toole as "*weird*" and that Ms Martin spoke "*terribly*" to Ms O'Toole: T1238.38-44;
- (l) she recalled that she submitted four SIU reports in relation to Astill: T1243.19-25;



- (m) she gave some evidence concerning her dealings with Mr Corcoran when he attended DCC which related to queries she had regarding reporting lines in circumstances where misconduct was identified: T1246.34-1247.23.67;;
- (n) she gave evidence of Witness N being in Astill's office most lunchtimes: T1251.10-13;
- (o) she gave evidence about a meeting with Ms Martin at which Ms O'Toole was present. During this meeting, Ms Martin made reference to Ms Berry's comment that Ms O'Toole would do nothing in relation to Astill because she goes on holidays with him: T1257.37-41;
- (p) she gave evidence about being criticised by Ms Martin in relation to the Ring Incident with Witness C and, during the same meeting, being told to stop rumours about Astill going into Units: T1258.6-23;
- (q) she gave evidence about the complaint concerning Witness P in relation to Astill and that Ms O'Toole directed that the complaint be given to Astill which resulted in Astill further mistreating Witness P: T1267.10-18;
- (r) she described Mr Holman as being very close to Ms Martin and that he was her "*right-hand man*": T1275.6-10; and
- (s) she gave evidence which opposed what Witness C had said about the Ring Incident (T1313.12-1314.5) and referenced her notebook which set out her account of this event at pages 19-20: T1314.19-21.⁶⁸

(w) *Suellen Johnson*

68. Suellen Johnson's evidence commences at T1277.6 and finishes at T1320.38. Her Commission Statement is at Exhibit 19, Tender Bundle 2, Volume 7, Tab 47A. Ms Johnson gave the following relevant evidence:

- (a) that she was a chaplain at DCC and was available for both inmates and officers: T1281.27-30;⁶⁹
- (b) she described intimidation when she attended the mediation towards the end of 2017 with Witnesses B, T and V: T1283.30-31, T1286.25 and T1289.15 (in relation to Witness P, see: T1293.34-35). Ms Johnson gave further evidence about her observations of intimidation at DCC: T1295.21-1296.21;⁷⁰
- (c) she gave evidence concerning her disappointment when the Acting Governor, Mr Woods, took the view that there was some collusion between Witness B and Witness V in relation to Astill. She also described Mr Woods as someone who was swayed away from his belief of Witness B and Witness V by Astill: T1297.27-1298.19; and
- (d) she gave evidence that she had taken the view that Astill had a greater involvement with inmates beyond Witnesses B, P and V by January 2018 based on discussions she had with Astill: T1304.31-42.

⁶⁷ Ex. 3, TB2, Vol 7, Tab 49A, AST.002.002.0013 at [36].

⁶⁸ See also, Ex. 18, TB2, Vol 7, Tab 48, AST.002.002.0055_0020.

⁶⁹ See also, Ex. 19, TB2, Vol 7, Tab 47A, AST.002.013.0047 at [38]-[40].

⁷⁰ See also, Ex. 19, TB2, Vol 7, Tab 47A, AST.002.013.0047 at [38]-[40].



(x) *Brian Bartlett*

69. Mr Bartlett's evidence commences at T1322.39 and finishes at T1365.36. His Commission Statement is at Exhibit 20, Tender Bundle 2, Volume 8, Tab 65A. Mr Bartlett gave the following relevant evidence:

- (a) he recalled that he worked at DCC briefly (between six or seven weeks) in late 2016: T1324.23-37. The period of time may have been longer with Mr Bartlett returning to work from 1 April 2017 to July 2017 after a three month break as a result of an unrelated injury: T1324.42-T1325.4;
- (b) he fulfilled the role of Acting MOS (after Ms O'Toole's departure) and gave evidence about his role in investigating the complaints made by Witness O and Witness T: T1348.4-6 and T1326.4-45. He described how he was just told to interview inmates and see if there was any merit in the complaints: T1326.43-45. There was no proper briefing: T1327.9-13;
- (c) he understood that his responsibility was to gather information which he could refer to NSW Police, the Corrective Services Investigation Unit (**CSIU**) or the PSB: T1327.20-45;
- (d) he was asked whether he was required to evaluate whatever he was told (T1328.22-35) and he conceded that he was not really sure how to proceed with only having what the inmates told him: T1330.12-15. Mr Bartlett also conceded that he took the view that he was concerned about Witness O's and Witness T's fear of Ms Sheiles and that it looked like the inmates were prepared to incriminate Ms Sheiles: T1337.1-7, 24-34;
- (e) he gave uncertain evidence as to whether he had evaluated the reliability of the evidence of Witness O and Witness T by refusing to interview Ms Sheiles: T1345.4-11;
- (f) he conceded that Mr Giles gave an accurate account of what the process was to be in situations such as that presented by the information from Witness O and Witness T. Namely, that it would be the PSB who would make the decision as to who would be investigating the complaint: T1348.13-31, 41-45;
- (g) he also conceded that it was irregular for Astill to be in Ms Sheiles' cell at night by himself: T1352.43-T1353.7;
- (h) he conceded that his report to Ms Martin in relation to the allegations made by Witness O and Witness T omitted the reference to "*inner thigh*" and therefore was more favourable to Astill: T1355.41-1356.9; and
- (i) he conceded that the feeling of uncertainty about how to proceed with the matter reinforced its importance of the referral to the PSB: T1359.39-1360.10.

(y) *Timothy Peek*

70. Mr Peek's evidence commences at T1366.2 and finishes at T1407.16. His Commission Statement is at Exhibit 21, Tender Bundle 2, Volume 8, Tab 73. Mr Peek gave the following relevant evidence:

- (a) that he was aware of reports made by Witness O and Witness T (T1379.10-18) and what they had observed concerning Ms Sheiles: T1380.32-1381.22; and
- (b) that it would be highly unusual for an officer to attend upon a cell at night alone: T1404.42-46.



(z) *Tania Hockey*

71. Ms Hockey's evidence commences at T1407.27 and finishes at T1446.25. She did not provide a Statement to the Commission. Ms Hockey gave the following relevant evidence:

- (a) in relation to Mr Holman, Ms Hockey described him as "*skat[ing] on the edge of [the boys' club]*": T1417.16-23;
- (b) in relation to Mr Paddison, Ms Hockey described him as "*skat[ing] on the edge of being inappropriate to many females within the centre... he had relationships with other female officers, with nurses*": T1417.33-42;
- (c) she gave some evidence about a very effective management of sexual assault at DCC: T1436.22-1437.22; and
- (d) that no individual would go into the High Needs area at night unless the Control Room was informed: T1438.29-46.

(aa) *Kim Wilson*

72. Ms Wilson's evidence commences at T1446.32 and finishes at T1468.22. Her Commission Statement is at Exhibit 22, Tender Bundle 2, Volume 8, Tab 71. Ms Wilson gave evidence that she became aware of an intercepted letter authored by Witness P and discussed it with Mr Paddison who took her to the Governor's office. This was a letter relating to things that Astill had been doing: T1452.23-1453.21.

(bb) *Mark Wilson*

73. Mr Wilson's evidence commences at T1470.5 and finishes at T1489.41. His Commission Statement is at Exhibit 23, Tender Bundle 2, Volume 7, Tab 52A and his Police Statement is at Exhibit 23, Tender Bundle 2, Volume 7, Tab 52. Mr Wilson gave the following relevant evidence:

- (a) he has worked at DCC since March or April 2014: T1471.3-6;
- (b) he described an incident where he, along with Mr Clark, saw Astill coming out of the High Needs area around the rear of the J Unit: T1471.40-48;
- (c) he said Astill provided some explanation for what he was doing which Mr Wilson found unconvincing and which caused him to make a note of the incident in his work diary: T1472.14-26;
- (d) he believed that Astill was "*a bit of a sleaze*". This impression was based on Astill's jokes and sexualised comments about inmates: T1475.25-30;
- (e) he gave evidence about an incident when Astill tried to get an inmate's property back that was confiscated so that he could return it to them: T1478.27-35. Mr Wilson observed (at: T1479.13-15):

"...we had known he had attempted to get stuff out. The reception room ran strictly ...as per policy. He tried to standover me to return some property to an inmate, which I refused."

- (f) he described an incident where an inmate, Witness GG, endeavoured to get back confiscated property which he refused to provide, and that Witness GG then said that Astill would get it back for her: T1480.1-9. This necessitated Mr Wilson hiding the confiscated property: T1480.9. Mr Wilson believed that Ms Berry had to hide items as well from Astill: T1480.43-48; and



- (g) he attributed the lack of reporting concerning the conduct of Astill to a lack of training: T1487.41-44.

(cc) *Mishelle Robinson*

74. Ms Robinson's evidence commences at T1489.47 and finishes at T1514.13. Her Commission Statement is at Exhibit 24, Tender Bundle 2, Volume 8, Tab 81. Ms Robinson gave the following relevant evidence:

- (a) she was not trained in what to do in circumstances where she was aware of information involving allegations of misconduct by another officer: T1491.30-44. That lack of training extended to making any external reports, for example, to the CIG: T1494.7-21;
- (b) she gave evidence concerning the incident between Ms Cox and Astill in which Ms Cox had made an allegation that Astill would interfere with urine results: T1499.31-1500.34; and
- (c) she described Ms Cox as credible and having had a good relationship with her: T1500.40-48. Ms Robinson did not seem to make much of the shouting by Ms Cox concerning Astill including her recollection of the words "*just 'cause I don't suck your cock*": T1501.9-32.

(dd) *Michael Paddison*

75. Mr Paddison's evidence commences at T1514.35 and finishes at T1591.26. His Commission Statement is at Exhibit 25, Tender Bundle 2, Volume 8, Tab 84. Mr Paddison gave the following relevant evidence:

- (a) he started at DCC in 2007 and remained there until 2017 when he was briefly appointed as MOS at Mary Wade Correctional Centre before returning to DCC in April or May 2018 as a Principal Correctional Officer. In January or February 2019, Mr Paddison was appointed as the Business Manager of Operations, Corrective Services Industries (CSI), and in March 2023, was temporarily appointed as the Acting Superintendent of Operations for Work and Education, CSI: T1517.11-1518.10;
- (b) he was aware of the process of reporting misconduct to the Intelligence Manager with an understanding that the Intelligence Manager's role was to create an Intelligence Report. He had an understanding about the SIU function, which was improved following training in 2018 at DCC: T1519.42-1520.9, T1521.19-30;
- (c) he had a recollection of the Coke Can Incident between Astill and Witness C: T1522.44-1523.14, T1525.1-10;
- (d) he denied incidents of reports being shredded, for example, the allegation made by Ms Miskov: T1526.13-36;
- (e) he denied having any knowledge of any concern about Astill bringing in contraband to DCC: T1541.5-8. Mr Paddison's evidence was that he was not aware of any investigation into whether Astill was bringing in contraband to DCC: T1541.38-41. He appeared to accept an incident in which Ms Dolly, who he described as a "*well known ... troublemaker*", came into an executive meeting and started an argument with an officer, however, he believed that incident occurred in 2018 and not 2016 as Ms Dolly claimed: T1539.26-40, T1540.40-1541.3, 25-30;
- (f) he had a vague recollection of a meeting involving Witness R and Witness V. Mr Paddison recalled that Mr Holman was at the meeting, but not Mr Westlake: T1542.20-46;



- (g) he did not recall Witness R and Witness V discussing an allegation of Astill touching Witness M inappropriately: T1543.1-30;
- (h) in terms of reporting incidents such as that involving Witness M, Mr Paddison understood that such incidents should be reported to the Governor and the process then would involve notification to CIG: T1548.12-28;
- (i) in relation to his involvement in following up the complaint concerning Witness M and the email to Mr Smith at Wellington Correctional Centre on 22 July 2017, he asserted that he was trying to find further facts in relation to the allegations: T1549.27-46, T1550.5-8.⁷¹ In this regard, Mr Paddison accepted that he was not trained as an investigator: T1550.10-14;
- (j) he believed that Ms Martin directed or suggested that he communicate with Mr Smith at Wellington Correctional Centre: T1551.30-39;
- (k) he believed that Mr Shearer, in his role as Director, came out to DCC to see Astill: T1558.24-46;
- (l) he refers to the email received from Ms Williams, an investigator within the IB, and a request for help in obtaining footage (T1555.22-29) but he is only of the view that this possibly related to the same incident and describes the email, as it was, as being out of the ordinary: T1555.31-48;⁷²
- (m) he described how, in his experience, any allegations made against a male officer of the type made against Astill would result in them being moved to a male Correctional Centre: T1564.1-15;
- (n) in relation to the various propositions put to him concerning deficiencies at DCC including the use of foul language, belittling words and the existence of a "boys' club", Mr Paddison did not regard that as a reflection of his time at DCC. Mr Paddison described his role as a Training Coordinator, responsible for performing team building exercises, such that the propositions put to him did not equate to his recollection at DCC: T1567.31-46;
- (o) in relation to Ms Martin, Mr Paddison said that on some days she could be "*really caring and really compassionate*" and on other days she could be "*very hard and very firm*": T1568.10-12. Mr Paddison said that she was under pressure from running two gaols and he described female Correctional Centres as complex: T1568.14-20;
- (p) he gave evidence of the changes within CSNSW, including the introduction of the capability framework and biannual reviews: T1576.42-1577.2;
- (q) he described his involvement with Witness M as being the first time he had been asked to gather intelligence or undertake some sort of investigation concerning professional misconduct: T1578.47-1579.15;
- (r) he expressed the opinion that Mr Shearer was not an effective Director: T1588.39-1589.43; and
- (s) he accepted that he was critical of Ms Berry, Ms Dolly and Ms Barry but endeavoured to confine those criticisms to the evidence that they had given in the Commission: T1590.5-39. He accepted that they would have had bad experiences under Astill and their perspectives on management are influenced by those bad experiences: T1590.46-1591.21.

⁷¹ See also, Ex. 25, TB2, Vol 8, Tab 84, Annexure D, AST.002.013.0055_0023.

⁷² See also, Ex. 25, TB2, Vol 8, Tab 84, AST.002.013.0055_0006 at [34].



(ee) *Pamela Kellett*

76. Ms Kellett's evidence commences at T1591.39 and finishes at T1643.22. Her Commission Statement is at Exhibit 26, Tender Bundle 2, Volume 7, Tab 60A and her Police Statement is at Exhibit 26, Tender Bundle 2, Volume 7, Tab 60. Ms Kellett gave the following relevant evidence:

- (a) she started at DCC in 2005 and remained there until 20 November 2020 (T1593.4-8) and she had significant periods of absence due to ill-health: T1593.32-1594.1;
- (b) she described the reporting systems as good prior to the Astill incidents: T1594.33-34. She had difficulty getting reports from persons within the facility to pass on, notwithstanding the number of rumours circulating in DCC: T1594.36-39. This was in her role relieving Ms Wilson as the Intelligence Officer: T1595.23-29;
- (c) that major breaches of misconduct would be reported outside DCC and that she used to fax reports to CIG but that she would tell Ms Martin first: T1597.1-21;
- (d) a big concern of Ms Kellett's was Astill filling in as an Intelligence Officer when there were several Intelligence Reports concerning him. She reported this issue to Ms O'Toole: T1600.30-38;
- (e) she mentioned two reports that she had made in relation to Astill, one in respect of the letter attempted to be sent out by Witness P to Witness HH and another in relation to inappropriate conduct by Astill towards Witness M: T1603.1-17;
- (f) she described submitting an Intelligence Report IR-16-2783 in relation to the letter by Witness P to Witness HH and that CIG called her in response. She refers to the analyst, Mr Andrew Taylor, moving the classification for the report to "*highly possible*" and that the matter went to Ms Martin who would have then met with the Regional Commander, Ms Marilyn Wright, and that it was recommended that Astill be counselled: T1603.29-46;
- (g) she described having suspicions about Astill bringing in contraband and described the means by which contraband could be brought into DCC: T1605.5-19;
- (h) she gave extensive evidence about the 19 November 2016 Intelligence Report IR-16-2783 submitted to CIG, which she authored: T1605.38-1609.28;
- (i) she was concerned that information supplied by Witness P in a document, which had been placed in the intelligence safe, had gone missing: T1617.20-38;
- (j) she gave evidence concerning advice from Ms Wilson that the complaints relating to Astill were kept in the Governor's safe: T1620.27-34;
- (k) she gave evidence that she had a great deal of mistrust towards Astill and what he might do: T1621.19-23. She recalled raising these matters with Ms O'Toole who said that Astill was himself a better investigator due to the fact that he had previously been a detective. Ms Kellett also gave evidence that Ms O'Toole failed to remove Astill's access to Intelligence Reports as an Intelligence Officer: T1621:28-44;⁷³
- (l) she described the Intelligence Report IR-17-2051, which she submitted on 30 July 2017, concerning the complaints by Witness M against Astill, including information given to her by Mr Holman: T1623.20-1624.16. She gave evidence that at the time of authoring IR-17-2051, Mr Holman had submitted two Incident Reports in relation

⁷³ See also, Ex. 26, TB3, Vol 7, Tab 60A, AST.002.013.0048_0008 at [58].



to Astill, which is why she was reporting them up as an Intelligence Report to CIG: T1624.29-31;

- (m) although someone from CIG called Ms Kellett in relation to the Intelligence Report involving the letter from Witness P, she did not recall receiving a call from CIG in relation to Witness M: T1627.12-19;
- (n) she was not aware of any attempt by CIG to further investigate any of the allegations contained in the Intelligence Report concerning Witness P, which she described as a "*disappointment*": T1629.7-24; and
- (o) in terms of the Intelligence Report concerning Witness M, she confirmed that she did not make any attempts to contact Witness M and she accepted that it would be unusual for someone in her position to make contact with an inmate at another Correctional Centre: T1637.24-1638.3.

(ff) *Pam Hotham*

77. Ms Hotham's evidence commences at T1643.28 and finishes at T1681.15. Her Commission Statement is at Exhibit 27, Tender Bundle 2, Volume 8, Tab 85. Ms Hotham gave the following relevant evidence:

- (a) she started at DCC in 2014 as a Principal Correctional Officer (T1644.18-21), however, her period of employment at DCC was limited due to illness: T1645.1-44;⁷⁴
- (b) she described her relationship with Ms O'Toole as one that featured a few "*mild confrontations*": T1648.24-27;
- (c) she described Mr Giles, Mr Holman and Mr Paddison as officers who benefitted from favourable treatment from Ms Martin: T1647.44-1648.19;
- (d) she described an occasion when she found Witness N in Astill's office after lock-in, however, her extended evidence on this matter did not suggest that she observed anything improper happening on this occasion: T1649.9-35; and
- (e) she had a vague memory of the Ring Incident involving Witness C: T1661.1-16.

(gg) *Neil Holman*

78. Mr Holman's evidence begins at T1681.21 and finishes at T1722.32. His Commission Statement is at Exhibit 28, Tender Bundle 2, Volume 8, Tab 80. Mr Holman gave the following relevant evidence:

- (a) he became a Chief Correctional Officer in 2010 and was at DCC from "*around 2007*" (T1682.34-45). In 2019, Mr Holman was promoted to Principal Correctional Officer: T1683.1-4;
- (b) he gave evidence about the manner in which he would report serious incidents even if the particular complainant did not want that to occur: T1683.40-1684.12. A report would go to the most senior person available at the facility: T1684.27-46;
- (c) he became aware of the capacity to report outside of DCC in 2018: T1686.6-9;
- (d) he thought as a result of submitting reports internally meant that it would make its way to CIG: T1690.28-36;

⁷⁴ See also, Ex. 27, TB2, Vol 8, Tab 85, AST.002.013.0039_002 at [13].



