



**SPECIAL COMMISSION OF INQUIRY INTO OFFENDING BY FORMER
CORRECTIONS OFFICER WAYNE ASTILL**

**PUBLIC HEARING
SYDNEY**

**THURSDAY, 26 OCTOBER 2023
AT 10.00 AM**

DAY 11

APPEARANCES

**MR D. LLOYD SC appears with MS J. DAVIDSON, as Counsel Assisting
MR J. SHELLER SC appears with MS C. MELIS for Corrective Services NSW
MR BUTERIN appears for a group of current or former inmates at Dillwynia
MS J. GHABRIAL appears for a group of Correctional Officers
MR R. DEPPELER appears for a group of Correctional Officers
MR J. KADAR appears for two Correctional Officers
MR A. GUY appears for a group of Correctional Officers
MR C.J. WATSON appears for two Correctional Officers
MR P. CARR appears for witness Ms Gaynor**

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<THE HEARING RESUMED AT 10.01 AM

5 **MR SHELLER:** Commissioner, could I just indicate that there is a slight rearrangement of seats here. Ms Melis will ask any questions of this witness and the next witness. Thank you.

COMMISSIONER: Very well. Yes, Mr Lloyd.

10 **MR LLOYD:** Thank you.

MR WATSON: Commissioner, I should announce my appearance. My name is Watson.

15 **COMMISSIONER:** Watson, yes.

MR WATSON: I am representing Westley Giles and Michelle Robinson. I think there was some discussion - what I'm told is that there was some discussion yesterday about those arrangements being made. I was contacted last night by Mr Jordan, and one of his employed solicitors, Mr Jared Kadar. I was in a position
20 where I had a five-week trial fall-out, so I was able to accept the brief.

I've been provided with an electronic copy of the brief this morning, and I would be asking for your Honour's discretion to give me today, tomorrow and the weekend to go through all that material and the transcripts of the proceedings thus
25 far so I'm on top of the brief. And, in the circumstances, where Mr Kadar, my instructing solicitor, is able to attend in my place today and tomorrow, and liaise with me if there's anything that impacts upon both of my clients.

COMMISSIONER: Mr Watson, the Inquiry will proceed. You will have to make
30 your own arrangements as to the course you take in the interests of your clients.

MR WATSON: I understand and I'm suggesting that, with respect, that it won't impact upon the continuing of the Inquiry and also the way I see it, it won't impact upon either of my clients.
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COMMISSIONER: You are in a better position to judge that than me.

MR WATSON: Yes.

40 **COMMISSIONER:** Anyway, you have leave.

MR WATSON: Thank you, your Honour.

COMMISSIONER: Anyway, you have leave.
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MR WATSON: Thank you.

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MR CARR: Philip Carr, counsel appearing for Deborah Gaynor and I seek leave to appear on her behalf.

COMMISSIONER: Yes, very well. You have leave.

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<MIRZA MOHTAJ, ON FORMER AFFIRMATION.

<EXAMINATION BY MR LLOYD:

10 **MR LLOYD:** Mr Mohtaj, you remember yesterday I asked you some questions about whether you heard or observed bullying or derogatory comments being made between officers at Dillwynia?

MR MOHTAJ: Yes.

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MR LLOYD: And I asked you some questions about the management of the Centre?

MR MOHTAJ: Yes.

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MR LLOYD: Could I just ask you, did you have many dealings with Shari Martin?

MR MOHTAJ: Not really.

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MR LLOYD: Not really, as in you had some but not many?

MR MOHTAJ: Yes.

30 **MR LLOYD:** What, in terms of those dealings that you did have, how would you describe her management style?

MR MOHTAJ: Just like any other Governor. My interaction with her was mostly to do with my career development or if there was any - any work that she wanted us to do or specific job in accommodation area. She would walk around the accommodation areas for inspection. That's the time I walk with her, to see if there was any issues or concerns that she wanted to be followed up. I will follow them up and then give her the feedback of what's progressing.

40 **MR LLOYD:** How did you find her in terms of a boss? Was she a good boss?

MR MOHTAJ: To me she was approachable.

MR LLOYD: When you say to you, are you aware or did you hear that she wasn't approachable for other people?

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MR MOHTAJ: No.

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MR LLOYD: You never heard any rumours about her being a difficult person for staff to deal with, is that right?

5 **MR MOHTAJ:** Just like any other boss. Everyone has their own opinion.

MR LLOYD: Well, you've told us about your opinion. I'm asking you about whether you heard things from other officers about her management style and whether she was approachable.

10

MR MOHTAJ: She had an open door policy so anyone could go to her office and converse with her.

MR LLOYD: And from what you heard amongst the other officers, when they went to her office to converse with her, did they get fair treatment?

15

MR MOHTAJ: I believe yes.

MR LLOYD: So you would tell us that she was someone who enjoyed a good reputation so far as you were aware amongst staff at the Centre?

20

MR MOHTAJ: To my knowledge, yes.

MR LLOYD: Are you sure about that?

25

MR MOHTAJ: To my knowledge, yes.

MR LLOYD: When you say to your knowledge, are you saying your personal knowledge based on your experience with her?

30

MR MOHTAJ: Yes.

MR LLOYD: Are you drawing a distinction there between that, that is your personal dealings with her, and things you had been told about her?

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MR MOHTAJ: Again, to my knowledge, every individual has an interaction with their manager - with the Governor on separate situations. So with mine, I had no issue with her.

MR LLOYD: That's not quite an answer to my question, Mr Mohtaj. I'll come back to it. You've told us about your personal experiences and generally they were good? Remember that?

40

MR MOHTAJ: Yes.

45

MR LLOYD: I'm asking you - I withdraw that. You're working at a gaol in this particular one for a number of years.

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MR MOHTAJ: Yes.

5 **MR LLOYD:** You told us yesterday when I asked you about derogatory language between officers that it was banter?

MR MOHTAJ: Yes.

10 **MR LLOYD:** It's a gaol. Officers talk to each other.

MR MOHTAJ: Exactly.

15 **MR LLOYD:** It's a workplace, officers talk to each other about the people who are more senior than them in rank who they report to, don't they?

MR MOHTAJ: Exactly.

20 **MR LLOYD:** And so there's a lot of talk between officers about things like is the Governor a good person to deal with; true?

MR MOHTAJ: True.

25 **MR LLOYD:** I'm asking you now not about your direct dealings with Ms Martin, I'm asking you what you heard other people say about their dealings with her, do you understand?

30 **MR MOHTAJ:** Some won't be happy, if you're saying what I heard is maybe sometimes people asking for rec leave or something like that and she doesn't approve it. Somebody won't be happy.

MR LLOYD: And did people tell you they weren't happy when they were dealing with her from time to time?

35 **MR MOHTAJ:** Yes.

MR LLOYD: Did she have a reputation as being someone who was approachable in terms of making complaints about the conduct of other staff members?

40 **MR MOHTAJ:** I haven't heard an experience, no.

MR LLOYD: Did she have a reputation of being someone approachable, that is, from your discussions with other officers, someone approachable about complaints about the conduct of other officers?

45 **MR MOHTAJ:** Yes.

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MR LLOYD: Leanne O'Toole, how did you find her in terms of her approachability as one of your senior officers when you were there?

5 **MR MOHTAJ:** Again, to me personally she was okay.

MR LLOYD: Did you observe the way she dealt with other officers?

10 **MR MOHTAJ:** No, because I dealt with accommodation areas, so I wasn't a frequent person through the admin area.

MR LLOYD: Did you speak to other officers about how she was with them?

MR MOHTAJ: No one approached me to complain about it.

15 **MR LLOYD:** Did you ever see her around the gaol and greet her?

MR MOHTAJ: Yes. Sometimes she will be going around the Centre for inspections.

20 **MR LLOYD:** And how was she when she walked around the gaol? Was she friendly and approachable?

MR MOHTAJ: Yes.

25 **MR LLOYD:** Are you sure about that?

MR MOHTAJ: Yes.

30 **MR LLOYD:** Did you hear any word in your discussions with other officers or with inmates about her relationship with Wayne Astill?

MR MOHTAJ: They were good friends.

35 **MR LLOYD:** Was that widely known so far as you understood by officers that Wayne Astill and Leanne O'Toole were good friends?

MR MOHTAJ: That was a common knowledge.

40 **MR LLOYD:** Including amongst inmates?

MR MOHTAJ: I can't answer that.

MR LLOYD: But certainly officers?

45 **MR MOHTAJ:** Yes.

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MR LLOYD: Could I ask you some questions, just dealing with the time you were at Dillwynia up to the point of Astill's arrest. Were you aware of rumours circulating within the gaol to the effect that he was a sleaze?

5 **MR MOHTAJ:** No.

MR LLOYD: Are you sure?

MR MOHTAJ: Yes.

10

MR LLOYD: Never heard anyone say that he was sleazy or could be inappropriate in any way with inmates?

MR MOHTAJ: No.

15

MR LLOYD: Ever hear a rumour that he was Teflon, nothing stuck to him?

MR MOHTAJ: No. Nobody –

20 **MR LLOYD:** Sorry, you go.

MR MOHTAJ: Not that word.

25 **MR LLOYD:** What about a different word to the same or similar effect, did you hear that?

MR MOHTAJ: No. Wayne is – sometimes he can be stand-offish but not Teflon.

30 **MR LLOYD:** Did you ever hear people, that is officers, saying there's no point making any complaint about him because nothing never ever sticks to him?

MR MOHTAJ: No.

35 **MR LLOYD:** Never heard anyone say that?

MR MOHTAJ: No.

40 **MR LLOYD:** Did you ever hear inmates tell you that he was bullying or intimidating them?

MR MOHTAJ: No.

MR LLOYD: No one ever mentioned that to you?

45 **MR MOHTAJ:** No.

MR LLOYD: Never saw him bully or intimidate an inmate?

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MR MOHTAJ: I would have reported it.

MR LLOYD: By that you are saying you never saw him do that?

5

MR MOHTAJ: Exactly.

MR LLOYD: Never saw him bully or intimidate any other staff member, is that what you're telling us?

10

MR MOHTAJ: There have been conversations and I placed it in my statement where I witnessed two incidents but they were not - to my perception, they were not bullying because I went forward to speak to the other parties.

MR LLOYD: Did you ever hear inmates referring to him as Rolf Harris or Poppy?

MR MOHTAJ: Not - not from inmates.

MR LLOYD: By that do you mean you heard other people, that is officers, referring to him in that way?

MR MOHTAJ: Only Poppy from officers.

MR LLOYD: How many officers told you or referred to him as Poppy?

MR MOHTAJ: No recollection. I can't identify.

MR LLOYD: One or 20 or somewhere in between or more than 20?

30

MR MOHTAJ: A couple.

MR LLOYD: When you had those discussions or heard that, did you ever ask why?

35

MR MOHTAJ: It was to do with his age. That's how I perceived it to be.

MR LLOYD: You thought that he was called Poppy because he was older?

MR MOHTAJ: Exactly.

MR LLOYD: There were other guards there who were of similar age and some older than him, weren't there?

MR MOHTAJ: Yes.

MR LLOYD: Were they called Poppy?

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MR MOHTAJ: No.

5 **MR LLOYD:** Did you really think that that was the reason that he had that
nickname, just because he was an older gentleman?

MR MOHTAJ: He has another name also.

10 **MR LLOYD:** What's the other name?

MR MOHTAJ: Silver fox.

MR LLOYD: Now, what did you understand, first, who used that term?

15 **MR MOHTAJ:** Himself.

MR LLOYD: Anyone else?

20 **MR MOHTAJ:** A few of his workmates. When I believe that his previous
employment.

MR LLOYD: What, people who he knew from when he was a police officer?

25 **MR MOHTAJ:** Negative. In Parklea.

MR LLOYD: When he was a Correctional Officer at Parklea?

MR MOHTAJ: Yes.

30 **MR LLOYD:** He referred to himself as the silver fox and some of the officers that
he knew from back in Parklea days referred to him in that way?

MR MOHTAJ: Exactly.

35 **MR LLOYD:** What did you understand to be the meaning of that term, "silver
fox"?

MR MOHTAJ: He told me. I didn't go into details.

40 **MR LLOYD:** No, I've asked you what he told you, what did you understand that
to mean?

MR MOHTAJ: That was his nickname.

45 **MR LLOYD:** No, what do you understand the nickname to mean?

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MR MOHTAJ: I don't understand what silver fox means, maybe it's to do with his grey hair.

5 **MR LLOYD:** That would be a good reason for him have a nickname silver. What about the fox part of it, did you think about what that might mean?

MR MOHTAJ: No.

10 **MR LLOYD:** Mr Mohtaj, is that really true? You are telling us he referred to himself as the silver fox, or a silver fox. Other people from time to time referred to him in that way. You didn't turn your mind to what that kind of nickname meant?

15 **MR MOHTAJ:** Maybe outside in the community with whatever he was doing. It's something he identified to me and that's it. It was one of those contacts where we had - we had a conversation, he mentioned it. That's it.

20 **MR LLOYD:** Surely you must have thought when you heard that name, when he's using it at least, that what he is saying to you is that he thought he was an older gentleman who was attractive to the other sex. That's the obvious meaning of it, isn't it?

MR MOHTAJ: I won't have taken it that way.

25 **MR LLOYD:** Really?

MR MOHTAJ: Yep.

30 **MR LLOYD:** In terms of the other officers, when you heard them using it, did you ever speak to them and say, "Why is Astill called the silver fox?"

MR MOHTAJ: It wasn't my place to ask.

35 **MR LLOYD:** You didn't - I withdraw that. If that was something that suggested that he was walking around the gaol saying he was an officer who was attractive to the opposite sex, that might well be something that would be within your job and in your interests to ask about, wouldn't it?

40 **MS GHABRIAL:** I object. The question is not appropriate, Commissioner. My client has indicated that he didn't take it to mean that. So to put a positive proposition to him that he's aware that this gentleman, Mr Astill, is walking around the gaol calling himself a silver fox which means that he is attractive to other women, that would be something troubling to him, well that's not a fair question.

45 **COMMISSIONER:** Mr Lloyd, I allow the question but I'm not sure where all this is going to take us frankly. I don't think we are making much progress.

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MR LLOYD: Commissioner, I'm content to withdraw the question and move on.

Could I ask you about this: Do you remember - have you got the pseudonym list there?

5

MR MOHTAJ: Yes.

MR LLOYD: Just have a look at Witness V.

10 **MR MOHTAJ:** Yes.

MR LLOYD: V for victor.

MR MOHTAJ: Yes. Yep.

15

MR LLOYD: And do you remember Witness B?

MR MOHTAJ: Yes.

20 **MR LLOYD:** Do you remember an event sometime around the middle part of 2017 during muster where Astill was there and said something to the women at muster including Witnesses B and V, "Smells like dogs in here"?

MR MOHTAJ: No.

25

MR LLOYD: You don't remember any pointed exchange between Astill and Witness B at a muster where Astill was, in effect, accusing her of dogging him in?

MR MOHTAJ: No.

30

MR LLOYD: Are you sure?

MR MOHTAJ: Yes.

35 **MR LLOYD:** Would that be something that if it happened, that is, a senior officer openly accusing inmates of dogging on him, that would be likely to stick in your memory?

MR MOHTAJ: Repeat the question.

40

MR LLOYD: I'll ask a different question.

MS GHABRIAL: I object.

45 **COMMISSIONER:** He hasn't asked the question yet.

MS GHABRIAL: Well, it's the first question.

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COMMISSIONER: No, no, he hasn't proceeded with that question. Let's wait and see what the question actually is.

5 **MS GHABRIAL:** Perhaps -

MR LLOYD: The phrase dogging, did that have a particular meaning in gaol?

MR MOHTAJ: Yes.

10

MR LLOYD: What was that meaning?

MR MOHTAJ: When one tells - when one speaks out about the other and it's usually used by inmates.

15

MR LLOYD: And so if there was an event where a senior officer was, in effect, accusing inmates of dogging, would that be something that would be likely to stick in your memory?

20 **MS GHABRIAL:** I object.

COMMISSIONER: I'll allow the question.

MS GHABRIAL: Can I be heard in respect of the question.

25

COMMISSIONER: Sorry?

MS GHABRIAL: Can I be heard in respect of the question?

30 **COMMISSIONER:** Well, yes.

MS GHABRIAL: The evidence to date is that what had occurred was that certain words were used.

35 **MR LLOYD:** I withdraw the question and I will ask a different one. Do you remember at a muster, Astill saying to women "Smells like dogs in here?"

MR MOHTAJ: No.

40 **MR LLOYD:** If you heard something like that said, would that be likely to be something to stick in your memory?

MR MOHTAJ: Yes, and I will report it.

45 **MR LLOYD:** Because you'd understand that -

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COMMISSIONER: Just a minute. You said and you would report it. Who would you report it to?

5 **MR MOHTAJ:** First I'll approach the person who said it to find what was the background of it and then if it's to do - if it's to do with anything that causes harm to the inmates then I have to report it because that is considered as a significant incident.

10 **COMMISSIONER:** Right. Who would you report it to?

MR MOHTAJ: I report, I will put in an incident report that an occasion of that kind has occurred, and I will send it to my immediate manager.

15 **COMMISSIONER:** Who was?

MR MOHTAJ: Who would be the Manager of Security.

COMMISSIONER: Who was?

20 **MR MOHTAJ:** At that time even though substantively was Leanne O'Toole we had others who were acting up to her role as she - as she was away on leave.

25 **COMMISSIONER:** So if you observed an officer say or do something that was adverse to an inmate, you would file a report that would go to Leanne O'Toole; is that right?

MR MOHTAJ: Yes, because she was our Manager of Security.

30 **COMMISSIONER:** Right. Yes.

MR LLOYD: And let me just - you said you don't recall the event but I just want to put some things to see to see if it jogs your memory. I want to put to you what happened in your presence, was that Astill said to women at muster, including Witnesses B and V, "Smells like dogs in here."
35

MR MOHTAJ: No recollection.

40 **MR LLOYD:** And I want to suggest to you that that event occurred in the M Unit?

MR MOHTAJ: Ms V and Ms B I - I recall and I'm aware that they used to live in M Right.

45 **MR LLOYD:** And they were involved in looking after the dogs in that program?

MR MOHTAJ: That's correct.

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MR LLOYD: Do you ever remember the M Right Unit being a unit that actually did smell like dogs?

5 **MR MOHTAJ:** They kept - there are certain days where the greyhounds will be kept there for the purpose of rehabilitating them. So, I was aware of canines being in that accommodation area.

MR LLOYD: But they were very well looked after and didn't smell, is that true?

10 **MR MOHTAJ:** I've had interaction with Ms V and Ms B while they are outside the accommodation with the greyhounds. So, I spent time with them and, yes, the place was kept clean.

15 **MR LLOYD:** And so if you assume from me the event that I'm asking you about, the M Right Unit at this muster that I'm putting to you these events occurred at, did not smell like dogs, and there was a statement by an officer, "Smells like dogs in here", you would take that to that mean an accusation that there had been a complaint made about him?

20 **MR MOHTAJ:** That's correct.

MR LLOYD: And I think you've told the Commissioner in answer to questions that he asked, that situation, if it occurred, would have required you to make a report and I think you said to the Manager of Security?

25 **MR MOHTAJ:** I will start by asking and challenging the person who said it for clarification. If I don't get a - the answer - if I - if I'm not confident with the answer, then I'll have to report it for any future incidents.

30 **MR LLOYD:** So, if there was no good explanation for why it had been said, you'd make the report?

MR MOHTAJ: I will notate it, yes.

35 **MR LLOYD:** When you say notate it, write it down and give a report to the Manager of Security?

MR MOHTAJ: That's correct.

40 **MR LLOYD:** Could I just ask you to tell us why it is that that event that I have asked you about, which just to be fair, you don't have a recollection of; correct?

MR MOHTAJ: That's correct.

45 **MR LLOYD:** But the event that I have put to you, I just want to explore why it is that that would be serious enough to warrant a report to the Manager of Security.

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Is it because, if you had an officer openly accusing inmates of, in effect, doing the wrong thing by making a report, that would be a serious problem?

MR MOHTAJ: It will be.

5

MR LLOYD: Because that kind of behaviour by a senior officer might inhibit or deter inmates from feeling that they could make reports properly about things that had gone wrong; is that right?

10 **MR MOHTAJ:** My angle is to do with the Code of Ethics. We have to be professional at all times and it's on that basis that I will have to notate it.

MR LLOYD: And it would be unprofessional in your view for that to happen?

15 **MR MOHTAJ:** That's correct.

MR LLOYD: Could I ask you about one other event. Do you remember a time at any period before Astill's arrest where he routinely would have three or four girls in his office during lunchtime?

20

MR MOHTAJ: No.

MR LLOYD: I take it from that you don't then remember events like this where girls would be in his office at lunchtime and then would be late back to muster?

25

MR MOHTAJ: Can I ask you a question? Specify the office that you're -

MR LLOYD: An office occupied by Astill in the J Unit, High Needs. Do you know there's the administration block very close to the J Unit?

30

MR MOHTAJ: Astill office was in The Hub, not High Needs Chief.

MR LLOYD: There was an office that he occupied from time to time in the administration block adjacent to the J Unit, wasn't there?

35

MR MOHTAJ: If that happened then maybe, or that situation we'll have been on different shifts. That's why I'm asking, specify which office.

MR LLOYD: I take it from your answer you don't remember the kinds of things I've asked you about; that is, multiple girls being in that office in the administration block next to J Unit at lunchtime with Astill?

40

MR MOHTAJ: Repeat the question, please.

45 **MR LLOYD:** I take it from your answer that you do not remember the thing I've asked you about, that is, multiple girls, three or four, being in Astill's office in the administration block next to J Unit at lunchtime?

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MR MOHTAJ: That has occurred.

MR LLOYD: Say that again?

5

MR MOHTAJ: That's happened, I have observed.

MR LLOYD: You have seen that?

10 **MR MOHTAJ:** I have observed that but not on numerous days.

MR LLOYD: How many times did you see that happening?

15 **MR MOHTAJ:** It's the times when I'm rostered in the High Needs, and our office is adjacent to his office.

MR LLOYD: What did you think was going on the times that you saw it?

20 **MR MOHTAJ:** The door was open. There will be inmates outside standing and one-on-one will go and see him. I have to clarify, every day there will be a list in High Needs for SMAP who wish to see the Chief. Not only Astill, whoever was rostered to that post for that day.

25 **MR LLOYD:** Are you saying that the kind of situation you say you observed from time to time you thought was, or at least could have been perfectly proper?

30 **MR MOHTAJ:** We had time where the Chief could - we had time where the Chief would have an open door for any inmate queries. So, the SMAP had the lunchtime period where they were free to walk around the whole centre and it's that time when they will go and see whoever the Chief was based in that office, whilst the officers across the office will have an open door while they have their lunch. This was to service the inmates, the SMAP inmates. When the SMAP inmates are secured in their accommodation area, the other inmates around the high needs area had access of similar kind to whoever was rostered in that office.

35

MR LLOYD: Those are my questions.

COMMISSIONER: Sir, you worked in the gaol with Mr Astill for how long?

40 **MR MOHTAJ:** I was in Dillwynia for two and a half years, Commissioner.

COMMISSIONER: And Mr Astill was there for the whole time?

45 **MR MOHTAJ:** He was there prior to me coming to Dillwynia.

COMMISSIONER: But he was there the whole of the time you were at Dillwynia?

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MR MOHTAJ: That's correct, sir.

5 **COMMISSIONER:** You know that he has been convicted of a series of very serious offences against inmates, don't you?

MR MOHTAJ: Yes, sir.

10 **COMMISSIONER:** And I assume you know quite a bit about what those inmates had said happened to them.

MR MOHTAJ: It's come to light now for me, sir.

15 **COMMISSIONER:** You know about it?

MR MOHTAJ: Now that it is out to the public, I've come to know about it.

20 **COMMISSIONER:** And do you know that Mr Astill's behaviour meant that multiple women were being required to attend upon him at various times when he would abuse them and assault them. You know that, don't you?

MR MOHTAJ: It's come to knowledge to me, sir, now.

25 **COMMISSIONER:** Are you saying to me that for two and a half years while Mr Astill was engaging regularly in these activities, you had no idea anything wrong was happening?

MS GHABRIAL: I object.

30 **COMMISSIONER:** I'm going to allow my question. Would you please answer it?

35 **MR MOHTAJ:** There will be times - like I said, Commissioner, we had a waiting list so inmates will willingly put in their names.

COMMISSIONER: No, no. Answer my question.

MR MOHTAJ: Yep.

40 **COMMISSIONER:** Are you saying you had no idea that Mr Astill, for two and a half years when he worked with you there, was carrying on these activities with multiple women?

45 **MS GHABRIAL:** I take the same objection.

COMMISSIONER: Please answer the question.

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MR MOHTAJ: No idea.

COMMISSIONER: No idea at all?

5 **MR MOHTAJ:** No idea, Commissioner.

COMMISSIONER: How could it be that you had no idea? Have you asked yourself that question?

10 **MS GHABRIAL:** I object, your Honour.

COMMISSIONER: Please answer the question.

MR MOHTAJ: It still worries me to this date. I am disgusted with it.

15

COMMISSIONER: It worries you because why?

MS GHABRIAL: I object.

20 **COMMISSIONER:** Please answer. Why does it worry you?

MR MOHTAJ: Because none of the inmates ever approached to cry help when I had good rapport with some of these inmates, yep.

25 **COMMISSIONER:** Yes, does anyone have a question following from what I've asked? No, very well. That concludes your evidence and you are excused.

MR MOHTAJ: Thank you, Commissioner.

30 **MS MELIS:** Sorry, Commissioner, I misunderstood your question. I just do have a couple of questions.

COMMISSIONER: Okay, sorry, Mr Mohtaj.

35 **MS MELIS:** Not arising from Your Honour's questions but just a couple of questions.

<EXAMINATION BY MS MELIS:

40 **MS MELIS:** My name is Christine Melis. In your statement to the Commission which you have in front of you, at paragraph 21, you describe there a rule or a principle called Sight and Sound. Could you please tell the Inquiry what is meant by that principle, Sight and Sound?

45 **MR MOHTAJ:** This is where, if one - if there are two officers and one has to converse with another - with an inmate, yep, it's - it's a whole area of our

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operations, and it's to keep us away from any - any allegations or anything. And apart from that also to assist each other security.

5 **MS MELIS:** So, if I understand your answer, you're saying that when you are interacting with another inmate including when escorting an inmate from one place within the Centre to another, you accompany that inmate in twos, in pairs?

MR MOHTAJ: That's correct.

10 **MS MELIS:** And is it fair to say that that principle of Sight and Sound in your experience underpins most interactions between officers and inmates in - at Dillwynia when you worked there?

15 **MR MOHTAJ:** Please repeat the question.

MS MELIS: Would you say that that principle of Sight and Sound underpinned or occurred in most interactions that you and other officers had with inmates when you worked at Dillwynia?

20 **MR MOHTAJ:** That's correct.

MS MELIS: Including inmates that were in the SMAP area?

25 **MS GHABRIAL:** I object, Commissioner. Only on the basis that my client has been asked in respect of what other officers would regard the Sight and Sound principles to be in respect of their interactions with other inmates. I think the appropriate question really can only be in respect of this officer and not what he believes other officers might have regard to those principles in their interactions.

30 **MS MELIS:** I'll rephrase the question. Firstly, that was your experience when you worked at Dillwynia Correctional Centre?

MR MOHTAJ: That's correct.

35 **MS MELIS:** And did you observe when you were working there, other officers also observing that principle of Sight and Sound?

MR MOHTAJ: That's correct.

