



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

**PUBLIC HEARING
SYDNEY**

**FRIDAY, 10 NOVEMBER 2023
AT 10:00 AM**

DAY 19

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
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
MS L. DOUST appears for a correctional officer
MR C.J. WATSON appears for two correctional officers
MR I. LATHAM appears with **Mr T. MCCAULEY** for a CSNSW member of staff
MR A. WILSON appears for a group of correctional officers
MR B. DEAN appears for a CSNSW member of staff
MR H. WHITE appears with **Mr A. HARRIS** for a correctional officer
MR A. GUY appears for a group of correctional officers

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<THE HEARING RESUMED AT 10.02 AM

<MICHAEL HOVEY, ON FORMER AFFIRMATION

5 **MR LLOYD:** Commissioner, I had, as you would recall, concluded my questions with Mr Hovey, but there's one document I wish to ask him some questions about, if I may?

COMMISSIONER: Yes.

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MR LLOYD: Just pardon me.

<EXAMINATION BY MR LLOYD:

15 **MR LLOYD:** I just want to show you something, Mr Hovey. Can you just have a look at this document. Commissioner, I will try and get some more copies of this. We'll just have to bear with this at the moment. Do you see that - do you recognise that as a document which is a record of the people who performed the role of intelligence analyst at various times between - well, goes as far back as
20 2010 and throughout 2018?

MR HOVEY: I can recognise that as a document that contains details of employees of, or contractors who worked at IB. They weren't all intelligence analyst.

25

MR LLOYD: I understand. So the position title "intelligence analyst" in this document anyway is misleading on the sense that not everyone on these two pages was an intelligence analyst.

30 **MR HOVEY:** That's correct.

MR LLOYD: Do you remember on Wednesday I asked you questions about the problems with no one reading intelligence reports in 2018, and I think you said that throughout calendar year 2018 there was no intelligence analyst reading the reports throughout that calendar year?
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MR HOVEY: That's right. That was my recollection, yes.

40 **MR LLOYD:** And so when we see, for example, Sarah Casey, second entry on the first page here.

MR HOVEY: Yes.

45 **MR LLOYD:** It says start 31 July 2018, do you see that?

MR HOVEY: I do.

MR LLOYD: But on the second page it actually has start 2 March 2018.

MR HOVEY: Yes.

5 **MR LLOYD:** She was employed in some capacity from at least March of 2018 in the investigations branch.

10 **MR HOVEY:** As I said in my testimony on Wednesday, Ms Casey started as an Administration Officer within the branch and basically just due to the fact that I didn't have the intelligence cover and I can see from the dates here in the end of July 2018, she moved into the intelligence role, but, as you may recall, I did describe around that time she was also performing the function of screening for new officers starting at the academy. So it was probably a 80/20 per cent ratio, but only 20 per cent of the work she was doing was on intelligence. The majority of
15 the work was on screening for new employees.

MR LLOYD: So from the end of July 2018, she would have been doing some work, for example, in reading intelligence reports.

20 **MR HOVEY:** A small proportion of her work would have been related to intelligence work with regards to Investigations Branch, yes.

MR LLOYD: But obviously, from what you told us on Wednesday, whatever she was doing in that proportion of her work, wasn't nearly sufficient to be able to read
25 all the reports that were coming in.

MR HOVEY: The answer to that is yes. The volume of work that that unit has is too much for one person anyway. It needs more people. So to actually reduce the capacity of one person severely impacted the intelligence function within the
30 branch.

MR LLOYD: Andrew Tayler is reported here as being employed in this role for various periods in the calendar year 2018.

35 **MR HOVEY:** Yes, I can see that.

MR LLOYD: How are we to reconcile those entries with no one performing the role in intelligence analysis of reading intelligence reports?

40 **MR HOVEY:** Yeah. It's - it's my recollection that Mr Tayler actually took up another position within the organisation and the way that - at that time, the way that some systems operated was - I suspect Mr Tayler was held against that position while he did duties elsewhere, but that's - that's my recollection. I - I'm not saying that is definitely the case.
45

MR LLOYD: So a misdescription in the sense that he remained technically employed as an intelligence analyst throughout this year but, in fact, was doing a different job; is that, in effect, what you're saying?

5 **MR HOVEY:** Yes.

10 **MR LLOYD:** I'll just ask you one question, I will see if I can do this without taking you to the document. The Commission has received evidence of an email involving a Deborah Wilson and the then Governor of Dillwynia in - on 19 August 2018. I'm not asking you to remember that but just take that from me. But the content, in effect, is a request to supply reports held by Dillwynia to an address - Sarah Casey's address.

15 **MR HOVEY:** Right.

MR LLOYD: Are you explain to what that is about? Do you have any recollection of how that came to pass?

20 **MR HOVEY:** I don't. But from the point of view that I - I didn't micromanage that function given everything else that was going on in the branch. So I - I would imagine Ms Casey has made a request following a line of inquiry for an intelligence report. That's all I can surmise, but it's hypothesis, I'm afraid.

25 **MR LLOYD:** So the extent to which she was doing that part of her job which involved intelligence analysis might have led to that kind of request; is that -

MR HOVEY: I suspect it could have done, but that's a question I can't answer.