- (e) he gave evidence concerning his involvement in the preparation of the Incident Reports concerning the complaints relating to Witness M: T1691.16-1693.30;
- (f) he recalled contacting Silverwater Women's Correctional Centre to find out about Witness M and to see if she had any information: T1695.2-6. He believes that he was directed by Ms Martin to do this: T1695.33-34;
- (g) he also gave evidence concerning a letter he submitted in June 2018 in relation to information received from Ms Cox and a recommendation for a change of her placement: T1703.43-1704.17;
- (h) he did not dispute that he had a discussion with Ms Martin concerning information received from Ms Cox and concerning allegations of drugs being brought into DCC by Astill: T1705.28-46;
- (i) he gave evidence concerning what he thought went wrong within DCC: T1709.1-14;
- (j) he denied being personally responsible for the suggestion in the Intelligence Report that said that Witness M "*could not be interviewed...*" and that he did not really receive any support from Silverwater Women's Correctional Centre where Witness M was at the time: T1717.18-1718.7;
- (k) he described that the request from Ms Martin that he call Silverwater Women's Correctional Centre as being the first time that he had ever called another Correctional Centre about a serious incident: T1718.15-23; and
- (l) he could not provide any detail of specific discussions he had with Silverwater Women's Correctional Centre concerning attempts to contact Witness M or his inability to obtain information from her: T1721.1-1722.23.

(hh) *Westley Giles*

79. Mr Giles' evidence commences at T2553.42 and finishes at T2644.19. His Commission Statement is at Exhibit 44, Tender Bundle 2, Volume 8, Tab 66A and his Police Statement is at Exhibit 44, Tender Bundle 2, Volume 8, Tab 66. Mr Giles gave the following relevant evidence:

- (a) he understood that if an allegation of serious misconduct was made, officers would take it to the Governor who would make it known to PSB and IB: T2556.8-30;
- (b) he was the union delegate for between 8 and 9 years at DCC and had some "*robust discussions*" with Ms Martin. In one conversation, Ms Martin allegedly threatened to have him shot: T2559.7-14;
- (c) he joined CSNSW in 1999 when the culture was if you put officers on paper you were labelled "*a dog*". He said this culture "*absolutely*" changed by 2015 when reporting was encouraged by the "*Commissioner down*" and it was expected that if an officer saw misconduct, they were to report it: T2560.15-37. He rejected the suggestion that because officers were friendly with one another this made it difficult to report serious misconduct: T2561.42-2562.2;
- (d) he noted that a reference to "*File 13*" was a joke and a reference to a term used to shred paper. To his understanding, it did not refer to shredding documents which recorded complaints about officers: TT2562.24-2563.4;
- (e) he does not remember Ms Miskov. He does not remember being in the room when Astill allegedly rubbed his crotch in Ms Miskov's face: T2564.24-2567.46;
- (f) he refuted the allegation by Witness C that making a complaint outside him was considered "*officer shopping*" and frowned upon. He also rejected her evidence that she told him something and when she raised the matter with another officer, she



was punished by Mr Giles by having her visits cancelled and searches of her cell being "ramped up": T2568.26-39. He also refuted Witness C's evidence that when she was repeatedly called over the PA system to go and see Astill, she would say to Mr Giles: "Do I have to go?", to which Mr Giles told Witness C she "had to go and see him as he was the Manager": T2579.30-41. He clarified that he and Astill were of the same rank: T2579.35-41. He also said that it was incorrect to suggest that Witness C told him about her alleged sexual assault by Mr Brown and that he said to her: "Oh, you're not that special": T2582.25-29;

- (g) he never heard staff refer to inmates as "whores", "dogs", "sluts", "fucking cunts" and "mutts": T2569.8. But he did not deny that there is swearing towards inmates and that officers were also sworn at: T2591.13-31;
- (h) he denied any allegations made against him: T2570.1-22. He strongly denied being Astill's friend: T2572.19-21;
- (i) he had suspicions that Astill was too friendly with Witness GG and Witness N but this did not include in a sexual manner: T2576.15-26. He said that, as an officer, it was very serious to submit a report against another officer about something of a sexual nature and you need to have some evidence and something concrete to support it: T2579.4-19;⁷⁵
- (j) he recalled that he assisted Witness P in relation to making a complaint against Astill: T2583.3-46. He had a good rapport with Witness P and thought Astill was treating her differently and that he did not like her: T2584.39-43. He recalled Mr Peek ringing him to tell him that he had some inmates, being Witness O and Witness T, who wanted to make a complaint about another officer. Mr Giles told Mr Peek to give him their applications and he would register them. He does not recall whether he interviewed the inmates: T2592.6-13. The complaints were serious enough to provide to Ms Martin: T2593.6-20;
- (k) he was of the opinion that, if officers who were in a relationship were made to work at different Correctional Centres, they would not be forthcoming with information that they were in a relationship to avoid being moved: T2624.10-13. He was of the firm belief that Astill was "one bad egg" and if, for example, his own wife, Ms Robinson, needed to report something she would not report to Mr Giles but rather to the next officer in the chain of command: T2624.26-31; and
- (l) he gave evidence about structural ways in which conflicts might be avoided in Correctional Centres. He said currently there are rotations within a Correctional Centre every 6-12 months and that this avoids complacency. He also suggested complimenting this with conflict of interest declarations, which are presently in place: T2626.8-33.

E. Response to Counsel Assisting Submissions on Evidence and Facts

- 80. CSNSW generally accepts the summaries of the evidence and facts contained within CAS and the available findings. In the paragraphs that follow, CSNSW identifies those parts of CAS that it submits should not be accepted. In doing so, for the sake of brevity, we do so by reference to the relevant paragraph in the CAS, rather than by restating same:
 - (a) *Governance and Continuous Improvement Division (CAS Section 1.2.2)*
- 81. CAS [32] describes the manner in which the IB operated according to the evidence of Mr Hovey who had 22 staff who reported to him, including investigators within the IB such as Lee Williams: T1992.1-14.⁷⁶ However, the referenced evidence in CAS [32] only describes how the system operated, according to Mr Hovey, from late 2018 onwards when Ms Sarah Casey

⁷⁵ See also, Ex. 44, TB2, Vol 8, Tab 66A, AST.002.013.0052_0012 at [83].

⁷⁶ See also, Ex. 32, TB2, Vol 8, Tab 86, AST.002.013.0054_0002 at [7].



commenced work there. The suggestion that the IB had some responsibility in terms of substantiating a complaint before that complaint was brought to the attention of the PSB and then for on-referral to the PSC is wrong. Additionally, Mr Hovey gave evidence in his statement that, in respect of Intelligence Reports going to Ms Casey, he would be advised as to what was being reported.⁷⁷ The system identified by Mr Hovey, here, is at odds with his oral evidence concerning how the system was meant to operate as set out in CAS [746]-[748].

(b) *Culture at DCC (CAS Section 3)*

82. As to CAS [297], notwithstanding the obvious deficiencies properly identified by Counsel Assisting with respect to the culture at DCC regarding making complaints of serious misconduct, a large number of complaints were generated and eight intelligence reports were sent from DCC to the IB. However, none of these intelligence reports made it to the PSB.⁷⁸

(c) *Treatment of inmates by staff (CAS Section 3.1)*

83. As to CAS [306], which summarises Witness C's evidence with respect to the treatment she received from CSNSW staff, CSNSW agree that Witness C is a credible witness to the extent that she made a complaint concerning criminal conduct on the part of Astill, her complaint gave rise to a charge and Astill was convicted. However, her observations about the behaviour of persons other than Astill should be treated with caution for the reasons set out at paragraph 20 above.⁷⁹ It is submitted that where Witness C makes a broad and unparticularised allegation of certain conduct that, in particular, this should be treated with caution given her plain animus to CSNSW at large.

84. For example, in relation to CAS [307], the evidence was more of a plain separation between officers and inmates "*blue and green*", respectively: T210.36. It is submitted that a general assertion about officers should not operate to impugn the very many officers who gave evidence in this Commission who did not conduct themselves in a way that discredited themselves.

(d) *Punishments and Transfers (CAS Section 3.1.3)*

85. As to CAS [339], which recommends the Commissioner make a finding that CSNSW staff used threats to transfer inmates to discourage inmates from making complaints, there is no specific evidence of a witness being moved as a consequence of any specific complaint made by an inmate. The only specific evidence concerning an inmate was Ms Martin's decision not to return Witness M to DCC based on her belief, which was shared by Mr Paddison, that she was justifiably apprehensive of being in the presence of Astill.⁸⁰

Inmate transfers under Crimes (Administration of Sentences) Regulation 2014 (NSW) (CAS Regulation)

86. For context, the *Crimes (Administration of Sentences) Act 1999* (NSW) (**CAS Act**) and the *CAS Regulation* allows for the placement (or 'transfer') of inmates to another correctional centre by order of the Commissioner.
87. Section 23 of *CAS Act* confers the power to the Commissioner to order an inmate to be transferred to another correctional centre, amongst other reasons, "*because inmates in the correctional centre need to be separated in compliance with the requirements of the regulations*" or "*because of any other reason specified in the order.*"⁸¹
88. Under clause 21 of *CAS Regulation*, if the Governor considers an inmate is "*unsuitable*" for placement at the correctional centre, the Governor may provide a report to the Commissioner (or their 'delegate' pursuant to the CSNSW's Instrument of Delegations), which must include

⁷⁷ Ex. 32, TB2, Vol 8, Tab 86, AST.002.013.0054_0002 at [11].

⁷⁸ Ex. 32, TB2, Vol 8, Tab 86, Annexures 1-8, AST.002.013.0054.

⁷⁹ Ex. 4, AST.002.002.0002_0069.

⁸⁰ Ex. 25, TB2, Vol 8, Tab 84, AST.002.013.0055_0007 at [37]; Transcript, 16 November 2023, T2377.35-2378.23.

⁸¹ *Crimes (Administration of Sentences) Act 1999* (NSW), section 23.



the reasons why the Governor considers that the inmate is unsuitable for placement at the centre.⁸²

89. In relation to serious offenders or an inmate who has a high security, extreme high security, extreme high risk restricted or national security interest designation, clause 23(3) of *CAS Regulation* gives the Commissioner the power to transfer an inmate based on the recommendation of the Governor without needing to consider a submission of the Review Council if there are "*urgent reasons*" to do so.
90. Clause 23(3) of *CAS Regulation*, therefore, gives the Commissioner (or their delegate) the ability to transfer an inmate without having to await a submission from the Review Council in relation to the transfer of the inmate as would normally be the case for such inmate transfers under clause 22 of *CAS Regulation*.

Transfer of certain inmates from DCC

91. CSNSW notes that, during the examination of Ms Martin on hearing Days 20, 21 and 22 of the Commission, Ms Martin was not questioned in relation to the transfer of certain inmates from DCC such as Witness C and Ms Sheiles.⁸³
92. Further, CSNSW notes at CAS [335] to [337], Witness P,⁸⁴ Witness V,⁸⁵ Ms Sheiles⁸⁶ and Witness C⁸⁷ all expressed concerns in relation to being the subject of reprisal if they reported Astill's conduct, or the misconduct of officers generally, then they would be transferred to another correctional centre.

CSNSW actions in relation to the transfers, classification and placement of inmates

93. In relation to Counsel's Assisting's finding at CAS [339] that officers at DCC regularly threatened inmates with being moved out of DCC, on 26 June 2023, CSNSW initiated a comprehensive internal review of CSNSW's classification, case management, placement and transfer systems, including policies and procedures, with the aim of improving accountability, objectivity and transparency in the processes for classifying, placing and transferring people in custody between correctional centres. This review will provide its report to the CSNSW Commissioner and CSNSW Executive, including proposed reforms, in the coming weeks.
94. The Inspector of Custodial Services' review of classification and placement is also anticipated in the coming months, which may provide additional recommendations and necessitate further reform.⁸⁸ The terms of reference for the Inspector of Custodial Services' review are:
- (a) current security ratings and designations for male and female inmates and whether these remain fit-for-purpose;
 - (b) processes for initial classification and placement decisions and classification and placement reviews, and whether these are efficient and effective;
 - (c) the impact that the role, function and level of security of a correctional centre has on the placement of inmates; and
 - (d) the way in which placement decisions take into account the criteria for placements outlined in clause 20 of *CAS Regulation*.

⁸² *Crimes (Administration of Sentences) Regulation 2014* (NSW), clause 21.

⁸³ Transcript, 17 October 2023, T231.9-12; Transcript, 19 October 2023, T382.23-41.

⁸⁴ Transcript, 23 October 2023, T565,15-35.

⁸⁵ Transcript, 20 October 2023, T461.30-35.

⁸⁶ Transcript, 17 October 2023, T195.22-T196.7.

⁸⁷ Ex. 3, TB1, Vol 5, Tab 8A, AST.002.012.0001_0012 at [46]-[47].

⁸⁸ Transcript, 17 November 2023, T2646, 29-33; Ex. 45 TB5, Vols 26 and 26A, Tab 10, AST.002.013.0060_0013 at [69].



95. In addition to the potential recommendations that might arise from the reviews mentioned in paragraphs 93 and 94, in relation to the transfer of inmates, CSNSW is also undertaking the following:
- (a) all aspects of decisions to transfer inmates will be scrutinised as part of the internal review mentioned in paragraph 93 with the aim of eliminating any unnecessary transfers;
 - (b) in particular, the policy and procedures for transferring inmates between correctional centres are being reviewed and updated to ensure the approval delegations and processes are known and complied with. This procedure update will be supported by a communication campaign to highlight the delegations held by Governors and other CSNSW executive roles. This is identified to be completed by early 2024;
 - (c) clause 23(3) of *CAS Regulation* was previously used regularly to move people in bulk or at a Governor's request. In December 2022, this practice was ceased and additional checks by the Director of Sentence Management are now mandated to ensure that transfers under clause 23(3) of *CAS Regulation* are only used when the statutory preconditions are met such as if there are urgent reasons to transfer the inmate;
 - (d) the transfer of inmates pursuant to clause 23(1) of *CAS Regulation* currently require approval by the Manager of Classification and Placement (Statewide) under CSNSW's Instrument of Delegations. These processes are currently under review with a view to ensuring there are robust and transparent processes in place;
 - (e) clause 21 of *CAS Regulation* provides the legal avenue for Governors to request a review of placement on the basis that a person is not suitable for placement or continued placement at a particular correctional centre. All policy and processes in relation to Governor reports recommending the transfer of an inmate are being reviewed from a governance perspective to ensure compliance with the legislative framework under *CAS Regulation*; and
 - (f) CSNSW is considering the practicality and options for requiring a second signatory to any report prepared by the Governor pursuant to clause 21 of *CAS Regulation* to authenticate the veracity of claims made in the Governor's report.
96. In relation to the classification of inmates, CSNSW will undertake the following actions:
- (a) the internal review mentioned in paragraph 93 will include a full audit of classification decisions and systems; and
 - (b) CSNSW will develop a revised objective security assessment tool that will provide more structure, confidence, evidence-based decision-making and objectivity in relation to classification decisions with the aim of reducing the scope for classification regression to be misused as a threat or discipline.
97. In relation to the placement of inmates, CSNSW will ensure the internal review mentioned in paragraph 93 includes a full audit of decisions and systems to ensure that all placement decisions are individualised and comply with the mandatory factors outlined in clause 20 of *CAS Regulation*.
- (e) *Close friendships between staff members (CAS Section 3.2.3)*
98. As to CAS [382]-[386], the connection between the cliques and the failure to act upon Astill is not clear. There is no real evidence to suggest that anyone had a particular interest in protecting Astill either within DCC or within IB and/or PSB.



- (f) *The "boy's club" (CAS Section 3.2.4)*
99. The finding that the CAS invites the Commission to make (CAS [401]), which relates to the "boy's club" culture at DCC and the toxic environment that arose as a result of same, supports the evidence provided by Ms Berry, Ms Barry and Ms Dolly on 19 September 2023 and the subsequent decision to suspend Mr Holman and Mr Paddison (discussed at Section I below).
- (g) *File 13 (CAS Section 3.3.1)*
100. CAS [428] invites the Commission to find that a term referring to the shredding of documents as "funny" reflected, as against Mr Paddison, "an abysmally unprofessional approach to their workplace". Such a finding accords with the general view of Ms Barry, Ms Berry and Ms Dolly against Mr Paddison, as per their respective evidence to the Commissioner on 19 September 2023. This supports the subsequent decision to suspend Mr Holman and Mr Paddison (discussed at Section I below). Mr Paddison has shown a degree of blind faith in support of Ms Martin.⁸⁹
- (h) *Correctional and senior correctional officers' handling of complaints (CAS Section 3.3.3)*
101. The Commission should be cautious in making serious findings against officers who did not give evidence such as Mr Rowe (see, for example, CAS [451]). Although Mr Rowe provided the Commission with a statement,⁹⁰ he was not asked to address the matters in this paragraph. Further, for reasons set out earlier, Witness C's evidence should be treated with caution (see paragraphs 20 and 83 above).
102. In relation to what is submitted in the following paragraphs of CAS at:
- (a) [456], concerning the difficulties experienced by Witness O in making complaints to Mr Giles, is inconsistent with Mr Giles onforwarding Witness O's and Witness T's complaints to Ms Martin (T2594.30-45) and assisting Witness P: T2583.3-46;⁹¹
- (b) [464], concerning Mr Greaves' evidence that there was "widespread mistrust of leadership at CSNSW in general", should not be regarded as evidence which assists the Commission, in the absence of identifying any particular persons said to have acted in that way; and
- (c) [465], with respect to the culture of reporting misconduct at DCC, is too absolute. The fact is that complaints were made and were acted upon as evidenced by the submission of Intelligence Reports to the IB. However, the number of complaints that made it to the IB were but a fraction only of what it should have received, given the volume of information known to management at DCC concerning Astill. It was Ms Martin who, in addition to failing to ensure that all relevant complaints were submitted, comprehensively failed to take any steps to protect inmates from the risk Astill presented to them. This was a very major factor, of course, in Astill's capacity to commit very serious offending.
- (i) *Fear of reprisal from staff (CAS Section 3.3.2)*
103. As to CAS [429]-[448], which concerns the fear of reprisal from CSNSW staff, there is better evidence on this matter than that from persons removed from the process such as Mr Greaves (see, for example, CAS [441]). Mr Hovey's evidence at CAS [437] serves to reinforce the gravity of his failings in 2016 and 2017 and it remains an open question as to whether Mr Greaves, himself, was part of the very system that is the subject of criticism in this section as opposed to being just a witness to it.

⁸⁹ Ex. 25, TB2, Vol 8, Tab 84, AST.002.013.0055_00013 at [84]; CAS at [1560]-[1561].

⁹⁰ Ex. 57, TB2, Vol 8A, Tab 96, AST.002.013.0043.

⁹¹ See also, Ex. 20, TB2, Vol 8, Tab 60, AST.002.002.0079_0015.