40 **MS MELIS:** When an inmate would be paged to attend a manager to go over and see a manager, was there any prohibition to that inmate asking for another inmate to accompany her to that meeting?

45 **MR MOHTAJ:** Dillwynia is an open-planned correctional centre, yep. Most of the business core hours all inmates are walking around between the three areas.

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COMMISSIONER: Ms Melis, I'm not sure that question really helps. The question is what happens when you get there? Rather than when you are going there.

5 **MS MELIS:** I was just trying to clarify the scenario, Commissioner, but if it's not of assistance.

COMMISSIONER: No, no, I would welcome you asking a question about whether or not two could meet with the officer at the one time, as opposed to
10 going with the officer.

MS MELIS: I will get there. First, my first question is, is there any prohibition in a female inmate asking for another inmate to accompany her to that meeting that she has been paged to?
15

MR MOHTAJ: Like I said, Dillwynia is an open-planned area. Inmates are free to walk all around the three accommodation areas. Anyone - any staff member that is managers, wing officers, cleaning, our programs officers can page them. We all hear it on the complex - on the Centre. We all are aware certain inmates are being
20 paged. We don't question. And inmates walk willingly to wherever they're being paged.

MS MELIS: So if I understand you correctly, that means that they could take another inmate with them on those occasions where they've been paged and they're
25 walking around -

COMMISSIONER: Ms Melis, you are still not helping me. I understand perfectly well that the inmates are free to walk towards and go to the office. The question is whether or not they're allowed to be in the office at the same time and I assume that's in the control of the officer.
30

MS MELIS: Again, when the inmate goes to the meeting with the officer that has paged that person, can they be accompanied by another inmate if they so choose to?
35

MR MOHTAJ: That depends on the person who is paging them and the nature of the call. Again, I have no control - officers in the wings have no control over that.

MS MELIS: Thank you. At paragraph 54 of your statement, you mention there the access inmates now have to tablets.
40

MR MOHTAJ: Yes.

MS MELIS: And you refer to inmates being able to submit a grievance.
45

MR MOHTAJ: Yes.

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MS MELIS: And you say it's no longer an application, it's a grievance or a request.

MR MOHTAJ: That's correct.

5

MS MELIS: Can you just assist us by clarifying, is there only one form that is now submitted online or is it still multiple forms, depending on the nature of the request?

10 **MR MOHTAJ:** There are two forms.

MS MELIS: Thank you. Those are the matters.

COMMISSIONER: Anybody else have a question? No?

15

MS GHABRIAL: No, Commissioner.

COMMISSIONER: Mr Lloyd.

20 **MR LLOYD:** No.

COMMISSIONER: Very well, that does now conclude your evidence and you are excused.

25 **MR MOHTAJ:** Thank you, Commissioner.

<THE WITNESS WAS RELEASED.

MR LLOYD: Ms Davidson will call the next witness.

30

MS DAVIDSON: Commissioner, the next witness is Mr Scott Westlake.

COMMISSIONER: Will you take an oath on the Bible or an affirmation?

35 **MR WESTLAKE:** An oath.

<SCOTT WESTLAKE, SWORN:

COMMISSIONER: Thank you. Take a seat.

40

<EXAMINATION BY MS DAVIDSON:

MS DAVIDSON: Mr Westlake, is your full name Scott William Westlake?

45 **MR WESTLAKE:** It is.

MS DAVIDSON: And your address is known to the Commission?

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MR WESTLAKE: Yes, it is.

5 **MS DAVIDSON:** Have you provided a statement to the Commission dated 20 September 2023.

MR WESTLAKE: Yes, I did.

10 **MS DAVIDSON:** Is that a document you have with you there in the witness box?

MR WESTLAKE: Yes, it is.

15 **MS DAVIDSON:** I tender the statement of Mr Westlake. I understand, Commissioner, that you have a version that has had some redactions applied to it and Mr Westlake's representatives are aware of those. It's Tab 79, Commissioner. I can hand up another copy if you need that.

COMMISSIONER: So you are tendering a redacted copy?

20 **MS DAVIDSON:** A redacted copy.

COMMISSIONER: I've got a copy of it. Thank you, it will become Exhibit 12.

<**EXHIBIT 12 TENDERED AND MARKED.**

25 **MS DAVIDSON:** Thank you, Commissioner. Mr Westlake, is it correct that you've worked for Corrective Services New South Wales since approximately January 1991.

30 **MR WESTLAKE:** Yes.

MS DAVIDSON: And that you became a First Class Correctional Officer in 1994.

35 **MR WESTLAKE:** Approximately 1994, yes.

MS DAVIDSON: And you then worked at a number of correctional centres prior to starting at Dillwynia in approximately October 2011; is that correct?

40 **MR WESTLAKE:** I've worked at several correctional facilities plus also other locations within the Department.

MS DAVIDSON: Not all of which were necessarily correctional facilities?

45 **MR WESTLAKE:** No.

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MS DAVIDSON: Is it correct that you started at Dillwynia in approximately October 2011?

MR WESTLAKE: Yes.

5

MS DAVIDSON: And at that point were you a Senior Correctional Officer? Is that right?

MR WESTLAKE: That's correct.

10

MS DAVIDSON: You're currently a Senior Assistant Superintendent, Security and Intelligence; is that correct?

MR WESTLAKE: I haven't been there for a while. Security and Intelligence folder that came under different directors.

15

MS DAVIDSON: All right. I'll come to that but just in terms of your current position, could you tell the Commission what your current position is?

MR WESTLAKE: My current position is working for Strategic Delivery and that's part of the projects.

20

MS DAVIDSON: All right, so that's in head office, is it?

MR WESTLAKE: It's in different locations. I facilitate various courses around the State.

25

MS DAVIDSON: And your rank is Senior Assistant Superintendent?

MR WESTLAKE: Yes, I am.

30

MS DAVIDSON: That's right. And so, in terms of the time period that you were formerly attached to Dillwynia, I understand that was 2011 to 2022.

MR WESTLAKE: That's correct.

35

MS DAVIDSON: Is that correct? But in terms of the time that you actually worked at Dillwynia, that was, tell me if I am wrong about this, between 2011 and approximately 2017.

40

MR WESTLAKE: 2016 to 2017, I'm not really sure. Most of the time I was seconded to other locations including the Academy and what have you.

MS DAVIDSON: When you say most of the time, do you mean most of the time after 2016 or 2017?

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MR WESTLAKE: After. Yes, most of the time, actually all the time except for two weeks.

5 **MS DAVIDSON:** All right. But prior to that time, that is the 2011 to approximately end of 2016 or early 2017 -

MR WESTLAKE: Yeah.

10 **MS DAVIDSON:** - you were at Dillwynia in a continuous stretch, is that right?

MR WESTLAKE: That's correct, yes.

15 **MS DAVIDSON:** During the time that you were at Dillwynia did you occupy the rank of Senior Correctional Officer?

MR WESTLAKE: I did.

MS DAVIDSON: Throughout the time you were physically at Dillwynia?

20 **MR WESTLAKE:** Yes, I did.

MS DAVIDSON: And where, within Dillwynia were you allocated to work? Was there a particular part of the gaol that you worked during that period?

25 **MR WESTLAKE:** At Dillwynia I worked the different shifts, morning, noon and night. Of that time, most of it I spent either in the main gate or in the visit section, and that was meeting staff coming into the Centre at the main gate or greeting visitors coming to the Centre of weekends and within the Visits Centre, during the week to facilitate the AVL and what have you and visits from outside people like
30 Police or Immigration and things like that.

MS DAVIDSON: Were there also occasions when you worked within the accommodation areas in the gaol?

35 **MR WESTLAKE:** I did, mainly in the medium needs which is the largest area.

MS DAVIDSON: Did you work with or in conjunction with Wayne Astill during any of that time?

40 **MR WESTLAKE:** Being the same rank we never worked in the same location at the same time.

MS DAVIDSON: But you were aware of him working in the gaol?

45 **MR WESTLAKE:** Absolutely.

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MS DAVIDSON: At the time and did you have interactions with him during the time that you worked at Dillwynia, that is physically at Dillwynia?

5 **MR WESTLAKE:** With interactions, what do you mean by that?

MS DAVIDSON: Well, did you come into contact with him, not that you were working necessarily in the same location at the same time.

10 **MR WESTLAKE:** We would pass, you would see each other on period in the morning, you would see each other in the afternoon when handing your keys in but most of the time no, I did not work with him, it was just merely passing if we are travelling from one location to another.

15 **MS DAVIDSON:** That's most of the time?

MR WESTLAKE: Most of the time.

20 **MS DAVIDSON:** Were there occasions that were exceptions to that where you were working more closely with him?

MR WESTLAKE: No.

25 **MS DAVIDSON:** Can you go to paragraph 9 of your statement. You indicate that you were present when the verdict was handed down in Mr Astill's trial.

MR WESTLAKE: That's correct.

30 **MS DAVIDSON:** And that you were supporting staff there. Who was it that you were there to support?

MR WESTLAKE: I turned up. At the time I was attached to the Staff Support Unit, and I was there to support all the staff. At that time I didn't know what staff were part of the court case or what staff were there to support other staff but I was there as a whole to support everyone.

35 **MS DAVIDSON:** Right. So you hadn't been there throughout the trial?

MR WESTLAKE: No, I hadn't been at the trial at all, no.

40 **MS DAVIDSON:** Were you tasked to attend for the purposes of the verdict?

MR WESTLAKE: No.

45 **MS DAVIDSON:** You simply attended of your own initiative, did you?

MR WESTLAKE: That's correct because as part of that you would attend at people's houses to have a chat to them, long-term workers comp or something like

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this. I've been involved in other court cases and as part of that, I went to support the staff in this because it was quite horrific.

5 **MS DAVIDSON:** So, do I understand correctly you had a general staff support role?

MR WESTLAKE: That's correct.

10 **MS DAVIDSON:** Within that you had discretion as to where were you needed?

MR WESTLAKE: That's correct.

15 **MS DAVIDSON:** And you attended on the day of the verdict in relation to Mr Astill.

MR WESTLAKE: Yes, senior managers that I was working for knew what locations I was going to.

20 **MS DAVIDSON:** All right. But you didn't have a particular role in relation to supporting staff during that trial?

MR WESTLAKE: No, that's correct.

25 **MS DAVIDSON:** Is the same true of the sentencing process you didn't have any particular role in supporting staff?

30 **MR WESTLAKE:** No, the only day I was there was when he was sentenced and that was to support the staff that were there. I'd also supported staff in other locations, I currently support as well.

MS DAVIDSON: You indicate in your statement that you spent approximately two and a half years, or two and a bit years, I think you say, at the Academy from around 2017?

35 **MR WESTLAKE:** That's correct.

MS DAVIDSON: What were you teaching at the Academy?

40 **MR WESTLAKE:** I was mainly teaching new recruits in Certificate 3 in Corrections. At times I was also teaching Functional Managers in courses that had just been rolled out for them. I was also a First Aid Instructor and would instruct first aid or assist instructing first aid, when time permitted. But during that time we had a lot of new recruits where we were operating sometimes up to 16 courses at once in various locations around the State.
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MS DAVIDSON: So where you say you were teaching the new recruits was that teaching them across the course? You weren't specialised in teaching them some particular -

5 **MR WESTLAKE:** At times I went also - as part of the course, they do weapons training and that's two weeks at Windsor and as a weapons trainer I was often called out there to assist them if they had some staff shortages as well.

10 **MS DAVIDSON:** You refer at paragraph 11 of your statement to your current role delivering Five-Minute Intervention; can you explain what five minute intervention is?

15 **MR WESTLAKE:** One moment. Five-Minute Intervention is an initiative that was first rolled out at now His Majesty's Prisons in England. Mr Luke Grant, our Deputy Commissioner, thought that this was a great initiative to roll out. There was a role given to staff to have a look at that and I was on the first team that was involved in rolling that out across the State and it was a different way of - it was mainly designed to stop, reducing reoffending by talking to inmates differently and more getting them to ask themselves questions instead of being told you must do this, you must do that.

20 **MS DAVIDSON:** When you say talking to inmates differently, can you explain what you mean by that?

25 **MR WESTLAKE:** The actual motto is "every contact counts". So, it could be just simply passing in a hallway and a simple thing like good morning or whatever else. When you sit down with them, one of the main things is Socratic questioning, getting them to think. We normally have closed questions or open questions but Socratic questioning is more involved and get a thought process. If an inmate wanted to, say, stop using drugs one of the questions you might ask is: "Do you know anyone else who is not - who is now not using drugs?"; "Oh, yeah, my auntie."; "Do you know what she did?". So you're actually getting a little bit more and getting them to think about like-minded things. Also, part of it was also having a look at the - there are six targets we have a look at and that includes criminal attitude and things like that. And through that we teach staff how to - doing what they're currently doing but giving it a name to it and adding a little bit of value add to it. It's a mandatory course and it's been quite successful.

35 **MS DAVIDSON:** Does it include speaking to inmates more respectfully? You've referred to things like passing them and saying "good morning"?

40 **MR WESTLAKE:** Yes, it would be.

45 **MS DAVIDSON:** Does it include - is it your understanding, part of your role in delivering that initiative, that that's a significant change for some staff in terms of how they speak to inmates?

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MR WESTLAKE: Absolutely. Absolutely.

5 **MS DAVIDSON:** Is that because you are aware of inmates being spoken to disrespectfully previously, by staff? I'm asking at a general level. I'll come to ask you some questions about Dillwynia.

10 **MR WESTLAKE:** Yeah, I suppose in the last 32 years I've been involved, yeah, you do see changes in the way people refer to inmates because I know originally we just weren't permitted to talk to them at all. And that was back in the 80s and 90s and you're seen as, you know, being an officer that was too caring for them, you just would not speak to them and then we had management come in where there was a lot more contact, a lot more involvement, and over time it has gotten a little bit more stronger with the way we interact with inmates.

15 **MS DAVIDSON:** So when you say "stronger" you mean more training in respect of full interactions with them?

MR WESTLAKE: Yeah, more training with staff, interactions.

20 **MS DAVIDSON:** Would you agree that respectful interactions with inmates are an important part of the objective of reducing reoffending that this Five-Minute Intervention -

25 **MR WESTLAKE:** Absolutely.

MS DAVIDSON: - program is linked to?

30 **MR WESTLAKE:** It's - it's treating them more humanely. Realise every single person in this courthouse may end up one day in gaol simply by a mobile phone falling to the ground while you're driving and you hit someone. So understanding that everyone, or a lot of people may end up in gaols, and you treat everyone - and one of the questions is if your relatives were in gaol how would you want them to be treated. It's just things like that.

35 **MS DAVIDSON:** Are those questions that you ask of officers in the training that you deliver?

40 **MR WESTLAKE:** I don't ask them questions but that's some of the references we make.

MS DAVIDSON: That is, that is part of the training having them think about those issues?

45 **MR WESTLAKE:** Yes. Yes certainly.

MS DAVIDSON: Can you indicate when the Five-Minute Intervention program commenced being delivered to officers?

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MR WESTLAKE: It commenced, I think it was April 2020. It was a large rollout to all the Centres. We taught the Five-Minute Intervention all the way from the Commissioner down to staff who work at warehouses and stuff like that. Anyone
5 who has actual contact with an inmate.

MS DAVIDSON: So it's has been a compulsory program for -

MR WESTLAKE: Mandatory compulsory yes.
10

MS DAVIDSON: Has it now been rolled out across the Correctional Officers of the State or is that something still in process?

MR WESTLAKE: It's still in process. We've approximately 70 per cent rolled out, maybe a little bit more. And there's also an extra course available for the industrial staff that work for CSI and that's called Words at Work which is more focused towards industrial staff.
15

MS DAVIDSON: That is Overseers, is that right?
20

MR WESTLAKE: Overseers, yes, and that's an extra half a day on top of FMI.

MS DAVIDSON: Do you know whether Five-Minute Intervention have been rolled out at Dillwynia?
25

MR WESTLAKE: It has but not to all staff. That's my area of responsibility, I've just received that, and there are some staff that still need to attend that.

MS DAVIDSON: It has but not to all the staff, is that what you said.
30

MR WESTLAKE: Not to all staff, because you might run it and then new staff come in who haven't been taught it, or new staff from the academy who haven't been taught it. So it's a continuous thing.

MS DAVIDSON: Is it a face-to-face training?
35

MR WESTLAKE: It's face-to-face, two days, yes.

MS DAVIDSON: You refer in paragraph 14 of your statement to being good at detecting contraband. This is because your main role, you indicate, at Dillwynia was as officer in charge of the gate?
40

MR WESTLAKE: That's correct.

MS DAVIDSON: What was it your background that made you good at detecting contraband?
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MR WESTLAKE: I was a dog handler for approximately 13 years. We receive a lot of training in respect to that. Plus I also at times worked in various areas like the Tactical Intel Group and it's just what I - I've done some courses on psycho-linguistics and what have you, reading body language in that respect as well.

MS DAVIDSON: So in the time that you were working in Dillwynia and during your time as officer in charge of the gate, are you able to describe what kind of screening process officers would go through when they were entering the Centre through the gate?

MR WESTLAKE: Yes, one of the screening processes would be they come fairly recently with Dillwynia within the last six or seven years, they would provide a finger print or an iris check to confirm they are who they.

MS DAVIDSON: Was this going on while you were there? I'm interested in the situation while you were there.

MR WESTLAKE: Yes. Not always because those machines weren't installed in the beginning. They were installed a lot later. So, most of the time I was there they didn't have that.

MS DAVIDSON: All right.

MR WESTLAKE: They would also have a walk-through metal detector and if there was an indication on the metal detector, you would then have a hand wand, ask staff to turn out their pockets if required and wand for anything metallic and also their bags were required to go through a - like an airport X-ray machine.

MS DAVIDSON: So, there was screening for metallic objects?

MR WESTLAKE: Yes.

MS DAVIDSON: What, if any, screening was there that you were aware of, of officers bringing in other kinds of contraband such as drugs?

MR WESTLAKE: There was no screening unless of course at times we had the dog unit there searching staff.

MS DAVIDSON: All right. So generally?

COMMISSIONER: How often would there be a genuine attempt to discover drugs coming in?

MR WESTLAKE: In what respect?

COMMISSIONER: Into the gaol. How often?

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MR WESTLAKE: Whenever the dog unit was available.

COMMISSIONER: No, but often would that be?

5

MR WESTLAKE: Not very often.

COMMISSIONER: Once a year?

10 **MR WESTLAKE:** I would say 20, 30, maybe a bit more. We'd also have times where staff are also drug and urine tested on a random basis as well as part of our screening.

COMMISSIONER: How often would that happen?

15

MR WESTLAKE: When the unit was available, sometimes 20, 30 times a year and that was all centres around.

20 **COMMISSIONER:** The understanding I have is that notwithstanding what screening -

MR WESTLAKE: Sorry?

25 **COMMISSIONER:** The understanding I presently have is that notwithstanding any screening that may have been occurring, drugs were coming into Dillwynia.

MR WESTLAKE: I'm not aware of any drugs coming in. I had actually on visitors found drugs on visitors, arrested them and had the police called in on that but I don't know of staff bringing drugs in.

30

COMMISSIONER: Well, we have had evidence of it.

MR WESTLAKE: Okay, I understand that. I don't know of that. I haven't worked at Dillwynia for about six or seven years, Commissioner.

35

MS DAVIDSON: Just to clarify, one of your answers in respect of screening for staff, the urine screening for example of staff was designed to catch their own personal use of drugs not any question of them bringing contraband in, was it?

40 **MR WESTLAKE:** That's correct.

MS DAVIDSON: Do I understand you correctly that during the time you were there until the end of around 2016 or early 2017 it would only be happenstance that the dog unit was there, that would be providing any way of screening for staff bringing drugs in on their person?

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MR WESTLAKE: It's almost impossible or cost ineffective to have someone screening staff 24 hours a day, seven days a week and without actually strip searching staff, there's no way if they've got it secreted that you can actually locate it.

5

MS DAVIDSON: So it would be reasonably easy, am I right in thinking, for staff to secrete drugs on their person, in their uniform, in their clothing?

MR WESTLAKE: Possibly, I've never done it myself so I wouldn't know.

10

MS DAVIDSON: But you are aware of the means by which visitors tried to do that, presumably?

MR WESTLAKE: Absolutely.

15

MS DAVIDSON: Clothing was one of the ways that that could be done?

MR WESTLAKE: In clothing but, again, through questioning, you can generally tell when someone is hiding something. They give body indications they don't know they're giving. It could be simply scratching the back of their neck when you're questioning. But a lot of the evidence we get with visitors and staff if we find drugs on them it's actually in their bags or in their pockets, somewhere easy for them to be able to locate.

20

MS DAVIDSON: But again, the screening mechanisms you were using for staff at that time wouldn't have picked up on a metal detector, for example, drugs that were in a staff member's pocket, would they?

25

MR WESTLAKE: That's correct but the X-ray machine would. If anything was in their bag or anything that they have turned out of their pockets and placed on to the X-ray machine.

30

MS DAVIDSON: As in visually you would be able to see if it looked like a bag of drugs, is that your point?

35

MR WESTLAKE: Through the X-ray machine, absolutely.

MS DAVIDSON: But the X-ray machine was looking for metal objects primarily presumably and then to give you an idea of visually what other things looked like?

40

MR WESTLAKE. No, the X-ray machine is exactly like what you go through at the airport where you can tell when it's a - like food item or anything like that. So it's exactly the same machine that you use at the airport.

MS DAVIDSON: All right. When you were screening, looking at the images of staff's bags as they were coming through the X-ray machine, that same X-ray machine wouldn't be applied to their bodies, would it?

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MR WESTLAKE: No, they'd have to jump on like they were a bag and go through that way.

5 **MS DAVIDSON:** No, indeed.

MR WESTLAKE: Definitely not.

10 **MS DAVIDSON:** And you didn't question staff routinely as they were coming through the gate in relation to items they were carrying with them other than things that were picked up on the machine; is that right?

15 **MR WESTLAKE:** If you found something on the machine you would ask them to open their bag and you would have a look through their bag. Prior to going through the metal detector machine - you see, a metal detector is different to an X-ray machine.

MS DAVIDSON: I understand that.

20 **MR WESTLAKE:** So with the metal detector machine prior to going through there, everything in their projects they had to supply into the X-ray machine and if they had, like if there was visitors that weren't - like, they were contractors and that, they were sometimes and staff sometimes would be asked to put their shoes on to the X-ray machine as well.

25 **MS DAVIDSON:** Right. In paragraph 18 of your statement, you indicate that you knew Shari Martin and Leanne O'Toole.

MR WESTLAKE: Yes.

30 **MS DAVIDSON:** Prior to commencing at Dillwynia. How was it you knew Shari Martin prior to commencing at Dillwynia?

35 **MR WESTLAKE:** I first met Shari Martin back in 1992. She was a Senior Correctional Officer at the John Morony Correctional Centre, Night Senior Wing officer and what have you. I was at the John Morony Centre Correctional Centre, for most a year. I spent most of time still attached to John Morony but would be at the weekend detention centre. Originally, when that was operating, I would commence duty on Friday morning and finish on Sunday night and spend the time
40 there with the detainees and then from Monday to Thursday, I would be on days off or attending court, breaching detainees who might have been involved in alcohol or anything like that.

45 **MS DAVIDSON:** Were you working with Shari Martin through that period as well?

MR WESTLAKE: No, I was working with Mr Ian Gregory.

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MS DAVIDSON: You indicate that you - I withdraw that. After your time at the John Morony Correctional Centre did you have any contact with Shari Martin prior to then commencing at Dillwynia in 2011?

5

MR WESTLAKE: Only if I would see her when we were doing canine operations at Dillwynia.

MS DAVIDSON: All right.

10

MR WESTLAKE: Dillwynia, I think it opened - I don't know when it opened but I don't know where Shari was working prior to Dillwynia opening.

MS DAVIDSON: That's all right. We don't need you to give a description of things in relation to her work history.

15

MR WESTLAKE: I was answering your question.

MS DAVIDSON: You refer in paragraph 18 of your statement to knowing Neil Holman prior to commencing in the job because you used to work with his sister.

20

MR WESTLAKE: That's correct.

MS DAVIDSON: Was his sister, that is Mr Holman's sister, a Correctional Officer?

25

MR WESTLAKE: Never was, no.

MS DAVIDSON: No. So you - but had you worked with her in the Corrective Services context?

30

MR WESTLAKE: Never. No.

MS DAVIDSON: Or some other context?

35

MR WESTLAKE: Some other context, in a retail store prior to me starting in the Department.

MS DAVIDSON: I see. Are you aware of there being a number of family relationships, husband and wife relationships amongst the officers at Dillwynia?

40

MR WESTLAKE: Yes.

MS DAVIDSON: Did you think that that was unusual relative to your experience at other centres?

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MR WESTLAKE: No, it's common across other centres as well. And in other areas, transport and what have you.

MS DAVIDSON: That is other areas within Corrective Services?

5

MR WESTLAKE: That's correct, yes. I believe it's also common in the New South Wales Police Department as well. That's where my sister works.

COMMISSIONER: You mean it's not uncommon for police -

10

MR WESTLAKE: It's not uncommon.

COMMISSIONER: - to be married to each other?

15

MR WESTLAKE: I've met plenty that have been married to each other, yes.

COMMISSIONER: Do you know about how those relationships are managed in the Police Force?

20

MR WESTLAKE: No, I don't. I don't, Commissioner.

COMMISSIONER: Have you ever thought about how those relationships should be managed in any disciplined force?

25

MR WESTLAKE: I've never had a relationship with anyone in the Department so I really don't know. And that is something I've just never thought about. I know prior, when my grandfather was an officer, you certainly couldn't but I'm talking 50, 60 years ago. I think nowadays, it would just be impossible to, at least I don't know because that's not my -

30

COMMISSIONER: It's not a question of policing, it's a question of whether it's appropriate that they serve in the same location. Do you understand?

MR WESTLAKE: I understand, yes.

35

COMMISSIONER: And the Police have rules about that.

MR WESTLAKE: I don't know if they do. I'm not sure.

40

COMMISSIONER: All right. We'll find out.

MR WESTLAKE: I would say it would be the same with the Fire Brigade and the Ambulance, Commissioner. I don't know.

45

MS DAVIDSON: Mr Westlake, you refer at paragraph 23 of your statement, if you could go to that, to a time that you were approached by Mr Astill to build a website for the Southern Cross Cruiser Club.

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MR WESTLAKE: That's correct.

MS DAVIDSON: Are you able to say approximately when that was?

5

MR WESTLAKE: No, I'm not sure when that was. That was certainly whilst I was working at Dillwynia on a full-time basis. I don't know when. I'm sorry my memory is not good. I do have a medical condition, sleep apnoea and at that time it was undiagnosed so my memory is slightly coming back but not very good.

10

MS DAVIDSON: Are you able to say roughly whether you recall it was a few years after you started working there, at the end of the period, at the beginning, are you able to give any kind of indication of when that would be?

15

MR WESTLAKE: Probably midway when I was working there and I'm talking about when I physically worked there -

20

MS DAVIDSON: Yes, and to be clear when I'm asking you questions by reference to the period you were working at Dillwynia you can take it that I'm asking you about the period you were physically on the ground there.

MR WESTLAKE: Thank you for that.

25

MS DAVIDSON: I won't be asking you questions in relation to that later period. Do you recall or do you know why he approached you, that is why Astill approached you in relation to building a website?

30

MR WESTLAKE: I would say that he would have heard from other staff that that's something I did in my spare time. I no longer do it. It's just -

MS DAVIDSON: So you had some skills in that area that you think might have been helpful to other staff?