30 **MR LLOYD:** And you don't remember having any conversation with Shari Martin or Deborah Wilson about supplying reports from Dillwynia to the Investigations Branch?

MR HOVEY: I don't recall the conversation, no.

35 **MR LLOYD:** Just in terms of Deb Wilson, do you remember her?

MR HOVEY: I remember Deb Wilson, yes. But I certainly don't recall a conversation with her.

40 **MR LLOYD:** Did you speak to her from time to time?

MR HOVEY: No. I can't - I know of her. I can't recall that I've ever spoken with her.

45 **MR LLOYD:** And whatever the position with respect to the email I've asked you about but not shown you, if you take it from me that in effect the topic is the gaol or Correctional Centre providing to the Investigations Branch reports held by the

gaol. Remember I asked you a number of questions the other day about if any intelligence report was made, there effectively was no ability to erase that record from the system, even if people at your end hadn't read it. Remember that?

5 **MR HOVEY:** Yes.

MR LLOYD: I take it the same, if it was sent by way of email, then are you aware of whether emails received by the Investigations Branch could be permanently deleted or anything of that kind?

10

MR HOVEY: Look, I'm taking your word with regard to the email. If you could clarify for me, was the request to Dillwynia for reports or for intelligence reports?

MR LLOYD: Not intelligence reports.

15

MR HOVEY: Okay. So I would suggest that the intelligence analyst is asking for officer reports which is a totally different request. Certainly, as I said in my testimony on Wednesday, an intelligence report submitted through the portal disappears from the office that submitted it - it disappears from their record; they can't access it - so I would suggest that perhaps - and, again I'm hypothesising - but Ms Casey has looked at a report, an intelligence report, sees referral to officer reports, and has requested those officer reports by way of clarification.

20

25 **MR LLOYD:** Assuming the officer reports were provided, what would be the ordinary form? As in, attached to an email?

MR HOVEY: I would suggest so, yes. Yes.

30 **MR LLOYD:** And I take it emails of that kind would be, in the ordinary course, retained - that is, not deleted permanently from the system?

MR HOVEY: My understanding is, is that all emails, whether they're inbox, outbox, deleted, can be recovered from servers. So that would be available, I'd suggest.

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MR LLOYD: But no practice that you're aware of, of people in Investigations deleting permanently an email of that kind?

40 **MR HOVEY:** Never.

MR LLOYD: So if there is no such email, again, we'd proceed on a similar basis as with intelligence reports. If we haven't been able to find any email stored on the server, then, from what you're saying we should proceed on the basis that no such email was sent?

45

MR HOVEY: That would be the conclusion that I would come to if I was investigating something and that was the outcome.

5 **MR LLOYD:** But what I'm about to ask you, in effect, invites speculation about something you've told us. You didn't have direct knowledge, but see if you can help us. If this had occurred - that is the kind of scenario that you've suggested, namely, Sarah Casey asking for officer reports arising from a review of an intelligence report - it would obviously suggest that when she was doing that part of her intelligence analyst function, some of the reports coming in to
10 Investigations had come to her attention?

MR HOVEY: Possibly, yes.

15 **MR LLOYD:** But you can't remember anything being done to pursue officer reports from Dillwynia about Astill in the second half of 2018? True?

MR HOVEY: No, not at all. That would be something that the Director wouldn't get involved with. You know, officers need to be able to perform those functions on their own. It's not -
20

MR LLOYD: You wouldn't expect to come up to you and for example until the officer reports had been obtained, reviewed and if, for example, there was information in them that was reporting up to you, you would expect to know.

25 **MR HOVEY:** Yes, I would.

MR LLOYD: But only at that stage of the process.

30 **MR HOVEY:** Yes. And I'm not sure when in - how the dates marry up in 2018, whether this was post awareness of Astill or pre. I don't know.

MR LLOYD: You should proceed on the basis that by this time your branch had been sent more than one intelligence report -

35 **MR HOVEY:** Yes, I understand that.

MR LLOYD: And you told us about that.

40 **MR HOVEY:** Yes, I understand that.

MR LLOYD: Commissioner, I should tender the, I will describe it as the Intelligence Analyst Roles, Timing and Roles document that I've asked Mr Hovey about.

45 **COMMISSIONER:** It will become Exhibit 33.

<EXHIBIT 33 TENDERED AND MARKED

MR LLOYD: Those are my questions.

COMMISSIONER: Mr Sheller.

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<EXAMINATION BY MR SELLER:

MR SELLER: Mr Hovey, my name is James Sheller. I'm one of the legal representatives for Corrective Services.

10

MR HOVEY: Yes.

MR SELLER: Could I - just to give you some degree of orientation, what I propose to ask you about is your statement and the annexures to your statement.

15

MR HOVEY: Yes.

MR SELLER: I'll show you some annexures to the statement of Mr Paddison. Do you know Mr Paddison?

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MR HOVEY: Yes, I do.

MR SELLER: And did you know him reasonably well during your time in Investigations Branch?

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MR HOVEY: Again, I would say that I knew of him rather than knew him very well.