- (j) *The role of the Official Visitor (CAS Section 4.2.1)*
104. As to CAS [566], which concerns the relationship between the Official Visitor and the Governor of DCC as at 1 July to 31 December 2021, without hearing from the relevant Governor involved at the time, the relevant paragraphs concerning what was said by Ms Cole about the Governor during this period sought by Counsel Assisting should not be made.
- (k) *Reporting allegations of misconduct and other inappropriate behaviour (CAS Section 5.1)*
105. As to CAS [676], in respect of Astill, a lack of clarity, confusion or contradiction in policies is not an explanation or justification for a lack of action either by relevant officers at DCC, Mr Hovey or the PSB, including Mr Greaves, Mr Robinson or Mr Shearer as Director. No one has suggested that Astill's alleged conduct, as reported to DCC management and/or Mr Shearer, somehow warranted any treatment other than reporting to the PSB with a view to action being taken. In addition, a risk mitigation plan could have been put in place to have Astill relocated within CSNSW so as to avoid any ongoing risk to inmates at DCC pending any further investigation.
106. As to CAS [677], for the reasons set out in paragraph 105 above, Astill's actions were so egregious that there should not have been any doubt as to what method of reporting of his alleged conduct involved.
107. As to CAS [678], while Ms Martin was a roadblock in relation to several complaints, eight complaints nonetheless emerged. It is submitted that it was entirely the fault of Mr Hovey that the PSB did not receive any of these complaints. This is in contrast to his other dealing with officers under investigation.⁹² Mr Hovey provides no explanation for these failures: T1971.38-42, T1981.1-42 and T2009.9-24.
108. As to CAS [685], forwarding an Intelligence Report to the SIU was the fundamental and appropriate way to report allegations of misconduct. This is because that was the way such allegations were required to be made to the PSB and then the PSC. It is not clear what the reference to Mr Greaves' ignorance is in this regard. However, Mr Greaves' evidence on this issue should be treated with some caution given his fundamental failure in relation to Witness M. Ms Martin's more fundamental failure here was her failure to take immediate action in relation to Astill's employment, including removing him from DCC.
109. As to CAS [686]-[688], Mr Greaves' evidence as to his knowledge of the SIU function for receiving intelligence reports about CSNSW staff is representative of the problems within the PSB and with Mr Hovey. The Commission would have been assisted by hearing from Mr Robinson, Mr Scassera and Mr Koulouris on this issue. The emphasis on the perceived failings of Ms Martin tends to obscure the failings within the IB and the PSB. Her failure was that she did not attempt to relocate Astill and that she did not follow up on the Intelligence Reports. Ms Wright's evidence supports the system as understood by Ms Martin, not whatever Mr Greaves considered it to be. No doubt it would have been helpful for Ms Martin to deal directly with the PSB but the system at the time did not require that. What was required was for the IB, through Mr Hovey, to attend to its task once it received a referral from the PSB which manifestly did not occur for reasons which are unexplained and warrant a recommendation for investigation by an appropriate agency.
110. As to CAS [713], too much has been made of the change of policy said to have been introduced by way of the 12 September 2017 Email Policy (**2017 Email Policy**) (CAS [712]). The 2017 Email Policy was not relevant to the failures of the IB, Mr Hovey and Mr Shearer to pass on the information they had about Astill to the PSB. It is plainly understood that the Director's primary role was to be "*kept in the loop*" concerning allegations of misconduct. That makes sense particularly in light of Mr Corcoran's evidence (reproduced at CAS [712]) that it was an unsatisfactory position for persons in management to be unaware of complaints of misconduct within their areas. In any event, the suggested effect of the change in policy did not materialise in reducing the number of matters going to the PSB.

⁹² CAS at [1526]-[1534] e.g., Messrs Giles, Holman and Paddison.



111. As to CAS [714], to the extent that it suggests that serious matters would not be referred to the PSB, this submission is overstated.
- (l) *Processing of the report of misconduct (CAS Section 5.2)*
112. As to CAS [750], this comment in relation to the informal operation of the PSC is entirely as a result of the actions of Mr Hovey and, to a lesser extent, the PSB in failing to act upon its knowledge of that fact when it found out that the IB was operating autonomously in relation to the complaint concerning Witness M.
113. As to CAS [761], the IB did receive reports of misconduct through the SIU. Its role was to pass those on to the PSB as part of a coordinated activity. For reasons which are not explained in evidence, Mr Hovey, at least in relation to complaints involving Astill, determined to resolve complaints without their referral to PSB. As to CAS [762], this lies at the heart of what went wrong. As to CAS [763], Mr Hovey's evidence is completely at odds with the system in place. As to CAS [764], Counsel Assisting's description of SIU intelligence analysts' approach to referrals of intelligence reports as "*problematic*" insufficiently characterises the paucity of operations at that time. Mr Hovey's conduct was completely inconsistent with the policy and process in place. However, why Mr Hovey engaged in these actions was unexplored in this Commission. As to CAS [765], the approach taken by SIU intelligence analysts to referrals of intelligence reports presented more than a "*very significant risk*", it is the most fundamental failure demonstrated during the course of the Commission.
114. As to CAS [767], given that there was somewhere between 150 and 200 complaint notifications a year and they seemed merely to run into a few pages, Mr Hovey's failure to have even a basic understanding of what those complaints may say is one of the key failures demonstrated in this Commission.
115. As to CAS [768], it has not been explained in evidence how the so-called IB "*resourcing issue*" bore upon Mr Hovey not taking the steps that he should have taken, including his failure to notify anyone else within the PSB that the IB was now taking on an autonomous role. The "*resourcing issue*" became a "*fig leaf*" for Mr Hovey in this matter. In any event, any "*resourcing issue*" ought not have prevented the referral to PSB, or the CSIU/Police, of significantly serious misconduct such as Astill's offending. It is conduct such as this that ought to have been triaged, prioritised and immediately referred. Such a referral would have alleviated the workload of IB as it relates to complaints pertaining to Astill as it would have transferred the matter to PSB and/or the CSIU/Police.
116. As to CAS [769], there is a mistaken assumption within this submission that the practice of reporting misconduct via an Intelligence Report to the IB was an agreed way of dealing with misconduct. It was not. It was a policy and/or practice that seems to have been implemented by Mr Hovey. There is no evidence of any other matters falling into this category and his reason for doing so raises very deep concerns about his credit and his purpose, absent a proper explanation as to why this course was adopted. A more thorough detailed investigation of Mr Hovey's activities is warranted.
117. As to CAS [770], which concerns the current approach taken to analysing Intelligence Reports, this is an example of the very effective response on the part of CSNSW to a failure on the part of the IB and PSB.
- (m) *Current process for managing reports of misconduct (CAS Section 5.3)*
118. As to CAS [777]-[782], which relates to inconsistencies in the PSI's intranet page⁹³ regarding whether misconduct must be reported to the PSI directly or through a line manager, it is accepted there may be some measure of confusion. Nonetheless, the destination of complaints concerning misconduct to the PSI is unequivocal. There is unlikely to be any current confusion that the PSI is the destination for misconduct complaints, whether they come directly from the reporting officer or his/her line manager. There is no difficulty in the matter

⁹³ Ex. 47, TB5, Vol 21, Tab 1, CSNSW.0001.0076.0001_0008-0009 at [31].



going through the line manager for information purposes and, for example, to see whether any important interim action could be taken to minimise any ongoing risk.

119. As to CAS [791]-[793], Counsel Assisting fails to take into consideration that the CSIU is itself a NSW Police Unit that supports CSNSW and is operationally independent of CSNSW. It follows that any referral to the CSIU constitutes a referral to the NSW Police. As such, reporting to the CSIU of alleged criminal conduct concerning a sexual assault is the same as a report to a local police station, notwithstanding that CSIU has added expertise in investigations concerning CSNSW officers and Correctional Centres. CSNSW does not have any role or influence in relation to their police investigations. There is a secondment agreement between NSW Police and CSNSW that governs the administrative arrangements in respect of the secondment (such as funding the salaries of those seconded to the CSIU). For administrative purposes, CSIU is part of the PSI and reports to the Director, PSI. However, NSW Police State Crime Command maintains operational oversight of the CSIU, via the Robbery and Serious Crime Squad.
120. Any proposal to have matters referred to other commands of the NSW Police may have the opposite effect of having matters dealt with in a less timely and responsive manner. The CSIU is dedicated to allegations of criminal conduct on the part of CSNSW staff and is best equipped to investigate these matters. Additionally, consultation with NSW Police would be required for any such change to be given effect by them. CSNSW has in fact experienced matters that have been referred to Local Commands who have not had the resources to prioritise these matters. In addition, CSNSW believe it is of value for PSI to be aware of the issues related to alleged criminal conduct so that it can both manage any operational risks and identify any patterns of behaviour.
- (n) *Volume of complaints and complaint profile (CAS Section 5.4)*
121. As to CAS [806], CSNSW has provided ample and complete information concerning the manner in which complaints are assessed and processed from the time of Ms Zekanovic's employment with CSNSW (in early 2022) up to and following the time when she was appointed to her current role.⁹⁴
122. As to CAS [817], the matters referred to here are drawn from the evidence of Mr Hovey and Mr Greaves, in whose interests it was to make these assertions. The Commission would have been greatly assisted from evidence of senior management in PSB during the relevant period, such as former Assistant Commissioner Koulouris and Assistant Commissioner Scassera.
123. As to CAS [818], it must be noted that the reason for the long delay in some entries, as explained by Ms Zekanovic, was because there were ongoing criminal proceedings or other investigations taking place which delayed the process: T2779.41-45.
124. As to CAS [826]-[827], this reflects the added robustness of the system and also infers an increased understanding of, and confidence in, the reporting processes related to sexual harassment.
125. As to CAS [828], there is no lack of clarity concerning the fact that sexual assault matters are reported to the CSIU (Police). The confusion here arises from conflating matters involving sexual harassment with matters involving sexual assault. Sexual harassment matters are not referred to the CSIU in the same way that sexual harassment matters in other organisations are unlikely to be reported to the Police. This is because sexual harassment, although unlawful and may lead to civil proceedings, does not always amount to a criminal offence, whereas sexual assault is clearly a criminal offence. This error is repeated at CAS [1554].
126. As to CAS [830], there is no "*serious question as to whether CSNSW properly understands the scale of the problem of sexual offending and sexual harassment engaged in by staff*". The submissions suggesting that there is such a question comes from a misunderstanding as to

⁹⁴ Ex. 47, TB5, Vol 21, Tab 1, CSNSW.0001.0076_0007-0035 at [28]-[98].



the manner in which sexual assaults are reported, on the one hand, and sexual harassment are reported on the other.

127. As to CAS [838]-[840], the Sexual Health and Attitudes of Australian Prisoners (**SHAAP**) 2 study is a substantial survey which should capture the information sought. It is assumed that the researchers have the necessary skills to determine what is required for their survey to be sufficiently robust. To impose a significantly greater burden for the survey comes at an obvious increased cost as well as involves disruption to the operations of CSNSW and delay in the reporting and implementation of any recommendations.
128. As to CAS [841], it is not open to the Commission to make findings as to the adequacy of the proposed research. SHAAP 2 is an independent research study funded by the National Health and Medical Research Council, that has been allocated funding only after meeting the exacting standards of this organisation through robust peer and ethics committee review. Furthermore, this study was never intended to replace the investigation of inmate complaints of staff sexual misconduct, but rather to inform the scope and approach to such an investigation. The intention of the SHAAP 2 survey was not to rely on the results of the survey exclusively to form a picture of the prevalence of unwanted sexual advances by staff towards people in custody but to determine places that present most risk, the characteristics of those who are victims of such advances and ultimately to better target an investigation instead of initiating an all-centre investigation without the benefit of preliminary inquiry. The results of the SHAAP 2 survey would then be used to expand the sexual assault reviews to include inmates. Further, the 14 workplaces identified were chosen based on data that indicated those locations had a potential for review, with the intent to draw on the trends that emerged in a further, broader review of other centres.
- (o) *Project Merge and the new misconduct process (CAS Section 5.5)*
129. As to CAS [858], there is no evidence from Mr Greaves as to what steps he took during his time in the PSB to implement a more effective case management system.
- (p) *Complaints about Astill and their management (CAS Section 6)*
130. As to CAS [864], the PSB involvement was minor because of the actions taken by the IB to act autonomously in relation to the complaints it was receiving concerning Astill.
- (q) *January 2016 - Incident involving J Unit (CAS Section 6.1)*
131. As to CAS [868], there was a very significant failure on the part of Ms Martin in not taking immediate steps to remove Astill from DCC or otherwise limit his exposure to female inmates.
- (r) *Available Findings (CAS Section 6.2.2)*
132. As to CAS [884], again, there was an obvious failure by Ms Martin to modify Astill's employment arrangements to reduce the risk posed by Astill to female inmates at DCC.
- (s) *Rumours about inappropriate relationships between Astill, Witness C and others (CAS Section 6.2.3)*
133. As to CAS [889], Ms Barry and Ms Berry's evidence in relation to the Ring Incident should be preferred over Witness C, who made serious allegations against them. These allegations should be rejected for no other reason than that they are inconsistent with Ms Berry's contemporaneous notes.⁹⁵ This is an example of why Witness C's evidence, at large, should be treated with caution.
134. As to CAS [908], an acceptance of Mr Foster's evidence does not coincide with Witness C's evidence such that it converts her evidence into evidence that should be accepted.

⁹⁵ Ex. 18, TB2, Vol 7, Tab 48, Annexure A, AST.002.002.0055_0019-0040.



135. As to CAS [908], the difficulty with accepting evidence of this nature is that the evidence that the other officers laughed off the incident was not put to Ms Peek (who was not called) and Ms Robinson (who was called) but was put to Mr Giles (who denied it): T2564.18-44.
- (t) *May 2016 - Incident involving Julijana Miskov (CAS Section 6.3)*
136. As to CAS [909]-[912], it is also asserted that things were said to Ms Miskov about Mr Paddison concerning what her approach to her work should be, such as that she was to "pull [her] head in, [she's] a new officer and to listen to [her] senior staff": T711.4-5.
137. As to CAS [920], the matters raised here are different to the event concerning Ms Miskov, and Ms Martin's position is supported by Mr Paddison in this regard.
138. As to CAS [921]-[922], again, this is a very significant finding in relation to Mr Paddison whose evidence Counsel Assisting seems to otherwise broadly accept.
- (u) *October 2016 - Witness P's allegations about Astill and Witness C (CAS Section 6.4)*
139. As to CAS [927], there is a difficulty with the counselling and the involvement of the Regional Commander given Ms Wright's denial about any evidence in this regard. This casts some doubt on Ms Kellett's evidence to the effect that the Regional Commander was contacted.
140. As to CAS [930], the assessment here is unduly favourable to Mr Hovey. There is no excuse available for this matter not to be referred to the PSB. Mr Hovey's evidence to the effect that it was permissible to refer the matter to the PSB if the matter had not been dealt with locally should be rejected. Additionally, there are some other important matters which should be considered. First, the IB managed to deal with the matter in five days including the weekend (9 to 14 November 2016 with 12 and 13 November being the weekend). Secondly, there was significant work in preparing the report. Thirdly, Mr Tayler was not called by the Commission so there was no clarification of the accuracy as to what he was allegedly informed of concerning DCC internal management. Fourthly, there is simply no excuse as to why this matter was not reported to the PSB in circumstances where DCC management, at least on this occasion, had discharged its function in terms of reporting professional misconduct.
- (v) *Available Findings (CAS Section 6.4.1)*
141. As to CAS [935], there is no reason to think that Mr Hovey was not made aware of the material that had come through the SIU at an earlier stage by Mr Tayler, who was not called to give evidence.
- (w) *June 2017 - Complaint by Witnesses R and V about Witness M (CAS Section 6.6)*
142. As to CAS [973], it is likely that Mr Tayler was working on the matter on earlier days and 26 September 2017 just represents the last day of his work on the report.
143. As to CAS [974], again, the failure of Mr Hovey/IB to take "steps to ... conduct any investigation into these allegations ... [or] refer them to the PSB or to the CSIU" is unexplained and warrants further investigation.
144. As to CAS [975], there are numerous failures in relation to the handling of allegations about Astill assaulting Witness M, not least of which was Mr Greaves' failure to make enquiries of Mr Hovey as to what was happening in circumstances where the IB and PSB were meant to be working together.
145. As to CAS [976], this is a correct statement of the evidence but again represents multiple failures on the part of Mr Hovey and Ms Martin as follows:
- (a) Ms Martin permitting Mr Paddison and, as it turned out, Mr Holman, to have some involvement in the gathering of information, a task for which he had no qualifications and no experience: T1549.27-1550.14;



- (b) Mr Hovey permitting this to occur;
- (c) it being considered appropriate that the matter would not make it to the PSC at that stage but not even recognising the fact that it had not made it to the PSB;
- (d) the failure of Mr Hovey to follow up either of Mr Greaves or Mr Robinson as to what was going on;
- (e) Mr Hovey's awareness of this email in circumstances where he had actually closed the matter off already on 27 September 2017, which was information he did not share with any of Mr Robinson, Mr Shearer or Assistant Commissioner Koulouris;⁹⁶
- (f) the PSB opening a file and then closing it;⁹⁷
- (g) Ms Martin failing to take steps to relocate Astill to another gaol; and
- (h) no one within PSB or IB following up the matter or making enquiries as to why Astill remained at DCC.

The events surrounding Witness M are an example where management at DCC, to a fair extent, attempted to resolve the issue correctly and the IB and PSB failed at every level for reasons which are incomprehensible and have not been properly explained to the Commission.

(x) *Available findings (CAS Section 6.6.1)*

146. As to CAS [979], the submission is accepted save for that there is reason for stating that Ms Martin liaising with Mr Hovey was not accurate and it is more likely that there was such a discussion.⁹⁸ Mr Hovey saw this email and did not send an email seeking to correct anything in the email exchanges between Mr Greaves and Mr Robinson, to which at least some emails were sent to Assistant Commissioner Koulouris. The steps taken by Mr Hovey to close this matter off without referring it to the PSB were inexplicable and warrants further investigation.

(y) *Second half of 2017 - Disclosures to Deborah Wilson by Witness B and V (CAS Section 6.7)*

147. As to CAS [980]-[992], contrary to the suggestion made by Mr Hovey as to the lack of resources being a significant problem, the fact remains that Ms Casey was able to deal with Ms Wilson promptly in relation to her emails (16 August 2018 versus 17 August 2018). There is no basis for finding that Ms Casey was a roadblock to any of this work being done. The stronger inference is that Mr Hovey was blocking matters from getting to the PSB.

(z) *Available findings (CAS Section 6.7.1)*

148. As to CAS [993], again, much of the blame must lie with Mr Hovey and his failures in this regard were inexplicable and warrant further investigation.

(aa) *April/May 2018 - Meeting with Elizabeth Cox, Ms Martin and Mr Giles (CAS Section 6.11)*

149. As to CAS [1054], in relation to Mr Hovey's evidence that no action was taken in relation IR-18-1378, this is the fourth instance where serious allegations concerning Astill were not reported to the PSB, nor for consideration by the PSC, completely contrary to policy, practice and protocol.

⁹⁶ Ex 3, TB3, Vol 14, Tabs 452, CSNSW.0001.0032.0130.

⁹⁷ Ex 3, TB3, Vol 14, Tabs 452-453, CSNSW.0001.0032.0130 and CSNSW.0001.0032.0132.

⁹⁸ Ex 3, TB3, Vol 14, Tab 452, CSNSW.0001.0032.0130_0001.