35

MR WESTLAKE: Yeah, I mainly built websites for historical societies and that. And he found out and, yeah, I was able to do that for him.

40

MS DAVIDSON: All right. So tell me if I have this correct. He came to you and asked you to build a website for the Southern Cross Cruiser Club. Did he tell you that that was a club that he was involved in?

MR WESTLAKE: Yes, it was.

MS DAVIDSON: That was a motorcycle club, is that right?

45

MR WESTLAKE: It was a recreational motorcycle club, same as Ulysses and clubs like that, I would imagine.

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MS DAVIDSON: You agreed to do that for him?

MR WESTLAKE: Yes.

5 **MS DAVIDSON:** So would you meet up at the gaol or elsewhere?

MR WESTLAKE: It was certainly in private time. I would not conduct any business during gaol time.

10 **MS DAVIDSON:** All right. So where were you meeting up?

MR WESTLAKE: Once he came to my house, so we can go through basic structure. Then after that, I would send him a link before it was published and that way himself and his committee members would be able to peruse it before it going
15 live.

MS DAVIDSON: So you understood him to be part of a committee or executive body for the club, did you?

20 **MR WESTLAKE:** Yes.

MS DAVIDSON: He was giving you photographs; was he giving those to you physically or was he emailing them to you?

25 **MR WESTLAKE:** No, they were given to me physically on a memory stick.

MS DAVIDSON: And you were uploading them to a gallery page, would that be correct?

30 **MR WESTLAKE:** That's correct. They were all in folders and then he asked if I can create a gallery for each of those. It might be a charity bike run, it might be a day out to a location, it could be a picnic day or anything like that. So they were all separate so I could create galleries for him.

35 **MS DAVIDSON:** Did you understand that that selection of photos that he had given to you were the ones that he wanted to be placed on the website?

MR WESTLAKE: That's correct.

40 **MS DAVIDSON:** He wasn't asking you to choose amongst them?

MR WESTLAKE: No.

MS DAVIDSON: You refer to, this is paragraph 23, a time when you were
45 looking at the photos and you saw something of concern to you. What was it that you saw that was of concern to you?

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MR WESTLAKE: There was members of outlaw motorcycle gang members in attendance to some of those functions.

5 **MS DAVIDSON:** There were outlaw motorcycle gang members. Did you recognise them from your employment with Corrective Services or how did you recognise them?

10 **MR WESTLAKE:** Because they had the patches on the backs of their jackets. Whether or not they were members, I don't know but pretty unlikely that they would wear patches if they weren't.

MS DAVIDSON: Pretty unlikely to be able to wear the colours if you're not a member.

15 **MR WESTLAKE:** That's correct, it's probably not the done thing.

MS DAVIDSON: Right. You started to take some action in relation to that?

20 **MR WESTLAKE:** That's correct.

MS DAVIDSON: Can you explain what it was that - well, firstly, why it was that you decided to do something and then what it was that you decided to do.

25 **MR WESTLAKE:** Part of our charter as Correctional Officers is you're not to associate with known members of criminal organisations. If you have family members who have been in prison, you are to notify the Department in that respect as well. Whether or not they were actively hanging around with those members on the outlaw motorcycle gang, they were certainly at the same functions but there were also other motorcycle clubs at those functions as well.

30 **MS DAVIDSON:** Did you see Mr Astill in photographs with members of outlaw motorcycle gangs?

35 **MR WESTLAKE:** I saw no photos with him that I can recall but I also didn't look at every single photo as well.

MS DAVIDSON: All right. But they were functions that you understood from the photos that he also attended.

40 **MR WESTLAKE:** That's correct, yes.

MS DAVIDSON: All right. So can you explain to the Commission what you recall doing in relation to that?

45 **MR WESTLAKE:** Again, I can't - I certainly didn't take it to - within the gaol due to the fact that it's nothing to do with the daily running of the gaol. I either

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contacted PSB, which is now PSI, or I used the Integrated Intelligence System, the IIS system, to send some copies of the photos.

5 **MS DAVIDSON:** So is it correct that to the extent that you say in paragraph 24 that you reported it, you are not actually sure by what means you reported it?

MR WESTLAKE: No. I just can't remember that far back, I'm sorry.

10 **MS DAVIDSON:** Right. Do you have any distinct memory of writing something down in relation to it?

MR WESTLAKE: If it was verbally, it would have been by phone. But if it was actual supply, you do in the IIS typing information.

15 **MS DAVIDSON:** But, again, you can't remember sitting here now whether you sat down and typed something out.

20 **MR WESTLAKE:** No, I can't remember what happened last week, let alone all that time ago.

MS DAVIDSON: All right. Can you just have a look at the end of paragraph 27 of your statement. You say here:

25 "All in all I have about 2100 photos from Wayne. I haven't looked at all of them but the ones I saw of Wayne with criminal affiliates I brought out and attached to the IIS report."

MR WESTLAKE: Okay, yes.

30 **MS DAVIDSON:** Does that -

MR WESTLAKE: I would say that would be because -

35 **MS DAVIDSON:** Is that a memory you actually had at the time that you were giving this statement or is that speculating? I'm just trying to understand.

MR WESTLAKE: My memory drifts in and out. I'm pretty sure that's my action, I can't remember.

40 **MS DAVIDSON:** You are pretty sure you attached some photos.?

MR WESTLAKE: Yeah.

45 **MS DAVIDSON:** All right, if you were verbally reporting.

MR WESTLAKE: It's impossible to attach photos.

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MS DAVIDSON: Right. So -

MR WESTLAKE: Then I probably would have sent them off via a memory stick.

5

MS DAVIDSON: All right. You can take it from me that the Inquiry hasn't received in the documents that have been provided by Corrective Services any IIS report of this kind relating to Mr Astill. Does that - firstly, do you have an understanding of whether a report, if it was submitted around the time through the IIS system, around the time that it was - the middle of the time you were at Dillwynia whether it would be retained by the IIS system? Do you know one way or the other?

MR WESTLAKE: I don't know what happens with a PSB, PSI section, whether they retain the reports or what. With CIG, staff actually work on those reports that come through, but I don't know the filing system with them either.

MS DAVIDSON: So you understand - I understand from what you've said, later on in your statement that you are quite a fan of the IIS system.

20

MR WESTLAKE: I'm a fan of the IIS. I have used it and I've taught a lot of staff of how to use it, both at Dillwynia and other centres. There's also courselets available on the intranet for staff to be able to learn the system as well.

MS DAVIDSON: If you submitted a report in relation to this, just sticking with this at the moment, we will come back to other things you have taught other staff, but if you submitted a report in relation to this you think it would have been by the SIU function; is that right?

MR WESTLAKE: That's correct. The only thing I don't know is how well it actually receives it because you don't get a receipt of them having received it.

MS DAVIDSON: Yes.

MR WESTLAKE: So whether or not the system fails with large files or with photos or anything, there's no indication of that.

MS DAVIDSON: Is a staff member able to make any record at all of what they've submitted via the IIS system?

40

MR WESTLAKE: No.

MS DAVIDSON: Can you print it out?

MR WESTLAKE: No, you can't print it out.

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MS DAVIDSON: You're not allowed, there's some rule in the system that prevents you printing it out, is that right?

5 **MR WESTLAKE:** There's no rule as such but with a lot of things you just assume that they work the way that they're meant to.

10 **MS DAVIDSON:** You obviously - well, am I right, at the time you regarded this as an important piece of information, you were worried about what you had seen in the photographs?

MR WESTLAKE: I wasn't worried, I just needed to let someone know.

MS DAVIDSON: You felt that you needed to let someone know.

15 **MR WESTLAKE:** Yeah.

MS DAVIDSON: Would you agree it was a significant concern from a Corrective Services perspective, maybe not for you personally, but if there was a Senior Correctional Officer who was associating with members of outlaw motorcycle gangs?

MR WESTLAKE: I would assume it would be a concern.

25 **MS DAVIDSON:** That was exactly why you thought you had the obligations to report it?

MR WESTLAKE: That's correct, yes.

30 **MS DAVIDSON:** You indicate that you understood, this is paragraph 24, that the SIU drop down goes to above the Governor. Is that something you understood at the time?

35 **MR WESTLAKE:** Yes, yes. With the SIU function, if it's to do with two locations, like the reporting location and another location, so say I might receive a phone call, anonymously at Dillwynia that someone's bringing drugs into South Coast Correctional Centre. So in that function it has a drop down from the reporting location and also the location of concern. If it's only one location, it goes to the director of that area but if there's a reporting location and a receiving location, it will go to directors of both those areas, plus the PSI.

40 **MS DAVIDSON:** Did you understand that the SIU function also went to the Governor of centres?

45 **MR WESTLAKE:** No, the only time the SIU would go to Governors of the centres or the Intel if it was the general. So you have SIU which was Directors and above. And you had the general which was to the local intel, the intel of another gaol if it related to them, plus also the Governors and to CIG which is Corrections

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Intel Group, which is separate. They do not investigate staff. All they investigate is visitors and things like that for drugs, in general stuff that's outside of staff. PSI does the staff.

5 **MS DAVIDSON:** Were you trained in relation to the Integrated Intelligence Unit?

MR WESTLAKE: Yes, I was.

10 **MS DAVIDSON:** Was it because of your time in the dog unit that you'd been given that -

MR WESTLAKE: In the Dog Unit as well as the Tactical Intel Group which was to do with gangs, white supremacy, bikie gangs, Middle-Eastern gangs, Aboriginal gangs and such.

15 **MS DAVIDSON:** Was it your understanding that officers generally, again I'm talking at the time that you were working at Dillwynia, weren't trained in the Integrated Intelligence system?

20 **MR WESTLAKE:** I would train some staff but that's - I only -

MS DAVIDSON: But that was the training that was offered by Corrective Services.

25 **MR WESTLAKE:** No, that was my initiative as a mentor.

MS DAVIDSON: That was a personal initiative that you took.

30 **MR WESTLAKE:** Yes, because what I liked about that system is there's no chance of leaving reports around. It's an enclosed system, if that makes sense.

MS DAVIDSON: You had indicated that your understanding of the SIU function was that it wouldn't -

35 **MR WESTLAKE:** I wasn't involved in that function. I just had (indistinct) tell me.

MS DAVIDSON: I'm asking only about your understanding that it went above the Governor.

40 **MR WESTLAKE:** Yes.

MS DAVIDSON: Do you recall at the time having any concern about this information that you were aware of about Mr Astill being given to the Governor at the time, that is to Shari Martin?

MR WESTLAKE: No, not at all.

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MS DAVIDSON: Do you have any recollection, you may not be able to throw any more light on this but of anybody at PSB if you reported it orally spoke to about it?

5

MR WESTLAKE: Your question was a weird question.

MS DAVIDSON: Do you have any recollection of who at PSB, if you reported it orally, you might have spoken to about it?

10

MR WESTLAKE: No.

MS DAVIDSON: So is this the position, you don't have a firm memory of a written or an oral report but you think you did one or the other?

15

MR WESTLAKE: No, I did one or the other, I just can't remember which direction.

MS DAVIDSON: You've indicated in your statement at paragraph 26 that - and this is talking about where you are discussing IIS that you could do a paper report which would be handed to the intel officer. If you had a lazy intel officer, the report could get lost or ended up shredded.

20

MR WESTLAKE: That's a possibility.

25

MS DAVIDSON: You just didn't know?

MR WESTLAKE: No.

MS DAVIDSON: Again, try to think back to the time you were working at Dillwynia, were you aware of lazy intel first?

30

MR WESTLAKE: Not at Dillwynia but in some of the other centres, yes.

MS DAVIDSON: Not at Dillwynia?

35

MR WESTLAKE: No, I think the thing that is difficult at Dillwynia is they only had one permanent intel officer, and sometimes if you were acting in their position for a couple of days while the intel officer was away, you wouldn't have access to everything that was required and that's understandable because some things are above my pay grade at the time.

40

MS DAVIDSON: Would you expect or would you have expected at the time in a properly functioning intel system if you had made a report of that nature, that somebody would have followed up with you?

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MR WESTLAKE: You would hope so absolutely; otherwise the system breaks down.

MS DAVIDSON: And you don't recall any follow-up of that kind?

5

MR WESTLAKE: No.

MS DAVIDSON: Either from a phone call or from a written report?

10 **MR WESTLAKE:** No.

COMMISSIONER: Did you think about following it up yourself?

MR WESTLAKE: Sorry?

15

COMMISSIONER: Did you think about following it up yourself to see -

MR WESTLAKE: No, I did not, Commissioner.

20 **COMMISSIONER:** Why wouldn't you have done that?

MR WESTLAKE: Because sometimes I just forget what I report and you get lost in day-to-day activities and by the time you think about it, it could be months down the track.

25

COMMISSIONER: Very well.

MR WESTLAKE: Sorry?

30 **COMMISSIONER:** Yes, that's fine.

MS DAVIDSON: You refer at paragraph 26 to a report ending up shredded. Would there be any circumstances that you could think of where it might be appropriate for an intelligence report to be shredded?

35

MR WESTLAKE: No, not at all.

MS DAVIDSON: So was it - again, was your experience at the time you were working in Dillwynia that you knew of intelligence report ending up shredded.

40

MR WESTLAKE: No, I don't know of any intelligence reports ending up shredded but sometimes other things might get shredded.

MS DAVIDSON: You've referred in your statement here to a lazy intel officer potentially - in inverted commas, the report or the report ending up being shredded?

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MR WESTLAKE: Yeah, but that is over the last 32 years that I'm referring to, not -

5 **MS DAVIDSON:** So you don't have any awareness of intelligence reports ending up being shredded at Dillwynia.

MR WESTLAKE: No.

10 **MS DAVIDSON:** Do you recall whether you held on to the USB sticks that you were given by Mr Astill that had the photographs of him with criminal affiliates?

MR WESTLAKE: Yes.

15 **MS DAVIDSON:** Do you still have those?

MR WESTLAKE: Yes.

20 **MS DAVIDSON:** At paragraph 29 you are discussing your passion for the IIS system. You indicate that, in your view, "100 per cent of the staff didn't know about the IIS until I taught them." Is that referring to staff at Dillwynia or more generally?

25 **MR WESTLAKE:** There are a lot of staff in certain Centres that are taught the IIS and there are staff in other Centres that probably don't know about it. So you can't teach what you don't know.

MS DAVIDSON: So part of the standard training at the Academy?

30 **MR WESTLAKE:** No, it's not.

MS DAVIDSON: And so is it your understanding that generally for an officer, based on what you are aware of, of the Academy course that you taught, that generally for an officer to be aware of the IIS system, they would need to do some intel training or an intel course?

35 **MR WESTLAKE:** That's correct, or if they looked at the intranet they can certainly discover -

40 **MS DAVIDSON:** All right. That would be a matter of happenstance of them seeing it on the intranet, is that right?

MR WESTLAKE: Happy staff or?

45 **MS DAVIDSON:** Happenstance, coincidence?

MR WESTLAKE: Yeah.

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MS DAVIDSON: Do you know whether there are materials on the intranet about how the IIS systems works?

5 **MR WESTLAKE:** Yes, the courselets as mentioned before.

MS DAVIDSON: Courselets?

MR WESTLAKE: Yes.

10 **MS DAVIDSON:** So that's a mini course?

MR WESTLAKE: Yes, so a guy would come on and walk you through the SIU function as well as the general function.

15 **MS DAVIDSON:** All right. That's something that all officers can access via the intranet if they choose?

MR WESTLAKE: Yes, they can, if they choose to.

20 **MS DAVIDSON:** But from your experience, at least during the time when you were at Dillwynia, 100 per cent of the staff you encountered weren't aware of it?

MR WESTLAKE: Absolutely, yes, absolutely.

25 **MS DAVIDSON:** In your view, is it something that should be more broadly taught to officers?

MR WESTLAKE: Absolutely.

30 **MS DAVIDSON:** Why is that?

MR WESTLAKE: Once you commit something to paper, paper - anything can happen to it. But once committed to a database, people are aware of it and can action it. Not every staff member has what's called the back end. It's only the Intel
35 officers, CIG and PSI that have what's called the back end. So if I -

MS DAVIDSON: Is that sometimes called Intel Access?

40 **MR WESTLAKE:** Yes, that's correct.

MS DAVIDSON: So Intel Access is the back end?

45 **MR WESTLAKE:** Yes, and they won't let every staff member because they're not meant to know everything that goes on. It's only between the intel officer and the Manager of Security of the FM Security or the Governor.

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MS DAVIDSON: Commissioner, I note the time. I probably have about another 10 more minutes.

COMMISSIONER: We'll take a short adjournment.

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<THE HEARING ADJOURNED AT 11.28 AM

<THE HEARING RESUMED AT 11.40 AM

10 **MS DAVIDSON:** Commissioner, the witness is just coming back into the witness box.

Mr Westlake, can you have a look at paragraph 24 of your statement - 34, I withdraw that. Paragraph 34 of your statement.

15

MR WESTLAKE: Yep.

MS DAVIDSON: You refer there to Judy Leyshon coming back in as an Acting Governor?

20

MR WESTLAKE: Yes, that's correct.

MS DAVIDSON: You say of her there she was great.

25

MR WESTLAKE: Yep.

MS DAVIDSON: What was it about her that was great?

30 **MR WESTLAKE:** I suppose that she was more active at the gaol itself. Coming around meeting with staff, talking to inmates on the compound and what have you.

MS DAVIDSON: So you saw her more in the gaol than you had Shari Martin?

35

MR WESTLAKE: That's correct, yes.

MS DAVIDSON: Did you see Shari Martin in the gaol very much?

40

MR WESTLAKE: I did see her at times, yes, because part of the role is to know what your gaol is doing.

40

MS DAVIDSON: And you thought that Judy Leyshon was doing a better job of that?

45

MR WESTLAKE: I never said a better job, I just said she was great.

MS DAVIDSON: But you draw -

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MR WESTLAKE: More active.

5 **MS DAVIDSON:** You are drawing a contrast there, I understand, between the way that Shari Martin conducted her role and the way that Ms Leyshon acted in the role; is that correct?

MR WESTLAKE: Every person is different in the way they conduct their roles. I could be different to another Senior Correctional Officer conducting the role.

10 **MS DAVIDSON:** But you understood that part of the role was to know what was going on in your gaol and that Judy Leyshon did a good job of that?

MR WESTLAKE: Yes.

15 **MS DAVIDSON:** Do I understand correctly that you thought that there was perhaps a less good job of that particular aspect of the role being done by Shari Martin?

20 **MR WESTLAKE:** Not less of a good job, it's just a different way of approaching it, because some Governors require their staff to be the ones that do that role and then report back to them. When you are a relieving Governor, I would imagine the workload is not the same because you're only there for a temporary time.

25 **MS DAVIDSON:** Let me ask you a different question. How would you describe Shari Martin's management style?

MR WESTLAKE: That's a very difficult question to ask.

30 **MS DAVIDSON:** Well, you worked under her in that gaol for five or six years.

MR WESTLAKE: Shari was -

MS DAVIDSON: What was your impression?

35 **MR WESTLAKE:** Shari was very approachable. Any time that I needed to do something like when I wanted to go and work out at Occupational Support she was supportive in that respect. She was very active in the growth of myself, in my career.

40 **MS DAVIDSON:** That is, she was something, somebody who encouraged you in relation to your career.

MR WESTLAKE: That's correct, yes.

45 **MS DAVIDSON:** In terms of the way that she managed officers generally, what were your observations of that?

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MR WESTLAKE: Seemed to be all right. Because I never saw her all the time because when you're working in a different area you may not see anyone for the whole day.

5 **MS DAVIDSON:** All right. You say in paragraph 34 of your statement that Pam Hotham came to work in the gaol or was working in the gaol during some of the period -

MR WESTLAKE: Yes.

10

MS DAVIDSON: - that you were there, as a Senior Assistant Superintendent and that she was badly treated. What was your understanding of the poor treatment of Ms Hotham?

15 **MR WESTLAKE:** Ms Hotham would relay to me after she retired of some of the treatment she received. Something that I had not seen while she was there.

MS DAVIDSON: What was that treatment that she had relayed to you?

20 **MR WESTLAKE:** I believe that she was abused by some of the senior staff and even some of the junior staff, mistreated.

MS DAVIDSON: Abused by some of the senior staff?

25 **MR WESTLAKE:** And some of the junior staff.

MS DAVIDSON: Did those senior staff including Shari Martin?

MR WESTLAKE: Yes.

30

MS DAVIDSON: Did they include Deborah Wilson?

MR WESTLAKE: No, not that I know of.

35 **MS DAVIDSON:** Did they include Leanne O'Toole?

MR WESTLAKE: No.

40 **MS DAVIDSON:** Did she indicate to you the other senior staff that she was being abused by?

MR WESTLAKE: Yes.

MS DAVIDSON: Who were they?

45

MR WESTLAKE: Michael Paddison, Neil Holman. But again, this is Pam's story to me. I don't know whether it happened or not.

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MS DAVIDSON: I'm only asking you about what she told you.

MR WESTLAKE: Yep.

5

MS DAVIDSON: Did she indicate to you why -

MR WESTLAKE: No.

10 **MS DAVIDSON:** - it was that she felt she was being badly treated by them?

MR WESTLAKE: No.

15 **MS DAVIDSON:** Were there particular junior staff that she indicated to you that she was badly treated by?

MR WESTLAKE: Yes.

20 **MS DAVIDSON:** Who were they?

MR WESTLAKE: Wes Giles was one. I can't remember anyone else.

MS DAVIDSON: Wayne Astill?

25 **MR WESTLAKE:** Actually, yes, Wayne Astill. He came up several times.

MS DAVIDSON: And what did she tell you about Wayne Astill, or her treatment by Wayne Astill?

30 **MR WESTLAKE:** He would always put her down, disrespect her, (a) for being a female; and (b) for being a senior officer to him. Some of the words that he said to her were quite derogatory. Words that I certainly wouldn't use to another officer, especially to a female.

35 **MS DAVIDSON:** Did she tell you the words that he used towards her?

MR WESTLAKE: Yes.

40 **MS DAVIDSON:** Are they words that you understood he used in the workplace?

MR WESTLAKE: I only understood they were words he used to her. I don't know whether he used them in other locations.

45 **MS DAVIDSON:** But did you understand he'd used them to her in the workplace?

MR WESTLAKE: That's correct.

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MS DAVIDSON: What were those words?

MR WESTLAKE: Something like, words to the effect you're a useless -

5 **MS DAVIDSON:** You don't need to be shy about the language, we have heard plenty of it already in the course of evidence in this Inquiry.

MR WESTLAKE: Yeah, you're a useless cunt, you're a fucking idiot and things like that.

10

MS DAVIDSON: Did you understand that language like that was being used towards - did Ms Hotham tell you -

MR WESTLAKE: Yes.

15

MS DAVIDSON: - that language was being used towards her by others in senior management?

MR WESTLAKE: Yes.

20

MS DAVIDSON: That is useless cunt, fucking idiot.

MR WESTLAKE: Well, words -

25 **MS DAVIDSON:** Words to that effect.

MR WESTLAKE: Yes.

30 **MS DAVIDSON:** Did you understand her to tell you that Shari Martin had used words like that to her?

MR WESTLAKE: No, just they sometimes had yelling matches but she never went into what those yelling matches were about or what words were used.

35 **MS DAVIDSON:** Did you experience Shari Martin using - that is did you hear Shari Martin using any derogatory language towards inmates?

MR WESTLAKE: No.

40 **MS DAVIDSON:** Did you hear other officers referring to inmates as cunts?

MR WESTLAKE: No.

MS DAVIDSON: During your time at Dillwynia?

45

MR WESTLAKE: No.

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MS DAVIDSON: Or as mutts?

MR WESTLAKE: No.

5 **MS DAVIDSON:** Or as moles?

MR WESTLAKE: No, crims and crooks, yes, but not derogatory sort of terms.

10 **MS DAVIDSON:** Would that be, based on your experience now delivering the Five-Minute Intervention or involvement with your Five-Minute Intervention program, completely contrary to what the objectives of that program are in relation to respectful language towards inmates?

15 **MR WESTLAKE:** Absolutely. Yeah.

MS DAVIDSON: And completely unacceptable language to be used towards inmates in a correctional centre at least now?

20 **MR WESTLAKE:** Well, it's actually unacceptable to use it to anyone.

MS DAVIDSON: But certainly in respect of inmates?

MR WESTLAKE: Everyone.

25 **MS DAVIDSON:** Did you regard Shari Martin as approachable in relation to complaints?

MR WESTLAKE: I did.

30 **MS DAVIDSON:** Do you recall ever raising a complaint in relation to another officer with Ms Martin?

MR WESTLAKE: No.

35 **MS DAVIDSON:** Did you have any experience of raising other kinds of complaints with her?

MR WESTLAKE: No complaints, no.

40 **MS DAVIDSON:** So when you say you regarded her as approachable -

MR WESTLAKE: Yes.

45 **MS DAVIDSON:** - in relation to that, was that from things you had heard from other officers?

MR WESTLAKE: Sorry?

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MS DAVIDSON: In regarding her as approachable was that based on your experience when you had come to her with other requests or was it based on what you had heard from other officers about taking complaints to her?

5

MR WESTLAKE: My dealings with Shari was mainly day-to-day running of my area. If I was up at Medium Needs or somewhere like that, there was issues like shortage of things like toothpaste and stuff like that.

10 **MS DAVIDSON:** All right. So everyday kind of operational issues was most of the contact that you had with her, is that right?

MR WESTLAKE: Yeah, and even those were few and far between.

15 **MS DAVIDSON:** Do you recall at some stage in 2016 attending a meeting in Shari Martin's office with Michael Paddison, Neil Holman and if you can take your pseudonym list out there, it should be in the envelope, if it's not sitting on the table there.

20 **MR WESTLAKE:** Is this the one?

MS DAVIDSON: Yes, that's the one and Witnesses V and R.

MR WESTLAKE: B, yep.

25

MR GUY: Your Honour, if I may, I make the section 23 objection in respect of this question.

COMMISSIONER: What is the question?

30

MS DAVIDSON: Does he recall attending a meeting. At the moment that's as far as I've got, Commissioner.

COMMISSIONER: I think we can allow that one. Yes, answer the question.

35

MR WESTLAKE: So what was the question again, sorry?

40 **MS DAVIDSON:** Do you recall in 2016 or indeed ever during your time at Dillwynia attending a meeting in the Governor's office with Michael Paddison, Neil Holman and Witnesses V and R.

MR WESTLAKE: V, I thought you said B.

45 **MS DAVIDSON:** No, V. V for Vanessa and R.

MR WESTLAKE: No.

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MS DAVIDSON: I'm going to ask some questions in relation to the evidence that the Commissioner has heard in relation to that meeting.

MR WESTLAKE: Yep.

5

MS DAVIDSON: And it has heard some evidence in relation to your presence, to see if that jogs your memory at all. Do you recall during that meeting Witness V asking for help to stop Mr Astill harassing or intimidating herself and Witness R?

10 **MR WESTLAKE:** No, I don't.

MR GUY: I take the 23 objection.

COMMISSIONER: Very well. Just answer the question, please.

15

MR WESTLAKE: I don't recall a meeting like that, no.

20 **MS DAVIDSON:** The Commissioner has heard some evidence that in that meeting Mr Paddison asked why it was that Mr Astill would be doing that, and in response to that, Witness V then indicated, or said that Mr Astill had been touching - and can you again look at your pseudonym list - Witness M, on her face, had held on to her hands and then touched her inappropriately.

