

Outline of Submissions

Provided on Behalf of CSNSW officers Jean Dolly and Davey Jeans

In respect of the Inquiry into offending by former corrections officer Wayne Astill at
Dillwynia Women's Correctional Centre

1. By Letters Patent dated 13 September 2023, the Inquiry into offending by former corrections officer Wayne Astill at Dillwynia Women's Correctional Centre (hereafter 'Special Commission') has been tasked to provide recommendations on seven key areas of concern;
 - A. Whether any other employee of Corrective Services NSW had knowledge or reasonable suspicion of the offending and if so, when, and what steps they took in relation to that knowledge or suspicion
 - B. Whether any person engaged in the management of Dillwynia Women's Correctional Centre had knowledge or reasonable suspicion of the offending and, if so, when, and what steps that person took either alone or as a member of the management team in relation to that knowledge or suspicion
 - C. The systems of supervision and oversight that applied in relation to Wayne Astill at Dillwynia Women's Correctional Centre, their adequacy, and how they could be improved to reduce the risk of serious offending
 - D. The policies and processes available at Dillwynia Women's Correctional Centre for inmates or staff to raise complaints about misconduct, including sexual offending by correctional officers
 - E. Whether the circumstances related to Astill's offending and your findings require further consideration of broader site or case specific or Corrective Services NSW wide investigations
 - F. Whether the circumstances related to Astill's offending or any other matter revealed by this inquiry, related to the Dillwynia Women's Correctional Centre, indicates inadequacies in the policies and procedures for professional oversight and/or the conduct of professional standards investigations that apply to Corrective Services NSW, and whether, in particular, they are sufficiently independent and robust
 - G. Whether any matters arising from the inquiry should be referred to the Independent Commission Against Corruption (ICAC) or the NSW Police Force for further investigation.

2. These submissions are provided on behalf of CSNSW officers Jean Dolly and Davey Jeans, who acted in various roles as CSNSW officers employed at Dillwynia Correctional Centre ('DCC') at the relevant periods over which Astill's offending conduct occurred.
3. As Mr Jeans did not provide evidence at the hearing, these submissions will focus on the experiences relayed to the Special Commission by Ms Dolly, and will focus on recommendations in respect of the unique set of situations she experienced at DCC in respect of her attempts to report conduct regarding Astill, the challenges that faced her and other CSNSW officers, and the unique role that CSNSW officers play in reporting misconduct in the workplace in light of a culture which overwhelmingly discouraged the 'papering' of other officers.
4. It is noted at the outset that these submissions have been prepared with reference to the submissions of Counsel Assisting, which comprehensively sets out the factual matrices and the complex interplay of interpersonal issues existing at DCC at the relevant times. Where necessary these matters will be elaborated on, however otherwise the recommendations and findings made are adopted.

Ms Dolly's experience at DCC

5. Ms Dolly gave evidence on 27 October 2023 (at pages 1089 to 1171 inclusive). Her evidence comprehensively, and it is submitted credibly and reliably, set out her experiences at DCC. It is noted that Counsel Assisting has not made any submissions relating to point 'A' in the Letters Patent in respect of Ms Dolly's disclosure of matters relating to Astill. For the reasons briefly set out below it is not submitted that the Special Commission would make any referral or take any action in respect of Ms Dolly. In all of the circumstances it is submitted that Ms Dolly was one of the primary advocates against Astill, and bore the brunt of significant abuse in respect of her attempts to report his conduct, not only from Astill himself but also from Ms Martin.

6. At the outset it is acknowledged that whilst Ms Dolly's experience was unique in terms of the level of abuse and vitriol that she received from Astill and senior management at DCC, that such vitriol and abuse was a common experience for CSNSW officers at DCC on a daily basis to varying degrees.
7. The experience of staff at DCC must be viewed in light of the culture of bullying which had developed from senior management, but also in respect of the actual conditions as dealt with by officers on a daily basis. In assessing the conditions of CSNSW officers the Special Commission is referred to the answers given by Mr Westlake¹ and Mr Riddle² in respect of their experiences in working at DCC.
8. Ms Dolly's experiences typified the environment at DCC as not only disincentivising the reporting of misconduct, but actively punishing officers who spoke up. Counsel Assisting at paragraph [1239] of their Submissions, sets out what is it is submitted the most critical example of this active disincentivising and punishing behaviour of upper management at DCC at the relevant times. The characterisation that Ms Martin referred Ms Dolly to the PSB whilst failing to take any action in respect of Astill as 'an astonishing event' is adopted.
9. Ms Dolly gave evidence that over her period of time working at DCC she completed around 35 reports in relation to Astill's conduct.³ Ms Deborah Wilson confirmed that Ms Dolly 'submit quite a large number'⁴ of reports and that these reports were reported to 'CIG or SIU and then the original documents would have been held in Shari's safe.'⁵
10. No evidence was produced in respect of any of the reports that Ms Dolly had submitted, and which Ms Deborah Wilson had confirmed that she had received. Whilst he was not