- (bb) *Complaint about Ms Dolly (CAS Section 6.13)*
150. As to CAS [1071], it is of interest that the PSB never received an Intelligence Report via the IB concerning the conduct of Astill but when Astill complained about a fellow officer, Ms Dolly, it made its way to the PSB and the PSC: T1148.1-16; T2409.1-19.
- (cc) *Late 2018 - Sarah Ward's disclosures about Astill (CAS Section 6.15)*
151. As to CAS [1083], in our view, there would need to be a good reason not to accept the evidence of Ms Berry.
- (dd) *Available findings (CAS Section 6.15.1)*
152. As to CAS [1088], Ms Berry was an impressive witness who was highly proactive in taking steps in relation to the reporting of Astill's conduct (at least three of her Intelligence Reports have been found and she claims the existence of a fourth Intelligence Report): T1309.31-1310.15. In the circumstances, the implied finding of a failure to report Astill's alleged assault of Ms Ward should not be made. It appears that there is a typographical error in 1088(c) because the second reference to Ms Berry should probably be a reference to Ms Barry such that the inconsistency claim does not exist.
153. As to CAS [1089], to the extent that there is a failure by Ms Berry in failing to report Ms Ward's disclosure of her alleged assault by Astill, there is no possibility of suggesting that there was an intentional design to protect Astill at the expense of Ms Ward. In any event, she reported it to Ms Barry.
- (ee) *Credit findings - Shari Martin and Westley Giles (CAS Section 6.17)*
154. As to CAS [1104], it is agreed that Ms Martin was an unreliable witness and to the extent of any inconsistency with the evidence "*of other witnesses, Ms Martin's evidence should generally be rejected*". However, this should not obscure a much more significant failure on her part, which was to take steps to manage Astill's conduct to reduce the risk of harm by, for example, taking steps to have him removed from the DCC.
- (ff) *Westley Giles (CAS Section 6.17.2)*
155. As to CAS [1130]-[1131], a finding that Mr Giles was an unreliable witness is a difficult finding to make because of the vastly different evidence given by inmates on the one hand and officers on the other, including officers who generally gave credible evidence.
- (gg) *Witness P's allegations about Astill and Witness C (CAS Section 7.5)*
156. As to CAS [1173], in circumstances where the system of reporting misconduct operated effectively at DCC to the extent that an Intelligence Report was filed, Mr Hovey's failure to act in respect of IR-16-2783, unexplained as it is, warrants further investigation.
- (hh) *June 2017 - Complaints by R and V about Witness M (CAS Section 7.7)*
157. As to CAS [1184], Ms Martin did facilitate the reporting of the matter to the IB.
158. As to CAS [1186], in circumstances where DCC did pursue a proper process for reporting misconduct and the misconduct of Astill, to a degree, the focus should be on the failure of Mr Hovey/IB to action the complaints which it did receive which was not explained to the Commission. That failure by Mr Hovey/IB warrants further investigation.
159. As to CAS [1187], there is every reason to agree that the basis of the subject matter of Intelligence Report 17-2051 was known much earlier to Mr Hovey given the email involving Lee Williams dated 24 July 2017 and her role as an investigator, plus the likelihood that Ms Martin did discuss the matter with him. Moreover, Mr Hovey's evidence was that his practice was to be kept informed of the details of Intelligence Reports when they arrived.



Mr Hovey's own Commission Statement dated October 2023 referred to the process of him being kept informed by those within his group as to what was going on. No explanation has been given as to why Mr Hovey "*failed in the discharge of his duties*" and that failure warrants further investigation.

160. As to CAS [1188], in addition, Mr Shearer should have made enquiries as to whether the relevant officer, Astill, should have retained his position at DCC.
161. As to CAS [1189], the explanation provided by Mr Shearer could have given no comfort to Mr Robinson or Mr Greaves as what was happening was completely at odds with the manner in which the system of reporting was to operate. Worse, the PSB did not communicate with Mr Hovey and closed its own file.⁹⁹
- (ii) *Events between November 2017 and January 2018 (CAS Section 7.10)*
162. As to CAS [1203], Mr Shearer's evidence in this regard, including in relation to the 2017 Email Policy, should be treated with great caution. The questions asked represented an opportunity to explain away his failure to report matters to the PSB: T2502.37-2510.11. Significantly, his evidence was to the effect that he was determining whether matters should be referred to the PSB: T2501.30-43.
163. As to CAS [1204], too great of an emphasis has been placed on the 2017 Email Policy in relation to matters involving Astill. It is difficult to comprehend how staff could have interpreted the 2017 Email Policy to mean that serious matters such as those involving Astill should not be reported to the PSB. The causal link referred to in the last sentence of CAS [1204] is simply not made out.¹⁰⁰
- (jj) *March to June 2018 - Disclosures made to Mr Clark by Ms Shieles (CAS Section 7.11)*
164. As to CAS [1210], Ms Sheiles had made it clear that she did not want the allegations of serious criminal offences disclosed to Mr Clark in April and June 2018 passed on.¹⁰¹
- (kk) *April/May 2018 - Meeting with Elizabeth Cox, Ms Martin and Mr Giles (CAS Section 7.12)*
165. As to CAS [1226], Mr Hovey's evidence of the failure to report in relation to Intelligence Report 18-1378 and pass the information onto the PSB should be treated with great caution. It is self-serving and there are other instances where he failed to do exactly the same thing, that is, report Astill to the PSB when resources were not an issue. All he was required to do was send a report to the PSB given the gravity of the allegations, without having to undertake the investigation himself within the IB or do anything else which was the process in place at the time. Mr Hovey's failure in this regard is now the fifth example where Mr Hovey failed to pass on information concerning Astill to the PSB and PSC. That failure warrants further investigation.
166. As to CAS [1227], it is important to observe that Mr Hovey's failures stretch back for more than 18 months prior to this time and those particular failures warrant further investigation.
- (ll) *Complaint about Ms Dolly (CAS Section 7.14)*
167. As to CAS [1239], Ms Martin did facilitate some matters involving Astill being referred to the IB.
- (mm) *Late 2018 - Sarah Ward's disclosures about Astill (CAS Section 7.16)*
168. As to CAS [1248], this is accepted but not in the way that it warrants any criticism of Ms Barry as the failure appears to be unintentional.

⁹⁹ Ex. 3, TB3, Vol 14, Tab 452, CSNSW.0001.0032.0130_0001-0002.

¹⁰⁰ The same applies to CAS [1372].

¹⁰¹ Ex. 3, TB1, Vol 5, Tab 6A, AST.002.013.0005_0008-0009 at [55]-[56].



F. Shari Martin

169. Ms Martin's credibility is generally questionable, and not necessarily just for the 23 reasons suggested by Counsel Assisting (CAS [1105]-[1128]).¹⁰²
170. Ms Martin claimed to be ignorant as to her capacity to relocate Astill away from DCC: T2385.7-2387.7.
171. Ms Martin permitted low standards to operate at DCC, and she engaged in the type of behaviour that constituted these low standards, which provided an opportunity for Astill to commit his crimes and reduced the prospect of the detection of those crimes.
172. Nonetheless, Ms Martin was capable, through the operation of DCC, of getting some complaints through to the CSNSW area responsible for the investigation and review of professional misconduct matters (namely, the IB). As such, while Ms Martin's credibility is poor, she at least has evidence of some limited discharge of her functions and responsibilities: T2421.24-2422.50.

G. Operation of the IB

173. By contrast to Ms Martin, Mr Hovey, in terms of Astill, cannot demonstrate any step taken by him to discharge his functions. Instead, he acted so as frustrate the role of the PSB and PSC, as well as any other element of the misconduct review process, by closing the files in relation to at least two complaints without referral. The system of dealing with professional misconduct matters did not permit Mr Hovey to terminate or "*park*" enquiries in that way and nor could he offer any explanation for why he did so. To that end, Mr Hovey should be found not to be credible. To the extent that there was some suggestion of a lack of resources operating as a justification for his decision to close off matters without referral to the PSB, or otherwise act upon matters, the evidence is against that as being a cause.
174. Mr Hovey's Commission Statement dated October 2023 is provided at Exhibit 32, Tender Bundle 2, Volume 8, Tab 86, AST.002.013.0054. Mr Hovey's Commission Statement does not contain any relevant admission or acceptance as to the failure on his part, as the Director of the IB, to deal adequately with what information it received concerning Astill's behaviour.
175. It was only at the end of Mr Hovey's cross-examination on Day 28 of the hearing, after he was recalled, that Mr Hovey acknowledged the following:
- (a) the IB received eight Intelligence Reports concerning Astill;¹⁰³
 - (b) none of the Intelligence Reports made it to the PSC. Therefore, other teams within the overall agency established to, and capable of, dealing with allegations of serious professional misconduct and/or criminal behaviours were unaware and unable to act on the allegations; and
 - (c) notwithstanding the employment of eight investigators within the IB (consisting of, for example, former police officers), no interviews were organised in relation to any of the matters raised in the Intelligence Reports. Consequently, no complainant was ever interviewed by the IB concerning his/her allegations. No potential witnesses were ever interviewed. Astill was not interviewed. Astill presumably did not know that matters involving him had been referred to the IB.
176. To understand the significant level of departure from CSNSW's ordinary policy, practice and procedure within the IB and the PSB, it is worth considering Mr Hovey's evidence as to what

¹⁰² CSNSW does not accept the proposed finding that Ms Martin did not confer with Mr Hovey concerning Witness M which provides a further reason for not accepting Ms Martin's evidence. This is dealt with further below.

¹⁰³ Ex. 32, TB2, Vol 8, Tab 86, Annexures 1-8, AST.003.023.0054.



the procedure was, as set out in his Commission Statement dated October 2023.¹⁰⁴ As soon as it was raised with Mr Hovey in cross-examination as to how the procedure in relation to receiving and handling reports operated, Mr Hovey was unable to properly describe the procedures that were in effect post-2019: T2004.34-2005.26. It is unclear why Mr Hovey did not consider it appropriate to identify the procedures that were in place pre-2019. His evidence in relation to the usual approach seems to suggest the following:

- (a) complaints made to intelligence officers were to be delivered to CIG or the IB through the SIU function: T2034.30-50;
- (b) the PSB was meant to be given early knowledge of the facts of the complaint;
- (c) the complaint, in a fairly basic form, was to be put on the list of matters for the attention of the PSC so that it could determine the pathway for the complaint, including whether it should be sent back to the IB or to the CSIU. The PSC, during most of the relevant time, consisted of Mr Hovey himself as well as the head of the PSB, the CSIU and other senior officers: T1871.27-37; and
- (d) as part of the consideration of the matter at the PSC level, recommendations were often made concerning the consideration of the imposition of interim measures going to the employment of the affected officer, for example, the suspension or relocation of an officer: T3303.33-3304.18.

177. Concerning Witness M, it is important to remember, as a starting point, the unanimity of evidence as to the absolute need for the matters within the Intelligence Report to be brought to the attention of the PSB. Equally, there does not appear to be any doubt that the matters, as reported, would be conveyed to the PSC, who would, in turn, relay those matters to the CSIU: T1931.1-1933.14. The form of the reports to the PSC prepared by the PSB at the time suggests a strong likelihood that, included within any recommendations, consideration would have been given to: the suspension of Astill; placing him on leave; or, his relocation to another correctional centre. If the matters set out in the Intelligence Report had been properly provided to the PSC, then the Police investigation through the CSIU in relation to Astill would have started. Such an investigation would have commenced in circumstances where Astill was either suspended and on some type of leave or operating at a different Correctional Centre and presumably in a way where he did not pose a risk to inmates.
178. There has never been a recognised procedure in which the IB was to judge the fate of the complaint, including its finalisation. Mr Hovey accepted this did not occur, notwithstanding his engagement in it: T1998.39-2002.33. It should be noted that Mr Greaves, as a Senior Manager within PSB, had never heard of such a process, particularly one that involved even the PSB being aware of the complaints: T2124.10-50. The Commission would reasonably accept, it is submitted, for some evidence to be provided by Mr Hovey as to how such a process developed within the IB under his directorship and with whose permission. No such evidence was given by Mr Hovey nor could he point to anyone in the PSC who was aware of this process. He did not suggest that any of the Assistant Commissioners, with whom he had a fairly direct line of communication, were aware of this process or conferred upon him an entitlement to close matters off.
179. It is submitted that it is likely that Mr Hovey knows more than he has been willing to disclose to the Commission on this issue. This approach had disastrous consequences, to the extent that officers within DCC brought information to the attention of the IB, which of themselves looked significant and warranted Police investigation as well as the consequential interim management of Astill.
180. There are a number of possible explanations for what occurred including one or more of the following:
- (a) a lack of resources;

¹⁰⁴ Ex. 32, TB2, Vol 8, Tab 86, AST.003.023.0054.



- (b) a practice developing which, although not consistent with CSNSW's policies and procedures, was necessary for some particular reason and was approved by the PSB or other senior staff;
 - (c) laziness on the part of Mr Hovey;
 - (d) some other physical or non-physical condition which prevented Mr Hovey from fulfilling his job;
 - (e) wanton disregard for his employment; or
 - (f) covering up potential investigations.
181. Mr Hovey's failure to explain himself at the time that he prepared his Commission Statement suggests that the explanation is at the more serious end of the scale set out above. This is particularly the case given the matter was well known to him.
182. Against the efforts of Mr Hovey to keep the matter from the PSB, in circumstances which again are unclear (another poor reflection of the lack of documentation as to what was going on), the PSB did find out about some of the allegations involving Witness M, as evidenced by the email from Mr Greaves to Mr Robinson to Mr Shearer dated 11 October 2017.¹⁰⁵ The allegations in the mind of Mr Shearer were serious enough to give rise to the possibility of dealing with Astill under the *Government Sector Employment Act 2013* (NSW) (**GSE Act**).
183. However, another series of inexplicable acts ensued with respect to Witness M:
- (a) Mr Greaves does not appear to have asked whether there was an Intelligence Report in relation to the matter. Mr Greaves does not appear to have spoken to Mr Hovey or anyone else as to what the position was, why the PSB was ignorant of what had happened, and what was actually happening. Rather, Mr Greaves spoke to the Director, Mr Shearer, seeking his understanding as to what was going on: T2149.1-37. What Mr Greaves found out should have triggered him, and anyone else in the PSB, to make relevant enquiries; and
 - (b) somewhat presciently, in his email to Mr Robinson dated 13 October 2017, Mr Shearer spoke hypothetically as to whether the matter was still being investigated.¹⁰⁶ However, he did not seem to understand or appreciate the role of the PSB such that Mr Shearer did not consider it to be so sufficiently engaged or warranted as to require information from Mr Hovey as to what was happening. Mr Robinson described what he was told in his reply email as "odd". It does not appear that Mr Greaves demurred to that. Notwithstanding, his apparent failure to discuss the matter with Mr Hovey by phone or to seek a response as to what was occurring given the apparent grey nature of the allegations, Mr Greaves endorsed the approach summarised to him by Mr Shearer based on what he had found out from Ms Martin.
184. In the Commission, no one has suggested that what the PSB was doing was any more appropriate than what the IB was doing, and no one could explain why an established process was being departed from.
185. Nothing appears to have been put in place to follow up the matter by PSB. Even worse, the PSB in its own records, closed off on the matter for reasons which are completely unexplained. The process that Mr Shearer and Mr Robinson engaged in prevented Mr Hovey from being called to account as to what he was doing and, of course, this, in turn, meant that Astill could continue to offend at DCC unless anything was done locally to manage the risk that he represented.

¹⁰⁵ Ex. 3, TB3, Vol 14, Tab 452, CSNSW.0001.0032.0130_0001.

¹⁰⁶ Ex. 3, TB3, Vol 14, Tab 452, CSNSW.0001.0032.0130_0001.



186. Mr Hovey's failures need to also be looked at in the context of circumstances in which the IB received eight Intelligence Reports concerning Astill, none of which made it to PSB. None were investigated to the point where one of the eight or so investigators within the IB was assigned the task of taking a statement from Witness M or anyone else including, for example, Witness R or Witness V, or any of the officers to whom the information was disclosed.
187. Mr Hovey's excuse for this failure, concerning the lack of resources, has to be rejected in the following circumstances:
- (a) all the relevant work had been done by officers at DCC to communicate the relevant information;
 - (b) Mr Tayler, whilst his approach was flawed, had done the necessary work; and
 - (c) Mr Hovey/IB had no immediate work to do in relation to the matter beyond giving notice to the PSB of what he, on behalf of the IB, knew, whereupon the work would then have had to be done by the CSIU in all likelihood.
188. The events involving Witness M have been accurately described as catastrophic and a failure: T2153.10-16 (Greaves); T2728.23-24 (Severin).
189. It is submitted that the following findings should be made in relation to Witness M:
- (a) Witnesses R and V bravely came forward with allegations in relation to Witness M, who had been the subject of multiple attempted or perpetrated assaults, some of which were indecent;
 - (b) Mr Holman and Mr Paddison appropriately discharged their responsibilities in terms of the information concerning Witness M being ascertained from Witness R and Witness V and about which they had been notified;
 - (c) Mr Holman, through the preparation of an Intelligence Report, further discharged his responsibilities by bringing evidence of suggested intimidation on the part of Astill concerning one or more of Witness R or Witness V to the attention of an intelligence officer: T1693.27-1695.6;
 - (d) Ms Kellett prepared a comprehensive Intelligence Report capturing the relevant matters for consideration by the IB and/or PSB and submitted appropriately.¹⁰⁷ The matters contained in the report were considered to be sufficiently grave for Ms Martin to bring them to the attention of Mr Hovey in his role as Director of the IB. Mr Hovey advised Ms Martin to arrange for one of her officers, Mr Paddison, to make enquiries in relation to the matter knowing such a process to be against standard procedure and otherwise contraindicated;
 - (e) Mr Paddison made some measure of enquiries through an email to Mr Smith at Wellington Correctional Centre but those enquiries did not materially advance the matter. No one made contact with Witness M who was available to assist;
 - (f) Ms Martin and/or Mr Paddison appropriately assessed the risk to Witness M if she returned to DCC and prevented that return occurring through Ms Berry. However, the determination of the risk posed was not communicated outside DCC when it should have been;
 - (g) Mr Shearer may have had some information concerning the allegations but he:
 - (i) failed to take any steps to inform himself further as to the true nature of the allegations;

¹⁰⁷ Ex. 3, TB3, Vol 10, Tab 170, CSNSW.0001.0021.1167.



- (ii) failed to communicate those allegations to the PSB or otherwise satisfy himself that they had the relevant information;
 - (iii) failed to raise the question of Astill's immediate employment with Ms Martin;
 - (iv) failed to ascertain the identity of the impugned officer;
- (h) Mr Hovey also failed to keep himself reasonably informed as to the progress of the work of Mr Tayler in working on the Intelligence Report. Mr Hovey failed to bring the matter to the PSB's attention at all so that it could be presented as an agenda item at the next meeting of the PSC which would have, in turn, likely have resulted in the matter being referred to the CSIU and remedial action taken against Astill on an interim basis;
- (i) Mr Hovey closed the Intelligence Reports without authority to do so nor revealed the closures to PSB, even when PSB, through Mr Greaves, knew of the existence of the matter;¹⁰⁸ and
 - (j) the PSB did not manage the matter in accordance with its ordinary procedures.
190. A further investigation into why it was that Mr Hovey, as the head of the IB, in dereliction of his duty:
- (a) elected not to refer all eight Intelligence Reports concerning Astill to the PSB for its consideration;
 - (b) failed to appoint his own investigators to organise and undertake any investigation into the matter (including interviewing relevant witnesses); and
 - (c) in the instance of two matters, closed the matters off when not authorised to do so and without the permission of the PSB or any senior managers within CSNSW to whom he reported.