25 **MR GUY:** Commissioner if I may, perhaps this may be the better way to approach this. There is, as one can anticipate a line of questioning around this incident that is alleged to have occurred. My client has provided some answers so far in respect of that. I would ask that the section 23 objection in respect of the line of questioning around meeting with the inmates be done over objection.

30 **COMMISSIONER:** Well, I would like to be able to say that's the right way to go but I'm not sure that there's a debate about whether it is but I understand the objection but you will be required to answer all of these questions, do you understand?

35 **MR WESTLAKE:** Yes, Commissioner.

MR GUY: In that case, I will object to each.

COMMISSIONER: Very well.

40

MS DAVIDSON: I understand that is the approach that the Commission has been taking and that's the course my friend will take according to the guidance that you have provided, Commissioner.

45 **COMMISSIONER:** Yes.

MR WESTLAKE: Sorry, what was the question again? I forgot what you asked.

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MS DAVIDSON: I was asking whether it jogged your memory at all in relation to that meeting.

5 **MR WESTLAKE:** Oh, the meeting, no.

MS DAVIDSON: Do you want the whole question?

MR WESTLAKE: Yes, please.

10

MS DAVIDSON: That Witness V then said that Mr Astill - I withdraw that - Astill touched -

MR WESTLAKE: Yep.

15

MS DAVIDSON: - had touched M on her face, had held her hands and had touched her inappropriately.

MR WESTLAKE: I don't recall. I can't remember anything like that.

20

COMMISSIONER: Mr Westlake, you have mentioned a couple of times your memory is failing you and you have a medical condition.

MR WESTLAKE: I do. I suffer from severe sleep apnoea. I'm on a machine now but so many times that I've just even forgotten.

25

COMMISSIONER: So we can't rely on your memory, nor can you, is that the idea?

30 **MR WESTLAKE:** I would say so, Commissioner, I'm sorry for that.

COMMISSIONER: Yes, thanks.

MS DAVIDSON: Is it the case, Mr Westlake, that it's possible that you attended such a meeting and you simply can't remember it as a result of your medical condition?

35

MR WESTLAKE: He's jumped up, sorry.

40 **MR GUY:** I take the section 23 objection, Commissioner.

COMMISSIONER: I can't hear that.

MR GUY: I take the section 23 objection to that question.

45

COMMISSIONER: Answer the question, please.

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MR WESTLAKE: I could have been but I don't know whether I was or I wasn't and I'm not sure why I would be at a meeting like that.

MS DAVIDSON: Not a question that I can answer for you, Mr Westlake.

5

MR WESTLAKE: No, I know, the statement that I provided for you.

MS DAVIDSON: Only one further question in relation to anything that might jog your memory. Do you recall being in a meeting with Mr Holman and Mr Paddison where Shari Martin was called in as a result of what Witness V had said?

10

MR GUY: I take the 23 objection, Commissioner.

COMMISSIONER: I think the question has been answered.

15

MR WESTLAKE: I truly want to remember it, I just can't, I'm sorry.

MS DAVIDSON: If I ask you to assume that those events in relation to that allegation being made by Witness V in that meeting about Mr Astill touching Witness M occurred, what, to your understanding, should have happened in relation to that, that type of allegation being made about Astill touching Witness M?

20

MR WESTLAKE: It certainly would have had to have been taken further, if there's a complaint made in that nature, absolutely.

25

MS DAVIDSON: Taken further in what respect? What would you understand would be -

MR WESTLAKE: Well, anything like that, an inmate would be asked to provide a report. They'd also be asked whether they wanted police action or not. Even if they say no to police action, anything in relation to that is still reported to the police for information only.

30

MS DAVIDSON: When you say in relation to that?

35

MR WESTLAKE: To anything like that. Someone belting an inmate, inmates fighting amongst each other, inmates injuring each other, staff member/inmates problems, they are reported to the police.

40

MS DAVIDSON: So are you referring to any contact between either an inmate and another inmate or an inmate and an officer that is physical contact?

MR WESTLAKE: Could be also - yeah, physical contact, absolutely. We have a reporting line that we do a report, it's just a simple one-page and fax it off to the police.

45

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MS DAVIDSON: That's not the IIS system.

MR WESTLAKE: No, that's external.

5 **COMMISSIONER:** Mr Westlake, I understand what you say that matters would be reported to the police. Are you saying that would occur irrespective of whether the inmate -

MR WESTLAKE: That's correct.

10

COMMISSIONER: - wished it to be reported?

MR WESTLAKE: Yes, it's an information only. So if there was two inmates that had fought and one did not want police action like charges laid or anything, it would still be reported and that's a way for the Department to be covered. And it's information only for the Police.

15

COMMISSIONER: What is being put to you, though, is a prison officer.

20 **MR WESTLAKE:** That would certainly also be the same. But I think I don't know the full process.

COMMISSIONER: I was going to ask you what the process is. I can understand it may be referred to the Police.

25

MR WESTLAKE: Yes.

COMMISSIONER: I can also understand an inmate being concerned if the matter is prosecuted but doesn't it raise real alarm bells within the prison system itself?

30

MR WESTLAKE: In what way your worship, your Honour?

COMMISSIONER: The allegation is of a prison officer doing something which they shouldn't be doing to an inmate.

35

MR WESTLAKE: One question, you would ask the inmate: do you wish to have Police action and then they would indicate yes whether they did or they didn't. I don't know the process after that. I think it would go to PSI, because they work in conjunction with the PSIU, which is the Police Corrections Intel Unit and then those staff members - they're the liaison unit between the Police and our Department.

40

COMMISSIONER: The point is that it's one thing to prosecute a crime. It's another to have a prison officer who is failing in their duty remain within the system.

45

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MR WESTLAKE: 100 per cent agree.

5 **MS DAVIDSON:** Could I ask you to assume for the purposes of this question that you had been in a meeting where an allegation of the kind I described to you was made but also attending that meeting were Mr Holman and Mr Paddison as well as Shari Martin. Is it your understanding that you, a Senior Correctional Officer, would have been required to take any of the steps you've been describing?

10 **MR WESTLAKE:** Well -

MS DAVIDSON: In the context of a meeting I'm asking you to assume attended by those other officers.

15 **MR WESTLAKE:** I would report it to my senior officers who were there in the room at the time.

20 **MS DAVIDSON:** Right. So do I understand correctly that assuming that those officers attended, you wouldn't have regarded yourself as being required to take any further step because they were there.

MR WESTLAKE: They were there, absolutely.

25 **MS DAVIDSON:** Right. Was there a time at which Reneé Berry came to you and indicated that she had received some information from an inmate about Astill?

MR WESTLAKE: That's correct, yes.

30 **MS DAVIDSON:** Appreciating your difficulties in relation to memory, do you have any sense of when that was within the period of time that you were at Dillwynia?

MR WESTLAKE: No, I'm not, sorry.

35 **MS DAVIDSON:** You are not even able to say the beginning, middle, or end?

MR WESTLAKE: No.

40 **MS DAVIDSON:** Okay. Did she tell you anything about what the information was?

45 **MR WESTLAKE:** No. The reason being is because I don't like to ask detail about the information but it's easy to refer the staff member to the IIS. That way, they are reporting exactly the information they have because if you report it to me then I can have my own biases and thoughts and all that and I don't like to dirty information. I like it to go direct to - direct.

MS DAVIDSON: Did she seem concerned about that information -

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MR WESTLAKE: Yes.

MS DAVIDSON: - to you?

5

MR WESTLAKE: Yes.

MS DAVIDSON: Did she indicate that she wanted to report that information?

10 **MR WESTLAKE:** Yes.

MS DAVIDSON: And do you remember what you told her about the IIS?

15 **MR WESTLAKE:** Yes, I actually physically - several cases prior to that, just as a simple mentor training, showed her and then I reiterated how to use the system again.

MS DAVIDSON: All right. So you regarded yourself, am I right in this, as something of a mentor to Ms Berry?

20

MR WESTLAKE: A mentor to a lot of the staff there, yes.

MS DAVIDSON: Okay. So you showed her before this but then on this particular occasion you showed her again?

25

MR WESTLAKE: Reiterated, yes.

MS DAVIDSON: All right. Do you remember showing her particular features of the IIS?

30

MR WESTLAKE: Yes.

MS DAVIDSON: Do you remember what you told her about those features?

35 **MR WESTLAKE:** I remember going over what I taught her about the SIU, in general.

MS DAVIDSON: So do you remember whether you told her that the SIU was a function that would go, or that would not go to the Governor?

40

MR WESTLAKE: Yes. That's correct, yes.

MS DAVIDSON: That it would go outside the -

45 **MR WESTLAKE:** That's correct, yes.

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MS DAVIDSON: - outside the Centre. And do you recall having any further discussion with her about her use of the IIS after that?

MR WESTLAKE: What way?

5

MS DAVIDSON: Well, did she come back to you and say, "I used that, I did that, I've reported it"?

MR WESTLAKE: No.

10

MS DAVIDSON: Did you follow up with her in any way, do you remember?

MR WESTLAKE: Not that I remember.

15

MS DAVIDSON: Can you go to paragraph 98 of your statement. You say there it was - sorry, have you got that page?

MR WESTLAKE: Yep, page 12.

20

MS DAVIDSON: You say there it was a huge relief when Astill got arrested. Was that a relief to you?

MR WESTLAKE: I really didn't know about Astill until the arrest of what he'd been doing because I'd been out of the gaol for quite some time but I believe that the staff were actually quite relieved.

25

MS DAVIDSON: So was that from people who were talking to you who had contact with you at the time he got arrested? How do you know it was a huge relief?

30

MR WESTLAKE: Because of their words, "It's a relief".

MS DAVIDSON: They told you that at the time?

35

MR WESTLAKE: Yeah.

MS DAVIDSON: Do you remember who told you that at the time?

MR WESTLAKE: No. That's when I started to find out what he had been up to because I saw it on the news and the first thing you do is you ring some staff and say, "What's this about?" and that's when you find out it's a relief.

40

COMMISSIONER: Did you understand why they were relieved?

45

MR WESTLAKE: Sorry?

COMMISSIONER: Did you understand why they were relieved?

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MR WESTLAKE: If you get a staff member that's soiled the good name of the Department, and those staff members are quite upset, that's - that's a relief, Commissioner; that they were just happy that what was happening in the gaol at the time had stopped. I was not fully aware of what had stopped. But as from the time he was arrested, then you start to hear more information.

COMMISSIONER: But they gave you the impression that they knew?

MR WESTLAKE: They gave me the impression that after he was arrested, they knew what he was up to.

COMMISSIONER: Well, obviously once he is arrested it's public knowledge.

MR WESTLAKE: Yeah, everyone knows.

COMMISSIONER: But are they giving you the impression that they had known before he was arrested and were relieved that he had now been dealt with?

MR WESTLAKE: Some, yes. But others probably found out the same time I found out.

MS DAVIDSON: You've said that, in paragraph 98, it lifted a weight off a lot of people's shoulders. Are you referring there to an understanding that before he was arrested, people were carrying a weight in relation to what they knew about him?

MR WESTLAKE: I'd assume they did.

MS DAVIDSON: Were there people you spoke to who told you that they felt like a weight had been lifted off their shoulders?

MR WESTLAKE: Any officer you find that disgraces the good name of the Department - I've seen officers arrested for things and I, even though I didn't know them, I felt that the system was working and it is a good weight to have off your shoulders that someone else who has dirtied the Department has been held accountable for it.

MS DAVIDSON: Were there people that you spoke to at the time that gave you the impression that they were aware of what some of what Mr Astill had been doing prior to the time that he was arrested and that was part of lifting the weight off their shoulders?

MR WESTLAKE: I suppose yes.

MS DAVIDSON: Who were they?

MR WESTLAKE: I can't remember.

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MS DAVIDSON: Was Hotham one of them?

5 **MR WESTLAKE:** I'm asking to assume something I just can't remember, I'm sorry.

MS DAVIDSON: I'm just asking you the question.

10 **MR WESTLAKE:** And I'm just answering your question.

MS DAVIDSON: At paragraph 106 you say that you've heard a lot of rumours in relation to Wayne Astill's sexual misconduct. Did you hear rumours about Astill's sexual misconduct at the time that you were working at Dillwynia?

15 **MR WESTLAKE:** No.

MS DAVIDSON: You say there were names consistently coming up in the rumours, you didn't see them yourself, and we understand that. But can you tell the Commission, this may be relevant to what the Commission is doing, what were the names that consistently came up in the rumours that you were aware of?

MR WESTLAKE: I can't remember their names. It's just that people came up in the rumours. I can't remember.

25 **MS DAVIDSON:** Well, do you remember enough about them to say that names consistently came up; is that right?

MR WESTLAKE: Yes.

30 **MS DAVIDSON:** But are you telling the Commission honestly that you don't have any recollection of what those names were?

MR WESTLAKE: No. You heard the name Shari Martin being mentioned. Again, I don't know the context of any involvement because I just wasn't at the gaol at the time.

MS DAVIDSON: All right, but in terms of rumours, were they rumours that you were hearing at the time?

40 **MR WESTLAKE:** Rumours I was hearing but it was more about what he was doing than others.

MS DAVIDSON: Sorry, more about what he was -

45 **MR WESTLAKE:** What he was doing than others.

MS DAVIDSON: Rumours that you heard at the time about what he was doing?

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MR WESTLAKE: Yes.

MS DAVIDSON: From other staff?

5

MR WESTLAKE: Yes.

MS DAVIDSON: When we say "at the time" are we talking about rumours before he was arrested?

10

MR WESTLAKE: No. No, no, after he was arrested because I wasn't working at the gaol, so I really had no connection with people there. When you work in different areas, you just - like at the Academy your association is with those people. I'm not one of these people that hang out around with a lot of people.

15

MS DAVIDSON: So you didn't maintain social contact -

MR WESTLAKE: Yes.

MS DAVIDSON: - with people you worked with at Dillwynia after you moved to the academy, is that right?

20

MR WESTLAKE: That's correct, because I had no reason to.

MS DAVIDSON: Did you hear any rumour during the time before Mr Astill was arrested that you considered should have been reported?

25

MR WESTLAKE: No.

MS DAVIDSON: In paragraph 110 you say you'd like to see a change to the IIS.

30

MR WESTLAKE: Yep.

MS DAVIDSON: Give a receipt in relation to acknowledging your submission.

35

MR WESTLAKE: Yep.

MS DAVIDSON: Why would that be important?

MR WESTLAKE: Well, the fact is that I know now that you don't receive a receipt saying that the information's arrived where it should have arrived. And yet if I transfer money in a bank, you get a receipt. So that ought to be good system to have added.

40

MS DAVIDSON: You've indicated in the last sentence of paragraph 110 that you think there will always be people like Wayne Astill who soil the reputation. I assume you are referring to the reputation of the Department there?

45

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MR WESTLAKE: Absolutely.

5 **MS DAVIDSON:** And you indicate that he won't be the last. He certainly won't be the last, you say. This is an officer who's been found guilty of serious sexual offending over multiple periods - well, against multiple inmates over long periods of time. Are you seriously suggesting that -

10 **MR WESTLAKE:** I wasn't indicating that.

MS DAVIDSON: - that would be the last of that kind?

15 **MR WESTLAKE:** No, just people in general, like, whether it's going to court for stealing or whatever else. There will always be people and that's even with lawyers and everyone else, there's always people in all organisations, that soil the good name. You hear it with Police, Fire Brigade and that but I never indicated multiple sexual assault, that's something you have added, I'm sorry.

20 **MS DAVIDSON:** No, I was asking you a question in relation to the character of him because you'd indicated that there will always be people like him. But I don't think we need to explore it. Those are my questions, Commissioner.

COMMISSIONER: Thank you, anyone else have any questions?

25 **<EXAMINATION BY MR SELLER:**

MR SELLER: Mr Westlake, I introduced myself a moment ago. My name is James Sheller I'm one of the legal representatives for Corrective Services.

30 **MR WESTLAKE:** Yep.

MR SELLER: Could I just ask you to go within your statement for the Commission, if you could go to paragraph 77.

35 **MR WESTLAKE:** I'll need to rebuild this, it fell apart.

40 **MR SELLER:** That's all right. It's on page 10, paragraph 77. In that paragraph, you describe how Senior Correctional Officers, once they receive information, they send it to the Intel Unit?

MR WESTLAKE: That's correct, yes.

45 **MR SELLER:** Just in your time, do you remember who the persons were in the Intelligence Unit; this is when were you at Dillwynia?

MR WESTLAKE: Yes. Deb Wilson.

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MR SHELLER: And was it the case that from time to time Ms Wilson was on leave, that other persons were fulfilling that role temporarily?

MR WESTLAKE: Yes.

5

MR SHELLER: And you describe there the process of sending the information. Was that sent via handing over a written document or by email or what was the process?

10 **MR WESTLAKE:** I'll just read 76 first because that relates to it, that's sort of like the heading. Yep, could you repeat the question?

MR SHELLER: Sure, what was the means by which you would send the information which you received as a Senior Correctional Officer to the
15 Intelligence Unit.

MR WESTLAKE: If it was like an information of an inmate bringing drugs in or whatever else, you would go to the IIS. If a staff member gave me that report, I would do a little brief summary on the IIS and then attach that actual report as
20 part of the IIS because it has an attachment function where you can attach reports to it as well.

MR SHELLER: I'm just - so when you say here that you talk about sending information to the Intel Unit, are you referring -
25

MR WESTLAKE: I'm referring to CIG.

MR SHELLER: So you are not referring to the intelligence officer?

30 **MR WESTLAKE:** No, no, no. Sometimes you might take it to her and she would do the same process, just put it on a quick report and send it to CIG because, as you might be aware, you might get information about this inmate at this Centre, that inmate could have been at another Centre and they receive the same information, so once you start compiling those then they become intel. So
35 everything we do is information and then it becomes intel.

MR SHELLER: What determined whether you would send the material to the intelligence officer for her or her replacement to process on the one hand or input the material yourself?
40

MR WESTLAKE: If I was acting in that position, I would input the information myself but as a senior or any other staff member they would give it to the Intel Officer and she would perform that function.

45 **MR SHELLER:** If you were inputting information into the IIS you didn't have to go into the intelligence office at Dillwynia, you could do it from your own computer?

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MR WESTLAKE: No, that could be done at any computer in the Department.

MR SHELLER: In the last line in paragraph 77, you say:

5

"The local Intel Officer will either handle it internally or hand it to the CIG."

Do you see that?

10 **MR WESTLAKE:** Yeah, that's correct.

MR SHELLER: Can you assist the Commission with your understanding of what would determine whether the local intelligence officer would handle it internally or send it, or hand it to the CIG?

15

MR WESTLAKE: If it's like a belief that a visitor may be bringing drugs in, that Intel Officer would then let the visit staff know and be aware and then that report will also go to CIG. But most of it being handled internally was because you can action it straightaway. You don't need to involve other people. So if you believe a visitor, you would then pay attention to them. You watch them via camera, maybe search their bags and search their motor vehicle.

20

MR SHELLER: If the information had been received concerned conduct on the part of an officer, would you expect the local intelligence officer to handle that internally?

25

MR WESTLAKE: No.

MR SHELLER: Or take it to CIG?

30

MR WESTLAKE: No, it wouldn't go to CIG, to do with an officer it would go to professional standards.

MR SHELLER: Your expectation is that any conduct or adverse conduct reported in relation to an officer which had been reported to the intelligence officer would be sent out externally.

35

MR WESTLAKE: That's correct because CIG only handle things like drugs and matters like that. Or visitors or non-staff. It could be a contractor or anything where PI - PSB or PSI now, they would be told that other information was to do with staff.

40

MR SHELLER: Could I then ask you, Mr Westlake, to go to the previous page of your statement, paragraphs 64 and following.

45

MR WESTLAKE: 64, yes.

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COMMISSIONER: Mr Westlake, just before you do that, counsel is asking you about the processes in the event that someone is discovered bringing drugs or attempting to bring drugs into the prison. The impression I have is that, as I think I said to you earlier, is that drugs are a serious issue inside the prison system?

5

MR WESTLAKE: That's correct.

COMMISSIONER: They're not infrequently available to prisoners?

10 **MR WESTLAKE:** I would not know how frequent or infrequent they are.

COMMISSIONER: The sense that I have is that readily available in at least some places. Would that be right?

15 **MR WESTLAKE:** It's a possibility. Because you only know what you find.

COMMISSIONER: Well, that's my point. That's where I want to go. The impression you gave me earlier is that in terms of a rigorous attempt to stop the drugs coming in, there's a lot more that could be done than is presently being done.

20

MR WESTLAKE: Absolutely. We're talking about 38 institutions around the State. We just don't have the manpower to be able to do that.

COMMISSIONER: It's a question of manpower, is it?

25

MR WESTLAKE: That's up to managers higher than me to work that out.

COMMISSIONER: What would you think could be done to attempt to confine the problem?

30

MR WESTLAKE: Certainly have more dogs readily available. If you suspect someone brings stuff in, done at different hours, search their cars and what have you.

35 **COMMISSIONER:** Yes, what else could be done?

MR WESTLAKE: Maybe body scanners, possibly use something like that.

COMMISSIONER: Body scans, you mean a machine -

40

MR WESTLAKE: Yeah.

COMMISSIONER: - that enables a check to be made of what someone might be carrying on their person?

45

MR WESTLAKE: That's correct. Maybe an ionised machine, you know those ones that sit at the airport where you can swab people's clothing.

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COMMISSIONER: I do.

MR WESTLAKE: They could be a possibility.

5

COMMISSIONER: Yes, what else?

MR WESTLAKE: I don't know.

10 **COMMISSIONER:** But what you are suggesting is given available funds a lot more could be done than is presently being done?

MR WESTLAKE: Absolutely.

15 **COMMISSIONER:** Yes.

MR WESTLAKE: But I'm not sure where we'd get those funds from.

COMMISSIONER: That's another issue altogether, but, yes.

20

MR SHELLER: Mr Westlake, just taking you back to page 9 and paragraphs 64 and following, you were asked some questions by my learned friend about suggested attendance by you, I think at the mediation involving Witness R and V.

25 **MR WESTLAKE:** Yep.

MR SHELLER: Also hearing information from Witness B and V concerning a suggested sexual assault on Witness M.

30 **MR WESTLAKE:** Yes.

MR SHELLER: Without asking you specifically about those instances, your answer was to the effect that any complaint of that nature by inmates of a suggested assault by an officer would be referred to Police.

35

MR WESTLAKE: It would. First, you would actually let the Governor know because you're bringing Police into their Centre.

MR SHELLER: Yes.

40

MR WESTLAKE: So they need to know that.

MR SHELLER: Yes. But I think also you mentioned a referral to the Police and the nature of the referral would depend on whether the inmate wanted to -

45

MR WESTLAKE: That's correct, yes.

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MR SELLER: In addition to that process, would something be expected to go on the IIS?

5 **MR WESTLAKE:** I would assume it would because, again, I haven't been at the gaols for six years, so I really don't know if any procedures have been updated in that respect.

10 **MR SELLER:** From the time you were there, do you recall having any knowledge as to whether senior officers such as Mr Paddison or Mr Holman or even the Governor had any involvement in the IIS system?

MR WESTLAKE: In what way, I'm sorry?

15 **MR SELLER:** Directing other officers to input information into the IIS.

MR WESTLAKE: I would not know.

20 **MR SELLER:** Then if you could go back earlier in the statement, please, Mr Westlake, page 5 and it's paragraph 29.

MR WESTLAKE: Yep.

25 **MR SELLER:** Just at the end of that paragraph, you're asked questions about the operation of the - sorry, you make some statements about your understanding of the CIG.

MR WESTLAKE: Yes.

30 **MR SELLER:** Just see in the second and third last lines you say:

"If the report isn't actioned in a timely manner, reminders are sent."

MR WESTLAKE: That's with the IIS.

35 **MR SELLER:** And is that your understanding that the reminders that are being sent are within either the CIG or the PSI?

40 **MR WESTLAKE:** I don't know the PSI part, but if I put something on to the IIS, it could be that I've found a bank account number, it goes to the local Intel Officer, plus also CIG.

MR SELLER: Yes.

45 **MR WESTLAKE:** But generally that is followed up by the local Intel Officer, but if they haven't followed up in a timely manner, then it sends a reminder "Don't forget that that report is sitting on your system." Once they action that then it leaves their system and then CIG, if they require, or if that person has been on

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long-term holidays, CIG will handle it straight up. Because CIG is split into different areas and they're usually under the same areas as per the directors, so you've got south, you have got central and all that.

5 **MR SHELLER:** Thank you. Can I just take you back to paragraph 24, that's on the previous page, page 4.

MR WESTLAKE: Yep.

10 **MR SHELLER:** This is where you talk about the process of reporting what you had found out about Mr Astill and his associates.

MR WESTLAKE: Yes.

15 **MR SHELLER:** And I think your evidence is you're not sure now whether you used the IIS system or made a verbal report. If it was a verbal report can you recall to whom that would have been?

MR WESTLAKE: I'm sorry, I can't.

20 **MR SHELLER:** Would it have been to the then intelligence officer at Dillwynia?

MR WESTLAKE: No. No, it would have been to the PSU.

25 **MR SHELLER:** PSB, as it was.

MR WESTLAKE: PSB.

30 **MR SHELLER:** In relation to your alternative process, that is reporting it to the IIS, why didn't you use the intelligence officer at Dillwynia and report - pass on that information and ask that person to do it?

MR WESTLAKE: Because I didn't think it was in the scope of what is at a local level because it's nothing to do with the running of the gaol. It's outside that realm.

35 **MR SHELLER:** And then just going back to paragraph 11 on page 3, this is in which you address the Five-Minute Intervention process.

MR WESTLAKE: Yes.

40 **MR SHELLER:** And you've been responsible for the roll out of that program?

MR WESTLAKE: I've been part of the rollout team, yes.

45 **MR SHELLER:** And is it fair to say that its purpose is to improve the relationship between Corrective Services Officers and inmates?

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MR WESTLAKE: It actually can be utilised in your day-to-day life as well.

MR SELLER: Yes.

5 **MR WESTLAKE:** It's just a different way of talking to people. It could be used sort of like a first aid training, it can be used outside with family, with friends, with inmates, with colleagues, and what have you. It's a very good, it's certainly changed the way I think about a lot of things.

10 **MR SELLER:** Is one of its features that a person following that program is more respectful.

MR WESTLAKE: Yes. Yes.

15 **MR SELLER:** And as part of your process of rolling out the program, have you seen a change in terms of persons being more respectful towards inmates?

MR WESTLAKE: Oh, absolutely.

20 **MR SELLER:** Yes, those are my questions, thank you.

COMMISSIONER: Yes, anyone else?

<EXAMINATION BY MR GUY:

25 **MR GUY:** Just a few questions. Mr Westlake, you were asked a question about the meeting that occurred between Ms R and Ms V and asked a number of questions about that.

30 **MR WESTLAKE:** Yes.

MR GUY: You provided an answer to my learned friend that you didn't know why you would be in a meeting like that when it was proposed in the abstract. Can you explain to the Commission why you gave that answer?

35 **MR WESTLAKE:** Because I was a Senior Correctional Officer so it's above what I would need to deal with.

40 **MR GUY:** And what do you mean by above what you need to deal with, in that sense?

MR WESTLAKE: A Senior Correctional Officer is mainly involved in day-to-day running of the gaol. We are your most senior of the junior staff. Then after that you become executive staff. So to be called in to an executive meeting, just, I just don't know why.

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MR GUY: Had you ever been, when you were a Senior Correctional Officer had you ever been called into a meeting like that?

MR WESTLAKE: No.

5

MR GUY: And just one final question: You have given evidence that you were acting in the role of intelligence officer. Can you just explain to the Commission what the day-to-day role of an acting intelligence officer would be at Dillwynia at the time?