MR SELLER: And then I'm also proposing to show you some documents which are in Volume 14. These are the communications in October 2017 involving Mr Greaves. Could I ask you to start with his statement. It's behind tab 86 in - I think it's Volume 8. You've got your statement there?

30

MR HOVEY: Yes.

35

MR SELLER: Could you go to paragraph 7, it's on page 2.

MR HOVEY: Yes.

MR SELLER: In this paragraph, you identify 22 staff reporting to you when the positions were filled,

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MR HOVEY: That's correct.

MR SELLER: You have identified some of the staff, including by reference to a document which has just been made an exhibit. That is the intelligence analysts.

45

I take it that there were other roles being performed among the 22 staff reporting to you?

MR HOVEY: That's correct.

5

MR SELLER: And did that include persons who were given responsibility to undertake investigations and gather information relevant to the function of the Intelligence Branch.

10 **MR HOVEY:** Correct, yes.

MR SELLER: And was one of those persons at the time Lee Williams?

MR HOVEY: Yes, it was.

15

MR SELLER: Sorry, is Lee a man or a woman?

MR HOVEY: It's a lady.

20 **MR SELLER:** And at the time, this is 2016 and 2017, what was Ms Williams' role?

MR HOVEY: She was a senior investigator.

25 **MR SELLER:** And was the senior investigator charged with the responsibility of undertaking interviews of officers and inmates and other persons in relation to professional misconduct?

MR HOVEY: Yes.

30

MR SELLER: And could someone in the position of Ms Williams either take a statement or participate in a record of interview.

MR HOVEY: I would expect them to, yes.

35

MR SELLER: Now, if I could then just ask you by reference to the intelligence reports which we'll go to in a moment, is the fact that a investigator has been appointed for the purposes of gathering information, does that appear in the intelligence report - that fact?

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MR HOVEY: I'm sorry, could you just clarify the question?

MR SELLER: If, for example, Ms Williams had been engaged to interview a witness, would that appear somewhere in the finalised version of the intelligence report that that -

45

MR HOVEY: Not in the intelligence report, no.

MR SHELLER: Would there be separate documents maintained by the Investigations Branch concerning, for example, Ms Williams' work?

5 **MR HOVEY:** Yes.

MR SHELLER: In any particular matter?

MR HOVEY: Yes.

10

MR SHELLER: Now, if I could then ask you to go forward to paragraph 16 of your statement, page 3.

MR HOVEY: Yes.

15

MR SHELLER: This is where you referred to the role of the PSB and the triage.

MR HOVEY: Yes.

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MR SHELLER: Just so I can understand it, is it correct that if an intelligence report was put through from a prison through that IIS, that the Investigations Branch would find out about it quickly?

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MR HOVEY: I think the answer to that question is that Investigations Branch would conduct some research and analysis on that report. I think the evidence has shown that it could have been done quicker.

30

MR SHELLER: Well, can I just ask - so my question is slightly different. What's submitted by - from an Intelligence Officer within a prison once the button is pressed and it's SIU to come to the Intelligence Branch, does it arrive immediately within the electronic network of the Intelligence Branch?

MR HOVEY: Yes, I would say that it does.

35

MR SHELLER: And does it also arrive electronically within the PSB?

MR HOVEY: No, it doesn't.

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MR SHELLER: So is the Intelligence Branch the first recipient of the report submitted by an Intelligence Officer, for example.

MR HOVEY: Yes.

45

MR SHELLER: From a prison?

MR HOVEY: That's right.

MR SELLER: And so is it the case that the triage process that takes place is undertaken by IB rather than the PSB?

5 **MR HOVEY:** Can I just clarify the confusion that's evident in this particular - the question that I was asked with regard to this in the statement was with regards to the misconduct process.

MR SELLER: Yes.

10 **MR HOVEY:** Now, what I was putting forward there was referrals to the Professional Standards Committee which is a totally different concept in intelligence reports or, as they're known in the first instance, information reports.

MR SELLER: Yes.

15

MR HOVEY: So there are two separate functions I suppose or processes that we're talking about there that appear to be conflated when we're discussing it now. In my statement, I'm talking about the management of the misconduct process.

20 **MR SELLER:** Yes.

MR HOVEY: I'm not talking about the intelligence reports.

25 **MR SELLER:** I understand. So disregard paragraph 16 for the moment. In terms of the chronology of the events, however, an intelligence report completed more often than not by an Intelligence Officer at a centre -

MR HOVEY: Correct.

30 **MR SELLER:** - once submitted, using the SIU function -

MR HOVEY: Yes.

MR SELLER: - it goes first to the Intelligence Branch; correct?

35

MR HOVEY: It goes to the SIU, which is part of the Investigations Branch, yes.

MR SELLER: (Indistinct) the IB.

40 **MR HOVEY:** No, I'm just explaining, sir, that the - I know there was some confusion on Wednesday about speaking about CIG and SIU, two totally separate branches. SIU is where that report goes that we're talking about, yeah.

45 **MR SELLER:** And is this right, that the first person to set eyes on the content of an intelligence report, which is put through using the SIU function, is someone within the Investigation Branch; is that right.

MR HOVEY: It would be someone within the Staff Intelligence Unit in the Investigations Branch, yes.