It is submitted that Mr Hovey should be referred for further investigation to an appropriate agency.

191. The Commission would have benefited from hearing from former Assistant Commissioner Koulouris, Assistant Commissioner Scassera and Peter Robinson, all of whom held senior positions within the PSB, and were certainly more senior than Mr Greaves. It is curious that these witnesses were not called and no explanation has been afforded as to why they were not called.
192. It is submitted that failing to hear from these witnesses has led to a number of inconsistencies and incorrect evidence being put before the Commission in relation to the operations of the IB, PSB and PSC. It is also for this reason that the evidence of Mr Greaves and Mr Hovey should be taken cautiously on matters relating to the functions of the IB, PSB and PSC. These submissions seek to clarify what a properly working system for the handling of allegations of misconduct looked like and how that system failed in the case of Astill.

H. The 12 September 2017 Email Policy

193. Much has been said about the 12 September 2017 Email Policy as encapsulated in the email of the same date.¹⁰⁹ The emphasis on this topic by Counsel Assisting is unwarranted for the following reasons.

¹⁰⁸ Ex. 32, TB2, Vol 8, Tab 86, AST.003.023.0054 at [7], [64]-[65]; Ex. 3, TB3, Vol 10, Tab 169 CSNSW.0001.0021.1153.

¹⁰⁹ Ex. 25, TB2, Vol 8, Tab 84, AST.002.013.0055_0034.



194. As to CAS [715], Mr Shearer's understanding of the 12 September 2017 Email Policy and what practical effect it had was not explored beyond Astill. There is no evidence from him that there were notifications from DCC, or other facilities within his area, where he was making decisions as to whether matters should go to the PSB or not. In answer to a very leading question, Mr Shearer suggested with some reluctance that there was some connection between his failures to report what he knew about Astill to the PSB and the 12 September 2017 Email Policy (independent, of course, of his own powers to redeploy Astill or otherwise his involvement with female inmates): T2553.21-27. It is submitted that the connection is not made out.
195. As to CAS [716], the practical effect of the 12 September 2017 Email Policy has simply not been explored in the evidence outside Astill.
196. As to CAS [717], the evidence of Mr Hovey in relation to this matter should be treated with the highest caution and the so-called "*change in process*" had no bearing on him nor represents any excuse for his failings.
197. As to CAS [718], like Mr Hovey, and to a lesser extent Mr Shearer, caution should be exercised in relation to the so-called "*change in process*" as representing some excuse for their failings. In Mr Greaves' case, he allowed Mr Hovey and the IB to keep a serious matter in its possession (Witness M) without any PSB oversight, in circumstances where Mr Greaves appeared to be concerned about it and his superior, Mr Robinson, thought it was "*odd*".¹¹⁰
198. Moreover, there is no actual evidence as to how this change in process impacted upon the work of the PSB.
199. As to CAS [722], again, this issue is overstated by Counsel Assisting in the circumstances of this Commission. There is simply no evidence that any so-called change in process had any bearing upon the manner in which the egregious matters involving Astill were addressed. Mr Corcoran's plan to have his management more attuned with what was going on within their respective areas, as to misconduct, was reasonable. It is otherwise accepted, though, that the change in process should have been better documented and disseminated.
200. As to CAS [723], this submission operates at the theoretical level, absent any evidence as to the practical impact of the change. There is no evidence of any decision made by any person to halt an enquiry into an allegation of misconduct on the part of an officer as a consequence of this change in process, that is, to not bring it to the attention of the PSB. One can accept that the change in process may have created problems but there is no evidence of such problems being created in respect of Astill. The real problems here were the creation of a system whereby the IB was reviewing and closing matters on its own completely in defiance of the established process and that, once aware of at least part of that process, the PSB waived it through without any follow up.¹¹¹
201. As to CAS [724], again, this does not arise beyond the theoretical and the issue is a distraction away from the real problems evident within IB and PSB which the Commission is required to address.
202. Finally, any lack of clear policy about to whom allegations of serious misconduct should be reported was no excuse for people like Mr Shearer properly identifying allegations of serious misconduct and reporting them to the PSB. There is no suggestion by any witness that the allegations relating to Astill should have been reported to the PSB.

I. Suspensions of Neil Holman and Michael Paddison

203. Counsel Assisting introduces the question of the suspensions of Mr Holman and Mr Paddison commencing at CAS [1251].

¹¹⁰ Ex. 3, TB3, Vol 14, Tab 452, CSNSW.0001.0032.0130_0001.

¹¹¹ TB 3, Vol 14, Tab 453, CSNSW.0001.0032.0132; TB3, Vol 14, Tab 454, CSNSW.0001.0032.0134.



204. The following preliminary observations are made:
- (a) the work done by the officers of the PSI, up to and including Deputy Commissioner Dr Anne-Marie Martin, in relation to the positions of Mr Holman and Mr Paddison was exemplary;
 - (b) any implied or expressed criticism of either Ms Zekanovic or Ms Snell in relation to their actions or evidence is unwarranted and unnecessary;
 - (c) CAS on suspension fail to recognise the power of the Commissioner pursuant to s 232 of the *CAS Act*;
 - (d) the only question that arises from the suspension is whether the letters to Mr Holman and Mr Paddison properly captured the entirety of the reasons for the suspension. Plainly, they did not;
 - (e) the suspension took place in particularly difficult circumstances for all involved, including Ms Barry, Ms Berry and Ms Dolly;
 - (f) the sequence in which the evidence was heard was such that the Commission did not have the benefit of the evidence from Ms Snell before it heard evidence from Mr Corcoran in relation to this matter;
 - (g) what is said about accepted or proper practice (at CAS [1334]) ignores the unchallenged evidence of Ms Zekanovic, Ms Snell and Mr Corcoran that the matter of suspension had moved beyond the PSI and/or PSC;
 - (h) Ms Snell had a text message that showed that her request to Ms Zekanovic was to pull together the information related to Mr Holman and Mr Paddison. This is what eventuated in the Briefing Note to the Commissioner, as he was a new decision-maker who had not reviewed information previously prepared in relation to a number of staff, to enable him to make a decision based on information he had gathered at the meeting on 19 September 2023. Ms Zekanovic stated, in her evidence, that she "*can't exactly remember the conversation*" she had when passing on the information to the author of the Briefing Note: T2921.28;
 - (i) there was also evidence of preventative action being taken in relation to potential retributive action which had been discussed between Commission staff and CSNSW staff and eventually resulted in a Commissioner's Instruction to staff at DCC: T851.12-30, T3246.9-16. Accordingly, what is said about rejecting Ms Snell's evidence (at CAS [1327(a), (b), (c) and (d)]) should be withdrawn;
 - (j) what is said (at CAS [1335]) ignores the power of the Commissioner which was utilised in this case, including its nature and content. Further, s 232(a) and (a1) of the *CAS Act* provides that the Commissioner has the care, direction, control and management of all correctional centres and all offenders held in custody. This duty empowers the Commissioner to take a range of steps to protect the safety and wellbeing of inmates;
 - (k) what is described (at CAS [1341]-[1342]) again simply ignores the unchallenged evidence of Ms Zekanovic, Mr Corcoran and Ms Snell as to the relevant power being exercised here which did not involve any function on the part of the PSI or PSC; and
 - (l) the findings proposed by Counsel Assisting themselves would justify the suspension in respect of Mr Paddison.



(a) *Response to Initial Allegations*

205. The statement at CAS [1252] concerning the pause in the investigation pending the determination of guilt is imprecise. If it is the case that CSNSW did not undertake significant investigative steps until the end of the sentencing procedure, that was entirely reasonable. For example, it only obtained access to the Brief of Evidence in April 2023.¹¹²
206. What is said at CAS [1253] again reflects appropriate conduct on the part of Ms Zekanovic in referring the matter to the CSIU. That nothing appears to have happened until 13 April 2023 (CAS [1254]), if that is the case, again it is entirely appropriate in circumstances where the CSIU were presumably undertaking investigations and, in any event, the sentencing decision had only been handed down on 31 March 2023.
207. The actions referred to at CAS [1255] were perfectly appropriate.
208. What is said at CAS [1256] seems to suggest that nothing happened until Ms Todoroki's email. The implication in the second sentence of CAS [1256] is wrong. The evidence summarised at CAS [1257] reflects an appropriate approach taken by CSNSW.
209. The evidence captured at CAS [1258] and [1259] represents an appropriate response.
210. Ms Connolly's email captured at CAS [1260] refers to appropriately obtained and forwarded information. It is accepted that Ms Connolly was not specifically empowered to make the recommendation captured at CAS [1261] but that is of no consequence. On the other hand, what it does reflect is positive steps being taken by employees of CSNSW to advance very serious matters which was plainly what was occurring.

(b) *First Submission dated 21 June 2023*

211. The first submission dated 21 June 2023, in relation to the suspension of Mr Giles, Mr Paddison and Mr Holman from duty with pay, is a well-considered document passing on information relevant to the decisionmakers.¹¹³
212. Further, we submit as follows:
- (a) what is captured at CAS [1266] shows the robustness of the system in that the decision-makers reach their own conclusions concerning the recommendations. What appears at CAS [1266] demonstrates the seriousness with which these matters were being addressed but also that it had moved beyond the PSI/PSC process to Assistant Commissioner level (this was Mr Thorpe). The reason for not making the suspensions at CAS [1267] is reasonable;
 - (b) what is captured at CAS [1268] is reasonable and again reflective of a thorough considered approach being taken by CSNSW;
 - (c) what appears at CAS [1269] is of no moment or consequence;
 - (d) what appears at CAS [1270] reveals a very diligent process on the part of the PSI in obtaining and reviewing the brief of evidence concerning Astill and teasing out from it the key matters;
 - (e) what appears at CAS [1271] reveals again the very thorough and considered approach being taken by CSNSW, including bringing into account another agency, ICAC, for its views;

¹¹² Ex. 55, TB5, Vol 28, Tab 12, CSNSW.0001.0263.1558_0004 at [14].

¹¹³ Ex. 48, Tab 3, CSNSW.0001.0024.0007.



- (f) what appears at CAS [1272] again exemplifies the careful approach being taken by CSNSW in relation to these matters and that there was an ongoing investigation; and
- (g) the information at CAS [1273] is obviously of critical importance and sufficient to justify a change of decision concerning Mr Giles which Counsel Assisting does not criticise.

(c) *Second Submission dated 31 July 2023*

- 213. In relation to what is referred to as the second submission, with respect to additional information obtained from further investigations, and the identification of a number of "risks", the document dated 31 July 2023 is another thorough and careful document prepared by Ms Zekanovic and her PSI Team.¹¹⁴
- 214. The statement, at CAS [1276] about what was normal process and "highly irregular" is misguided particularly in the context of a process whereby senior management within CSNSW was directing the process. The use of the words "highly irregular" is unfortunate. The right word is "exceptional" because this was an exceptional case. What appears in the last sentence of CAS [1276] is the key to what was occurring. Counsel Assisting has failed to adequately understand where within CSNSW that this matter was being dealt with by CSNSW constantly viewing the matter from the perspective of the PSI and/or PSC.
- 215. The paragraphs dealing with the suspension of Mr Giles (CAS [1277]-[1284]) can be noted. No one has suggested that that should not have occurred.
- 216. The account given concerning the meeting with DCC on 19 September 2023 leaves out a couple of critical facts. The Commission had been announced and was to start shortly, and witness statements were being taken from officers.
- 217. What has been completely overlooked in the account of this matter is that CSNSW was dealing with workers who had been injured as a consequence of Astill's actions and management failures in relation to dealing with those actions: T2916.42-T2917.11.
- 218. There was a union meeting and it would be naïve to think that the atmosphere was anything but febrile. There is obviously a tension between what is captured at CAS [1290] and [1291]. The expression "suspension paper" is ambiguous. What Ms Zekanovic understood her instructions to be was clear and what Mr Skopelja did, on short notice, was perfectly reasonable and professional (see CAS [1291] and [1292]).

(d) *Third Submission dated 20 September 2023*

- 219. In relation to what is referred to as the third submission dated 20 September 2023, with respect to Mr Corcoran attending DCC, is another sound document which accurately captures the state of affairs.¹¹⁵
- 220. Mr Corcoran's evidence was plainly uncertain concerning the events of 20 September 2023 and the signing of the documents.
- 221. What appears at CAS [1301] does not take into account that this was a decision that the Commissioner of CSNSW was empowered to make pursuant to s 232 of the CAS Act and that this section does not outline any prescribed practice or procedure that needs to be followed when exercising this power.

¹¹⁴ Ex. 48, Tab 6, CSNSW.0001.0049.1795.

¹¹⁵ Ex. 48, Tab 11, AST.002.013.0072_0001.



222. That a recommendation had been made by Ms Zekanovic not to suspend Mr Paddison and Mr Holman as at 31 July 2023 is of no moment or consequence given the power enjoyed by the Commissioner.
223. What Ms Zekanovic was aware of is of no moment or consequence: CAS [1303]. What Ms Snell was aware of is of no moment or consequence: CAS [1304]. What Mr Corcoran was or was not aware of in terms of the 31 July 2023 submission is of no moment or consequence: CAS [1305].
224. That Mr Corcoran received information from individual officers or officers in pairs is significant: CAS [1306]. It is evident that Ms Snell could not have taken notes at the meetings which she did not attend but what notes she did take of the meetings she did attend indicated a view amongst officers.

J. Officers Glenn Clark, Judith Barry and Renee Berry

225. There are correctional officers who continue to feel the traumatic effects of Astill's offending. This may include Mr Clark, Ms Berry and Ms Barry. All three officers were either witnesses to inappropriate behaviour by Astill or the recipients of allegations against Astill. All three found themselves in a difficult situation as they navigated the system to bring Astill to account. The system let these officers down in the same way that the victims of Astill's offending were let down when they ought to have been supported and protected. Yet, Counsel Assisting has proposed adverse findings in respect of each of these officers in relation to their obligations under the *CAS Regulation* and CSNSW policies. It is submitted that the proposed findings are unjust and uncalled for. The findings are also unnecessary and only add to the trauma and injustice these officers continue to feel. They each thought that they did their best at the time and any findings in respect of them, should take account of this.
226. The specific reasons why the proposed findings should not be made are as follows.
- (a) *Glenn Clark*
227. It is submitted at CAS [1211] that the Commission should find that Mr Clark breached clause 253(1) of *CAS Regulation* by failing to report Ms Sheiles' allegations to a more senior officer within a reasonable period. Counsel Assisting also consider that the Commission should find that Mr Clark breached what he understood the policy was at DCC which required him to report complaints to a more senior officer: CAS [1212]. These findings are urged despite Counsel Assisting acknowledging that Mr Clark found himself in a very difficult situation: CAS [1213]. As observed by Counsel Assisting, it was clear that Mr Clark was badly affected by the disclosures made by Ms Sheiles and Astill's sexual offending against her: CAS at [1042]. It is also noted that the evidence given by him voluntarily (to his credit) about the timing of the disclosures was contrary to his own interests: CAS at [1042]. His evidence was thoroughly honest, helpful and credible.
228. It is submitted that these proposed findings in respect of Mr Clark should not be made. This is because it would be unfair to Mr Clark to have adverse findings against him in circumstances where he was of the belief that he needed a statement in writing from Ms Sheiles in support of the very serious criminal allegations against Astill, for both his and the inmate's safety: T749.7-750. Mr Clark did not have trust in the management at DCC: T.767.11-22. Unfortunately, he did not have knowledge of the SIU function to make a report external to DCC: T756-747; 767. It was Mr Clark's gentle yet persistent urgings of Ms Sheiles that finally gave her the confidence to speak out and set in motion the removal of Astill and, ultimately, Astill's conviction. It was also Mr Virgo's presence at DCC as the Intelligence Officer that gave Mr Clark someone in whom he could confide in, trust and seek guidance from: T778.
229. It is trite to suggest that, in an ideal world, Mr Clark would have reported earlier. He has given his legitimate reasons why he did not report earlier. It is submitted that the questioning by Counsel Assisting of Mr Clark with respect to this topic did not proceed with criticism of him in mind. It was never suggested to him in terms that he should have reported earlier; that he failed to report earlier; nor that he breached clause 235(1) of *CAS Regulation* or CSNSW



policies. Rather, all the reasons why he felt he could not report were put to him, including the suggestion that he found himself in a position where he was trying to work out for himself how to manage what to do: T766-768.

230. For these reasons, the proposed adverse findings in respect of Mr Clark ought not be made.
- (b) *Judith Barry and Renee Berry*
231. Adverse findings against Ms Berry and Ms Barry are proposed by Counsel Assisting in relation to certain disclosures made by Ms Ward. Ms Ward said she first disclosed Astill's inappropriate conduct towards her to Ms Berry, allegedly telling her that he had been grabbing her backside. Ms Berry did not recall this incident: CAS at [1083]. She recalled an occasion where Ms Ward complained about the attention she was receiving from Astill: T1270.35-1275.5. There is no evidence to suggest that the two incidents were one and the same. To the contrary, Ms Berry was an impressive witness. She was a prolific writer of incident reports, SIU reports and contemporaneous notes.¹¹⁶ There is no reason for the Commission to think she is mistaken or wrong in her memory. It is also the reason it is submitted elsewhere in these Submissions that Ms Berry's account of the Ring Incident ought to be preferred to Witness C's account.¹¹⁷ Ms Ward was also an impressive witness. Her memory around the Ring Incident however may not be as acute. It is submitted that an allegation that Astill was grabbing her backside would have been something Ms Berry, consistent with her other actions, would have reported, or as she put it "*pounced on*": CAS at [1083]. It may be that Ms Ward was conflating what she later said to Ms Barry about Astill grabbing her backside and Ms Berry hearing about this from Ms Barry: CAS at [1084]. One can easily see how Ms Ward may have conflated the two matters in her head. The similarity of the surname with these two officers has also not assisted matters.
232. At CAS [1246], Counsel Assisting submit that, upon receipt of Ms Ward's initial disclosure of an alleged assault by Astill to Ms Berry, she became aware of alleged conduct that constituted a criminal offence or other misconduct within clause 253(1)(a) of *CAS Regulation* and became bound to report the conduct to an officer more senior in rank. Ms Berry failed to make such a report and, in so doing, she breached clause 253(1) of *CAS Regulation*. The evidence does not support this proposed finding. Without any criticism of Ms Ward, it is submitted that Ms Berry's memory ought to be preferred and a finding made that this incident did not occur in the terms recounted by Ms Ward.
233. At CAS [1247], it is further submitted by Counsel Assisting that, upon receipt of the allegations by Ms Ward to Ms Barry (which was reported to Ms Berry a short time later in Ms Ward's presence), both Ms Barry and Ms Berry became aware of alleged conduct that constituted a criminal offence or other misconduct within clause 253(1)(a) of *CAS Regulation*. Both thereby became bound to report the conduct to an officer more senior in rank. However, for Ms Berry, because the allegation was relayed to her by Ms Barry in Ms Ward's presence, clause 253(3)(c) disapplied clause 253(1) of *CAS Regulation* and, accordingly, Ms Berry was not bound to do anything more than she did. In respect of Ms Barry, however, Counsel Assisting press a finding that she breached the *CAS Regulation* and failed to comply with her understanding of the policy for reporting misconduct, by failing to report the allegations to a more senior officer.
234. Ms Barry did not know why she did not report the matter. She told the Commission she was barely coping herself and this is where she feels she "*let the girls down*". She did not seek to make excuses: T1212.