10

MR WESTLAKE: As an acting intelligence officer, if there was, say, an inmate going on a funeral escort, you would have a look at the location they were going to, what their - their classification was, to how many staff would probably be required to go on that escort. If it was a remote area, you would certainly tell the local Police of that area that you're coming into their community, and you let them know the classification of the inmate. You would ask them if they've got any intel of whether people in that area might cause trouble. Or if they would say whether they think it's a good idea or not, because these escorts sometimes you've got two or three people and when you go to a funeral with a large community, a lot of attendees, you've got to think of the safety of the escort first above all. Sometimes those police might provide some assistance, not directly with the escort, but they might just every now and then drive past the funeral or whatever else.

15

20

Another thing would be to check on - answer basic reports that come in so an officer might say that they've received a phone call that drugs might be coming in so you then would organise for that visitor to be looked at on visits days or if they find - during a search, they might find some contraband and depending on what the contraband is, you would then handle that in different ways.

25

You're more or less just helping the main Intel officer just with the little jobs and you would write a simple note in the diary of what you have done so they know. Another thing might be find out from CIG or anything if there's anything that they require. You might, if the visitor coming in might be bringing drugs in, you would organise for the dog unit and the emergency units to attend because visits are booked so you know the times that they're coming in. So you can target them. Pretty general day-to-day stuff. You wouldn't do more involved sort of things because you're coming in at the back end of something that could have been going on for months.

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40

MR GUY: Right. And I'll just you ask this final question. What did you mean by more involved in?

MR WESTLAKE: Could be investigations, it could be anything like that. The more people that know, there's more people that know, if that makes sense.

45

MR GUY: Thank you.

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MS GHABRIAL: Commissioner I just have a couple of questions if I may before Counsel Assisting asks.

<EXAMINATION BY MS GHABRIAL:

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MS GHABRIAL: Officer Westlake, in terms of the division between executive and non-executive, when we're looking at the day-to-day life of an officer in the non-executive, I heard earlier that you gave some evidence about shifts.

10 **MR WESTLAKE:** Yep.

MS GHABRIAL: I think you said there were three shifts a day for a 24 hour period, is that correct?

15 **MR WESTLAKE:** In Dillwynia there's three shifts of eight hours but some gaols have 12-hour shifts but, yes, there's certainly shift work in all the centres.

MS GHABRIAL: And that's across the entire Centre, there are three shifts at Dillwynia?

20

MR WESTLAKE: Three shifts across, yes.

MS GHABRIAL: During the time were you there?

25 **MR WESTLAKE:** That's correct.

MS GHABRIAL: And it's still the case that there are still three shifts there?

30 **MR WESTLAKE:** Absolutely.

MS GHABRIAL: And would it be - I don't think this question has been asked yet but how big is Dillwynia as a gaol?

35 **MR WESTLAKE:** When I was there, there was only one area. There's probably about 400 inmates but certainly a lot more now since it's expanded but I haven't worked at Dillwynia since it's been expanded so there's a lot more.

40 **MS GHABRIAL:** Boots on the ground for a non-executive officer at the time that you worked there, was it a busy day for an individual officer, no matter what their rank was?

MR WESTLAKE: Absolutely.

45 **MS GHABRIAL:** In the non-executive.

MR WESTLAKE: Absolutely. Like in the Medium Needs where I worked sometimes you've got three staff members for 80 inmates so you're dealing with

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phone calls for them, because back then they never had the tablet. So everything was paperwork, hands on, dealing with an inmate who wants an extra phone call, who wants to know an account balance or anything like that, you would have to look up on the computer and what have you. If they wanted to have a gaol to gaol
5 phone call with another staff member, there's paperwork that had to be filled out there. You would do six cell searches a day in that area with your team. You'd also do patrols around the area because the area is quite open. So inmates could be from different areas. And generally you would not let them into your area because they've got their own area to be in.

10 Yeah, it was actually very busy. If they wanted to see a psychologist, you refer them to a psychologist. If they wanted to see the clinic, if they were in like the high needs area, it's more restricted, especially with the protection inmates so you have to organise if they had visits or clinic or reception, you would have to have
15 staff actually physically take them there for their safety. So, yeah, it can be quite busy.

MS GHABRIAL: And would it be reasonable to assume, maybe I could put it a different way. As an officer boots on the ground during a shift, would it be an
20 unusual thing for you just to not really interact too much with other officers that are on the same shift across the gaol?

MR WESTLAKE: Absolutely. It's too big an area to, because you just focus on your own area.
25

MS GHABRIAL: And would it be reasonable to expect officers, boots on the ground, non-executive, would it be reasonable to expect them to be watching and observing the actions of all officers working the same shift as them at the time?

30 **MR WESTLAKE:** Absolutely not. The reason being is because everyone's got their job to do and you're too involved with your own job to worry about what other people are doing.

MS GHABRIAL: Nothing further, thank you, Commissioner.
35

MS DAVIDSON: Nothing further, Commissioner. The next witness is Mr Foster and Mr Lloyd.

40 **COMMISSIONER:** Mr Westlake, thank you, you are now excused.

<WITNESS EXCUSED

MR LLOYD: Mr Foster will take an oath on the Bible, Commissioner.

45 **<PAUL FOSTER, SWORN**

COMMISSIONER: Take a seat, please. Yes, Mr Lloyd.

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<EXAMINATION BY MR LLOYD:

5 **MR LLOYD:** Thank you, Commissioner. Can you tell us your name?

MR FOSTER: Yes, I'm Paul James Foster.

MR LLOYD: And your address is known to the Commission.

10 **MR FOSTER:** Yes.

MR LLOYD: Mr Foster, you gave a statement to the Commission and you did that on 27 September this year?

15 **MR FOSTER:** That's right.

MR LLOYD: And in that statement you were telling the truth?

20 **MR FOSTER:** I was.

MR LLOYD: You made a statement to the police for the purpose of the prosecution of Astill?

25 **MR FOSTER:** I did.

MR LLOYD: And in that statement were you telling the truth?

MR FOSTER: I was.

30 **MR LLOYD:** Commissioner, the Commission statement is found behind tab 56 in that same volume and I tender both of those.

COMMISSIONER: Yes. Together they will become exhibit 13.

35 **<EXHIBIT 13, TENDERED AND MARKED**

MR LLOYD: Mr Foster, there's a folder to your left, just locate it a way that's convenient to you, but turn up tab 56A. Tell me if you have trouble and we can help. You've got that one?

40 **MR FOSTER:** I have.

MR LLOYD: That's your Commission statement?

45 **MR FOSTER:** That's correct, it is.

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MR LLOYD: Can I ask you, if you need to remind yourself, have a look at paragraph 5. You started in Corrective Services in September 1996?

MR FOSTER: Correct.

5

MR LLOYD: Don't take this the wrong way but you were a mature age entrant?

MR FOSTER: I was, I was 39.

10 **MR LLOYD:** What had you done before that?

MR FOSTER: I spent, I think it was 19 years and six months with Telstra.

MR LLOYD: What led you to move to Correctives?

15

MR FOSTER: Meeting a young lady that I later married who was a Correctional Officer at the time; since retired 20 years ago now.

MR LLOYD: You started at Lithgow?

20

MR FOSTER: I did.

MR LLOYD: And then fairly shortly after that moved to the Metropolitan Remand and Reception Centre.

25

MR FOSTER: That's right.

MR LLOYD: You went over to Mulawa with the intention of staying briefly?

30 **MR FOSTER:** Yeah, it was a three month opportunity for a secondment. My wife worked with female inmates. I'd worked with male inmates. We never wanted to work in the same centre, and I was curious to know how the other half live, the men had told me about their partners. So up came an opportunity for a three month secondment which was later doubled to six months, and then later extended to
35 a number of years. I finally got to Dillwynia.

MR LLOYD: That was seven years or so at Mulawa?

MR FOSTER: It was.

40

MR LLOYD: Can I just ask you, you told the Commissioner a minute ago you and your wife between yourselves didn't want to work at the same centre?

MR FOSTER: No.

45

MR LLOYD: Why?

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MR FOSTER: Well, to my way of thinking, it's nice - like working with the men and working with the women are two entirely different things. So when you meet at home you've got entirely different things to talk about. If you're going to live, eat and breathe work, to my way of thinking and to my wife's way of thinking, that's not a positive way to maintain a relationship. And I think we were right because we've been doing it for 33 years.

MR LLOYD: After your seven years at Mulawa, you then came to Dillwynia in about 2004?

MR FOSTER: That's right.

MR LLOYD: Now, coming from one centre for a fairly lengthy stint to another one, did you notice changes or differences?

MR FOSTER: The changes were dramatic.

MR LLOYD: Tell us about what you noticed when you arrived at Dillwynia in '04 as compared to Mulawa.

MR FOSTER: Absolutely. I finished at Mulawa on a day watch at 4 in the afternoon. I started at Dillwynia at midnight the same night. I walked into a gaol that had - I think we had 14 staff who were experienced. We had about 37 or 39 inmates, I can't quite remember now. They threw me the keys and said "Oh, you're the night senior for the next seven days." I didn't even know where the yard was. So it was quite an experience. The difference in the manners of the place, you walked into a new centre that doesn't have a culture. It was very different. It was a lot less formal in a lot of ways, it was a lot friendlier in a lot of ways. It was a lot more welcoming to new people in a lot of ways; they were all positives.

MR LLOYD: When you say it didn't have a culture, you arrived there just after it opened?

MR FOSTER: I did. A group of us from different centres had come. We weren't all from the one centre. So you had a melting pot happening from the time it started.

MR LLOYD: I needed to ask you, what do you do now?

MR FOSTER: I'm a Senior Correctional Officer at Dillwynia.

MR LLOYD: Still at Dillwynia. So you've been there basically from the start?

MR FOSTER: It's a long time.

MR LLOYD: Continuously. You must have had a very good opportunity to observe the culture that grew up in the place?

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MR FOSTER: I did. I lived it. When I got there, it was a month after the place had actually opened. I went there because Dillwynia was sold as a place that was going to be 200 sentenced inmates with intensive programs. I was interested in the programs side. Mulawa had recently turned into a reception centre so nobody was going to be doing programs. So that made Dillwynia look more attractive.

MR LLOYD: Can I just take you forward in time to the year approximately 2015/2016. Now, if this question is too general and you can't give a helpful answer, tell me and I will come to the specifics. But how would you describe the culture that existed at Dillwynia at that time, 2015/2016?

MR FOSTER: 2015/16 it was a good culture. What had actually happened, our first lot of new staff that came in, in 2005, I think it would have been, came straight from the top of the gate out of a training class. You had subsequent training groups that came in and made up the staffing of the Centre. They were new people. They were good new people. And the place was under good management and control. We had some remarkable Governors. And it ran very, very well. And it was - in comparison to Mulawa, I found it to be a lot happier place. People enjoyed coming to work and they were just as happy when they left work.

MR LLOYD: Could you just have a look and remind yourself of paragraph 20 of your statement. Re-read that and then I'll ask you.

MR FOSTER: Yeah.

MR LLOYD: You describe there your belief of a boys' club being present at the time. Do you see that? What time are you talking about there?

MR FOSTER: That was probably around that time, around the '15 and beyond.

MR LLOYD: Starting around then, do you recall?

MR FOSTER: Leading into and beyond there. That was a nickname from what I could work out that staff had shared. They're a close group of people and so they were referred to as the boys' club.

MR LLOYD: Can you just tell us some sort of features of that boys' club?

MR FOSTER: They socialised. They were involved in social clubs. They had other activities beyond the Centre. Sort of sort of - sort of like a little association within the group, if you know what I mean.

MR LLOYD: Did that manifest in any bullying or harassment type behaviour in the workplace, to your observation?

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MR FOSTER: Not from my observation, no. I didn't see any of that.

MR LLOYD: In paragraph 17 you talk about gaol being a funny place and that there are cliques. That is the first line in paragraph 17.

5

MR FOSTER: Yep, okay.

MR LLOYD: Is that what you are talking about, the cliques, what you just told us?

10

MR FOSTER: It is. You have grouping of friends, people that prefer to work with other parties. Occasionally there's disputes between those groups. More often than not, it's banter, it's not negative or destructive, but that does occur, it's quite common.

15

MR LLOYD: The Commission has received some evidence - if you've got a pseudonym list, I can see it in front of you.

MR FOSTER: I have.

20

MR LLOYD: Look at Witness C. I'll just get your response to some evidence that Witness C gave. That from time to time more senior officers ridiculed both you and the chaplain, Susie Johnson, on the basis that you were interacting with inmates and doing too much for them; in effect, being overly kind to them. Do you have anything -

25

MR FOSTER: It's quite possibly right, but I don't see that as a negative.

MR LLOYD: No, no, sorry. We are at cross-purposes. I'll deal with it this way. I'm not suggesting to you that the evidence is to the effect that you were doing anything wrong by being supportive and kind to inmates; do you understand?

30

MR FOSTER: It's important. The chaplain is a resource. The chaplain can discuss matters that a male can't; can also be a confidential source, the person can share an inner feeling with. So if you can break down a barrier and put a person in front of a chaplain, that can be a solution to that problem, at least open doors to other ways. Insofar as doing too much for people, chaplains have a habit of working hard. I know I was involved in the first Kyros that ran in the Centre, I think it was 2006. That being the case, that was something I wanted to do. It was something that interested me. I loved the interaction with the public and the inmates. So I don't take that as a criticism.

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MR LLOYD: In terms of - do you remember senior people ridiculing you because you were being nice to inmates?

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MR FOSTER: They told me - opinions are like rear ends everyone has got one. I operated to the same rules and regulations that they did. Maybe I had a different

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way of dealing with it. You heard about the Five-Minute Intervention. I've lived the Five-Minute Intervention.

5 **MR LLOYD:** It sounds like, from what you're telling us, Mr Foster, even before the Five-Minute Intervention the practice you adopted was to be respectful to inmates. Is that fair?

10 **MR FOSTER:** You had to be. I worked - a lot of the time that this matter was happening, I was employed in an area called the Independent Living Unit which was external to the gaol. My role at that time was (indistinct) 14, I think had inmates at the time who were involved in work release in the community. Now, they were people that had worked very, very hard to get into a position where they were. They had a lot to lose.

15 The rumours were always a thing in a gaol, they were a nightmare. So we had to be critically aware of rumours, it was only a matter of somebody inside sharing that, "Oh, drugs are coming in from girls out the front", my girls were in trouble. So you were crucially aware of rumours. You had to be. It was very important. Then you can be proactive rather than reactive.

20 You also established a very close rapport because you're sending those people out into the community to work in different work locations, on a pushbike making a trip and returning. They need to be able to share with you if there's a problem, if they're having difficulties. There's questions about award conditions, rates of pay. 25 Trying to convince people that when they were an employee working in a private company, they weren't an inmate, which was a big one for some that had been in custody for 10-plus years.

30 So there was a lot of things to consider. So I missed a lot, I suppose I was sort of shielded a lot from what happened with Astill before it came to my knowledge.

35 **MR LLOYD:** I understand. I think you say somewhere in this period of Astill's offending you were running that Independent Living Unit and, therefore, a little bit removed from the day-to-day operations in the main part of the gaol?

MR FOSTER: I was, yes.

40 **MR LLOYD:** Can I just go back to ask you, in terms of you've told us your attitude to inmates was one where you tried to be respectful to them. Did you notice other officers at Dillwynia who had a different attitude to inmates?

45 **MR FOSTER:** Well, I was a supervisor as a Senior Correctional Officer. And I think - the supervisor sets the mood. I worked with every officer in Dillwynia. I didn't work with people at my same rank level because we were in charge of different areas. So you only met those people in passing, be it at a parade or a cup of coffee or at a function within the Centre for some reason. But different people have different ways of dealing with things. Some people are more forthcoming

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than others. Some people prefer to say as little as possible. I don't think that's a matter that they're being disrespectful, I think that's the make-up of the person.

5 **MR LLOYD:** Did you notice other officers, though, in your time at Dillwynia using disrespectful language to inmates?

10 **MR FOSTER:** I can't say no to that, I can't think of anything outwardly unless you're talking about a critical incident where the tension is high and they're dealing with a serious problem.

MR LLOYD: No, just day-to-day derogatory language?

15 **MR FOSTER:** Normal day-to-day: no, no, I wouldn't put up with that from my group of people.

MR LLOYD: That's when you were running the particular part of the gaol you were in at the time?

20 **MR FOSTER:** That's right.

MR LLOYD: But I think you told us you wouldn't generally be able to observe your rank running different parts of the gaol?

25 **MR FOSTER:** Well, you couldn't because some of the areas were closed off. Some were isolated away from your site.

MR LLOYD: And what I think you are telling us, but tell me if you think I've got it right, is that when you were running the area you were running from time to time you wouldn't tolerate that kind of behaviour by junior officers?

30 **MR FOSTER:** No. Look, there was banter. I'm probably one for the worst of it because I'm always up for a bit of humour in the workplace. It's not a place of happiness, it's a place of tragedy. So if you can alleviate the burden of the job by sharing a laugh that's fine. I'm just not in the business of attacking somebody or demoralising somebody else, that's not reasonable. It's not ever.

40 **MR LLOYD:** You've mentioned in your evidence today rumours. I want to ask you, and if you need to look at paragraph 18, please do so. You tell us in 18 you heard rumours "he" and you are referring there to Astill -

MR FOSTER: Yep.

45 **MR LLOYD:** - had improper involvement with inmates. And the rumours related to trafficking, bringing things - drugs and frilly negligees into the gaol. Do you see that? Do you remember over what period of time did you hear those rumours?

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MR FOSTER: Snippets. It was probably - I used to work a lot of afternoon shifts. Now, when I was on an afternoon shift, I was usually a senior in charge of the Centre. So that meant I was away from the ILU and I was working inside the gaol, and it gave me the opportunity to go to all the different centres and see all the people around the place and talk to everybody that you bumped into.

Sometimes you did collect information that was useful. There was other information that you - which are full of stories so it's difficult at times to work out fact from fiction, fortunately there's other parties that do that for us. But something that was important -

MR LLOYD: Just dealing with the snippets, do I understand are these snippets of information that you got over an extended period of time? Take - if this helps - take the period at the outer end being Astill's arrest in February '19.

MR FOSTER: At that stage I was in the Centre back to full-time work. I was no longer in the ILU. They changed the position from a senior to a first class. So I had then gone back into the Centre. So I was hearing more when I was in the Centre because I had the opportunity to talk to more people.

MR LLOYD: Taking that period at the outside, was it over a period of months or years that you'd heard those snippets, being the rumours you've told us about, about Astill?

MR FOSTER: No, it was all at the same - all around the same period of time. It suddenly started, it sort of came out of the blue, and I think it was inmates that shared it with me. See, when Mr Astill came, I remember him coming to the Centre, I quite liked the man because we were only a couple of years different in age. The feedback that I'd had from the inmates was he was solving their problems, he was doing good things. It wasn't until later in the piece that I found out what solving their problems entailed.

MR LLOYD: And what did it entail in terms of what you were being told?

MR FOSTER: Only as I've come to know - where it came to sexual favours. I think there was probably bullying and harassment of inmates as well.

MR LLOYD: I'll just ask you something more about the rumours you talk about in paragraph 18, in terms of trying to get a timeframe for when you heard that information. Are you able to identify, by reference to where you were working in the different parts of the gaol in order to help us, with when you were hearing rumours about improper involvement with inmates and bringing drugs and other things into the gaol?

MR FOSTER: I've been thinking about that. We changed the structure of the ILU. Now, when it changed - it used to be conducted by a Senior Correctional Officer then it moved to First Vlass. Now, once it went to First Class, being

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a Senior I was redeployed elsewhere into the Centre. It was from that period of time onwards - now, I don't remember - I can't put a date on when that happened but that would be a part of the recorded history. So from about that point in time onwards.

5

MR LLOYD: Just pardon me. Sorry, Mr Foster. One thing I want to ask you about in the hope of trying to help with you this timing issue, if you go forward in your statement to paragraph 81, you are recounting there an incident involving Tania Hockey?

10

MR FOSTER: That's correct.

MR LLOYD: Who you know to be Astill's partner?

15

MR FOSTER: Yep.

MR LLOYD: And you're talking here about an occasion where you - to your observation, she didn't seem quite right. I take it by that, that she was upset?

20

MR FOSTER: She was.

MR LLOYD: And you asked her about what was wrong and what was making her upset and she said to you, "I don't think I can go through this again."

25

MR FOSTER: She did.

MR LLOYD: And you said, "What are you talking about"? She said, "All the rumours."

30

MR FOSTER: Yes.

MR LLOYD: So far, obviously this is in your statement, you have a clear recollection of this discussion?

35

MR FOSTER: Absolutely.

MR LLOYD: Her saying to you, "All the rumours." Now, you say at that particular time, there were rumours surrounding an inmate by the name of Witness C. Do you see on the pseudonym list?

40

MR FOSTER: Yeah, I never met Witness C. She was in different locations to where I was, but I know who that person is.

45

MR LLOYD: I understand, but I just want to get the sense of what you're saying here. You are having a discussion at this particular time with Ms Hockey. She is upset and says, "I can't go through it all again..."

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MR FOSTER: That's right.

MR LLOYD: "...all the rumours."

5 **MR FOSTER:** That's right.

MR LLOYD: At that time of that discussion there were rumours circulating about Witness C. Do I have it right so far?

10 **MR FOSTER:** You are, yes.

MR LLOYD: And then going forward, you said, "They're only rumours, what do you mean 'again'?"

15 **MR FOSTER:** You see, at that point in time, I can tell you I was on an afternoon shift as the Senior Correctional Officer in charge of the ILU, and I made that phone call to Tania. I had known Tania for a long time. She's a nice person. She didn't sound right. That's why I made the phone call. When she said she couldn't go through it again, it sort of set me back, I didn't know what she was talking
20 about.

Tania and Wayne used to have arguments at work, and those arguments became quite vocal and nasty, and it put the staff on eggshells. So you think to yourself, you probably heard an argument so it's a personal matter. But she talked about an
25 inmate that I had known. I think she was there when I first got there. That was a young lady named [redacted].

MR FOSTER: Just pause for a second. It's okay, Mr Foster -

30 **MR FOSTER:** It's probably not on your witness list, because it was many, many years ago.

MR LLOYD: There may be a problem in naming that person, it's not your fault, don't worry. Just let me deal with it in this way in the time before lunch and we'll
35 come back to it. Just without mentioning that particular inmate by name, just tell us about what - you had a particular recollection of that particular inmate?

MR FOSTER: I knew that inmate. There was a time I worked in the Low Needs area. She was probably in her early 50s, an Asian woman. She was quite famous
40 around the place because she had a pet magpie that she raised. She used to walk around the gaol with it. So everybody knew her. I didn't know of any links between [redacted] and anybody else for that matter.

MR LLOYD: Just pardon me.
45

MR FOSTER: Oh, God, sorry.

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MR LLOYD: It's okay. Just -

MR FOSTER: Sorry.

5 **MR LLOYD:** No, it's easy to do. You didn't know of any links between that particular inmate and Astill?

MR FOSTER: Correct.

10 **MR LLOYD:** But I just want to understand the sense of this event with Ms Hockey. I think you've told us it occurred around the time when there were rumours circulating about Witness C?

15 **MR FOSTER:** That's right, because I didn't know Witness C and I really wasn't across the story of what was happening.

20 **MR LLOYD:** I understand, but the discussion with Ms Hockey when she was upset, you say, "They're only rumours, what do you mean 'again'?" And she says, "It's the same rumours surrounding" this other inmate and you understood that to be Tania Hockey, saying to you the rumours about that other inmate were of the same nature of the rumours about Witness C?

MR FOSTER: That's exactly as I took it, yes.

25 **MR LLOYD:** Now, can I just ask you this. You've told us you didn't know Witness C, but did you understand that the rumours that were circulating at the time of this discussion about Witness C was that there was some inappropriate relationship between her and Astill?

30 **MR FOSTER:** From a distance. As I mentioned earlier in there about the practice, Wayne had people that didn't like him as well in the way he operated. So you took a lot of things with a grain of salt because that's just the - the vibe in the gaol, if you like. I had no reason to have any worries about that. At the time that I'd heard about this other matter taking place, I think it actually put me in
35 a position where the ear became more firmly planted to the ground because that was quite disturbing. I wondered how that had happened and I hadn't noticed it in my own area.

40 **MR LLOYD:** Just pausing there, Mr Foster, I'm not suggesting to you that you were given any direct information about any inappropriate relationship, but what you did - what you're telling us you were hearing by the time of this conversation, was rumours circulating in the gaol about inappropriate relationships between Astill and Witness C?

45 **MR FOSTER:** Not relationships. At that point in time the witness concerned things being entered into the Centre. It was stories about non-prescribed property insofar as underwear, things that had been brought into the Centre for inmates.

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A lot of it seemed to be mischief. At the time I didn't draw a link because I didn't know much about anything. So I treated that conversation with Tania as - as a confidential matter of a discretenature. I had no reason to think of it until anything further until, of course, all the bits fell together.

5

MR LLOYD: So the rumours were him bringing in contraband, in effect -

MR FOSTER: Yes.

10 **MR LLOYD:** - for Witness C. And you understood from this discussion that Ms Hockey was concerned that whatever the rumours that she understood were, they were the same as rumours that previously had circulated for this other -

MR FOSTER: That's precisely what she had told me.

15

MR LLOYD: I note the time, Commissioner.

COMMISSIONER: We will take lunch.

20 <**THE HEARING ADJOURNED AT 1.02 PM**

<**THE HEARING RESUMED AT 2.06 PM**

25 **MR LLOYD:** Thank you, Commissioner. Mr Foster, I was asking you before the break if you could help us about the time that you heard snippets of information about Astill bringing drugs into the gaol. Do you remember that?

MR FOSTER: I do.

30 **MR LLOYD:** Are you able to help us a bit better?

MR FOSTER: Yes, I can.

35 **MR LLOYD:** That's okay. I might be able to make your life easier, you are looking for a document that's dated 2018.

MR FOSTER: I am. It was 2018, that's right, it was an officer's report.

40 **MR LLOYD:** Was it sometime before that report?

MR FOSTER: It was, leading up to that date, it was when I got substantial information.

45 **MR LLOYD:** Thank you. Could I ask you, please, to pick up your Commission statement again, tab 56A.

MR FOSTER: 56A?

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MR LLOYD: Capital A, yes.

MR FOSTER: Yes, I've got that.

5

MR LLOYD: And have a look at paragraph 19. Just re-read that to yourself.

MR FOSTER: Yes.

10 **MR LLOYD:** When you heard about other items, that is items other than clothing being introduced into the Centre, when do you think that was?

MR FOSTER: I think that was probably in amongst the same period, probably within a month, leading up - or if not closer, to the leading up of that report that
15 I submitted regarding the actions that had been taken.

MR LLOYD: Thank you. Could I ask you, in that same volume, to just turn to tab 61.

20 **MR FOSTER:** Is that regarding -

MR LLOYD: A statement of Judith Barry. Do you see that? I don't want you to look at the statement but I do want you to look at tab F behind it. Have you got that tab?

25

MR FOSTER: Is that ending in 0005?

MR LLOYD: It's the number up the top right-hand corner, it should be 11. Can I approach, Commissioner?

30

COMMISSIONER: Yes.

MR LLOYD: I've opened up there for you the second page behind tab F in tab 61 of volume 7. Now, I will start by telling you, Mr Foster, this is not your document
35 and I'm not suggesting you are the author of it; do you understand?

MR FOSTER: Yes.