5 **MR SELLER:** Okay. Now, was it your practice in your role within the Investigation Branch to seek a daily update or check for yourself what intelligence reports had come through on that day?

MR HOVEY: I wouldn't say daily. I would say regularly. When I say regularly -

10 **MR SELLER:** I think your evidence was that, at least for part of the time, the number of reports coming in on an annual basis was something in the order of 150 to 200 reports; is that right.

15 **MR HOVEY:** In regards to intel reports, yes, annually around that figure.

MR SELLER: So at least, on average, maybe one a business day or thereabouts; is that right?

20 **MR HOVEY:** At least, yeah.

MR SELLER: And I take it your practice at the time was not to let those reports arrive without you being kept informed as to what had come in, if not on that day, the day before and so on?

25 **MR HOVEY:** Yes, to the best of - to the best of the capability with the constraints in place, yes.

MR SELLER: And if I could ask you to go to paragraph -

30 **COMMISSIONER:** Sorry, once you had looked at them, what did you do with them?

MR HOVEY: I beg your pardon, Commissioner?

35 **COMMISSIONER:** Once you had looked at them, what did you do?

MR HOVEY: Just to clarify, I didn't open these reports. They would be brought to my attention at a particular time.

40 **COMMISSIONER:** Well, that needs exploring. What do you mean you didn't open them, but someone brought them to you? What, did they print them off and bring them to you?

45 **MR HOVEY:** As I explained, Commissioner, the reports go to the Staff Intelligence Unit.

COMMISSIONER: I understand that.

MR HOVEY: That's – that's a process that I'm not involved with, so I didn't open these reports until they'd had some form of value-add or content work worked to them.

5

COMMISSIONER: So someone else had to look at them?

MR HOVEY: Yes.

10 **COMMISSIONER:** And then they might come and report to you.

MR HOVEY: Yes.

COMMISSIONER: Did they always come and report to you?

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MR HOVEY: I – I was satisfied that – that on the majority of occasions when they discovered something important, when they discovered it, it came to me.

20 **COMMISSIONER:** But have I got it right that for a significant period of time no one was looking at them at all?

MR HOVEY: That – that'd be correct.

COMMISSIONER: So nothing was coming to you?

25

MR HOVEY: That's right.

COMMISSIONER: Okay.

30 **MR SHELLER:** Mr Hovey, if you then go to paragraphs 42 and 43.

MR HOVEY: Yes.

35 **MR SHELLER:** This is where you deal with the process following what I understand to be the completion of the investigation reports from the perspective of the IB; is that right?

MR HOVEY: Yes, specifically the investigation report.

40 **MR SHELLER:** And is this right: So the investigation report starts off as the work of an Intel Officer or someone else within a correctional centre and then is worked up, worked on to produce the final version of the intelligence report, signed off on by the analyst and then signed off as reviewed by you?

45 **MR HOVEY:** No, sir. This is why I was quite specific when I answered the question. Sustained or not sustained is specifically regarding the question that I was asked was with regards to the misconduct process.

MR SELLER: Yes.

5 **MR HOVEY:** This is with regards to an investigation conducted by an investigator, not an intelligence report.

MR SELLER: I see.

10 **MR HOVEY:** So the investigator would, as I explained to the Commissioner on Wednesday, would involve taking statements, perhaps, you know, record of interview - a taped record of interview - from which findings would be distilled which would either sustain or not sustain the allegations of misconduct.

15 **MR SELLER:** Coming back to the investigation reports, when you sign off on them as having reviewed, does that mean that the various interviews and what have you that have been organised as part of the work of the Investigation Branch, are they complete by that stage?

20 **MR HOVEY:** It's probably an opportunity for me to just clarify so that it's very, very clear to the -

MR SELLER: Do you mind just answering my question first before you clarify?

25 **COMMISSIONER:** No, I think I would like the clarification because it may well help -

MR SELLER: Okay.

30 **COMMISSIONER:** - us to understand the answer to your question.

MR SELLER: Thank you.

35 **MR HOVEY:** When I provided my statement, this question was within regards to how investigations have been conducted. This process was really the process that was in place from about 2019/2020 onwards.

MR SELLER: Right.

40 **MR HOVEY:** Prior to that - and, again, only sort of mentally reviewing my evidence from Wednesday - I can see that prior to that I think I was shown a report that I'd completed into an investigation.

MR SELLER: Yes.

45

MR HOVEY: And certainly very early on - 2015, 2016, 2017 - when instead of 22 staff I probably had somewhere in the region of six or seven -

MR SELLER: Right.

5 **MR HOVEY:** - I did complete investigation reports and do it. So this process that I am talking about here in my statement is really the process that was adopted sort of post - let's say 2019 onwards.

MR SELLER: All right.

10 **MR HOVEY:** Now, I'm sorry, I need to answer your question in you just -

MR SELLER: Let me add some context to my question. In 2016 and 2017 -

MR HOVEY: Yes.

15

MR SELLER: - if you had signed off on an intelligence report as having reviewed it, in circumstances where the critical analyst has also signed off on it, does that mean that all the work in relation to that particular investigation was complete?