¹¹⁶ Ex. 3, TB3, Vol 10, Tab 174, CSNSW.0001.0022.0023; TB3, Vol 10, Tab 175, CSNSW.0001.0022.0025; TB3, Vol 17, Tab 528; TB3, Vol 17, Tab 529; TB3, Vol 17, Tab 530 CSNSW.0002.0029.1920; TB3, Vol 17, Tab 557, CSNSW.0002.0026.4626; TB3, Vol 17, Tab 571, CSNSW.0002.0029.1175; Ex. 18, TB2, Vol 7, Tab 48, AST.002.002.0055; TB2, Vol 7, Tab 48, Annexure A-N; TB2, Vol 7, Tab 49, AST.002.002.0056; TB2, Vol 7, Tab 49A, AST.002.002.0013.

¹¹⁷ Ex. 13, TB2, Vol 7, Tab 48, AST.002.002.0055, [21]; Ex. 13, TB2, Vol 7, Tab 49A, AST.002.002.0013, [92], [98], [100], [103], [111].



235. Ms Barry plainly feels guilt and remorse that she did not report the incident. In the circumstances, it is submitted that there is disproportionate emphasis placed on this failing by Ms Barry. Again, whilst in hindsight it can easily be said that she ought to have reported the incident immediately, it is unfair, unnecessary and of little forensic value to cast aspersions on this Ms Barry.
236. Ms Barry and Ms Berry have been very vocal with the Commissioner of CSNSW with respect to the handling of Astill by management. To now make adverse findings against them in circumstances where they have been instrumental in disclosing what they saw wrong with the system, would run contrary to the overall objectives of the Commission and its recommendations, that is, to encourage a culture of reporting without fear of retribution.

K. Other Investigations

237. The survey of other acts of misconduct, and their effective investigation by CSNSW (see CAS [1514]-[1553]), shows how the system has worked in the past and more recently. This just makes the failures of the IB and the PSB, to a lesser extent, concerning Astill more puzzling. It is submitted that those failures, including the actions of Mr Hovey, should be further investigated by an appropriate agency.

L. Referrals

238. CSNSW makes no submissions concerning the recommended referrals.

M. Recommendations generally

239. The failures of the IB (and the PSB to a lesser extent) should be referred for further investigation to an appropriate agency.
240. Otherwise, please see the Table of CSNSW responses to Proposed Recommendations from CAS in Annexure A below.

Dated: 20 December 2023

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Annexure A - Table of CSNSW responses to Proposed Recommendations from CAS

No.	Proposed Recommendations	CAS reference	CSNSW Response
1.	<p><i>The Special Commission should recommend that CCTV coverage at DCC be brought up to the standard set out in the Specification as an urgent priority. It should further recommend that regardless of whether it is required by the Specification, CCTV cameras should be installed at DCC in all offices where officers potentially meet alone with inmates and in corridors leading to such offices. Finally, consideration should be given to recommending that CCTV footage in all correctional centres be retained for a minimum of 90 days before being overwritten. Funding should be made available to implement these recommendations.</i></p>	<p>page 26-27 at [101]</p>	<p>CSNSW response:</p> <p>CSNSW agrees with this recommendation.</p> <p>The implementation of this recommendation is subject to sufficient funding being made available to CSNSW.</p> <p>Additional information</p> <p>CSNSW has undertaken immediate work to install additional CCTV cameras in 33 locations at DCC.</p>
2.	<p><i>The Special Commission should recommend that CSNSW create a standard of required conduct in relation to persons relieving as Intelligence Officers, including a process for PSI to conduct probity checks, and documentation requirements for the probity checks required to be conducted by PSI in relation to such persons, which should include requirements for probity checks to be documented on personnel files.</i></p>	<p>page 39 at [156]</p>	<p>CSNSW response:</p> <p>CSNSW agrees with this recommendation.</p> <p>Addition information:</p> <p>CSNSW will liaise with DCJ People Branch on implementation of this recommendation.</p>
3.	<p><i>A record of any disciplinary process or outcome should be kept on an employee’s personnel file so as to be readily accessible by human resources personnel both within CSNSW and within Department of Communities and Justice (DCJ) more broadly.</i></p>	<p>page 41 at [166]</p>	<p>CSNSW response:</p> <p>CSNSW agrees in principle with this recommendation.</p> <p>All employee personnel files already include information in relation to any finding of misconduct by the employer that is, in the opinion of the employer, in the public interest to be included in accordance with clause 41(2) of the <i>Government Sector Employment (General) Rules 2014 (NSW) (GSE Rules)</i>.</p>



No.	Proposed Recommendations	CAS reference	CSNSW Response
			<p>Clause 41(2) of the <i>GSE Rules</i> relevantly states:</p> <p><i>"Any personnel file kept by the employer on such an employee is to include information about any finding of misconduct by the employee that is, in the opinion of the employer, in the public interest to be included. In forming that opinion, the employer is to have regard to the nature and seriousness of the misconduct and the need to minimize any unnecessary or prejudicial information being kept on a person's file."</i></p> <p>Any record of disciplinary process that has not yet resulted in a finding or the finding is not substantiated will be recorded on the Professional Standards and Investigations database which will be supported by an information sharing agreement with DCJ People – Human Resources.</p>
<p>4.</p>	<p><i>The Commission should recommend that s. 236Q of the CAS Act be amended so that there is no longer a need to prove both the conduct/relationship and the existence of risk of the kind referred to in s. 236Q(1)(a) or a compromise to the proper administration of a sentence or community-based order to establish the offence.</i></p>	<p>page 63 at [249]</p>	<p>CSNSW response:</p> <p>CSNSW agrees to consider this recommendation, however, further advice and consideration will be undertaken to assess unintended outcomes. Consultation will also be required with other parties including NSW Police.</p> <p>Additional information:</p> <p>The following background information was provided as to the genesis of the <i>CAS Act</i>.</p> <p>CSNSW notes that the below information will assist in providing context and potentially remove the need to change the current provisions of <i>CAS Act</i>.</p> <ul style="list-style-type: none"> (a) in late July 2018, significant community concerns were expressed about sexual and other inappropriate relationships between CSNSW employees and offenders at several correctional centres; (b) it was noted that misconduct in the form of inappropriate relationships between officers and offenders had the potential to compromise the safety, security, good order or discipline of correctional facilities and result in the improper administration of sentences. Employees who



No.	Proposed Recommendations	CAS reference	CSNSW Response
			<p>engaged in sexual or intimate relationships with offenders are vulnerable to blackmail by offenders and their associates, or become compromised by an attachment to the offender to engage in criminal or corrupt conduct. Employee misconduct can also cause significant distress to victims of offenders and undermine public confidence in the administration of justice;</p> <p>(c) a two-limb test was introduced to link the inappropriate relationship to the possible detrimental consequences for the administration of justice. Without a two-limb test, this offence would in effect criminalise an intimate relationship with no further dependencies, which could set an unjust precedent in legislation;</p> <p>(d) importantly, the offence applies to all CSNSW staff members, including community corrections officers, psychologists, and offender services and programs staff. It also applies to all employees of private prison operators who hold an authority under section 240 of the CAS Act to perform duties at a correctional centre. It does not apply to Justice Health staff, prison chaplains or official visitors;</p> <p>(e) it was noted that there is an alternative common law offence of misconduct in public office which can be used to deal with serious cases of misconduct by CSNSW employees. This offence provides that it is an offence for a public official, in the course of or connected to his or her public office, to wilfully misconduct himself or herself by act or omission without reasonable excuse or justification, where such misconduct is serious and meriting criminal punishment having regard to the responsibilities of the office and the officeholder, the importance of the public objects they serve, and the nature and extent of the departure from those objects. The penalty for misconduct in public office is 'at large', meaning there is no minimum or maximum penalty. The new offence of misconduct by way of sexual or intimate relationship with an offender provides greater clarity about the penalty associated with such behaviour;</p> <p>(f) enacting a statutory offence made it clear to CSNSW employees and private prison operator employees that their consensual sexual or intimate relationships with offenders will be dealt with under the criminal law where it impacts prison operations or sentence administration, and will provide added deterrent for staff to prevent further incidents of this misconduct;</p>



No.	Proposed Recommendations	CAS reference	CSNSW Response
			<p>(g) it was noted that the second limb of the offence, which relates to creating a risk to safety, security, good order or discipline of a correctional facility, may be challenging to prove beyond a reasonable doubt in some cases. However, the alternative limb of compromising the proper administration of a custodial or community based sentence offer an additional avenue for prosecutors in the event that proving the first is problematic; and</p> <p>(h) further, in some cases proving the second limb may be relatively straightforward. Judges in the UK have noted that, amongst other things, misconduct by prison officers can expose the prison officer to blackmail by prisoners. Depending on the nature of an employee's duties, such exposure alone may be sufficient to establish that a risk to the safety, security, good order or discipline of a correctional facility was created.</p>
<p>5.</p>	<p><i>The Special Commission should recommend that in urban areas, officers in intimate relationships with each other should not be permitted to work in the same correctional centres. In rural areas, where implementation of such a rule is not practical, clear and specific instructions accompanied by training in managing conflicts of interest should be mandatory for correctional centre management and officers themselves. There should be a requirement that such training be repeated at regular intervals.</i></p>	<p>page 101 at [381]</p>	<p>CSNSW response:</p> <p>CSNSW agrees to consider this recommendation.</p> <p>Additional information:</p> <p>DCJ have an existing policy for reporting and managing conflicts of interest, including familial relationships. Familial relationships are defined in policy as being those between a spouse, sibling, parents, grandparents, grandchildren and extended family. CSNSW will work with DCJ People Branch to consider any further definition changes for intimate relationships.</p> <p>CSNSW propose that the following strategies be implemented to emphasise and manage the risk of intimate relationships within the same correctional centre:</p> <p>(a) a Commissioner's Broadcast Memo to be released to applicable CSNSW staff to recommunicate the policy and inherent importance of compliance with policy;</p> <p>(b) inclusion of the Conflicts of Interest Declaration Form in onboarding packages (for both new recruits and when moving between CSNSW locations on either a temporary or permanent basis);</p>



No.	Proposed Recommendations	CAS reference	CSNSW Response
			<p>(c) staff being made aware of their responsibilities to declare a real or perceived conflict of interest and that any failure to comply with the DCJ Conflict of Interest policy will result in management action;</p> <p>(d) development of a training package to upskill managers in effectively identifying and addressing conflicts of interest; and</p> <p>(e) review of the current arrangements for reporting and monitoring conflicts of interest within the workplace.</p> <p>CSNSW will work with the DCJ People Branch to develop a policy for Sydney metropolitan staff who are engaged in intimate relationships to achieve the intent of the recommendation, noting that there will be a requirement for special circumstances to be considered where the policy will result in unreasonable hardship for a family. Where this is demonstrated, special approval would be required at Senior Executive level (e.g. Deputy Commissioner level) and be routinely re-considered (e.g. annually).</p> <p>Further, DCJ People Branch and DCJ Legal will work collaboratively to develop a decision-making framework whereby when a conflict of interest is identified. The first option for mitigation will be relocation to a different centre. However, when this is not possible, other mitigation strategies will be implemented to mitigate the risk of the conflict of interest including, but not limited to, ensuring the officers are not in a direct reporting line, are placed on different rosters or different areas of the centre.</p>
6.	<p><i>The Special Commission should recommend that DCJ consider what legislative amendments (to the GSE Act or otherwise) would be required in order to mandate correctional officers rotating between correctional centres after a period of 7-10 years.</i></p>	<p>page 111 at [419]</p>	<p>CSNSW response:</p> <p>CSNSW agrees to consider, however, there may be alternative strategies.</p> <p>CSNSW notes that any initiative related to staff rotations for correctional centre custodial non-executive staff (being the ranks of correctional officers through to Senior Assistant Superintendents) will require thorough consideration and, where necessary, involve third party consultation with relevant stakeholders due to multifaceted industrial issues such as retention of staff, financial considerations and personal circumstances.</p> <p>Initial feedback includes concerns around a decrease in recruiting and attracting staff to roles, relocation costs that CSNSW would incur, challenges</p>



No.	Proposed Recommendations	CAS reference	CSNSW Response
			<p>in changing legislation and or award, including the liability risks for CSNSW if a staff member does not rotate within the legislated timeframe. It is our understanding that this recommendation may excite an industrial response, including a high risk of State wide union activity were the recommendation to progress.</p> <p>Additional information:</p> <p>CSNSW has a mobility framework for all correctional centre custodial executives (being the Governor and MOS). The framework requires rotation of these positions to a different correctional centre after 3 years. The process occurs annually as correctional centre custodial executives may reach their 3-year term at different points. This process allows for the consideration of the person's personal circumstances, preferences, geographical location and career pathways.</p> <p>CSNSW has identified an opportunity to review the mobility framework for all custodial staff in correctional centres. Whilst CSNSW operates in accordance with the current NSW Industrial Relations Awards related to Crown Employees and the <i>GSE Act</i>, there is always opportunity for improvement. Consideration of a change to the current framework for mobility arrangements for all custodial ranks would necessitate an extensive and robust consultation process. This framework must align with the <i>GSE Act</i>, public service conditions which are the group of Awards applicable to CSNSW and be the subject of consultation with the PSA and the DCJ People Branch. Any implementation work would be complex and would mean that the mobility of correctional officers and commissioned correctional officers would need to align to the correctional centre custodial executive mobility framework already in place.</p> <p>The Crown Employees (Correctional Officers, CSNSW NSW) Award 2007 for Kempsey, DCC, Wellington and John Morony Correctional Centres) (KDWJ Award) was previously introduced as an 'island agreement' with additional employee benefits to attract staff to work in these centres. Unlike the Awards applicable to all custodial corrections staff, the mobility framework did not apply to staff under the KDWJ Award. As of January 2023, the KDWJ Award</p>



No.	Proposed Recommendations	CAS reference	CSNSW Response
			is no longer in place and the mobility framework therefore applies to all correctional centre custodial executives employed by CSNSW.
7.	<i>The Special Commission should recommend that a stand-alone Governor for DCC should be implemented as a priority.</i>	page 130 at [480]	<p>CSNSW response:</p> <p>CSNSW agrees with this recommendation.</p>
8.	<i>The Special Commission should recommend that any training program for new recruits ensures they are made aware of the opportunity to raise concerns or complaints in relation to other CSNSW staff in a safe manner.</i>	page 131 at [484]	<p>CSNSW response:</p> <p>CSNSW agrees with this recommendation.</p> <p>Additional information:</p> <p>CSNSW has developed the New Training Model to support the ongoing professionalisation of the workforce and cultural reform within the organisation. The New Training Model will support cultural reform by providing clarity on standards expected of those working at CSNSW and ensuring that there is intermixing of custodial and non-custodial staff, in accordance with the “One Team” approach, at the earliest stages of their career at CSNSW.</p> <p>See above for further details in relation to the New Training Model.</p>
9. 10.	<i>The Special Commission should recommend that the training initiatives detailed by Ms Chappell and Ms Snell above relating to ethical standards, misconduct and trauma informed practice, be delivered to staff on an ongoing basis and not limited to induction training for new staff. The Special Commission should further recommend that such training be delivered in-person where possible and be required of all staff members, including those at senior and management levels.</i>	page 133 at [490]	<p>CSNSW response:</p> <p>CSNSW agrees with this recommendation.</p> <p>As previously mentioned, CSNSW agrees, to the extent possible and practicable, to implement face-to-face training.</p> <p>The implementation of this recommendation is subject to sufficient funding being made available to CSNSW.</p> <p>Additional information:</p> <p>CSNSW has developed the New Training Model to support the ongoing professionalisation of the workforce and cultural reform within the organisation. The New Training Model will support cultural reform by providing</p>



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			<p>clarity on standards expected of those working at CSNSW and ensuring that there is intermixing of custodial and non-custodial staff, in accordance with the "One Team" approach, at the earliest stages of their career at CSNSW.</p> <p>The New Training model involves the following stages for all new CSNSW staff, including:</p> <ul style="list-style-type: none"> (a) Induction Training: newly-developed five-day induction program to be completed by all new staff which will be developed to include topic areas in ethical standards or misconduct, trauma-informed practice in relation to complaints handling and the prevention of retributive action; (b) First Practical Placement: a first practical placement immediately following the induction program, in one business area of CSNSW (such as custodial corrections); (c) Common Foundational Training: further common foundational training, irrespective of whether they will work in custodial, services and programs, custodial case management or community corrections. The common foundational training includes end-to-end case management principles and will aim to lift the standard and consistency of engagement with offenders across all staff, with all staff contributing to the rehabilitative management of offenders. Common foundational training will take place over two weeks, in two separate blocks, each according to a "teach, practice and apply" training model where staff put their training into scenario-based practice, prior to attempting further modules; and (d) Second Practical Placement: a second practical placement during their specialized training, relevant to a specific business area of CSNSW. The second practical placement will enable further contextual and practical experience.¹¹⁸ <p>Queries arising from the placement can be addressed when staff return to the CSNSW Academy to complete their training.</p> <p>The intent of this reform is to train new recruits in a manner that better integrates them into CSNSW as "One Team" and to enhance the case</p>

¹¹⁸ Ex. 55, TB5, Vol 28, Tab 12, Annexure CS-1, CSNSW.0001.0263.1558_1566 at [39].



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			<p>management of offenders with a clear expectation that all CSNSW staff have a responsibility and role to play in supporting the reintegration of offenders back into the community. The "One Team" model also aims to overcome the early development of organisational silos.</p> <p>In addition to reforms to the training of new recruits, CSNSW has developed a number of Continuous Professional Development pathways that will form part of the New Training Model, including:</p> <p>(a) pre-promotion training that is designed to enhance and strengthen the capability and skill level of participants to the Manager of Security, Senior Assistant Superintendent and Senior Correctional Officer roles. The programs focus on leadership and management content combined with critical and strategic thinking, problem-solving and forward planning the topics covered may differ between courses for each grade but broadly include:</p> <ul style="list-style-type: none"> (i) Communication techniques/strategies as a supervisor leading a team; (ii) Demonstrating and modelling accountability; (iii) Building capabilities of (and capacity within) teams; (iv) Fostering/Supporting change; (v) Critical thinking/problem solving/reflection; (vi) Resource planning; (vii) Resilience; (viii) Managing self; and (ix) diplomas, micro-courses and pathways to further qualifications.¹¹⁹ <p>Contracts for the development and delivery of pre-promotion training for the positions of Senior Correctional Officer, Senior Assistant Superintendent, Manager of Security and Governor are currently progressing through tender negotiations. Senior Assistant Superintendent pre-promotion training is planned to commence in April 2024. Senior Correctional Officer pre-promotion training is planned to commence in June 2024.¹²⁰</p>

¹¹⁹ Ex. 55, TB5, Vol 28, Tab 12, Annexure CS-1, CSNSW.0001.0263.1558_1567 at [41].

¹²⁰ Ex. 55, TB5, Vol 28, Tab 12, Annexure CS-1, CSNSW.0001.0263.1558_1567 at [42].