MR LLOYD: I want to just draw your attention to an entry 12 March 2016; do
40 you see that? About three-quarters of way down the page.

MR FOSTER: 2016, I have that, yes.

MR LLOYD: Do you remember Judith Barry.

45

MR FOSTER: I do, very well.

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MR LLOYD: Do you remember a conversation sometime around 12 March 2016 where you and officer Barry spoke about an incident involving Witness C and Astill involving a can of Coke?

5 **MR FOSTER:** I do.

MR LLOYD: What can you tell us first about that incident, and then I'll come to ask you about your discussions with officer Barry.

10 **MR FOSTER:** I don't remember witnessing that. That would have probably come to me as information given. I remember it being described to me as Mr Astill's and Witness C, I think it is, walking together up the pathway and sharing a can of Coke between each other.

15 **MR LLOYD:** Pausing there: Inappropriate behaviour between an officer -

MR FOSTER: Yes.

20 **MR LLOYD:** Can you just help us, what is it about that, can you tell us, is so inappropriate?

MR FOSTER: Well, that would not be the done thing. That's not like sharing half a pie with your partner. It's sort of steps across the professional boundaries, if you like.

25 **MR LLOYD:** Suggestive of some form of inappropriate intimacy.

MR FOSTER: Yes, it does.

30 **MR LLOYD:** Can I just ask you, in terms of that incident, I asked you before about the rumours by reference to that paragraph 81 in your statement.

MR FOSTER: Yeah.

35 **MR LLOYD:** The rumours that you discussed with Tania Hockey -

MR FOSTER: That's right.

40 **MR LLOYD:** - about Witness C. Do you remember whether this incident was part of your thinking about the rumours?

MR FOSTER: In - no, not directly.

45 **MR LLOYD:** Can I just ask you then about Officer Barry's entry here. You ask how you were going by Senior Correctional Officer Foster. When it came out that MOS has told him that the footage of the drink incident was dealt with, he then

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said, in other words he said it had been deleted multiple question marks. Do you see that entry?

5 **MR FOSTER:** I don't recall that. Yeah, I see the entry.

MR LLOYD: Just in terms of the entry and what you understand it to mean from looking at the words, the MOS is the Manager of Security.

10 **MR FOSTER:** That's right.

MR LLOYD: And at that time that was Leanne O'Toole?

MR FOSTER: It would have been, yes.

15 **MR LLOYD:** And what the words at least are suggestive of is that you were saying that you had been told something about the footage of that incident by the Manager of Security. At least what appears from the page.

20 **MR FOSTER:** It could have happened. I was on - good terms with Leanne O'Toole. We regularly spoke because we had a history that went back to Mulawa together. It quite possibly did come up. I - I - I can't actually recall that because footage would have been nothing to do with me.

25 **MR LLOYD:** Do you remember any occasion when Leanne O'Toole told you that she had dealt with any relevant CCTV footage, that is destroyed it?

MR FOSTER: No. No, I can definitely say no to that.

30 **MR LLOYD:** Just on the topic of destruction of documents, did you ever become aware of a practice at Dillwynia - I'm not suggesting you engaged in it - but awareness of a practice of shredding relevant documents.

35 **MR FOSTER:** I'd heard it thrown around in conversation but it was more along the lines of somebody thinking that a particular application, whatever wasn't worthwhile submitting. In practice, you didn't shred people's applications. Anything of that nature either went to the inmate or the manager, whoever it was addressed to. But, no, it wasn't destroyed. Not to my knowledge, anyway.

40 **MR LLOYD:** You give evidence that I'll ask you about of a particular occasion of shredding that came to your attention with another officer who told you about having to shred his own report.

MR FOSTER: Yes.

45 **MR LLOYD:** So putting that to one side, is what you are telling us you weren't aware of a regular practice?

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MR FOSTER: Not as a practice, no.

MR LLOYD: Of officers shredding relevant reports?

5 **MR FOSTER:** No, that's a specific incident, that one.

MR LLOYD: Could I ask you to go back in the folder to your statement at 56A. In paragraph 30 of that statement, just turn that up if you need to remind yourself.

10 **MR FOSTER:** No, I know that.

MR LLOYD: I take it from that, your reaction, Mr Foster, I don't need to be reminded of the contents. That's because what you recount here is a pretty grave situation.

15

MR FOSTER: Mm. That man died. It was Ron Scott. He was a Scottish Irishman, sorry, he would shoot me for that. Scottish Aboriginal man. He had a brilliant sense of humour. He was honest and a decent person. He had been working for Telstra for a number of years, the same as I had.

20

MR LLOYD: Together, you worked there together?

MR FOSTER: He was a linesman in Penrith. I was a centre manager in Castle Hill. We never met on the job. We came from the same sort of background and the same understanding and we spent a lot of time together on particularly afternoon shift.

25

MR LLOYD: I can see from your emotional response he is obviously a man who you had a great deal of fondness for.

30

MR FOSTER: Absolutely.

MR LLOYD: Just tell us about this incident in paragraph 30. You worked regularly with him and as you told us, you knew him. There was a particular day you were working together and he came and said something to you about a report that he had made.

35

MR FOSTER: He did.

40 **MR LLOYD:** What did he say?

MR FOSTER: I don't ever need to read that. We were on an afternoon shift together. And we were just doing office work in the office. It was probably cup of coffee time because we used to have one of those together and out of the blue, he said do you know I learnt to shred my reports today? And ears pricked up. I thought it was a joke because he normally had some funny things to share. But he wasn't joking. He had been given information from inmates. Rob was very,

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very strong in the viewpoint you never ever put an officer on paper. So for him to actually take that information and put that into a report was a massive barrier for him to overcome in the first place.

5 Then he took his report down and he handed it to the Governor who was Shari Martin.

MR LLOYD: Can I just stop you there because I want to get from you, did he tell you what was in the report in the sense of what information?

10

MR FOSTER: No, he wouldn't share that. Rob believed in confidentiality and was worried about the safety and wellbeing of the people he was reporting on behalf of.

15 **MR LLOYD:** At any event, is the impression you got what was in the report from what he had said and your knowledge of his practice, must have been serious for him to record the information.

MR FOSTER: It was. Oh, it was earth-breaking.

20

MR LLOYD: Serious.

MR FOSTER: It was just something that he wouldn't do.

25 **MR LLOYD:** As in serious misconduct, as you understood it.

MR FOSTER: Yeah.

MR LLOYD: By Astill.

30

MR FOSTER: Yeah.

MR LLOYD: Involving inmates.

35 **MR FOSTER:** And I think - I'm taking a risk on saying a name.

MR LLOYD: Use the letter. There's a second page there.

MR FOSTER: No, I can't see it, it doesn't matter.

40

MR LLOYD: There are two names that probably don't appear on that list any more. I'll tell you in case it prompts your memory. Sarah Ward and Trudy Sheiles.

MR FOSTER: Trudy Sheiles. There was a lot of -

45

MR LLOYD: It was about Trudy Sheiles?

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MR FOSTER: I believe it was, putting two and two together, I've worked out - like, Rob wasn't somebody that would blurt something out, he would give you a taste of what he had. But from what I've heard and learnt, I believe she was one of his sources.

5

MR LLOYD: You are talking in terms of things you have heard and learnt, can you just tell me, in terms of your discussions with Rob, what was it about that discussion with him that led you to think that one of the inmates, the subject of that serious report, was Trudy Sheiles, can you remember?

10

MR FOSTER: Rob wouldn't have put in a report if it was trivial.

MR LLOYD: No, but I'm talking about what was it, did he say something to you about Trudy?

15

MR FOSTER: No, he didn't tell me.

MR LLOYD: Was it something that you worked out at the time, that Trudy was one of the -

20

MR FOSTER: Only since she gave evidence in this Inquiry.

MR LLOYD: You worked out later?

25

MR FOSTER: Yeah.

MR LLOYD: More recently looking back that -

MR FOSTER: Yeah.

30

MR LLOYD: - she was probably one of the females?

MR FOSTER: Filled in the gaps.

35

MR LLOYD: Can you just tell us then, going on with the sequence, I think you got up to -

MR FOSTER: He handed the report to Shari Martin.

40

MR LLOYD: He told you he had handed it to Shari Martin?

45

MR FOSTER: She read the report, she gave it back to him and I said, "Righto, give it to the Intel Officer." So the Intel Officer was in a different area. It was at that time, I think Ms Wilson, it was a stand-in on the day. So he walked to give it to the Intel Officer, and the Intel Officer turned out to be Wayne Astill. So he turned about face, he went into our crib room, he shredded his own report because he wasn't going to provide that information to the possible perpetrator and given

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the allegation. He'd named inmates in that report. He believed he couldn't have put those people in jeopardy, in danger, he didn't provide the information. I couldn't get it out of him, I was stopped.

5 **MR LLOYD:** Did you know about an option at this time of making a report to Professional Standards which was -

MR FOSTER: Not at that time. Not until Mr Virgo showed me because this demonstrated the need to have that ability available.

10

MR LLOYD: It sounds to me, from what you are telling us, Mr Foster, that knowledge of that ability to make a report of serious misconduct by an officer that was confidential in the sense of not known to the Governor, was absolutely crucial.

15

MR FOSTER: Absolutely right.

MR LLOYD: And might well have meant that a serious report or a report of serious misconduct by Astill actually was made.

20

MR FOSTER: Rob's concern was the same as mine. He was concerned about the wellbeing of the people that had shared that information because it's - they've taken a huge risk when you think about it, to tell you anything about what's happening because you can have the ability to share that information with somebody else or allow that to get into somebody else's hands and you can set them up for absolute and utter hell or possibly worse.

25

MR LLOYD: That, Mr Foster, that response that you're describing of fear and concern for the welfare of the inmates speaks of a complete lack of trust by inmates and officers of senior management at Dillwynia.

30

MR FOSTER: It does.

MR LLOYD: Is that how it was?

35

MR FOSTER: That's how I felt. I know I wrestled with my report who to give it to because I was worried about the wellbeing of the people that were concerned. I didn't know about direct reporting, otherwise I would have done that, irrespective. Mr Virgo, I knew, I met him when he was a Senior. I trusted him and he was the only man that I did trust and he didn't let me down. So my judgment in Mr Virgo, I was very happy with.

40

MR LLOYD: And what you are talking about is something I will come to.

45 **MR FOSTER:** Yeah.

MR LLOYD: But that's a report that you came to make to CIG?

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MR FOSTER: I would have sent it straight to Rob but Mr Virgo wasn't there at the time. If we have had the CIG, it would have been ideal. We would have done that.

5

MR LLOYD: You are talking about something that occurred in 2018 where you made a report with Mr Virgo's help to the CIG?

MR FOSTER: Yep.

10

MR LLOYD: You did that because by then he had told you about that option.

MR FOSTER: He told me, he had done the report. My recollection is Mr Virgo was going on holidays on the following day. Now, this information had come to me on the date of the report that I wrote. So I was involved or I couldn't follow normal protocol because I had reason to believe that that was a problem. So I contacted Mr Virgo. I told him what I had and what I had written. He asked me to bring that report to him. He would submit that for me to the Intel group and he would do that before he went on leave.

15

20

MR LLOYD: Thank you.

MR FOSTER: That's what he did.

MR LLOYD: Thank you. I will ask you some more about that in a moment or two. Can I just ask you just to help us with the timing of this event with Rob Scott? You deal with that toward the end of paragraph 30.

25

MR FOSTER: Yeah.

30

MR LLOYD: You say there that:

"This happened before a conversation with Witness Q."

Do you see that? This is the end of paragraph 30 of your statement. Go over to the next page for the particular portion.

35

MR FOSTER: Witness Q -

MR LLOYD: I'll help you with the timing but do you see the part of the statement? The conversation with Rob Scott was before your conversation with Witness Q.

40

MR FOSTER: That's right.

45

MR LLOYD: And you tell us elsewhere, and we will come to this, that your conversation with Witness Q was some time around November of 2018?

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MR FOSTER: That's right.

5 **MR LLOYD:** So, for starters, we are dealing, in terms of the timing with the conversation with Rob Scott about the shredding, that was before November 2018?

MR FOSTER: It would have been before.

10 **MR LLOYD:** Do you know how long before?

15 **MR FOSTER:** In the same sort of timeframe, because the only difference would have been that at that point in time I was the Night Senior at the gaol so I was on an afternoon shift. And that was the only time that I was in a different location to working in the ILU. So probably four weeks, maybe six weeks prior to the date of that report.

20 **MR LLOYD:** Can I ask you to go back in your statement to paragraph 21. In this paragraph you tell us about an incident involving Astill where you were leaving work and you had a discussion in the car park.

MR FOSTER: We did. We did.

25 **MR LLOYD:** Do you remember that?

MR FOSTER: Very well.

MR LLOYD: You said, "I've been hearing terrible things about you".

30 **MR FOSTER:** Terrible things at that stage were rumours. There were rumours about Wayne is supposedly bringing things into the Centre or allegedly bringing things into the Centre. They weren't grounded in any level of credibility. And it appeared as though they were intended to cause him grief. But not factual, as such. Now, I've been on the reporting end of five situations like this and the receiving
35 end of two investigations myself. So I understand both sides of the fence. I know what it's like when things are being said about you that you don't know about. So I spoke to him about it. I wasn't doing it on the basis that the management had told me anything. I was acting as a friend would, saying "Look, I'm hearing these rumours about you." He looked at me and he smiled and said, "Oh don't worry
40 about it", if I may, "It's all bullshit", unquote. I said as long as it's rubbish I'm happy about that but as long as you know because these things can be damaging.

MR LLOYD: What were the rumours?

45 **MR FOSTER:** That he was bringing in underwear. I didn't know about tobacco at that stage. Mainly frilly - frilly underwear that's beyond normal gaol issue.

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MR LLOYD: Rumours about sexual inappropriateness with the inmates?

MR FOSTER: No, no, there was nothing whatsoever at that stage of a sexual nature otherwise I wouldn't have been talking to him about it.

5

MR LLOYD: Can I get you to help us with the timing of this discussion?

MR FOSTER: Yeah.

10 **MR LLOYD:** I'll just remind you of some things you say in your statement. You say that about a month later, this is in paragraph 21, he was arrested.

MR FOSTER: That's right.

15 **MR LLOYD:** But in terms of the timing, you later tell us that you had this conversation in mind when Witness Q told you those things.

MR FOSTER: There were things that Rob said, there's only fragments, of things that Rob said that married into what Witness O had shared in this Commission.

20

MR LLOYD: I'm just trying to get the timing, I'll come to the detail. Really what I'm trying to get from you is that in a later paragraph in your statement, you say you had this exchange with Astill in mind when Witness Q came to you. That's right, isn't it, that you had this conversation in mind? It's in paragraph 24.

25

MR FOSTER: Yes. That was after the fact.

MR LLOYD: Yes, and so -

30 **MR FOSTER:** Astill was beforehand.

MR LLOYD: - in terms of timing, that puts this confrontation, if you like, with Astill some time before November 2018?

35 **MR FOSTER:** That'd be right. Probably within - everything sort of happened all together within a period of only a few weeks. But that wasn't an allegation that I could let go, the one that Witness O gave to me.

MR LLOYD: Witness?

40

MR FOSTER: It was Q. She told me that wasn't about general information, that was an allegation.

45 **MR LLOYD:** No, no, we'll come to that. In paragraph 23, November 28, Witness Q came to you.

MR FOSTER: Yeah.

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MR LLOYD: And she had been moved into your section, the Independent Living Unit?

5 **MR FOSTER:** She had.

MR LLOYD: And you thought she was honest, decent, reliable?

MR FOSTER: I stand by that, yes.

10

MR LLOYD: And she made a disclosure to you, didn't she, about Astill?

MR FOSTER: I had to shop for that one. She didn't want to tell me. Again, I was acting on a rumour that I'd heard.

15

MR LLOYD: What was the rumour?

MR FOSTER: That she had been interfered with by Astill.

20 **MR LLOYD:** Who did you hear that from?

MR FOSTER: General inmates inside the Centre. I've been trying to recollect precisely who that was. I can't remember at the time. I've got a bad habit, I talk to everybody. But someone had shared that and it disturbed me greatly, I was worried about it. So I actually had the opportunity, I worked in a single office, a post in the ILU. I was on my own so she came home from work; I think at the time she was working in reception. And I asked her to come into the office. And I told her that I'd learnt - I'd heard a rumour. I wanted to know whether or not I could ask her about it. I gave her permission, if she wanted to, to tell me to mind my own business because I knew it was personal but she actually told me what had happened.

25

30

MR LLOYD: And you tell us, this is in paragraph 24, that your thinking, hearing the rumour of being sexually interfered with by Astill, your thinking was you needed to do something to ask her about the truthfulness of that rumour because of your concern including she had nowhere else to go being an inmate.

35

MR FOSTER: I had established a rapport with those people out there because I was the person between the Department and the employee - the employer and my people were their employees. So you had to have as close a relationship as you could have professionally so that they had the confidence to share things with you. She chose to trust me, which was wonderful because she could have said, "Mind your business." I couldn't force her to tell me what was on her mind but she did tell me, she trusted me.

40

MR LLOYD: But, Mr Foster, I take it from what you're telling us that if an officer hears a rumour of that kind, of that gravity, sexual misconduct by an

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officer toward an inmate, that the only reasonable response, in your view, is for the officer to try and do something to get to the bottom of whether it was true.

5 **MR FOSTER:** Absolutely. We are supposed to be there to look after these people. I think someone mentioned earlier a duty of care. It's a bit more than that. You are also offering a duty of care to the family. Like someone else mentioned, if it was a family relation taken a step further, it was your daughter that was in that gaol, how would you want her to be treated.

10 **MR LLOYD:** You told us about, you sat down with her and, in effect, you deal with this in paragraph 25, you probably remember this anyway?

MR FOSTER: I do.

15 **MR LLOYD:** Where you asked her squarely whether she had a bad interaction.

MR FOSTER: Yeah.

20 **MR LLOYD:** And then she made a disclosure to you.

MR FOSTER: She did.

MR LLOYD: And that disclosure was?

25 **MR FOSTER:** She told me that she had been working in the back of Reception and I'd spent some time in there too, we had worked together. The part of the reception room that she was working in wasn't under camera. It was a storage area and there was a particular area where people used to go and fold washed clothing. That's where she was. Astill had walked into that area, pushed her into a corner
30 that she couldn't get out of and told her, "You do a favour for an officer, the officer will do a favour for you".

35 **MR LLOYD:** You took what she was telling you to clearly be her indicating that Astill was approaching her for sexual favours in response for him doing things for her?

40 **MR FOSTER:** Not so much as sexual, I thought it was an indecent thing to do. She didn't tell me about any - she told me he stroked her hands and things. That's inappropriate behaviour. At that point in time it's not sexual misconduct. It was only a part of the puzzle, I believe. As a result of that disclosure, I put the report together and submitted it.

45 **MR LLOYD:** And she said to you, when you - I withdraw that. You said, "You're going to be cranky with me but we've got to do something about it".

MR FOSTER: That's right.

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MR LLOYD: You say she was frightened about making a report.

MR FOSTER: She was.

5 **MR LLOYD:** Did she say why?

10 **MR FOSTER:** She was frightened there'd be ramifications. She was frightened about confidentiality. You see, in a gaol, confidentiality has sort of three flags. I think being maintained as confidential unless it affects the safety of the person themselves, safety of another person, or the good order and running of the Centre, security and that. So in the case that she's told me about what's happened to her, and then she's at risk, the safety and the security of the Centre. There's two flags there. You have to report that, it's mandatory. It's not an option of saying that he shouldn't have done that, that's dreadful, you need to keep away from the man. He
15 has taken action that's put her in a vulnerable position. I've got a responsibility to get her out of that vulnerable position.

MR LLOYD: Responsibility by taking the complaint forward.

20 **MR FOSTER:** Yeah. I understood she would be angry with me. But as I said to her, it couldn't be allowed to continue. It had to stop. It had to be addressed. It would have affected other people too. I didn't know the gravity of the other people that it did affect. I'm just looking at the witness list here and this is terrible. There were so many people affected.

25 **MR LLOYD:** Mr Foster, the Commission has heard some evidence about the training that was given to officers about how to deal with vulnerable women making complaints of sexual misconduct to the effect that there was no training.

30 **MR FOSTER:** That's right.

MR LLOYD: Is that your experience?

35 **MR FOSTER:** Yep.

MR LLOYD: Is that still the case today?

MR FOSTER: It is.

40 **MR LLOYD:** Still not being trained?

45 **MR FOSTER:** My experience is all experiential learning. It wasn't a matter of going and looking at a training course. They talk about the Women in Prisons Course. That talks about working with female offenders. From my memory, that does not, in any way, shape or form, address the complaints department of what does a young woman do if she is confronted by that sort of thing.

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MR LLOYD: And nor, as I understand what you're telling us, does it give you as an officer having a disclosure made by, I think you would agree with me, a highly vulnerable person, do you agree?

5 **MR FOSTER:** Absolutely.

MR LLOYD: To tell you anything about the way you should be dealing with that vulnerable inmate; correct?

10 **MR FOSTER:** Yes. They are all vulnerable people.

MR LLOYD: Just left to work it out for yourself, is that fair?

MR FOSTER: Sorry?

15

MR LLOYD: You were just left to work it out for yourself.

MR FOSTER: That's right. But as I say, I was fortunate, I had been through the path before. So I had a better, if you like, understanding of what to do with it. I've
20 heard people say that, you know, my hands are tied. It's not about your hands being tied. If someone shares information with you that represents a threat to somebody or to the Centre, you do something about it. Bugger your hands being tied. That's not part of the issue. Your job says you mandatorily report corruption. So it's not an option, an option on any matter, it's an option you do.

25

COMMISSIONER: Mr Foster, can I just take you back. In paragraph 23 of your statement, you talk about around November 2018, when you tell us what happened thereafter. You say that you'd been in the area for quite some time when you heard the rumour.

30

MR FOSTER: Yep.

COMMISSIONER: Do you see that?

35 **MR FOSTER:** Yes, I do.

COMMISSIONER: Now, were you the only one with ears for a rumour or were others aware of this rumour?

40 **MR FOSTER:** That was a single officer post. We had one officer there from 6.00 in the morning until 2.00, from 2.00 until 10.00 and from 10.00 to 6.00 am.

COMMISSIONER: That sounds like a lonely existence.

45 **MR FOSTER:** It is. Of course you've got 14 people.

COMMISSIONER: Where did you hear the rumour?

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MR FOSTER: The rumour was inside the main Centre.

COMMISSIONER: Inside the main Centre?

5

MR FOSTER: Yeah.

COMMISSIONER: Was it, what, chatter amongst multiple prison officers?

10 **MR FOSTER:** I've been working with female inmates now for, what, 27 years. Some of them I've seen on their fifth trip back and we go back a long way.

COMMISSIONER: Sure, but this particular rumour, the one that is obviously set in train for you some serious questions.

15

MR FOSTER: Yeah.

COMMISSIONER: Was that a rumour that was generally travelling amongst the prison officers?

20

MR FOSTER: No, it wasn't. That was a rumour - people say things as a joke or in jest. A rumour like that is, it's a must to follow that up.

COMMISSIONER: I understand it's a must to follow it up. But I'm trying to find out whether you alone were the person who heard this rumour. You must have heard -

25

MR FOSTER: No one else reported it.

30 **COMMISSIONER:** Sorry?

MR FOSTER: No one else reported it.

COMMISSIONER: I know no one else reported it but my question is, well, I would be surprised if there's a rumour that you hear, someone must have then told you.

35

MR FOSTER: That's right.

40 **COMMISSIONER:** I'm not suggesting you should remember necessarily but someone must have told you.

MR FOSTER: I wish I could remember who it was (indistinct).

45 **COMMISSIONER:** Stay with me. I understand you wish you knew who it was but it just - it's a rumour of significance. It just strikes me as very unlikely that you were the only recipient of this rumour.

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MR FOSTER: That's quite possible. I know I dealt with the rumour. I don't know whether other people within the Centre did. At that stage the place -

5 **COMMISSIONER:** They may not have dealt with it but did other people in the Centre, to your knowledge, know of this rumour?

MR FOSTER: Not regarding this particular person, I don't believe. I don't believe they would have because she - she was isolated from the Centre. Where they lived
10 they weren't allowed to go into the Centre.

COMMISSIONER: So do you believe that you are the only person who heard this rumour?

15 **MR FOSTER:** I believe so, with regard to this young lady we're talking about, yes. (Indistinct) very easily, your Honour.

MR LLOYD: Just to take up something arising from the Commissioner's questions, Ms Q came into the Independent Living Unit around November 2018?
20

MR FOSTER: That'd be right.

MR LLOYD: She came into that unit from the main part of the gaol.

25 **MR FOSTER:** She did.

MR LLOYD: I thought you said, but tell me if I've messed up what I thought I heard you say before, that your understanding was that the rumour about Astill and Witness Q had been circulating within the main part of the gaol.
30

MR FOSTER: Yeah.

MR LLOYD: Before she came to you.

35 **MR FOSTER:** That's right. Well, that's as I believe it to be, because the people on the inside of the Centre, I didn't have much interaction with them either at that stage because we were removed from each other.

MR LLOYD: You told us elsewhere in your statement, I think we know that the Independent Living Unit is actually physically outside -
40

MR FOSTER: Yes.

MR LLOYD: - the gaol. So your existence there is quite independent of the gaol.
45

MR FOSTER: Agreed.

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MR LLOYD: In any event, you knew that this rumour that you acted on had been circulating within the gaol.

5 **MR FOSTER:** That's right, yeah, that's where I learnt it from. So other people had been talking about it too and goodness knows what other rumours, my ears pricked because it named one of my people that I was responsible for.

MR LLOYD: As in Witness Q?

10 **MR FOSTER:** Yeah.

MR LLOYD: So this must have been something discussed, to your knowledge, within the people inside the gaol widely, it sounds like the sense of it.

15 **MR FOSTER:** At least with the inmates. You learn a lot when you talk to the inmates.

20 **MR LLOYD:** And did you know from speaking to any inmates or even Witness Q, whether there'd been discussion about this with officers, that is, the rumour?

MR FOSTER: No, not - I can't answer that really because I didn't hear it from any of the other staff. I treated that in the absolute strictest confidence. If anybody else had known, someone would have mentioned it to me but I wanted nobody to know about it except the absolute minimal number of people because I wanted the information kept out of people's mouths.

25 **MR LLOYD:** But at the time Witness Q made the disclosure to you, when she came to the Independent Living, at least on your understanding, this had been widely discussed, this misconduct by Astill at least between inmates in the Centre.

30 **MR FOSTER:** It was the first - I think - bar the information coming to me about him bringing frilly underwear into the Centre, this was my introduction, if you like, to the other things that were happening in the Centre. But it affected Witness Q primarily. So I followed that up. And, of course, having been enlightened to that situation, as the opportunities presented and I was in different locations, I kept my ear to the ground because it worried me that other people could have been interfered with too. And it really did bother me when I found out that four other people in my unit were interfered with to a much, much greater extent than Ms Q was. I felt like I had let them down because they couldn't communicate with me to tell me about it.

35 **MR LLOYD:** Have a look at paragraph 29. You are at the point in this paragraph in your statement after the disclosure has been made by Witness Q and you've said, "Something's got to be done." You describe here the biggest problem that you had at this point of the serious disclosure being made and you determining action was required, was where for you to go, true?

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MR FOSTER: True.

MR LLOYD: You describe here that you had trust issues as there were rumours that the management themselves, Shari Martin and Leanne O'Toole,
5 were - I wouldn't say complicit but ignorant of the reports being made. Do you see that section of your statement?