20

MR HOVEY: I think where the confusion comes there is it's not an investigation; it's an analysis of the information that had been provided in the intelligence report.

MR SELLER: All right.

25

MR HOVEY: What I'm signing off on is to say that I'm - I'm acknowledging the action that has been taken within the Investigations Branch with regards to the information that's there.

30 **MR SELLER:** All right. And if the investigation report makes no mention of further interviews or further investigations to be done by the IB, does that mean that, as it were, the investigation is complete?

35 **MR HOVEY:** Again, I'm sorry, but you're confusing me now. Are you talking about an investigation or an intelligence report?

MR SELLER: All right. Well, let's do this, Mr Hovey, by reference -

40 **COMMISSIONER:** Can I just - can I just, and I may be repeating what has been said, I may have misunderstood it. An intelligence report comes in - this is going back in time before - an intelligence report comes in, and one of your intelligence people is supposed to review it?

45 **MR HOVEY:** The only intelligence person, yes, sir.

COMMISSIONER: If you had one of those at all?

MR HOVEY: Yes.

COMMISSIONER: When they have reviewed it, does it then go to you?

5 **MR HOVEY:** It came through electronically for me to finalise which basically determined the next course of action.

COMMISSIONER: So your officer effectively provides the opportunity for you to decide where it should go next?

10

MR HOVEY: Yes.

COMMISSIONER: And your options as to where it should go next were?

15 **MR HOVEY:** Okay. So, basically, it would be a - really boil down to two options: either a referral to the Professional Standards Committee -

COMMISSIONER: For investigation?

20 **MR HOVEY:** A referral to the committee, Commissioner. A referral to the Committee, Commissioner. It would be the Committee's decision as to whether that went to investigation.

COMMISSIONER: Right.

25

MR HOVEY: But I would refer it to the Committee for (cross-talk)

COMMISSIONER: So they take control of it, and are you then out of the picture? Do they take control of it?

30

MR HOVEY: I - I was actually a member of the Committee, so I would be able to talk to that.

COMMISSIONER: But nevertheless, the Committee made the decision?

35

MR HOVEY: Can I say this, to all intents and purposes I was not a voting member of the Committee.

COMMISSIONER: No, no, that's okay. I just want to know what happens.

40

MR HOVEY: Yes.

COMMISSIONER: Just a minute, stay with me. It goes to the Committee?

45 **MR HOVEY:** Yes.

COMMISSIONER: You are an observer of the Committee?

MR HOVEY: Yes.

5 **COMMISSIONER:** But the Committee makes the decision as to what should happen next?

MR HOVEY: Yes.

10 **COMMISSIONER:** It could be an investigation?

MR HOVEY: It could be an investigation, yes.

COMMISSIONER: Or they might kill it at that point?

15 **MR HOVEY:** Or they might say it's best dealt with by way of policy, perhaps grievance, perhaps bullying and harassment.

COMMISSIONER: Whatever?

20 **MR HOVEY:** HR process, yes, sir.

COMMISSIONER: And it never comes back to you?

25 **MR HOVEY:** It doesn't need to come back to me, sir (crosstalk).

COMMISSIONER: No, but it - hang on, it never does come back to you for any further decision-making role; is that correct?

30 **MR HOVEY:** Unless it's for investigation, Commissioner (crosstalk).

COMMISSIONER: Hang on, slow down. Slow down. The Committee decides it should go to investigation?

35 **MR HOVEY:** Yes, sir.

COMMISSIONER: Where does it go back to for that to be done?

40 **MR HOVEY:** Right. So it's then processed by the Professional Standards Branch who load it up on to our silo as an investigation, which means we can then commence the investigation process.

COMMISSIONER: Hang on: it comes back to you to control the investigation?

45 **MR HOVEY:** It comes back to the investigations silo, sir, which means, effectively, as I explained on Wednesday, the Investigations Manager is then responsible for allocating to an investigator -

COMMISSIONER: Hang on. Slow down. Slow down. Is it coming back to your part of the organisation, or it is staying somewhere else?

5 **MR HOVEY:** No, sir. If the Committee recommends an investigation, it comes back to what was then my part of the organisation.

COMMISSIONER: Right. And you had the authority then to ultimately determine whether the investigation was complete, did you?

10 **MR HOVEY:** The investigation would have to be conducted, sir, before I could determine if -

15 **COMMISSIONER:** I understand that. But once it had been conducted, you had the authority to say, "It's complete" or "It needs further investigation"; is that right?

MR HOVEY: Ultimately, I had the final veto, yes, sir.

20 **COMMISSIONER:** Right. Then when you decided the investigation was complete, what would you do with it?

25 **MR HOVEY:** Forward it on to the Professional Standards Branch. No matter what the findings were in that report, I would forward it to the Professional Standards Branch.

COMMISSIONER: And who in the Professional Standards Branch had the authority, then, to determine what should happen?

30 **MR HOVEY:** I'll be honest, sir, I think that's a question for the Professional Standards Branch because that's their - it's a totally separate branch to the one that I worked in.

COMMISSIONER: I know but you must -

35 **MR HOVEY:** It went to the branch, and I'd be - I would be surmising, but I'd say, ultimately, it - it could be the legal manager, the Director of Professional Standards. I'm unsure.