¹ See T – 942 at lines 31ff.

² See T – 1051 at lines 5-22 and T – 1086 at lines 34ff.

³ See T – 1105 at lines 5-10.

⁴ See T – 1746 at lines 4-13.

⁵ See T – 1746 at lines 33-34.

called to give evidence, Mr Adam Schreiber at paragraph [48] of his Commission statement dated 15 September 2023, indicated that upon arriving at DCC he observed that:

The safe in the Governor's office was full when I walked in, you couldn't get another piece of paper in it, and most of it related to Astill. I went through it all and I was told police would be on my doorstep on day one or two. Anything to do with Wayne Astill, I kept and gave to the detectives.

11. It is unknown whether anything has been produced to the Special Commission in respect of any of the documents that were kept in the safe relating to Astill, including the documents received by Ms Deborah Wilson from Ms Dolly and placed in the safe. However, that none of the material Ms Dolly provided has been produced is perhaps concerning indicative of the evidence she provided at T 1111 commencing at line 1 about Astill informing her that he had shredded reports that had been submitted by her.
12. It is submitted that the Special Commission would be satisfied, in line with the evidence before it, that the Reports said to have been prepared by Ms Dolly were in fact prepared, and that in doing so she had taken all steps as she understood it, to comply with the requirements of her position in reporting misconduct and other matters relevant to Astill to Ms Deborah Wilson in her capacity as Intel Officer.
13. Ms Dolly gave in general and specific terms regarding the nature of the relationship between Astill and Ms Hockey, the terms used by senior management towards CSNSW officers and inmates, and the general feelings of futility amongst staff that nothing was being done in respect of Astill's behaviour. These matters are generally uncontroversial and have been comprehensively covered by Counsel Assisting.
14. However, it is submitted, and the submissions of Counsel Assisting at paragraphs [296]-[297] are adopted, that the culture at DCC at the relevant times created a culture of fear amongst CSNSW officers. Unless Officers feel that they are in a position to anonymously

file complaints, and that they have a degree of agency in respect of understanding and observing the process, then it is submitted that the culture ingrained at DCC between 2015 and 2018 may well continue to exist at Correctional Centres across the state.

15. The recommendations outlined below are designed, albeit briefly to elaborate on those suggested by Counsel Assisting, and are designed in part to ensure greater transparency and accountability throughout the reporting process.

Recommendations

Recommendation 30(c)

16. Throughout the evidence provided by Correctional Officers, including but not limited to Ms Dolly, that was provided to the Special Commission, a continuous theme was lack of certainty as to the progress and outcome of reports that had been submitted. This is a matter it is submitted had a significant impact on disincentivising Officers from reporting matters, in light of what was viewed as a general lack of action on behalf of those both at managerial level and within the IB.
17. In implementing recommendations, and to ensure that CSNSW staff feel as if they are being listened to and that their considerations and concerns are being taken into account, an additional clarification to recommendation 30(c) would be sought, noting the general terms in which it has been proposed, to the following effect:

The Special Commission should recommend that digital receipts be provided to CSNSW employees once a report has been submitted by them to the relevant body;

AND

The Special Commission should recommend that the progression of investigation from initial report to finalisation should be clearly conveyed to the Officer who made the report.

18. This recommendation is adopted based on Ms Dolly's evidence at T1137 (line 46ff), as well as the evidence provided by Ms Berry at T1243 lines 16-25 which was as follows:

MS DAVIDSON: And is it also your understanding that the SIU material didn't generate any receipt for the officer who was submitting it?