MR FOSTER: I would probably argue between complicit and ignorant,
10 somewhere the mind falls in there somewhere.

MR LLOYD: But could I offer a different formulation for your comment, that was your concern about going to Shari Martin or Leanne O'Toole based on your understanding that they had received complaints about Astill before this and had done nothing?
15

MR FOSTER: Yes.

MR LLOYD: I've offered that to you, is that really what you mean?

20 **MR FOSTER:** We discussed Rob Scott. That happened before this matter did.

MR LLOYD: But your impression was that it wasn't available to you to go to the two most senior people in management at Dillwynia.

25 **MR FOSTER:** That's right.

MR LLOYD: With credible allegations of serious misconduct by an officer.

MR FOSTER: It's where the problem came about. So you weren't talking about
30 a First Class or a Senior Officer doing the wrong thing. You had a situation, which is probably very, very unusual. You've possibly got the number one and number two in the Centre compromised. So then you need to go to an Assistant Director above the top of the Governor because if the Governor is compromised, you're putting people's lives in danger.

35 **MR LLOYD:** Was that available to you, to go to an Assistant Director?

MR FOSTER: Had Mr Virgo not done what he had done, yes, that's -

40 **MR LLOYD:** It would have been your next port of call?

COMMISSIONER: What do you mean you are putting people's lives in danger?

MR FOSTER: That information getting into the wrong hands, Your Honour.
45

COMMISSIONER: You mean literally people might be killed?

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MR FOSTER: Well, you don't know. That man threatened them with being a member of bikie gangs, moving them to a different centre. Identifying other inmates in other centres to harm them. Anything is a possibility. You had to minimise the possibility wherever you could.

5

COMMISSIONER: Yes.

MR LLOYD: Did you know at this time, November 2018, that Astill had been making threats to inmates of that kind?

10

MR FOSTER: No.

MR LLOYD: This is later acquired knowledge?

15

MR FOSTER: Yeah.

MR LLOYD: Could I ask you this: In terms of the sequence here, you had a person, this is paragraph 31, who you could trust, being Mr Virgo?

20

MR FOSTER: That's right.

MR LLOYD: And you rang him and told him what disclosure had been made and asked him what to do.

25

MR FOSTER: I did. Look, he would probably be cranky with me because truth be known I was testing the depth of the water. I wanted to know where he stood too because I didn't know who to trust.

MR LLOYD: And you came to trust him?

30

MR FOSTER: I did.

MR LLOYD: I just want to ask you about the documents that you generated having been the recipient of Witness Q's disclosure. Can you first look - if you go to the tab before the one with your Commission statement, it's tab 56.

35

MR FOSTER: I have that.

MR LLOYD: And there's an annexure, I know you've seen this in recent times. It's annexure A.

40

MR FOSTER: Yes, I have that.

MR LLOYD: That's a document that you generated shortly after the complaint by Witness Q; correct?

45

MR FOSTER: Is this an officer's report we're talking about?

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MR LLOYD: It should be titled - if you are looking at the one I want you to look at, Officer Report Form.

MR FOSTER: I know which one it is.

5

MR LLOYD: If you need help navigating.

MR FOSTER: I've lost it. 56, annexure A, wasn't it?

10 **COMMISSIONER:** I don't think I've got it either, Mr Lloyd.

MR FOSTER: I had it there. There it is, lovely. You've got it.

15 **MR LLOYD:** So the Commissioner is the only one. I think we should get that rectified.

COMMISSIONER: It might help me.

20 **MR FOSTER:** My wife's at home telling me what a dope I am for forgetting my glasses.

MR LLOYD: I can read out portions to you, Mr Foster. You will get a copy - now, this is a document you generated.

25 **MR FOSTER:** That's right.

MR LLOYD: And it is a report to the Governor.

30 **MR FOSTER:** That was a report that I submitted to Stephen Virgo, the Intel Officer.

MR LLOYD: I just wanted to ask if it's addressed to the Governor.

35 **MR FOSTER:** Correct.

MR LLOYD: And I don't need to take you to the details but it recounts the serious matters that Witness Q had disclosed to you about what Astill had done to her.

40 **MR FOSTER:** That's right.

MR LLOYD: Did you physically hand this to the Governor?

45 **MR FOSTER:** No. I gave it straight to Steve Virgo.

MR LLOYD: I take it you didn't hand it to the Governor because you had no faith it would be dealt with properly?

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MR FOSTER: No. Steve was dealing with it as an IR. That then took it outside the Centre, which we needed.

5 **MR LLOYD:** I wanted to ask then, so you gave this document to Steve Virgo and to your knowledge he created an intelligence report for the purpose of submitting that to the CIG.

MR FOSTER: That's correct.

10

MR LLOYD: Did you physically see that intelligence report?

MR FOSTER: No.

15 **MR LLOYD:** You knew, from your discussions with him, that he was going to report that.

MR FOSTER: I did.

20 **MR LLOYD:** And I take it you know that, in fact, a report was submitted by him.

MR FOSTER: Yes.

25 **MR LLOYD:** Did you ever hear anything back from the CIG about that report that Mr Virgo told you?

MR FOSTER: I heard nothing at all. The next thing that I heard was Mr Astill was being put in the back of a Police vehicle.

30 **MR LLOYD:** In terms of Witness Q, did anyone ever come to you to speak to you about that report?

MR FOSTER: No.

35 **MR LLOYD:** No one from the CIG?

MR FOSTER: No.

40 **MR LLOYD:** No one from within the gaol?

MR FOSTER: No.

MR LLOYD: No one from the Police?

45 **MR FOSTER:** No one at all.

MR LLOYD: Does that surprise you?

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MR FOSTER: Disappointed me because I think an inmate's security is very, very important. I was only there for eight hours a day. We were fortunate in one regard that those people were away from the main centre so it was harder for anyone to
5 get in there because they had to have access via an officer to get into that unit. No, I heard nothing. I got no feedback at all.

MR LLOYD: Between the period when that report, to your knowledge, went to the CIG and when Astill was arrested, we're dealing with most of November,
10 December, January and a fair bit of February; it's a pretty lengthy time. You've got to give a verbal answer, it is a long time.

MR FOSTER: Yes, it was a long time.

MR LLOYD: Did you have a concern about what was going on that this
15 important and momentous thing had occurred, disclosure to you and then a report sent off and evidently nothing happening?

MR GUY: I object.
20

MR LLOYD: I withdraw that. Did you see anything happening to Astill within
Dillwynia?

MR FOSTER: No, and I used to still bump into him regularly inside the Centre.
25 We didn't discuss the matter. I didn't say anything to anybody about it except Mr Virgo. No, he still carried on as per normal but he wasn't in my area, he was inside the main centre.

MR LLOYD: Was the protection that you understood was able to be put into
30 place that at least Witness Q was close by in your centre so you could keep an eye on her?

MR FOSTER: Unofficially. Not officially. The advantage that we had, Witness
35 Q started work for the Corrective Services Industries. So her workplace moved from Reception inside the Centre to an external work site. So she went to the work site and back home. Didn't have to go into the Centre. So it kept a distance there but it was nothing official put in place to offer her any level of protection.

MR LLOYD: Were you speaking to her in this period of time? About -
40

MR FOSTER: At the trial. We both gave evidence against Astill.

MR LLOYD: But in the period between when the report got made and when he
45 was arrested, were you speaking to Witness Q, about the disclosure?

MR FOSTER: No. No, we didn't discuss it again.

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MR LLOYD: Can you just go back to your Commission statement and have a look at paragraph 45.

MR FOSTER: 35?

5

MR LLOYD: 45.

MR FOSTER: Yep.

10 **MR LLOYD:** You are describing some things here including relationships involving Leanne O'Toole and her partner and Shari Martin and her partner?

MR FOSTER: That's right.

15 **MR LLOYD:** Was that - to your understanding, those relationships between those two senior people, was that an issue or a barrier to bringing important information in the nature of complaints to their attention?

20 **MR FOSTER:** Not for me it wasn't. But I was worried about Leanne O'Toole. We'd worked together at Mulawa for quite a long time. I had been involved in a car accident so I was on rehab. I was working with her. So we got to know each other very well. Leanne was a nice person. Her husband was a police officer. Shari's husband was a police officer. Wayne Astill was a police officer. Shari's husband and Leanne's husband were close friends. You put Leanne in a precarious
25 position because she was frightened if she said the wrong thing to Shari, it could jeopardise the friendship between their husbands. So I thought it would be a bit more difficult for her. It wasn't a difficulty for me.

30 **MR LLOYD:** Could I ask you about the corruption report that you speak of in paragraph 57. You say that you had some information from inmates and that you typed a report and submitted it to Shari Martin.

MR FOSTER: I did.

35 **MR LLOYD:** Do you remember when that was? Just approximately.

40 **MR FOSTER:** That was earlier in the piece. That was prior to my understanding of Astill. It was prior to the incident involving Witness Q. That was earlier in the piece, probably 12 months earlier, if not more.

MR LLOYD: And I think you tell us that you made that report and heard nothing.

MR FOSTER: That's right.

45 **MR LLOYD:** And you say in paragraph 48 the funny thing about this job is if you report something you expect you are going to get in trouble for it. There's

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always a sting in the tail. Is that reflective in the position at least in the area until Astill got arrested?

5 **MR FOSTER:** I will give you some examples. He provided CPR to somebody because they needed help. You are in trouble because you didn't use a face mask. Doesn't matter that the person survived. The face mask was important. You dress the wound; you're in trouble for not using the rubber gloves. Primary concern and focus doesn't matter. It's about trying to identify something to have a go at you about it. You know you are going to get into trouble. It's like hitting left cheek or
10 the right cheek, because either way one of them is going to get hit. You can't (indistinct).

MR LLOYD: Could I ask you to look at paragraph 67. Question:

15 "Do you have any concerns about senior staff, past or present, who may have been involved or aware of Astill's sexual misconduct?"

Do you see the question? That's at 66.

20 **MR FOSTER:** 66 -

MR LLOYD: And your answer:

25 "Not that I am aware of."

MR FOSTER: No.

MR LLOYD: "The only senior staff member I had a problem with was what happened to Ron."

30

MR FOSTER: To Rob.

MR LLOYD: Rob, I understand, that's Rob, the subject of paragraph 30.

35 **MR FOSTER:** Yeah.

MR LLOYD: Could you just have a look at 75. You tell us about another officer Davey Jeans. He really clashed with Wayne and thought he was bent from the day he started.

40

MR FOSTER: He did.

MR LLOYD: What was he saying to you about Astill at a time before Astill was arrested about Astill being bent?

45

MR FOSTER: Davey didn't say a whole lot, he described an intense disliking of Mr Astill. I think he had absolute trust issues. He didn't believe that the man was

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above board. I'm not sure what information Davey actually had come to learn, he didn't share any of that. But I remember they used to try and work them in different areas away from each other because you can guarantee a clash. Davey Jeans is a very principled fellow. And he had a real problem, I believe, with what he had learnt about Mr Astill.

MR LLOYD: Could I ask you, you told us earlier you are still at Dillwynia?

MR FOSTER: Yes.

MR LLOYD: Almost 20 years?

MR FOSTER: Yeah.

MR LLOYD: How would you describe the - I withdraw that. You've just told us about a serious problem with management culture there in terms of the ability for people to make reports of misconduct by officers to the senior people at the gaol.

MR FOSTER: Yep.

MR LLOYD: I think you said at one point the only one in senior management there you trusted was Steve Virgo.

MR FOSTER: That's changed since.

MR LLOYD: That's my question. How is it now?

MR FOSTER: I don't know. I've not been at work since April. I'm on workers compensation. From what I understand, the feedback, the new Governor has taken control of the Centre, and appears to be a nice person. She is described as compassionate by the previous MOS there and they now have a new MOS there as well, the place is starting again.

MR LLOYD: Those are my questions.

COMMISSIONER: Yes, Mr Sheller.

MR SELLER: Nothing.

COMMISSIONER: Does anyone else have any questions?

MS GHABRIAL: I do and if I may.

<EXAMINATION BY MS GHABRIAL:

MS GHABRIAL: Officer Foster, my name is Ms Ghabrial and I appear for a group of Correctional Officers. None of whom I am going to ask any particular

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5 questions about. It is just a general question. Although I do appear for Officer Virgo and you have mentioned him in your evidence. You were asked some questions about whether or not after the report had been submitted by Officer Virgo in November 2018, whether you had heard anything back from CIG or the investigating body that was external to whom that report was submitted and you said that you were disappointed that you hadn't.

10 **MR FOSTER:** Yeah, I think Mr Virgo spoke about that too and I think his example was when you go and make a withdrawal from a bank you get a receipt. You transfer funds you get a receipt. You know that it's happened. If you don't get a receipt, you don't know if it's happened or not. Matters like this are serious. We need to have evidence that what should have taken place has taken place.

15 **MS GHABRIAL:** Would you agree, though, that there might be certain information the CIG and the SIU might not want to share with the officers who have made the report. For example, that perhaps a Police investigation has commenced, and that they might not want officers to know that information because that could risk tipping the alleged perpetrator off. Would you agree with that?

20 **COMMISSIONER:** Ms Ghabrial, I think you are at cross-purposes. He would at least like to know that it has been received, that's all.

25 **MS GHABRIAL:** Received, okay. I understood it as -

COMMISSIONER: That's the point in having a receipt from the bank. The bank doesn't have to tell you what it did with the money, just that they got it.

30 **MS GHABRIAL:** Just in terms of actions you do understand that there are certain things that can't be communicated?

35 **MR FOSTER:** Why couldn't they just send me back report received or a code number, something that says that when I hit the send button they got it. I don't want to know the information, I don't need to, I've already submitted that.

MS GHABRIAL: More disappointment in the way the system works and not being able to receive some kind of confirmation that it has actually been received at the other end.

40 **MR FOSTER:** Yes, otherwise you could make a report and for whatever reason it didn't appear when it should have done, the problem goes unaddressed.

MS GHABRIAL: Thank you, Commissioner.

45 **COMMISSIONER:** Yes. You will have to get closer to a microphone I'm afraid.

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MR KADAR: I don't have any questions for Mr Foster at the moment. We only received his statement shortly after he got in the box so could I just reserve the right to make an application later on to recall him if need be?

5 **COMMISSIONER:** What do you say, Mr Lloyd?

MR LLOYD: I'm not sure why the statement was only given - or whether that's right. But I don't think there is anything I can say against it, Commissioner. If there's some good reason for an application to be made at some future time, then it
10 will be advanced at that point.

COMMISSIONER: Well, Mr Kadar, when do you propose to ask me, if you do, want to have Mr Foster recalled?

15 **MR KADAR:** I would hope to have a request to you by Monday at the very latest if we take that course. I just note that we came into yesterday; counsel came into it last night.

COMMISSIONER: You did, but you know that I've been remarking on the
20 position of your clients and others for more than a week now.

MR KADAR: I'm aware of that and we moved as quickly as we could and your staff at the Commission moved as quickly as they can to get us the material so we just need time a slight bit of time to get through it.
25

COMMISSIONER: Well, this Commission is on a very tight timetable. If you want this opportunity, you must tell me. Well, I think arrangements would need to be made on Monday. When can you speak to Mr Lloyd on Sunday?

30 **MR KADAR:** I could certainly make contact with Mr Lloyd on Sunday.

COMMISSIONER: Mr Lloyd, I think that might be a necessary course.

MR LLOYD: It's not a problem. One thing that occurs to me just hearing this,
35 Commissioner, is whether, if it's convenient to Mr Foster, it's 3.10 and we have another witness, whether inquiries can be made, Mr Foster can wait and be recalled before we finish today.

COMMISSIONER: I think Mr Kadar is saying he doesn't have sufficient
40 instructions to be able to do that.

MR LLOYD: In that event ...

COMMISSIONER: But what I don't want to do is disturb the sequence too
45 much. It is important, the sequence in which evidence is received is important. Mr Foster, would you be able to be here on Monday, if need be?

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MR FOSTER: Yes, Commissioner. If need be, I can be here.

5 **COMMISSIONER:** I think if you can make arrangements to speak to each other and Mr Lloyd, then you should, I think, speak to one of our staff and Mr Foster, we would have to ask you on Sunday if you can come in again on Monday.

MR FOSTER: That's all right.

10 **COMMISSIONER:** All right? Otherwise you are presently excused.

MR FOSTER: Thank you very much.

COMMISSIONER: But I'm sure someone will be in touch.

15 <**WITNESS EXCUSED.**

MR LLOYD: Commissioner, the next witness is Deborah Gaynor and I call her.

20 **COMMISSIONER:** Ms Gaynor, could you stand in the witness box and the officer will ask you to swear. Would you prefer to take an oath on the Bible or an affirmation?

MS GAYNOR: On the Bible, please.

25 **COMMISSIONER:** Very well.

<**DEBORAH GAYNOR, SWORN**

30 **COMMISSIONER:** Take a seat.

<**EXAMINATION BY MR LLOYD:**

MR LLOYD: Can you say your name?

35 **MS GAYNOR:** Yes, my name is Deborah Gaynor.

MR LLOYD: Your address is known to the Commission.

40 **MS GAYNOR:** Yes.

MR LLOYD: You made a statement to the Commission and you did that on 11 October 2023?

45 **MS GAYNOR:** Yes.

MR LLOYD: And in that statement, were you telling the truth?

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MS GAYNOR: Yes.

MR LLOYD: I tender the statement. It's behind tab 97 in volume 8.

5 **COMMISSIONER:** Have I got two statements?

MR LLOYD: I was going to hand up a signed version and ask you to replace whatever is in your tab 97.

10 **COMMISSIONER:** I've got in front of me at the moment a statement of 7 June and one of 11 October. I'm sorry, that's the police statement, you are right. So are you tendering that?

15 **MR LLOYD:** I will be tendering the police statement in one moment and I'll do it -

COMMISSIONER: Do you want them done separately?

20 **MR LLOYD:** I'll do it in the same tender, if that's convenient to you, Commissioner. It's tab 58 in volume 7.

COMMISSIONER: Yes.

25 **MR LLOYD:** I should ask you this, Ms Gaynor.

COMMISSIONER: Sorry, you want me to take both these statements at the same time?

30 **MR LLOYD:** If that is convenient, it's part of the same tender.

MR CARR: If I could just be heard before the tender. On the basis of the section 23(3) incrimination, I'd like to object to the tender of both documents on the basis that they tend to incriminate, and I accept -

35 **COMMISSIONER:** Sorry, you want to object to the whole document?

MR CARR: Because the whole document is being tendered, yes.

40 **COMMISSIONER:** But it hasn't been compelled.

MR CARR: I acknowledge that, your Honour.

COMMISSIONER: All that is being sought to be asked is one question.

45 **MR CARR:** Yes, your Honour.

COMMISSIONER: That is, is she telling the truth?

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MR CARR: Correct, your Honour, and at that moment -

COMMISSIONER: That answer can't be used against her if she is not.

5

MR CARR: Correct, your Honour.

COMMISSIONER: So where is the -

10 **MR CARR:** At that point, your Honour, I would be seeking to note the objection.

COMMISSIONER: Well, I'm not sure where it goes but there may be a later point at which there's an objection that operates. But, in any event, what I'm going to do is require the witness to answer the question. So maybe that solves the problem.

15

MR CARR: Please the court.

COMMISSIONER: Mr Lloyd.

20

MR LLOYD: If it please the Commission. Your police statement in that statement you are also telling the truth?

MS GAYNOR: Yes.

25

COMMISSIONER: Together they will become Exhibit 14.

<EXHIBIT 14 TENDERED AND MARKED.

30 **MR LLOYD:** Thank you, Commissioner. Could you take up - I can see you have a large folder there.

MS GAYNOR: Yes.

35 **MR LLOYD:** You won't need that and so for now you can close that up. What I want you to have is your statement that you made to the Commission.

MS GAYNOR: Yes.

40 **MR LLOYD:** You've got a copy of that one?

MS GAYNOR: Yes.

MR LLOYD: Just have a look at paragraph 5 of your Commission statement. You first started working at Dillwynia in 2005?

45

MS GAYNOR: Yes.

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MR LLOYD: And that's as a Service and Programs officer?

MS GAYNOR: Yes.

5

MR LLOYD: Just tell us a little bit about what that job involves.

MS GAYNOR: Service and Programs officer is looking after inmates' welfare. We do case management. We run programs in the Centre for rehabilitation. We look at housing issues. We also try and establish family ties if we're working with Community Services, which used to be FACS and DOCS and we see inmates normally one-on-one. Or when they first arrive at the Centre, we sit on case management meetings and reception meetings, and look at what plans. We help to case plan as far as where the inmates go within the - within the service.

15

MR LLOYD: And in the course of doing your job at Dillwynia, you had some interaction with Wayne Astill?

MS GAYNOR: Yes.

20

MR LLOYD: You tell us in paragraphs 8 and 9 about some physical things in terms of where you were located and where he or offices that he sat in were located. Can you just explain that to the Commission?

MS GAYNOR: Yes, because my length of time at Dillwynia we were rotated around the Centre. There was a High Needs area, a Medium Needs area, a Low Needs area and ILU area. So us SAPOs were rotated around the different areas. We worked a while with each inmate because there are different needs in different areas so, yes, I'd worked with Mr Astill in the Low Needs, in the edium needs, in the high needs. And then just occasionally if I was out in the ILU, the Independent Living Unit which was out the front, sometimes Mr Astill would be the officer out there.

30

MR LLOYD: And there was a time where there was a restructure which resulted in the office that you occupied -

35

MS GAYNOR: Yes.

MR LLOYD: - when you were rotating in that particular area being close to an office which Astill occupied; is that right?

40

MS GAYNOR: Yes. Yes. That was in the High Needs area. Originally we had three SAPO offices in that area, and the Chief's office was out the front. It was opposite the officers' station. But there was a restructure and they needed accommodation for what was called the new Chiefs and Functional Managers. Where we had three SAPOs in three different offices, we were then - two were

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combined in one oval office, another office was separate and the Chief's office was moved into the SAPO office.

5 **MR LLOYD:** And in that High Needs area, just tell me if I understand, was the Chief's office then down the end of a corridor, is that how it worked?

10 **MS GAYNOR:** Yes. Originally it was at the front and with the restructure it was located - you walked straight down from the front doorway. There was a SAPO office there. Another SAPO office and then the new Chief's office, which had been my old office, was located there.

MR LLOYD: You go left at the end of the corridor to get in; is that right?

15 **MS GAYNOR:** Yes, it was sort of the three of them were two straight, one straight on, one sort of half and then this one, the door faced out that way.

MR LLOYD: In that office, when he was relocated to there, it was in a more private or secluded location than the office he occupied previously?

20 **MS GAYNOR:** Yes. Yes, the office originally at the front was glass and we didn't have a lot to do with the Chiefs at that time because we're not security officers, custodial officers. We're SAPOs, Services and Programs. So we would sit with them if there were inmates on risk, RITs which were Risk Assessment Teams, on classification sometimes with Mr Astill, sometimes on RITs so we didn't see the
25 Chiefs a lot, only when required. But with the new structure, they were in our area. So they shared a lot more time with us. We used the same photocopier room and, yeah, we saw more of the Chiefs.

30 **MR LLOYD:** And so from that time of the physical relocation, you had more of an opportunity, if that's the right word, to observe Astill physically in and around the workplace?

MS GAYNOR: Yes. Yes.

35 **MR LLOYD:** Can I ask you about paragraph 13. You refer there to Witness P. Now, underneath your orange folder in the witness box there's a pseudonym list.

MS GAYNOR: Yes.

40 **MR LLOYD:** Match up P to the name but use the letter P when you are giving evidence about this particular inmate.

MS GAYNOR: Yes.

45 **MR LLOYD:** Tell us in paragraph 13 about something involving Witness P.

MS GAYNOR: Yes.

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MR LLOYD: Just tell us about what happened?

5 **MS GAYNOR:** Yes. I was sitting in the first SAPO office. Mr Astill was the
Chief that day in his new office. There was only the two of us there because with
the restructure Services and Programs officers like myself were taken out of the
Centre and we had to report to probation and parole officers and run programs. So
whereas most of the time we had two SAPOs in the area, now we would probably
only have one, one would be out running programs and one may be on leave.

10 But that day, I was in my office doing my work, my door was open, and Mr Astill
came down to my door. He stood there. And he just, yeah, voiced an opinion about
Inmate P and he was really, really cranky and I'd not ever seen Mr Astill be cranky
before. I had no reason for him and to ever have conflict. But he was really angry.
15 He, yeah, said that she was a piece of - a piece of shit and that how dare she say
anything about him and she's no - she's nothing but, you know, trouble and all this
sort of stuff. I was quite shocked because I don't know why he would have said
that. I don't know what happened with Inmate P. I don't know what the story was.
But I just found his whole persona had changed. He was angry. He was - and he
20 was a tall man. He was quite big and solid and because I was sitting down at the
desk, I found it a little bit intimidating not only because I was confused as to why
he would tell me when I didn't even know what was going on with Inmate P
anyway, why he would vent such abuse.

25 **MR LLOYD:** Can I ask you, first, using foul and derogatory language about
Witness P?

MS GAYNOR: No, he just said she was a piece of shit. He didn't use any foul
language.

30 **MR LLOYD:** Did you understand that what he was complaining about was she
had made some report or complaint about him?

MS GAYNOR: I wasn't sure. Why I picked up on that he may - she may have
35 done that was when he said, "What right does she have to talk about me, to say
about me". So I gathered from that, that was his direct words, "What right does she
have to talk about me", I gathered that there was something that had happened as
far as maybe a report. I don't know.

40 **MR LLOYD:** Do you remember approximately when this happened?

MS GAYNOR: No, sorry. I - I don't know the timeframes of that.

MR LLOYD: Could I ask you about paragraph 14. This is the paragraph after you
45 described the incident you've just told us about:

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"If the rumours I started to hear were true I could see why the women would have been intimidated."

Do you see that?

5

MS GAYNOR: Yes.

MR LLOYD: It says by reference to you feeling intimidated in the way you described.

10

MS GAYNOR: Yes, because I'd never seen - sorry.

MR LLOYD: You tell us.

15

MS GAYNOR: Because I had never seen Mr Astill speak like that before.

MR LLOYD: He was big, angry and speaking in the way you have told us about?

20

MS GAYNOR: Yes, and he was in my doorway, and I was sitting down which made him appear much bigger. So for the first time I was taken aback a little bit because I had never seen him angry but he was very angry.

MR LLOYD: Can I ask you about the rumours that you started to hear. What were they?

25

MS GAYNOR: Just that he had been picking on inmates, just that there'd been unprofessional conduct but nothing really. Where my office was, we were located outside where the inmate phones. So I would run - walk to Education Unit. There would be inmates at the Education area. They would be talking. They'd be on the phone talking. So there was always (indistinct) to hear what's going on around the Centre. And I'd heard a few of those rumours. But I didn't have any evidence of that. Nobody had come to me about that.

30

35

MR LLOYD: Understand, Ms Gaynor, I'm not being critical of you. I'm just trying to understand what rumours you had heard. You mentioned two things, pecking on inmates and unprofessional conduct. Can I just ask you about the first?

MS GAYNOR: Sorry, what was the word you used?

40

MR LLOYD: I was really confirming what you just told the Commissioner, "pecking" I thought said on inmates, was that one of them?

MS GAYNOR: No.

45

MR LLOYD: What was the first thing you said about the rumour you heard?

MS GAYNOR: Just unprofessional.

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MR LLOYD: Did you get any details about what the kind of unprofessionalism there was?

5 **MS GAYNOR:** No. No. Just unprofessional and being - one was being too nice to them sometimes. But -

MR LLOYD: Being too close to them?