40 **COMMISSIONER:** And then on Wednesday we talked about there being a decision-maker?

MR HOVEY: Yes, sir.

45 **COMMISSIONER:** When does that person pop up in this process?

MR HOVEY: Okay. So a decision-maker would be - on two occasions when a decision-maker would become involved. In what's called the formal investigation, the decision-maker would issue the letter authorising -

5 **COMMISSIONER:** Hang on. Slow down. Slow down.

MR HOVEY: Yes.

10 **COMMISSIONER:** You told me you are doing an investigation under your authority in branch. What's the difference between that and a formal investigation?

MR HOVEY: Okay. A decision made basically that something goes to formal investigation means that a certain process is followed under the GSE, which means that -

15 **COMMISSIONER:** Just slow down. Slow down again. Who makes the decision that there should be a formal investigation?

20 **MR HOVEY:** It can be the Committee, and it can be the result of a fact-finding investigation that finds evidence of misconduct but something that needs to be put to the officer in question, in which case procedural fairness, we'd have to write to that officer advising formal investigation, this is the allegation.

25 **COMMISSIONER:** Who controls the process of formal investigation?

MR HOVEY: The process - the administrative process is done by the Professional Standards Branch, which includes all the issue of letters to myself, to the officer, etcetera. The undertaking of the formal investigation would be undertaken by the Investigations Branch.

30 **COMMISSIONER:** So it's undertaken by your people?

MR HOVEY: Yes, sir. That's the investigation.

35 **COMMISSIONER:** We seem to be playing table tennis. It's going from one place to another all the time; is that right?

40 **MR HOVEY:** I can see why you'd say that, sir, but it's very important that - analogous to police and judiciary, it was very important that the two processes were separate and not seen to be influencing each other.

COMMISSIONER: All you needed was an investigation, and if it was determined that it was serious, an opportunity for the person being investigated to respond, and then a conclusion. That's all you needed, wasn't it?

45 **MR HOVEY:** Occasionally that did happen, sir. Now, if I can answer your question -

COMMISSIONER: Sorry, we have just gone through a formal investigation which you say has been conducted by your people?

5 **MR HOVEY:** Yes, sir.

COMMISSIONER: And I take it, it then goes back with a report to Professional Standards; is that right?

10 **MR HOVEY:** Yes, sir.

COMMISSIONER: It goes to the Committee; is that right?

15 **MR HOVEY:** No, it doesn't go to the Committee.

COMMISSIONER: Where does it go to?

20 **MR HOVEY:** The Professional Standards would process that. As I said, probably best getting that from the Professional Standards Branch but my understanding was that a Legal Officer would review that report and provide written legal advice to a decision-maker who would determine that that next stage of the process. And certainly over the last two years that I worked at the organisation, the decision-maker would write to the relevant employee, to the officer being investigated, and advise them of the outcome. That may be no further action, and they would written to and advised so they understood that they weren't under investigation anymore, or it could be an outcome suggesting that there will be some sort of outcome, whether that was remedial or disciplinary.

25 **COMMISSIONER:** All right. Well, I think I've got an outline understanding of what has been happening.

30 **MR SHELLER:** Mr Hovey, the interaction you have described is what occurred up to 2019; is that right?

35 **MR HOVEY:** Best described, yes, as to what happened as a process after 2019.

MR SHELLER: Up to about 2019, the Committee, the PSB, consisted of you?

40 **MR HOVEY:** I was a member, yes, an observer, if you like.

MR SHELLER: A member of the CSI?

45 **COMMISSIONER:** Sorry, there's a difference there. You say you are observer, you weren't actually a member?

MR HOVEY: I had no input.

COMMISSIONER: You had no voting right.

5 **MR HOVEY:** That's right. I could voice an opinion as to whether I thought something was worthy of investigation, but I couldn't - ultimately, I was not a decision-maker.

COMMISSIONER: No.

10 **MR SHELLER:** The head of the CSIU was on the Committee; is that right?

MR HOVEY: Prior to 2018, yes, he was.

MR SHELLER: Then the head of the PSB was on the Committee?

15 **MR HOVEY:** Yes.

MR SHELLER: So that was Mr Robinson at that time?

20 **MR HOVEY:** At that time, it was Mr Robinson, yes.

MR SHELLER: Mr Hollows, the CSIU at that time?

MR HOVEY: Yes, he was the Inspector in Charge.

25 **MR SHELLER:** Anyone else on the Committee?

30 **MR HOVEY :** Yes, there was the chair of the Committee would be the Assistant Commissioner, Governance and Continuous Improvement, so they were the chair, and there would also be assistant commissioners from certain areas that occurred a rotation. So usually two. We may well have Assistant Commissioner of Custodial Corrections, Assistant Commissioner Community Corrections, but it would be rotated.

35 **MR SHELLER:** What changed after 2019 were that there were additional Assistant Commissioner sitting on the PSB; is that right?

40 **MR HOVEY :** Just prior to 2019, the Professional Standards Committee was conducted via email. It was deemed that that was a better process. With the change of leadership, the changes that occurred were the meeting went back to a physical in-person meeting.