MS BERRY: No. No. I - I confidently can say I've submitted four SIU reports in regards to this matter. I have confirmation of three. I haven't seen my original one. I do believe that we should be issued a receipt, and I do believe we should have something like the Taxation Department has when you lodge your tax - the actual process it's going through, that it's actually being - it's been received, it's been reviewed, it's been escalated, it's been - sometimes they're put (indistinct) CIG analysis, whatever. It just - it's literally a dead end; you just hear nothing.

19. One of the critical barriers to reporting as became clear throughout the evidence before the Special Commission is that Correctional Officers believed, as a whole, that action was not being taken and that further reporting was essentially futile.
20. It is submitted that this lack of transparency and indeed accountability, ultimately may have disincentivised further reports being made. Moving forward, the recommendation proposed would address two interrelated but distinct issues.
21. The first is that Officers will not be left in a situation where they are unaware if their report has been received, and if it has been received, whether it has been received by the correct agency. Whilst the streamlining of the PSI may well relieve any issues in respect of reports not being received by the correct agency, the complex interplay between matters being referred, investigated and then dealt with either externally or locally is a matter it is submitted, that is of critical importance for report makers to comprehend. That an Officer could receive a receipt in real time as to the receipt of their report is a simple measure

which would likely go a significant way in restoring confidence in the system, and may well foster a greater sense of trust in the processes that are implemented.

22. The second is that in ensuring that CSNSW employees can monitor the progress of reports that are provided to the PSI, there is an additional layer of oversight and scrutiny provided. Clearly given operational concerns, such progress should simply be limited to a brief indication as to which body, branch or sub branch currently has oversight of the relevant matter. Again, in much the same way as the first proposed addition, it is submitted that the ability for Officers to monitor the progress of a report through a function similar to that proposed by Ms Berry and set out supra, would provide confidence to Officers that the reports they have submitted are actually being actioned.
23. Both recommendations it is submitted, are integral to ensuring that Officers feel heard in the process of reporting, and that they are incentivised to make reports.

Recommendation 24

24. The second recommendation in addition to those proposed by Counsel Assisting relates specifically to reports of matters that may not reach the level of criminal offending or misconduct, and are still effectively governed by reporting up the chain of command or to the relevant Intel Officer at the specific correctional centre.
25. One of the critical issues facing Ms Dolly was that in providing hard copy reports there were occasions where if no Intel Officer was on duty, the confidential reports would be left in a pigeon hole in a non secure location.
26. Whilst the proposals effectively deal with a system in which all reports are completed electronically and disseminated to the PSI, a recommendation that is fully supported, there may well be circumstances that arise in the day to day experiences of CSNSW staff that require hard copy documents to be provided to an Intel Officer.

27. If the relevant Intel Officer is not at the correctional centre, a situation in which confidential reports or material is left in a public area is a serious concern for the security of both the Officers and Inmates. To that end, a recommendation in the following terms is proposed:

The Special Commission should recommend that a secure location be provided on each Correctional Centre for material of a sensitive nature to be placed and to which only the relevant Intel Officer has access.

28. This secure location could take on a number of forms, from a drop chute to secure box, however where items need to be properly secured a dedicated area should be communicated to CSNSW officers.

Recommendation 25

29. In respect of Recommendation 25 as proposed by Counsel Assisting, it is submitted that the option to copy the report to the Governor of the relevant centre is perhaps a matter that fails to address the critical aspect of an entirely independent investigatory process.

30. One of the critical issues facing DCC at the relevant times was interference by Ms Martin in the investigation process. To allow for Report sent confidentially to the PSI to be copied into a Governor prior to any determination having been made by the PSI would effectively undermine the impartiality of the PSI. If the PSI need to attend a Correctional Centre to conduct investigations then the relevant Governor ought be informed, but to do so before that is undertaken does not address one of the key issues that faced DCC at the relevant times.

31. The recommendation is also seemingly at odds with recommendation [24] in respect of reporting up the chain of command.

Conclusion

32. The above submissions are provided to supplement certain aspects of the submissions of Counsel Assisting with particular specificity paid to the nature of the issues inherent at DOC, and by extension at CSNSW, as experienced by Ms Dolly and other CSNSW officers.

A handwritten signature in black ink, appearing to read 'Robert Deppeler', with a stylized, cursive script.

Robert Deppeler

Trust Chambers

14 December 2023