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			<p>The CSNSW Academy is currently planning for Continuing Professional Development (CPD) to comprise of a points-based system with staff required to complete a certain number of CPD points per year. Wherever possible, CPD training will be accredited and enable career development opportunities.¹²¹</p> <p>In addition, unconscious bias training package has been designed to create an inclusive working environment across the CSNSW.</p> <p>Unconscious Bias is delivered online via the LMS (Thrive) and addresses the attitude, preference and pre-judgements that automatically influence our assessments and responses to others without us knowing. Unconscious Bias in the form of stereotypes, first impressions and assumptions can impact the success of a rehabilitative prison culture.</p> <p>Unconscious Bias teaches staff to be aware of and increase their knowledge of unconscious bias and helps staff understand how to identify and manage unconscious behaviour and decision making. As at 11 October 2023, 2876 staff have completed the training. Due the value that this training will have in improving working environments Delivery Performance and Culture directorate are in the process of making it mandatory.</p>
<p>11. 13.</p>	<p><i>Consideration should be given to recommending that the strategy and policy initiatives specific to female inmates the subject of Ms Snell’s evidence be put in place. These should include, as one aspect of a Women’s Strategy, the development of a sexual misconduct policy and associated training for CSNSW staff.</i></p>	<p>page 134 at [494]</p>	<p>CSNSW response:</p> <p>CSNSW agrees with this recommendation.</p> <p>Additional information:</p> <p>In relation to the Sexual Misconduct Policy, the updated DCJ Bullying and Harassment Policy was revised to specifically address the Public Service Commissioner Direction No.1 of 2023 which requires CSNSW to implement a workplace sexual harassment prevention policy by 1 March 2024. This policy is due to be reviewed within 6 months’ time which is where an assessment as to whether it should be a stand alone policy will occur.</p>

¹²¹ Ex. 55, TB5, Vol 28, Tab 12, Annexure CS-1, CSNSW.0001.0263.1558_1567 at [43].



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			<p>In relation to training of staff about sexual harassment, this will be developed and rolled out by March 2024.</p> <p>Regarding the Complaints Framework and the Women's Strategy, CSNSW will hold focus groups with women in custody next year to ensure that the Complaints Framework and the Women's Strategy are customer focused and supportive of their needs.</p>
12.	<p><i>Consideration should be given to recommending that CSNSW fund such an advocacy service for female inmates, and that in designing the service, it maximises its accessibility to female inmates (including in particular its accessibility to Indigenous female inmates) and ensures that its scope extends to advocacy in the making of complaints about misconduct by CSNSW staff (rather than simply external issues such as housing, care of children etc).</i></p>	page 179 at [639]	<p>CSNSW response:</p> <p>CSNSW agrees with this recommendation.</p> <p>The implementation of this recommendation is subject to sufficient funding being made available for CSNSW and an appropriate external provider being identified to deliver same.</p> <p>Additional information:</p> <p>CSNSW has begun the work to build trust, transparency and confidence in our complaints system among inmates as well as to improve the education and awareness in relation to the avenues available for making complaints. The provision of additional channels for making complaints increases the likelihood that individuals will find an avenue of complaint that they are comfortable with. Notwithstanding the existing avenues for complaints, it has become clear that some women require additional assistance navigating the system.</p> <p>In recognition of this, CSNSW is proposing to fund an advocacy service that will provide accessible, independent and effective support for women in custody. To build a trusted advocacy service, consideration is being given to providing assistance to inmates on a broad range of matters including navigating the legal system, domestic and family violence, barriers to housing, fines and debt, issues related to the care of their children, access to health care and other related services. Importantly, the advocacy service will support women who have concerns or complaints about abuse, neglect or mistreatment while in custody by providing advice on avenues available to inmates to report such matters and advocating directly on their behalf. In</p>



No.	Proposed Recommendations	CAS reference	CSNSW Response
			building and designing this advocacy service, CSNSW have commenced consultations with experienced service delivery agencies and will also engage with female inmates to ensure the model reflects their expectations and needs.
14.	<p><i>The Special Commission should recommend that, as a priority, CSNSW facilitate inmate access via tablet to the websites of statutory and external oversight bodies whose statutory functions include receiving complaints from inmates, including the Ombudsman, ICAC and the Inspector.</i></p>	page 183 at [653]	<p>CSNSW response:</p> <p>CSNSW agrees in principle with this recommendation.</p> <p>Additional information:</p> <p>CSNSW notes that this would be subject to a cyber security review to ensure there are no security issues involved with providing inmates access to this information via tablets to online websites. Access will be provided to the extent possible subject to security considerations.</p> <p>CSNSW notes that there are three correctional centres where inmates do not have tablets, if CSNSW was to implement tablets at these remaining centres, funding would be required.</p>
15.	<p><i>The Special Commission should make recommendations reflecting the Inspector’s proposals, quoted at [657] and [658] above.</i></p> <p>An extract of paragraph 657 of the Submissions is as follows (page 184-185):</p> <p><i>“...The Inspector stated that inmates’ understanding of the complaint mechanisms available to them could be achieved by implementing the following:</i></p> <p><i>a) all correctional centres should ensure that adequate information is provided during reception and induction in relation to complaint mechanisms, in accordance with the requirements of the Regulation, Inspection Standards and the COPP;</i></p>	page 185 at [659]	<p>CSNSW response:</p> <p>CSNSW agrees with this recommendation.</p> <p>In relation to paragraphs 657(a), (c) and (d) of the Submissions, CSNSW agrees with these recommendations.</p> <p>In relation to paragraphs 657(b) of the Submissions, CSNSW agrees with this recommendation to the extent it is practicable or possible noting there may be limitations on language translation availability.</p> <p>Additional information:</p> <p>CSNSW has updated inmate communications regarding avenues for making confidential complaints, and what services are available via the Common Auto Dial List (CADL) on the Offender Telephone System (OTS) (free calls). The aim of these posters is to inform and reassure inmates that there are</p>



No.	Proposed Recommendations	CAS reference	CSNSW Response
	<p><i>b) where an inmate is not fluent in English, all correctional centres should ensure that this information is provided in a language that the inmate understands;</i></p> <p><i>c) all correctional centres should ensure that this information is repeated to inmates on admission, rather than assuming it has occurred at another centre; and</i></p> <p><i>d) CSNSW should conduct regular audits to ensure that correctional centres are complying with these requirements.”</i></p>		<p>confidential ways to make reports relating to any concerns they may have, including about staff misconduct.</p> <p>To further increase the effectiveness of CSNSW's communication, CSNSW will undertake a comprehensive communications campaign across all centres to ensure all inmates, including inmates who have recently come into custody, have written information on complaints processes. To ensure this process meets the needs of inmates, focus groups will be held with them, with a view to codesigning the process.</p>
	<p><i>The Special Commission should make recommendations reflecting the Inspector's proposals, quoted at [657] and [658] above.</i></p> <p>An extract of paragraph 658 of the Submissions is as follows (page 185):</p> <p><i>In relation to the lack of privacy and confidentiality in gaol impacting upon the ability of an inmate to make a complaint, the Inspector recommended:</i></p> <p><i>a) an assessment of AVL suites be considered to ensure that noise from those suites cannot be heard in adjoining rooms or corridors;</i></p> <p><i>b) specific training be provided to staff in relation to which communications are privileged and confidential so that they cannot be intercepted or otherwise read or listened to by staff; and</i></p> <p><i>c) inmates must be provided with phone access during out-of-cell hours to enable private and confidential phone calls.</i></p>	<p>page 185 at [659]</p>	<p>CSNSW response:</p> <p>CSNSW agrees in principle with this recommendation.</p> <p>In relation to CAS [658(a) and (b)], CSNSW agrees with these recommendations.</p> <p>In relation to CAS [658(c)], CSNSW notes it agrees with this recommendation to the extent that it is practicable or possible due to the availability of prison phones and the existing infrastructure within correctional centres.</p> <p>Additional information:</p> <p>In relation to CAS [658(a)], CSNSW notes that privacy and confidentiality considerations are already being addressed in the existing AVL suites.</p> <p>In relation to CAS [658(c)], CSNSW notes that it would be difficult to fully comply with this recommendation without significant additional infrastructure and changes to the facilities.</p> <p>CSNSW notes that any changes to AVL suites or new suits installed would require substantial amount of funding.</p>



No.	Proposed Recommendations	CAS reference	CSNSW Response
16.	<p><i>The Special Commission should make recommendations reflecting the Inspector’s proposals, quoted at [661], [662] and [663] above.</i></p> <p>An extract of paragraph 661(a) of the Submissions is as follows (page 186):</p> <p><i>“To ensure that inmates believe that their complaints will be handled in an effective and independent manner, the Inspector recommended that:</i></p> <p><i>a) all correctional centres should have an auditable system which can be inspected by CSNSW, the Ombudsman and the Inspector that records internal inmate requests and complaints, including the time taken to resolve a complaint; and”</i></p>	page 188 at [664]	<p>CSNSW response:</p> <p>CSNSW agrees with this recommendation.</p> <p>Additional information:</p> <p>CSNSW notes that the inmate tablet reforms (inmate applications and request forms) solution is auditable.</p> <p>CSNSW notes, as per the comments above, that there are three correctional centres that do not have tablets.</p>
	<p><i>The Special Commission should make recommendations reflecting the Inspector’s proposals, quoted at [661], [662] and [663] above.</i></p> <p>An extract of paragraph 662(a) of the Submissions is as follows (page 187):</p> <p><i>“To reduce inmates’ fear of reprisal in making a complaint, the Inspector recommended that:</i></p> <p><i>a) as part of the information provided to inmates during the reception and induction process, inmates be informed about the processes available to them to ensure that they are not exposed to reprisals. The processes drawn to the inmates’ attention should include the ability to make complaints to external bodies not controlled by CSNSW; the ability to make complaints on a confidential basis; and the ability to raise any concerns in relation to reprisals with external bodies following the making of a complaint;”</i></p>	page 188 at [664]	<p>CSNSW response:</p> <p>CSNSW agrees with this recommendation.</p> <p>Additional information:</p> <p>CSNSW provides written information via the Inmate Handbook and Inmate Information Booklet to all inmates during the screening and orientation process. The Inmate Handbook is available as a Male Handbook or Female Handbook. These publications set out complaint mechanisms as well as available supports for inmates, in addition to a range of other information about corrections and inmates’ rights and responsibilities. This material is also available in digital form via inmate tablets.</p> <p>CSNSW plans to review this material with a focus on highlighting, in simple terms, complaint handling and confidential complaint channels. On completion of this review, the Handbooks will be translated into the major community languages.</p>



No.	Proposed Recommendations	CAS reference	CSNSW Response
	<p><i>The Special Commission should make recommendations reflecting the Inspector's proposals, quoted at [661], [662] and [663] above.</i></p> <p>An extract of paragraph 663 of the Submissions is as follows (page 187-188):</p> <p><i>"The Inspector also recommended that further training could be undertaken by all CSNSW staff, including those in executive and management positions, on the following topics:</i></p> <ul style="list-style-type: none"> <i>a) the behaviour that constitutes sexual harassment and sexual assault and identifying inappropriate and/or grooming behaviour towards inmates, such as special favours, introducing contraband, or providing access to information;</i> <i>b) obligations arising under the legislation, Code of Conduct and the duty of care staff owe to people in custody;</i> <i>c) the obligation of staff to report sexual assault and sexual harassment to Professional Standards (for new and existing staff); and</i> <i>d) responding to complaints of serious staff misconduct, including how to keep victims safe and supported, the importance of confidentiality, the serious consequences of taking reprisal action, and the actions that must be taken to manage alleged perpetrators (including natural justice and suspending staff)."</i> 	<p>page 188 at [664]</p>	<p>CSNSW response:</p> <p>CSNSW agrees with this recommendation.</p> <p>Additional information for use in Submissions:</p> <p>CSNSW has various initiatives underway that address training on sexual harassment and reporting misconduct to PSI. The following have been implemented or will be implemented in the near future:</p> <ul style="list-style-type: none"> (a) Sexual harassment training to all staff which will be rolled out by March 2024. The training will be reflective of the updated DCJ Bullying and Harassment Policy which was revised to specifically address the Public Service Commissioner Direction No 1 of 2023 to implement a workplace sexual harassment prevention policy by 1 March 2024; (b) CSNSW is in the process of developing a new training package to assist staff in how to manage and report misconduct which will be delivered over two days and cover bullying and harassment, sexual harassment, misconduct reporting and management and recording; (c) as part of Project Merge, a new prevention, education and development team will be established which will focus on education and training for all staff on misconduct; and (d) CSNSW Academy is in the process of embedding managing complaints from inmates in a trauma informed manner into various training courses including working with female offenders and respectful workplace relationships.
<p>17.</p>	<p><i>The Special Commission should recommend that all protocols, procedures and inmate communications regarding the SMRL make clear that it is distinct from CSSL and operates in a different manner.</i></p>	<p>page 178 at [634]</p>	<p>CSNSW response:</p> <p>CSNSW agrees in principle with this recommendation.</p> <p>CSNSW notes that this recommendation is already reflected in CSNSW's policies and procedures in relation to the existing SMRL. The SMRL is part of the CSSL.</p>



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			<p>Additional information:</p> <p>As mentioned in paragraph 63 of the Statement of Chantal Snell dated 20 November 2023:</p> <p style="text-align: center;"><i>“In the aftermath of Mr Astill’s offending, as an immediate step, CSNSW is in the process of establishing a confidential SMRL. This will be achieved by allocating additional resources and specialised training to staff operating the CSSL. A dedicated telephone number for the SMRL will be provided for people in custody to report sexual misconduct by staff that they have witnessed or experienced”.</i>¹²²</p> <p>All communications regarding the SMRL do not mention the CSSL. The communications identify that the SMRL is operated by CSNSW staff from a centralised team who are independent from the correctional centres, and that the call is confidential, which means it will not be shared with any people other than those who are monitoring or resolving the report.</p>
18.	<p><i>The Special Commission should recommend that CSNSW staff operating the SMRL should be required to attend training in responding to disclosures of sexual assault, and in trauma-informed practice, prior to commencing on this telephone line.</i></p>	page 178 at [635]	<p>CSNSW response:</p> <p>CSNSW agrees with this recommendation.</p> <p>Additional information:</p> <p>Staff identified to staff the SMRL are scheduled to attend the “<i>Trauma Informed Practice</i>” course delivered by CSNSW Academy, face to face.</p> <p>Appropriate training in relation to responding to disclosures of sexual assault is being sourced from external training providers.</p> <p>In addition, staff that are identified to form part of the SMRL are scheduled to attend the “<i>Culturally Appropriate Practice for Indigenous Inmates</i>” course facilitated by the CSNSW Aboriginal Strategy Division, face-to-face.</p>

¹²² Ex. 55, TB5, Vol 28, Tab 12, CSNSW.0001.0263.1558 at [63].



No.	Proposed Recommendations	CAS reference	CSNSW Response
19.	<p><i>The Special Commission should recommend that specialised, culturally appropriate support should be available to Indigenous inmates in accessing the SMRL and that CSNSW staff operating the SMRL should be trained in culturally appropriate practice for Indigenous inmates.</i></p>	<p>page 178 at [636]</p>	<p>CSNSW response:</p> <p>CSNSW agrees with this recommendation.</p> <p>Additional information:</p> <p>Staff that are identified to form part of the SMRL are scheduled to attend the “Culturally Appropriate Practice for Indigenous Inmates” course facilitated by the CSNSW Aboriginal Strategy Division, face-to-face.</p>
20.	<p><i>The Special Commission should recommend that CSNSW must ensure that access to confidential, external, specialised sexual assault trauma counsellors be provided in an ongoing manner to the victims of Astill’s offending and other female inmate victims of sexual assault by CSNSW staff via the Uralla Cottage service provider, for so long as it is required (in the view of the specialist counsellors).</i></p>	<p>page 182 at [649]</p>	<p>CSNSW response:</p> <p>CSNSW agrees with this recommendation.</p> <p>The implementation of this recommendation is subject to sufficient funding being made available to CSNSW and procurement requirements.</p> <p>Additional information:</p> <p>CSNSW notes that there are three existing Counsellors. If this service needs to be expanded, additional counselling service providers will be engaged to provide this service.</p> <p>In addition, the following supports have already been implemented for female inmates as a result of Astill's offending:</p> <p>(a) In March 2023, CSNSW implemented new victim support arrangements to assist victims and alleged victims through the disclosure process, in the reporting and making of formal complaints, and in understanding their rights and access to support services. This voluntary support service is available to victims in custody and in the community and includes contact with victims in custody and the community. CSNSW staff will facilitate assistance to support victims’ wellbeing, provide them with information and general advice, and arrange access to specialist supports and advocacy groups. CSNSW staff will also liaise with various internal stakeholders, external agencies and non-government organisations to ensure all victims have access to information related to</p>



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			<p>their rights such as the court process, redress schemes and recovery from sexual trauma;</p> <p>(b) CSNSW has also contracted with specialist trauma counsellors to provide up to 20 sessions to victims of staff sexual misconduct or non-primary victims such as trauma counselling to victims at Dillwynia and Silverwater Women’s Correctional Centre. The specialist trauma counsellors will also have the flexibility to deliver services via audio visual link to regional locations; and</p> <p>(c) Victims in custody will be prioritised and triaged by CSNSW and counselling sessions can continue into the community if a victim is released from custody.</p> <p><i>Victims Services Support Scheme</i></p> <p>The Victims Services Support Scheme is available in NSW to victims of violent crime. On 4 May 2023, CSNSW sought an exemption from the Commissioner of Victim’s Rights under section 25(5) of the <i>Victims Rights and Support Act 2013</i> (NSW) to ensure that inmates and ex-inmates affected by staff sexual misconduct can access counselling.</p> <p>Under this Scheme, approved counsellors operate in all female correctional facilities and provide up to 22 hours of free counselling.</p> <p>In addition, victims in the community can select from the approved counsellors on the Victim Services website and can also receive up to 22 hours of free counselling.</p> <p><i>NSW Health Sexual Assault Services</i></p> <p>The NSW Health Sexual Assault Services has a network of specialist Sexual Assault Services delivered by Local Health Districts throughout NSW. At present, this service is integrated into Silverwater Women’s Correctional Centre and has commenced operation in Dillwynia Correctional Centre on 12 September 2023.</p> <p>Further, victims in custody have access to limited psycho-social education between 1 to 4 sessions per individual and, or group sessions depending on</p>



No.	Proposed Recommendations	CAS reference	CSNSW Response
			<p>the site. However, this service does not offer trauma counselling to individuals in custody. The provision of services for victims in custody is determined by the Local Health District and based on a trauma informed model of care.</p> <p>In addition, victims in the community can access crisis and ongoing counselling which includes the provision of information and support, a specialised medical service which will always include general health and wellbeing assessment and treatment, if required. This service can also include the collection of evidence related to the assault for legal purposes, advocacy, court preparation, court support and court reports.</p> <p><i>Full Stop Australia</i></p> <p>Full Stop Australia is a non-government organisation that assists people with managing the impacts of sexual assault by talking to family and friends, providing information on reporting to the police and accessing medical help, and referrals to other services that can help.</p> <p>Further, victims in custody can access the NSW Sexual Violence Helpline formerly known as the '<i>Rape Crisis Line</i>'. It is available on the Common Auto Dial List at Women's Correctional Centres and is a free call for up to 10 minutes. However, trauma counselling is not offered through this service.</p> <p>In addition, victims in the community can access counselling 24 hours a day, seven days a week by telephone or online. Face to face counselling is also available at some Women's Health Centres in NSW.</p>
21.	<p><i>Consideration should be given to recommending the introduction of a legislated specific mandatory reporting requirement for CSNSW staff in relation to sexual harassment and sexual assault within correctional centres.</i></p>	<p>page 189 at [667]</p>	<p>CSNSW response:</p> <p>CSNSW agrees to consider this recommendation further however this recommendation is addressed in response to the recommendation relating to clause 253 of the <i>CAS Regulation</i> and will require consultation with various parties including advocacy groups for victims.</p>