MR SHELLER: Yes.

45 **MR HOVEY:** The Commander of the CSIU was removed.

MR SHELLER: Yes.

MR HOVEY: And the agenda was, for want of a better expression, desensitised, so the names and locations of people were removed, basically to remove any unconscious bias in decision-making or determination of outcome.

5 **MR SELLER:** To get a matter to the PSC -

MR HOVEY: Yes.

10 **MR SELLER:** - required something at least from the IB; is that right?

MR HOVEY: No, that's incorrect.

15 **MR SELLER:** You would be getting the original information from the Correctional Centre?

MR HOVEY: That's incorrect.

MR SELLER: Well, sorry. The SIU branch would get the original information?

20 **MR HOVEY:** That's incorrect. I'm not trying to be awkward. If you ask me -

MR SELLER: Well, explain to me, then, Mr Hovey, what were the steps necessary for something to get before the PSC in the 2016 to 2019 period?

25 **MR HOVEY:** Okay. So I'm sure the Commissioner's Memorandum has been made available to you about how to report misconduct.

MR SELLER: Yes.

30 **MR HOVEY:** Yes. So that identifies that the process is the submission of a referral to the Professional Standards Committee.

MR SELLER: Right.

35 **MR HOVEY:** So that's not a referral to Investigations Branch; that's a referral to the Professional Standards Committee. We may well turn certain pieces of information gleaned during the course of an intelligence process or an investigation into a referral to the Professional Standards Committee. What I mean by that is, if we're investigating a certain matter, and during the course of that we
40 identify further misconduct, we don't allow scope creep on the original terms of reference for the investigation. We administer another referral to the Committee for the Committee to decide as to whether that new information warrants investigation. We don't make that decision, or we didn't make that decision.

45 **MR SELLER:** Well let's have a look, if we can at the intelligence reports that are annexed to your statement. The first one is annexure 1. Can I just show you some aspects of this report, not only in relation to the Committee, but if you could

go to by reference to the page numbers that appear sort of close to the top of the page, you will see that the whole report is 14 pages?

5 **MR HOVEY:** Yes.

MR SELLER: If you look under that section Corrections Intelligence Group Intelligence Report.

10 **MR HOVEY:** Yes.

MR SELLER: Can I ask you to go to the bottom of page 4?

MR HOVEY: Yes.

15 **MR SELLER:** You will see the reference to the local author?

MR HOVEY: Yes.

20 **MR SELLER:** And you will see a submitted date of 9 November 2016?

MR HOVEY: Yes.

25 **MR SELLER:** Can we glean from that that that is the date upon which the relevant officer at the Correctional Centre - in this case, Dillwynia - submitted the report?

MR HOVEY: Yes, sir, that's correct.

30 **MR SELLER:** Then if we go to the end of the document -

MR HOVEY: Yes.

35 **MR SELLER:** Sorry, withdraw that. If we go to page 6 of the document, at the bottom, you've been taken to this already, you will see that the CI analyst, Mr Tayler, refers to his date of analysis as 11 November 2016?

MR HOVEY: Yes.

40 **MR SELLER:** And then your involvement review 14 November 2016; do you see that?

MR HOVEY: Yes.

45 **MR SELLER:** So it seems to be the case in this instance that this matter coming from Dillwynia was capable of being analysed to a point where you were happy to sign off on a review quickly; do you agree?

MR HOVEY: Yes.

MR SELLER: And if you accept from me that there's an intervening weekend as well, this seems to have been done in three or four days?

5

MR HOVEY: Yes.

MR SELLER: Doesn't seem to have been in this instance any resources issue with the work of the Investigation Branch in at least preparing the matter to this point; do you agree?

10

MR HOVEY: In this particular instance, it would appear so.

MR SELLER: Mr Tayler seems to have been able to do his work in a couple of days?

15

MR HOVEY: Yes, it would have been - yes, based on the evidence in front of me, yes.

MR SELLER: And you can see from looking at page 5 of the document that what he seems to have done appears to be substantial?

20

MR HOVEY: Yes, this would be, yes.

MR SELLER: And at the top of the page, for example, he talks about having a phone conversation with Ms Kellett?

25

MR HOVEY: Yes.

MR SELLER: As part of his work to obtain further information?

30

MR HOVEY: Yes.

MR SELLER: Now, it doesn't appear to be the case, at least from looking at this intelligence report, that someone like Ms Miller had been engaged to do any work to get to the point where you could sign off on it; is that right?

35

MR HOVEY: I'm unsure of Ms Miller.

MR SELLER: Well, there's no reference anywhere in being document, you can take it from me, look at it if you would like to check, to suggest that anyone responsible for interviewing people and taking statements or participating in records of interview has had an involvement.

40

MR HOVEY: No, they haven't.

45

MR SELLER: And does that suggest to you that there was no such involvement?

MR HOVEY: It does.

5

MR SELLER: The point of assigning someone like Ms Miller to take statements or participate in records of interview was so that complainants could be heard; do you agree?

10 **MR HOVEY:** I'm - I'm just baffled as to who Ms Miller is.

MR SELLER: Sorry, my fault. Ms Williams.