10 **MS GAYNOR:** No, nice, like doing - probably a little bit more than he should have for them. I have said that in my statement.

MR LLOYD: Favours?

15 **MS GAYNOR:** Yes.

MR LLOYD: Did you hear any rumours about him bringing drugs into the gaol?

20 **MS GAYNOR:** Not till a later incident just at the gate. I overheard that there was contraband being brought into the gaol, and yeah, not specifically with him, but, yeah, I'd been advised of that because we all got searched at the gate at the gaol as well.

25 **MR LLOYD:** When did you hear about contraband being brought in?

MS GAYNOR: That was an ongoing rumour always that there were drugs in the gaol.

30 **MR LLOYD:** Being brought in by officers?

MS GAYNOR: No. No just by visitors, by - could be staff. As I said, we also were looked at for that. We had bag searches. We had random searches as well.

35 **MR LLOYD:** Could I ask you to go down in your statement and have a look at paragraph 19.

MS GAYNOR: Yes.

40 **MR LLOYD:** You say in the previous paragraph you reported one incident being an interaction between Astill and Witness E. You need to look at who Witness E is.

MS GAYNOR: I think I know who this is. Yes.

45 **MR LLOYD:** And you describe in 19 what that incident was.

MS GAYNOR: Yes.

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MR LLOYD: Around August 2018 you saw Witness E in Astill's office for a little over two hours?

5 **MS GAYNOR:** Yes, correct.

MR LLOYD: Starting with that, was the door closed?

MS GAYNOR: Yes.

10

MR LLOYD: Do you think that that was odd?

MS GAYNOR: If it was a security issue, no, because we weren't privy to that. We're not custodial officers. But most times if it wasn't a security issue, the Chiefs would leave the door ajar.

15

MR LLOYD: What kind of security issue?

MS GAYNOR: Maybe with another inmate if there was an assault or things like that, we weren't privy to, to that. That was a custodial matter. There may have been an inmate where Witness E might have been being stood over by another inmate. So we weren't privy to that.

20

MR LLOYD: After they'd been in there for that period of time, you decided to check on what was happening?

25

MS GAYNOR: Yes.

MR LLOYD: What did you do?

30

MS GAYNOR: I walked over to the door. The metal doors were high and just had a Perspex window, which was just above my eye level. I looked in mainly to make sure that everything was okay. That was a very long time for one officer to be in an interview room, or in his office with an inmate. Normally, if it was going to be something that would take that long, the other chiefs or officers, another officer would come up or they would ask for a SAPO to come in. It may have been something to do with a death of a family member, something with their children, or something like that. They would come and ask for another SAPO.

35

MR LLOYD: When you went and checked, you saw something which I understand from what you say here alarmed you even more?

40

MS GAYNOR: Yes.

45 **MR LLOYD:** What did you see?

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5 **MS GAYNOR:** I looked through the window. There is a desk, a Chief, like the Chief's desk. And then there is a chair where the officer sits in front of the computer screen and then off to the right of that - sorry, we're turned around the other way - there's a chair where the inmate sits. So there's an inmate chair and there's a staff chair and normally, if I had have looked through the window, those chairs would have had an inmate in and an officer in. So no cause for concern.

10 **MR LLOYD:** And so what you are seeing at this point is Astill inside his office for a bit over two hours with an inmate.

MS GAYNOR: Yes.

MR LLOYD: Just the two of them?

15 **MS GAYNOR:** Yes.

MR LLOYD: Then when you check they are not actually in the office?

20 **MS GAYNOR:** No. They weren't in the chairs, which was unusual.

MR LLOYD: Where did you - what were the options? They were in part of the office that you couldn't see?

25 **MS GAYNOR:** Yes.

MR LLOYD: Or they were in - was there an adjacent storeroom?

30 **MS GAYNOR:** That had been my office for a couple of years, so I know that on the other side there was a storeroom. It was only very small but it was a storeroom.

MR LLOYD: Did you think they might be in there?

35 **MS GAYNOR:** That was my assumption because there was nowhere else to be.

MR LLOYD: I want to ask you about what you thought was going on. You make reference in paragraph 20 you made assumptions.

40 **MS GAYNOR:** Yes.

MR CARR: I just object on the basis of incrimination. But if your Honour accepts that I've made a blanket objection at the beginning, I won't keep on hindering.

45 **COMMISSIONER:** I'm going to direct the witness to answer. I'm not sure I understand the objection but - yes.

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MR LLOYD: In paragraph 20 you made assumptions about what was going on in the situation you've described. It might seem to be obvious in a sense what the assumptions might have been but can you tell us what you were thinking?

5 **MS GAYNOR:** Before that I've said, yeah, I didn't see them but I thought that was very unusual behaviour. So I wasn't sure what to make of that. So - but for me, I didn't really know. I just assumed that it was inappropriate. Whether it be drugs, that was all that I could think that it may have been. Contraband, like
10 maybe, you know, the rumours that were on the compound about everybody, how did I know that.

MR LLOYD: Just starting with the range of options for what might have been going on in your mind.

15 **MS GAYNOR:** Yes.

MR LLOYD: Obviously, something that they didn't want people to see, if they were in the storeroom, for example.

20 **COMMISSIONER:** Mr Lloyd, I'm not sure we can go beyond where we are, can we?

MR LLOYD: I will move on.

25 **COMMISSIONER:** Yes.

MR LLOYD: I'll move on, Commissioner. You were - you tell us here that you made a note in your diary.

30 **MS GAYNOR:** Yes.

MR LLOYD: Now, I will try and ask you without taking you back to the note but is it the effect of what you are saying that you didn't feel comfortable actually
35 writing down your concerns in your diary because of a fear of what might happen if you did that; is that right?

MS GAYNOR: Correct.

40 **MR LLOYD:** So you just made what, effectively a note with the initials?

MS GAYNOR: Yes.

MR LLOYD: Reminding yourself of what had happened and when?

45 **MS GAYNOR:** I wrote on the day was that day. I wrote down "Long visit" and I put, if I recall, "Two hours and five minutes" and I put just Mr Astill's initials, WA. I wrote them that way that day because that was important information for

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me. Prior to that, when I was rostered on with Mr Astill I would write in my book AW, the other way around because I needed to know what days I was there and he was there because most of the time there was just the two of us in that area.

5 **MR LLOYD:** Is this right: That you felt, in terms of your suspicions or assumptions about what might be happening, that you were not in a position to make a report about it?

10 **MS GAYNOR:** No, because I didn't have the evidence, and I felt that I'm - I'm - I'm incriminating a Senior Chief Correctional Officer. So I didn't have any evidence of what was happening in that room. So, yes, I felt that where was I going to go with a report? I write down this is what I think happened. I don't even know what they were doing in there because I don't know if it was a security issue.

15 **MR LLOYD:** And I take it there was no one within the gaol who you felt comfortable or confident to go with that information to?

20 **MS GAYNOR:** After that, that day, I went down to report to my direct manager who was Mr Jacob Jackson. This was late in the afternoon. I went down to him in the - he was located in the HIPU Building, to report it. I wasn't game to put it on paper because I didn't - as I said, I didn't have any evidence but I was concerned. I went down there. Mr Jackson had left for the day. And then I went from there, I walked over to Ms Martin's office, the Governor, because Mr Jacob Jackson was
25 my first line of reporting, and Ms Martin was my second line. When I went down there Ms Martin wasn't there either. So I was left with it.

MR LLOYD: And was that where, in terms of any concerns you had about that incident, was that where that was left: you attempted to see Shari Martin but she
30 wasn't there?

MS GAYNOR: Yes, and that was on a Thursday at work and I didn't go to work on the Friday, I wasn't in on the Friday.

35 **MR LLOYD:** Could you tell us about a second incident, if you need to remind yourself it's in paragraph 21, involving the same inmate, Witness E?

MS GAYNOR: Yes.

40 **MR LLOYD:** What do you remember about that one?

MS GAYNOR: Yep.

MR LLOYD: What happened in this one?
45

MS GAYNOR: This one was Witness N, I'll just make sure I have the right inmate, I know the name but - yes. Yes. I was in my office again, and Mr Astill

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was there. Once again, only the two of us. And the two inmates, Witness E and Witness N came to the door. Mr Astill got up and went and opened the door to let them in. Witness N stopped at my door and Witness E went into Mr Astill's office.

5 **MR LLOYD:** And, again, on this occasion without having any evidence of what was going on, was suspicious?

MS GAYNOR: I didn't think anything at that time because there were two inmates. So, yeah.

10

MR LLOYD: And did Ms Hockey come into the room?

MS GAYNOR: After a while - Witness E was in with Mr Astill. Witness N was standing in front of my door asking me did my office looked like it needed a clean. And I just felt a bit distracted because she's not my cleaner in my area. And she just said, "Your office needs a clean" and "Have you got any cleaning products and I should do your office, you know, I'm a good cleaner". I said, "Yes, okay, I'll just check out supplies". I got up, I just walked out. And we had plenty of supplies. I went past her, looked in our room, and I didn't need anything from her. I went back in and sat down. Meanwhile Witness E was still in with Mr Astill. But then I heard the door, I looked up and the door in the walkway opened and it was Ms Hockey.

25 **MR LLOYD:** And what happened?

MS GAYNOR: She walked in and, as she's walked in, Witness N was the one that was talking to me about the cleaning, who is best friends with Witness E. She said quote loudly, "Oi, Ms Hockey". and then Mr Astill and Witness E came out of the room. It was like I had - I was sitting down. I had Witness N there, then I had Witness E, then I had Mr Astill and then I had Ms Hockey. Everybody just looked at me oddly. I just looked at them. And they left. The two girls left first and then Ms Hockey went after that.

35 **COMMISSIONER:** Ms Gaynor, you say in your statement -

MS GAYNOR: Yes.

40 **COMMISSIONER:** - that you had a concern that Mr Astill might go to your office and go through your belongings?

MS GAYNOR: Yes.

COMMISSIONER: Where did that fear come from?

45 **MS GAYNOR:** That fear come from, from the rumours that there were drugs coming into the Centre. And that if Mr Astill felt that I had put in a report about him, after he had carried on about inmate - when he was abusive about the other

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inmate, yes, I thought that if he thought I thought he was being maybe unprofessional or anything like that, that yes, he had a key to my office.

5 **COMMISSIONER:** The rumours about drugs coming in -

MS GAYNOR: Yes.

COMMISSIONER: - were they rumours that he was bringing the drugs in?

10 **MS GAYNOR:** There were some that, yes, there was an officer that was bringing
in drugs. But, as I said, it was a rumour. I have no evidence. I didn't see that. But I
was concerned. After he had abused and went on about this other inmate, I was
concerned for my safety, because I was going to report the incident where he
wasn't in the chair, and I was starting to feel a bit uncomfortable with what was
15 happening in my area.

COMMISSIONER: Sure, but the rumour about a person bringing in drugs, was
that a rumour that suggested that Mr Astill was bringing the drugs in?

20 **MS GAYNOR:** It was a back-handed rumour that just said, "Oh yeah, apparently
he's just bringing contraband in." I don't recall who told me. It was as I came in to
the Centre one morning at the gate.

25 **COMMISSIONER:** Right. So you only heard it on one occasion?

MS GAYNOR: Yes.

COMMISSIONER: Right.

30 **MR LLOYD:** Could I just ask, in terms of - you just told the Commissioner about
one issue about doing anything with concerns that you had from these events
involving Witness E, but in the gaol hierarchy where does a SAPO sit in
comparison to a Chief Correctional Officer?

35 **MS GAYNOR:** Beneath that level. We're - yes, we're not - we take - like if
a Correctional Officer would ask me to do something, yes, that's fine. But in the
level of where we sit, we're in a different area to custodial. We're known as
non-custodial staff.

40 **MR LLOYD:** Did you know at the time of the incidents involving Witness E
about any means by which you could make a report about concerns or misconduct
by a senior officer that would be treated confidentially?

45 **MS GAYNOR:** No.

MR LLOYD: Would that have helped?

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MS GAYNOR: Yes.

MR LLOYD: Could I ask you in terms of, you've told us a bit about your efforts to find Jacob Jackson and then Shari Martin, do you remember that?

5

MS GAYNOR: Yes.

MR LLOYD: I'll just ask you these questions and tell me if this accords with your memory about the sequence. You've told us you went and saw those people and they weren't there?

10

MS GAYNOR: Yes, correct.

MR LLOYD: You were not working the next day?

15

MS GAYNOR: No, I didn't go in the next day. I was on a day off.

MR LLOYD: Not long after the incidents involving Witness E, you tell us that you saw in an office area, Astill sitting and performing the role of intelligence officer?

20

MS GAYNOR: Yes. Yes.

MR LLOYD: Did you have a view or belief about the safety of making a report about information that might suggest misconduct arising from the fact that you saw that he sometimes sat as the Intel Officer?

25

MS GAYNOR: Correct.

MR LLOYD: What was your view about that?

30

MS GAYNOR: I was on the understanding that the Intel Office - officer, was someone that you could go to with a concern, and that the reports were treated as intel, which is confidential, and that you could go there to put a report. But being a non-custodial person, there's a chain of command that you are meant to follow which is report to your manager in the first instance, and then it would go from there up through the chain of command. But when I saw that every now and then Mr Astill was in the Intel Office, if I had have put in a report that I thought it was confidential, that - that belief had gone.

35

40

MR LLOYD: In the sense that, for all you knew, he might know about the report?

MS GAYNOR: Yes.

MR LLOYD: Could I ask you about paragraph 33. Just re-read that and then I'll ask you some questions.

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MS GAYNOR: Yes.

MR LLOYD: You tell us that one day you went to see Neil Holman?

5 **MS GAYNOR:** Correct.

MR LLOYD: Do you remember when, approximately, that was?

10 **MS GAYNOR:** No, I don't remember the timeframes. I actually went and worked
I had heard the rumours and there was talk of things that were happening and
everything with Mr Astill. I went down and I asked him, I actually asked him
could I speak to him. He had an open door policy which most of the (indistinct) at
Dillwynia had, which was welcoming for us SAPOs. I went down. I asked could
15 I speak to him and I said, "Look I've just concerns because of knowing that the
information that I had" and I said, "I was just wondering if - what's happening
with all the reports that have been put in." He said to me things were happening
and that the Governor was putting things up to the next level.

20 **MR LLOYD:** In terms of the timing, you put it at a period when you don't think
that he had been arrested but when Astill was away from Dillwynia having an
operation?

25 **MS GAYNOR:** Yes. He - in my last couple of, six months or whatever, he'd had
a big holiday away overseas and he also had a knee operation. So he was away
from the Centre. But, yeah. I just went and asked because I was concerned about
the information that I had had and where to go with that.

30 **MR LLOYD:** You were concerned about what you knew or suspected from what
you had seen with Witness E?

MS GAYNOR: Yes.

35 **MR LLOYD:** But you talk here of asking officer Holman about what was taking
so long with all the reports that had been made. Do you see that?

MS GAYNOR: Yes.

40 **MR LLOYD:** What reports did you know at the time of this conversation when
officer Holman had been made about Astill?

45 **MS GAYNOR:** Just that there had been occasions with Mr Astill, even with
inmate - that he had an issue with the one that he'd obviously abused in front of
me.

MR LLOYD: E?

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MS GAYNOR: No, the inmate that - he came to my door and was abusing.

MR LLOYD: That was inmate P?

5 **MS GAYNOR:** P, sorry, yes, I thought you were saying a name. Sorry, yes,
inmate P. So obviously there had been something happen with that. I heard
a rumour on the compound after that. I was walking past a group of inmates and
they said that inmate P wasn't getting her mail anymore and that they had
10 a suspicion that it was officer Astill. I heard that. But that was inmate conversation
on the compound, which they weren't telling me that. That was what I heard. So
then it was like I had my concern and that's why I went to Mr Holman just to find
out if anything was happening and what was happening.

15 **MR LLOYD:** What did Mr Holman say to you?

MS GAYNOR: He said to me that, yes, he said things were happening and that
the Governor was putting things up to the next level.

20 **MR LLOYD:** Did you hear anyone say, around the time you were speaking to
Mr Holman, that people had made reports about Astill being sexually
inappropriate with inmates?

MS GAYNOR: No. I had not heard the sexual.

25 **MR LLOYD:** What about Astill giving drugs to inmates, were you aware of any
reports being made about that?

30 **MS GAYNOR:** No, but I'd heard about the contraband he was supposedly
bringing in.

MR LLOYD: Including drugs?

35 **MS GAYNOR:** No, not specifically drugs. There was the underwear and pills.
I don't know what type of pills. That's just what I heard.

MR LLOYD: Pills in the sense of legalised medication that wasn't otherwise
available at buy-ups?

40 **MS GAYNOR:** Yes.

MR LLOYD: Those are my questions.

COMMISSIONER: Yes, Mr Sheller?

45 **MR CARR:** Your Honour, I would be seeking leave to have the matter stood over
until tomorrow and just noting the time and also to consider some of the issues
that have arisen.

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COMMISSIONER: No, I am not going to do that. I will continue on today. Maybe we will continue with the witness tomorrow but we're not going to stop now.

5

MR CARR: Right. Okay, your Honour.

COMMISSIONER: Mr Sheller, I think wants to go first.

10 **MR CARR:** Okay, sorry, I thought you called upon me, your Honour. I really can't hear terribly much in this courtroom.

COMMISSIONER: In your client's interest, I think Mr Sheller should go first.

15 **<EXAMINATION BY MR SHELLER:**

MR SHELLER: Ms Gaynor, my name is James Sheller, and I'm one of the legal representatives for Corrective Services. Can I just ask whether you have in front of you - sorry you have in front of you your Commission statement?

20

MS GAYNOR: Yes.

MR SHELLER: And then you've also got in front of you your police statement?

25

MS GAYNOR: Yes.

MR SHELLER: I'm just wondering if I can just confirm with you the order of the events. There seem to be two events involving Witness E.

30

MS GAYNOR: Yes.

MR SHELLER: One when Witness N was present?

35

MS GAYNOR: Yes.

MR SHELLER: And one when Witness N wasn't present?

MS GAYNOR: Correct.

40

MR SHELLER: If you just go to your Commission statement, behind tab - sorry, it's got tab 97, you will see in paragraph 19 on page 3 you describe the incident where it was only Witness E present?

45

MS GAYNOR: Excuse me, which statement do you want me to look at?

MR SHELLER: Sorry, your Commission statement.

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MS GAYNOR: Yes.

MR SHELLER: So if you go to page 3 of the Commission statement, paragraph 19.

5

MS GAYNOR: Yes.

MR SHELLER: You will see there that you describe the incident where only Witness E was present?

10

MS GAYNOR: Yes.

MR SHELLER: Then at paragraph 21 over the page, you describe the incident where both Witness E and N were present, and as well Ms Hockey arrived. Do you see that?

15

MS GAYNOR: Yes.

MR SHELLER: Then if I can just ask you to go to your police statement, that's tab 58.

20

MS GAYNOR: Yes.

MR SHELLER: You will see on the first page at the bottom of paragraph - sorry, at paragraph 4.

25

MS GAYNOR: Yes.

MR SHELLER: You describe an incident occurring on 22 August 2018?

30

MS GAYNOR: Yes.

MR SHELLER: Then if you go to paragraph 5 and just read over the page, you'll see you're describing the incident involving Witness E and Witness N?

35

MS GAYNOR: Correct.

MR SHELLER: And then in paragraph 6 you give all the detail that we've seen in your Commission statement about Witness E in Mr Astill's office, Witness N behaving strangely in relation to cleaning products, and then the arrival of Ms Hockey. Do you see that?

40

MS GAYNOR: Yes.

MR SHELLER: And then just at the bottom of the page, you make reference to production of your diary. Do you see that?

45

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MS GAYNOR: Yes.

5 **MR SHELLER:** Then at paragraph 8 at the bottom of page 2 of your police statement and then across to page 3, you will see you describe the incident involving just Witness E?

MS GAYNOR: Yes.

10 **MR SHELLER:** And is that how you recall the sequence? You might have noticed in your Commission statement the incident involving just Witness E comes first and then you deal with the incident involving Witness E and N. In your police statement they are around the other way.

15 **MS GAYNOR:** Yes, correct. Yes.

MR SHELLER: Is your recollection now that the first incident in time was the one involving Witnesses E, N and Ms Hockey?

20 **MS GAYNOR:** Yes, correct.

MR SHELLER: And in the two hours or so in which Witness E was from your view with Mr Astill in his office or the storeroom, happened the next day?

25 **MS GAYNOR:** Yes. The incident with the two inmates was on the 22nd. And the next time when Witness E was there, it would have been the 23rd. So, yes, you're correct. The two-inmate incident and the shorter time and Ms Hockey was the first incident, and then the second one, Witness E was there on her own.

30 **MR SHELLER:** Then if you just go to the attachments to your police statement, you will see there's your diary.

MS GAYNOR: Yes.

35 **MR SHELLER:** 22 August.

MS GAYNOR: Correct.

MR SHELLER: Just against 10.30 there's two letters, "WA" and a circle?

40 **MS GAYNOR:** Yes, correct.

MR SHELLER: And then across the page, tell me if this is right, this is a photocopy of a couple of sticky notes or Post-It notes that you prepared?

45 **MS GAYNOR:** Yes.

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MR SHELLER: And is it the case that you weren't willing to write into your diary the information on those sticky notes for protection?

5 **MS GAYNOR:** Correct. Correct. The police officer photocopied the sticky notes because I wasn't leaving them in my office. But I wanted to be clear about what I saw, and I wrote them on sticky notes. That's why they're photocopied on the back here. I noted in my diary, which my diary has to be left on my desk in my office, I just put "Long visit" and "Short visit".

10 **MR SHELLER:** I just couldn't see on the - just have a look at your diary for 22 August.

MS GAYNOR: Yes.

15 **MR SHELLER:** I just couldn't see anywhere where anything is written other than the "WA" and the circle.

20 **MS GAYNOR:** Okay. All right. Well, there's "short visit" written on that. That was maybe what I've written on after because I wrote the notes on the Post-It because I didn't want it in my diary.

MR SHELLER: I understand. Then on the next page of your diary, if you just turn over the page, you will see 23 August?

25 **MS GAYNOR:** Yes.

MR SHELLER: And there's a circle around "WA" again, is that -

30 **MS GAYNOR:** Yes.

MR SHELLER: Thank you. Then Ms Gaynor could I just take you back to your Commission statement. I just wanted to ask an unrelated question, if you could assist me. You describe in paragraph 7 in your Commission statement about the role of the SAPO, and at the bottom of the page you refer to being expected to see
35 the women within the first 24 hours that they were in gaol?

MS GAYNOR: Correct.

40 **MR SHELLER:** Were SAPOs at all required to have a role in inducting the new inmates?

MS GAYNOR: Correct.

45 **MR SHELLER:** And was it the role of the SAPOs to tell the inmates what they needed to do in Dillwynia?

MS GAYNOR: Yes, correct.

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MR SHELLER: Was it your understanding that there were - that Correctional Officers also had a role in inducting the inmates?

5 **MS GAYNOR:** Yes. What would happen, inmates would come into the Centre. They would be seen by, obviously, custodial staff, maybe Justice Health. Then we were given a list of the SAPOs. We had a roster for the Reception Committee. The Reception Committee is where we would go down to what was called the Case Management area. There would be a Classification Coordinator. She would do the
10 roster up. We would go down by maybe 9, 9.30 in the morning after methadone pills and everything else. We would sit on what was called a Reception Committee with the inmates and tell them about the Centre. Where to access medications, where to go for visits applications, what programs were running in the Centre. We had a place that was called "the magic window" that was located in the middle of
15 the compound where the women would be advised that that's where they would go if they wanted clothing, extra clothing, buy-up lists, things like that. So -

MR SHELLER: There's a document that has been talked about in evidence in the Commission called The Women's Handbook. Is that something you're familiar
20 with?

MS GAYNOR: Yes.

MR SHELLER: And do you have a recollection when at Dillwynia whether The
25 Women's Handbook was made available to new inmates?

MS GAYNOR: Yes. I can recall in 2015 I participated in actually helping to write that book. We note - we had actually the Dillwynia flower on it, and it was a way of giving the women the information. We printed the books there ourselves and it
30 was giving them phone numbers, where to go for visits, giving them all the information on what they needed about the Centre, because we found that when they first come into custody, they're all a little bit over the shock because they've just been sentenced or they're on remand or they've, you know, just come in from off the street. They may be drug-affected. So it was hard for them to take on all
35 that information. So it was easier to put it in a handbook that was worked up - worked out by our manager, MOSP, Manager, Offender Services and Programs, and we all participated in that, in The Women's Handbook.

MR SHELLER: Yes, those are my questions. Thank you.
40

COMMISSIONER: Does anyone else have any questions?

MS GHABRIAL: No, Commissioner.

45 **COMMISSIONER:** Mr Carr?

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MR CARR: Yes, Commissioner, can I seek the matter be stood over until tomorrow?

COMMISSIONER: I don't want to do that. This is your client, isn't it?

5

MR CARR: Yes, your Honour, and I was - sorry, yes, Commissioner, I was briefed last night at 7.30 pm.

COMMISSIONER: I understand that, but there's nothing that I can apprehend at the moment that could be added to what she has had to say.

10

MR CARR: My position -

COMMISSIONER: And I don't want to inconvenience her by bringing her back tomorrow and delaying us proceeding with the next witness. Look, if you like, I'll give you five or so minutes now. You can have a chat to Ms Gaynor, and she can tell you whether there's anything that has been left out. But it doesn't appear to me that there will be. What I'll do, I'll adjourn -

15

MR CARR: Your Honour, I just haven't had the benefit of reading all the transcript.

20

COMMISSIONER: Can I say to you again: I have heard all the transcript. I've been here. I can't imagine at the moment there's anything that would need to be added to the evidence she has given. Look, I'm going to adjourn for five or 10 minutes, however long you need. You can have a chat to Ms Gaynor, bearing in mind what I have said, Mr Lloyd, Ms Davidson are there to talk to you, to help you and I will come back again when you are ready.

25

MR CARR: I appreciate that.

30

COMMISSIONER: I don't want to delay this good lady beyond today. She has surely got better things to do with her time tomorrow than come back into the city. All right. Let me know when you are ready.

35

<THE HEARING ADJOURNED AT 4.01 PM

<THE HEARING RESUMED AT 4.11 PM

COMMISSIONER: Yes, Mr Carr.

40

MR CARR: No questions, your Honour - sorry, Commissioner.

COMMISSIONER: Very well. Mr Lloyd, do you have anything more to say?

45

MR LLOYD: I don't, Commissioner.

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COMMISSIONER: Ms Gaynor, thank you very much for coming in and telling us what you can. You are now excused from further attendance.

MS GAYNOR: Thank you, your Honour.

5

COMMISSIONER: Thank you.

<WITNESS EXCUSED

10 **COMMISSIONER:** Where do we go from here, Mr Lloyd?

MR LLOYD: If it's convenient to you, Commissioner, we can adjourn and come back at 10 o'clock in the morning.

15 **COMMISSIONER:** 10 o'clock in the morning. Who do we expect to call at 10 o'clock.

MR LLOYD: We expect to call, the following witnesses in the following order: Grant Riddle, Jean Dolly and Brian Bartlett.

20

COMMISSIONER: So you expect three witnesses tomorrow?

MR LLOYD: Yes.

25 **COMMISSIONER:** Very well. We will adjourn until 10 o'clock.

**<THE HEARING ADJOURNED AT 4.12 PM TO FRIDAY, 27 OCTOBER
2023 AT 10.00 AM**

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