No.	Proposed Recommendations	CAS reference	CSNSW Response
			<p>Additional information:</p> <p>CSNSW considers that this recommendation is already addressed in clause 253 of <i>CAS Regulation</i>. CSNSW is of the view that 'sexual harassment' would constitute 'misconduct' and that 'sexual assault' would constitute 'criminal conduct', both of which are matters that are caught by the mandatory reporting obligations under the current legislative framework in clause 253 of the <i>CAS Regulation</i>.</p> <p>CSNSW agrees to any recommendation to amend clause 253 (see below) to include all staff (including non-correctional officers) and the reporting requirements that will increase the scope of clause 253 of the <i>CAS Regulation</i> and cover the basis of this recommendation.</p> <p>CSNSW notes that consultation with advocacy groups will need to occur to ensure this recommendation does not hinder or impact on victims.</p>
22.	<p><i>Consideration be given to the Director, PSI reporting directly to a Deputy Commissioner and that the Deputy Commissioner report regularly to a relevant officer of DCJ. Reports should include notification of any new allegations of serious misconduct and updates as to the status of ongoing complaints.</i></p>	<p>page 190 at [671]</p>	<p>CSNSW response:</p> <p>CSNSW agrees in principle with this recommendation.</p> <p>Additional information:</p> <p>In relation to the first sentence of paragraph 671 of the CAS, CSNSW agree in principle to enhancing the Senior Executive oversight of PSI including consideration of direct reporting to a Deputy Commissioner so that there is greater transparency and an improved escalation pathway of relevant issues to the Commissioner and the Secretary DCJ .</p> <p>In relation to the second sentence of paragraph 671 of the CAS, CSNSW agrees with this recommendation. CSNSW has already implemented the following initiatives which provides transparency of serious misconduct to CSNSW and DCJ Executive:</p> <p>(a) quarterly report to the DCJ Secretary of high-profile serious misconduct. This report is sensitive but consideration of whether it</p>



No.	Proposed Recommendations	CAS reference	CSNSW Response
			<p>needs to be shared with any other relevant officers of DCJ will be undertaken; and</p> <p>(b) quarterly report to ICAC which is sent to the DCJ Secretary for approval first.</p>
23.	<p><i>Consideration should be given to CSNSW undertaking additional training regarding performance management and ensure that senior executives are trained as to the purpose of a PIP and the importance of documenting performance that is unsatisfactory.</i></p>	page 396 at [1416]	<p>CSNSW response:</p> <p>CSNSW agrees with this recommendation.</p> <p>Additional information:</p> <p>CSNSW will work with DCJ People Branch to implement this initiative. DCJ People Branch will lead the implementation of the Performance Improvement Plan training and additional training for Senior Executives on performance management. DCJ People Branch already offer training on managing under performance, however they will expand and target Senior Executives and Senior Managers such as Governors.</p>
24.	<p><i>The Special Commission should recommend that CSNSW clarify the reporting requirement for allegations of misconduct, to make clear to staff and in policy documents that reports of misconduct are required to be made to PSI and/or the NSWPF (rather than line managers) in the first instance. CSNSW and DCJ communications to staff, training materials and policy documents should be clear and consistent as to reporting requirements for correctional officers in relation to staff misconduct.</i></p>	page 220 at [784]	<p>CSNSW response:</p> <p>CSNSW agrees with this recommendation.</p> <p>CSNSW notes that it may require visibility of reports made directly to the NSW Police (if exclusively reporting to NSW Police were to be implemented). This may occur in circumstances where a report may be better dealt with by CSNSW and may not involve misconduct of a criminal nature.</p> <p>CSNSW notes that any recommendation involving the reporting requirement for allegations of misconduct to the NSW Police also involve, in parallel, a notification to PSI of the alleged misconduct.</p> <p>Additional information:</p> <p>As part of Project Merge, a new Prevention, Education and Development Team will be developed, which will support the training of frontline staff in identifying, referring and managing misconduct matters that may be referred to them. The training module is currently under development. The Prevention,</p>



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			<p>Education and Development Team will also analyse available data on a new complaints management system to identify trends in misconduct and hotspots that may require further intervention or preventative work. Further, it will facilitate a Strategic Professional Standards Committee that will meet periodically to review the findings of the data and trends analysis and agree actions to address identified issues. The Prevention, Education and Development Team will also create awareness of misconduct matters through the use of case studies, newsletters, presentations and promotional material to create a pro-integrity culture and a deterrent effect. This team will also proactively manage the resources on the intranet.</p> <p>Currently, receipt of complaints is managed by PSI. Though there are clerk grade staff who support the administration of PSI’s investigators and legal officers, there is no dedicated training, prevention, and education function. Much of this has been previously managed by the Support Unit, which now sits outside of PSI.</p> <p>In addition to Project Merge, in 2024, the Parliamentary and Executive Services Division will undertake a State-wide review of complaint mechanisms to develop a complaints framework. The framework will assist to ensure all complaint mechanisms are identified and communicated to staff and inmates, as well as provide opportunity to review the effectiveness and overall governance of each mechanism. Where gaps are identified, relevant business cases will be created identifying suitable opportunities to address these gaps and improve the overall complaint systems within CSNSW.</p>
25.	<p><i>The Special Commission should recommend that a direct form or template for reporting misconduct to PSI be made available on the front page of the CSNSW Intranet, enabling reporting directly to PSI with an option to copy the report to the Governor of the relevant correctional centre, in the case of custodial corrections staff.</i></p>	<p>page 221 at [786]</p>	<p>CSNSW response:</p> <p>CSNSW agrees with this recommendation.</p> <p>Additional information:</p> <p>A short-term solution has been identified which enables a new web-based referral form for staff to submit complaints. This will have a workflow into the interim case management system solution. Once this form has been developed it will be placed on the front page of the intranet and a communication campaign will be enacted.</p>



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			<p>A long-term PSI case management solution will be tendered for and will be customized to PSI needs and workflow. This will also replace the existing SIU function within the IIS and ensure that frontline staff can provide feedback on cases that they are locally managing. This will also enable the early identification of any patterns of behaviour. CSNSW will develop and deliver appropriate training statewide to all CSNSW staff to advertise the new capability that is available for staff to directly submit information to the PSI.</p>
26.	<p><i>CSNSW should ensure that all sections of the COPP accurately reflect the current process for reporting allegations of misconduct and any change in process resulting from the implementation of Project Merge (discussed further below).</i></p>	<p>pages 221-222 at [790]</p>	<p>CSNSW response: CSNSW agrees with this recommendation.</p>
27.	<p><i>Consideration should be given to recommending that allegations of criminal conduct by CSNSW officers be required to be referred to NSWPF commands rather than to the CSIU in the first instance.</i></p>	<p>page 223 at [798]</p>	<p>CSNSW response: CSNSW agrees to consider in consultation with NSW Police.</p> <p>Additional information:</p> <p>The response to this recommendation is heavily reliant on the position of NSW Police noting that the CSIU is itself a NSW Police Unit. There is a secondment agreement between NSW Police and CSNSW that governs the administrative arrangements (such as CSNSW funding the salaries of the Police officers in the CSIU). For administrative purposes, CSIU is part of PSI however, NSW Police State Crime Command maintains operational oversight, via the Robbery and Serious Crime Squad. The Commander of CSIU reports into the NSWPF Commander Robbery and Serious Crime Squad, State Crime Command Detective Superintendent.</p> <p>The timeframe for submissions has not enabled CSNSW to engage in any comprehensive consultation with NSW Police. A redesigned, CSIU may be an alternate approach.</p> <p>Any proposal to have matters referred to other commands of the NSW Police may have the opposite effect of having matters dealt with in a less timely and</p>



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			<p>responsive manner. The CSIU is dedicated to allegations of criminal conduct on the part of CSNSW staff and is best equipped to investigate these matters. Additionally, consultation with NSW Police would be required for any such change to be given effect by them. CSNSW has in fact experienced matters that have been referred to Local Commands who have not had the resources to prioritise these matters. In addition, CSNSW believe it is of value for PSI to be aware of the issues related to alleged criminal conduct so that it can both manage any operational risks and identify any patterns of behaviour.</p>
<p>28.</p>	<p><i>Clause 253 of the CAS Regulation should be amended to clarify the obligations of CSNSW staff (and potentially also other contractors, such as chaplains, employed in correctional centres) in relation to alleged criminal offending or misconduct by other officers. Consideration should be given to imposing a uniform reporting obligation (not differentiating between more junior and more senior correctional officers) and to requiring all reports to be made to the Commissioner of CSNSW (reflecting the importance of he or she becoming aware of alleged criminal conduct by CSNSW staff as soon as possible).</i></p>	<p>page 224 at [804]</p>	<p>CSNSW response:</p> <p>CSNSW agrees in principle with this recommendation.</p> <p>Additional information:</p> <p>On 17 November 2023, the CSNSW Commissioner delegated the Commissioner's function to receive reports of criminal offences or other misconduct under clause 253 of <i>CAS Regulation</i> to key executive positions including the Director of PSI.</p> <p>The CSNSW Commissioner also supported a proposed amendment to clause 253 of <i>CAS Regulation</i> to extent its application to non-correctional officers and to amend the threshold for reporting criminal offences or other misconduct to a more senior officer.</p> <p>In 2020, CSNSW entered into a Service Agreement with Anglicare, as well as with other Religious Member Organisations. Within this Service Agreement it outlines that Chaplains are to work in accordance with DCJ's Code of Conduct, which means they must also report suspected wrongdoing. A revision of this Service Agreement is underway and the new Chaplaincy Service Agreements will contain more Key Performance Indicators and a clearer reporting structure.</p> <p>In addition, to expand visibility of clause 253, CSNSW aim to enhance the culture of reporting misconduct through various strategies such as communication campaigns, building confidence in resolution of matters,</p>



No.	Proposed Recommendations	CAS reference	CSNSW Response
			<p>transparency and implementation of the targeted review into the handling of allegations of CSNSW staff involved in sexual misconduct.</p>
<p>29.</p>	<p><i>Consideration should be given to recommending that the scope of the proposed targeted review into the handling of allegations of CSNSW staff involved in sexual misconduct in 14 CSNSW workplaces be expanded to include all NSW correctional centres, and to include reports from inmates, for the purpose of CSNSW obtaining an accurate understanding the scope of the problem of sexual misconduct by its staff.</i></p>	<p>page 233 at [842]</p>	<p>CSNSW response:</p> <p>CSNSW agrees in principle with this recommendation.</p> <p>CSNSW notes that it may not be feasible to implement a review of all correctional centres in relation to the handling of allegations of CSNSW staff involved in sexual misconduct until the existing targeted review into 14 correctional centres has been completed.</p> <p>The implementation of this recommendation is subject to sufficient funding being made available to CSNSW.</p> <p>Additional information:</p> <p>CSNSW notes the following in relation to the targeted review of sexual misconduct management in correctional centres:</p> <ul style="list-style-type: none"> (a) there is an identified need to undertake a broader independent legal review, similar to the review conducted in March 2022 by Jane Seymour of Bathurst and Kirkconnell correctional centres; (b) on 1 December 2022, the PSA expressed support for a review of this nature and identified several centres for consideration; (c) a new proposal has been developed in a submission to the Commissioner of CSNSW which proposes a further targeted review into the handling of allegations of CSNSW staff involved in sexual misconduct in 14 CSNSW workplaces. These 14 centres have been identified following analysis of data of centres with reported issues of sexual harassment or assault. Further correctional centres can be added if funding is available and if the lessons learnt from the 14 centres highlights the need for this scale to be undertaken; (d) the review will take approximately 12 to 18 months and will focus on misconduct events and the handling of complaints that occurred in the preceding seven years;



No.	Proposed Recommendations	CAS reference	CSNSW Response
			<p>(e) the scope of the targeted review will be limited to sexual misconduct engaged by CSNSW staff towards other staff and will not extend to inmates; and</p> <p>(f) the experiences of inmates will be separately addressed through the Sexual Health and Attitudes of Australian Prisoners study (SHAAP-2), the creation of the Sexual Misconduct Reporting Line (SMRL) and increased clarity for inmates about reporting complaints outside of their local correctional centre. The findings from this will provide a basis for any further reviews that may be required.</p>
<p>30.</p>	<p><i>The Special Commission should recommend that the minimum features of a new PSI model include:</i></p> <ul style="list-style-type: none"> <i>a) clear documentation of processes and outcomes;</i> <i>b) expected time standards for the conduct of different types of investigations, with reporting against time standards so that the potential for any backlog to be developed is identified early;</i> <i>c) improved communication of both process and outcome of complaints to complainants;</i> <i>d) ensuring that records of any disciplinary process and outcome are included on staff personnel files, to inform human resources decision-making;</i> <i>e) mandatory, face to face training for CSNSW staff in relation to the new PSI model;</i> <i>f) regular mandatory refresher training for staff in relation to their reporting obligations; and</i> <i>g) clear, auditable measures of PSI performance.</i> 	<p>page 236-237 at [856]</p>	<p>CSNSW response:</p> <p>CSNSW agrees in principle with this recommendation.</p> <p>Additional information:</p> <p>In relation to CAS [856(d)], as mentioned in above, a record of any disciplinary process or outcome should be available or accessible by human resources personnel both within CSNSW and within DCJ through a centralised database. However, CSNSW does not believe that information relating to disciplinary processes should be contained in an employee's personnel file (see above). As per <i>GSE Rules</i> clause 41(2), a misconduct finding will be contained within a personnel file, however the disciplinary process will be contained in the PSI database.</p> <p>In relation to CAS [856(e)], CSNSW agrees, to the extent where possible and practicable, to implement face-to-face training, acknowledging that this may not always be a viable option for staff.</p>
<p>31.</p>	<p><i>The new PSI case management system should be designed to enable rapid and clear collation by PSI of records concerning CSNSW staff the subject of misconduct allegations (including IRs not regarded as indicative of misconduct) and to assist PSI staff in</i></p>	<p>page 238 at [863]</p>	<p>CSNSW response:</p> <p>CSNSW agrees in principle with this recommendation.</p> <p>Additional Information:</p>



No.	Proposed Recommendations	CAS reference	CSNSW Response
	<p><i>recognising potential patterns of staff conduct. The replacement for the SIU function should be designed to be easy to use and once implemented, all CSNSW staff (not only those who are Intelligence Officers) should be trained in its intended function and how it should be used</i></p>		<p>CSNSW agrees to train all CSNSW staff in understanding how to make a complaint using the PSI reporting function.</p>
<p>32.</p>	<p><i>The Special Commission should recommend that all lateral appointments to executive positions within CSNSW be required to complete entry level correctional officer training, prior to any substantive commencement in their role.</i></p>	<p>page 449 at [32]</p>	<p>CSNSW response:</p> <p>CSNSW agrees (in part) with this recommendation.</p> <p>Additional Information:</p> <p>CSNSW notes that not all CSNSW Senior Executive positions have responsibility for the operations of custodial corrections. Only a small number of CSNSW Senior Executive positions currently have responsibility for custodial corrections. Any requirement on all Senior Executive staff to be required to undertake the entry-level correctional officer training would be cumbersome, not an efficient use of resources and not relevant to the duties of the position (such as the Director, Media & Communications).</p> <p>CSNSW would encourage entry-level correctional officer training where appropriate, such as for those who hold responsibility for custodial corrections, to the extent that the Senior Executive staff member has not already undertaken such training previously in their career.</p>
<p>33.</p>	<p><i>The Special Commission should recommend that CSNSW implement the measures proposed by Ms Snell to reduce contraband in CSNSW facilities.</i></p>	<p>page 422 at [1503]</p>	<p>CSNSW response:</p> <p>CSNSW agrees with this recommendation.</p> <p>Additional information:</p> <p>We assume that this recommendation derives from the following extract of the CAS at [1502]:</p> <p><i>"Ms Snell gave evidence that she has been involved in initiating and/or progressing various improvements in response to Astill's offending and the work of the Special Commission. She outlined the following improvements targeted to the issue of contraband:</i></p>



No.	Proposed Recommendations	CAS reference	CSNSW Response
			<p><i>a) implementation of training for CSNSW staff administering security screening of staff and visitors entering a correctional centre in line with COPP s. 17.3, "Stop, detain and search of visitors and staff". A Commissioner's Instruction has been drafted to remind staff of their obligations in line with this policy. CSNSW are looking into commercial training packages which would enhance the capability of staff undertaking security screening. Specific options for computer-based training courses are being considered which would include content on x-ray theory and operation. CSNSW intends to roll out training to all correctional officers responsible for security screening by the end of March 2024; and</i></p> <p><i>b) CSNSW is undertaking a full re-design of the Immediate Action Team and Security Operations Group One Team model. Ms Snell states that this will provide for a more holistic approach to the use of detection dogs and to have this more readily available across correctional centre locations. She opines that the renewed focus on the essential capability of "K9" services will enable local action, target searches and an increase in the detection of contraband of various introduction methods. Ms Snell describes this as a long-term improvement, able to be implemented in 12 months or more."¹²³</i></p> <p>CSNSW notes that an improvement that can be achieved within a short time-frame is the implementation of training for CSNSW staff administering security screening of staff and visitors entering a correctional centre in line with COPP section 17.3 'Stop, detain and search of visitors and staff'.</p> <p>A Commissioner's Instruction has been drafted to remind staff of their obligations in line with this section of the COPP. CSNSW will progress the draft Instructions through internal approvals in the coming weeks.</p>

¹²³ CAS at [1502].



No.	Proposed Recommendations	CAS reference	CSNSW Response
			<p>CSNSW recognises the security screening of staff and visitors is a key opportunity to intercept the introduction of contraband into a correctional centre. CSNSW is currently considering commercial training packages which would enhance the capability of staff undertaking security screening. An option that is currently being considered by other Australian law enforcement agencies is the Trefox and Simfox computer-based training courses which are provided by Penful Premier Technologies, an entity incorporated in the United Kingdom. Trefox is an x-ray theory course designed to educate x-ray operators on the basis of x-ray security. Simfox is an x-ray and CT simulator used to train and certify security screeners on image interpretation and threat detection.</p> <p>CSNSW will survey the market for comparable training courses which are suitable for the screening machines used in correctional centres and intends to roll out training to all correctional officers responsible for security screening by the end of March 2024. The expected benefit of formal staff training in the use of x-ray scanning of property is a high rate of contraband interception, and a stronger deterrent against the introduction of contraband through secreting in property.¹²⁴</p>
34.	<p><i>The Special Commission should further recommend that sophisticated detection for contraband on all persons coming into gaols including officers should be in place.</i></p>	<p>page 422 at [1504]</p>	<p>CSNSW response:</p> <p>CSNSW agrees in principle with this recommendation.</p> <p>CSNSW notes that any initiative related to sophisticated detection for contraband on all persons entering correctional centres will need to be thoughtfully considered with resources and funding allocated. Where necessary, third-party consultation with relevant stakeholders may be required due to potential privacy and work health safety concerns in relation to any proposed detection equipment to be used at correctional centres.</p> <p>Additional information:</p> <p>See additional information outlined above.</p>

¹²⁴ Ex. 55, TB5, Vol 28, Tab 12, Annexure CS-1, CSNSW.0001.0263.1578.