MR HOVEY: Sorry, yes.

15

MR SELLER: There's nothing to suggest someone in the position of Ms Williams had an involvement in the gathering of any intelligence.

20 **MR HOVEY:** She would not have, no. She would not have been tasked - no investigator would have been tasked as a result of this document.

MR SELLER: Right. So no one would have been tasked to attend upon any of the persons identified on page 5 as witnesses to get statements from them or participate in records of interview; is that right?

25

MR HOVEY: That's right.

MR SELLER: And so at least for the purposes of finalising this document, the witnesses identified at the top of page 5 were not heard from; do you agree?

30

MR HOVEY: I do, yeah.

MR SELLER: And so no opportunity to get - there was no opportunity to get a direct account from any of those witnesses; do you agree?

35

MR HOVEY: Yes.

MR SELLER: And, notwithstanding that not having occurred, you signed off on this intelligence report; is that right?

40

MR HOVEY: Yeah, that's correct.

MR SELLER: If you look at the bottom of page 5 -

45 **MR HOVEY:** Yes.

MR SELLER: - there's a reference to actions.

MR HOVEY: Yes.

5 **MR SHELLER:** These are all actions that have taken place either locally or at one level above the local centre; is that right?

MR HOVEY: That's right.

10 **MR SHELLER:** Now, once you had signed off on this intelligence report, what happens to this matter in terms of PSB, PSC or any other involvement?

MR HOVEY: At the time that this was done, nothing. This would not have been referred to Professional Standards.

15 **MR SHELLER:** So there was nothing - nothing was asked of PSB to form a view as to what should happen?

MR HOVEY: No.

20 **MR SHELLER:** And nothing was asked of the PSC, including persons in the position of Assistant Commissioners, as to what the appropriate approach might be to deal with this matter; is that right?

25 **MR HOVEY:** No, that's correct.

COMMISSIONER: Can you just tell me again, perhaps we've already covered this, this is a serious allegation. Why was nothing done?

30 **MR HOVEY:** With regards to this particular report, Commissioner, it was apparent from the report that the matter had been referred outside the gaol to a Director, but the Director and the General Manager at the time had dealt with the issues that were being raised in the report from what I could see, and some action had been taken with regards to an outcome for, in this case with Mr Astill - he was given a reprimand and caution. As such, there was no -

35 **COMMISSIONER:** That obviously means there's a different process as well. So it's come to your people. They have assessed it, and you spent time signing off on it, but otherwise it had already gone somewhere else; is that right?

40 **MR HOVEY:** Basically, yes. That's -

COMMISSIONER: How did it get to go somewhere else?

45 **MR HOVEY:** This matter was dealt with by way of internal management, which was - which is an option to the Professional Standards Committee anyway to refer -

COMMISSIONER: Just a minute. Just a minute. This is an intelligence report?

MR HOVEY: Yes.

5 **COMMISSIONER:** Coming to your people?

MR HOVEY: Yes.

10 **COMMISSIONER:** And you signing off? Right. And as I understood what you told me just a few minutes ago, at that point you may send it across to Professional Standards Board?

MR HOVEY: We could send it across if it warranted sending across.

15 **COMMISSIONER:** Did you send this one across?

MR HOVEY: No, I did not.

20 **COMMISSIONER:** Well, then, how did it get out of your care into someone else's care?

MR HOVEY: Because of the action that was taken, the fact that this intelligence report -

25 **COMMISSIONER:** No, stop. Stop. What action being taken - was taken?

MR HOVEY: Sorry sir, but the action taken, I thought I had already said, I will make it clear, the action taken was by the General Manager and the Director taking action against the officer who it was alleged had done something wrong.

30 **COMMISSIONER:** So you are talking about what we have been referring to as the Governor of the gaol?

MR HOVEY: The Governor of the gaol, yes, sir.

35 **COMMISSIONER:** And who else.?

MR HOVEY: And the Director, who is the Director of the region and has a number of gaols to look after.

40 **COMMISSIONER:** And did they see this report that you saw?

MR HOVEY: It's evident from what's written in the report, Commissioner, that post all these actions, the Governor has directed for this report to be completed and submitted so that there was a record of what action had been taken.

45 **COMMISSIONER:** So the Governor at this stage is who?

MR HOVEY: From what I can see, it's Shari Martin, sir.

COMMISSIONER: And the Director is?

5

MR HOVEY: Marilyn Wright.

COMMISSIONER: And how was it that they became involved in the process?

10 **MR HOVEY:** Because it was brought to their attention locally by Mr Astill himself who was sat in the Intelligence Officer's chair and came across that intelligence in the first place.

15 **COMMISSIONER:** Right. So we connect it to his complaint that he had been wrongly accused?

MR HOVEY: That's right. He went to the Governor with the complaint that he had been wrongly accused in this letter.

20 **COMMISSIONER:** And it was decided by the Governor and the Director that they would accept his explanation; is that right?

25 **MR HOVEY:** It would appear so from what I'm reading here, sir, yes and I think that's what I deduced at the time.

COMMISSIONER: And, therefore, you didn't refer the matter anywhere else?

MR HOVEY: No, I didn't.

30 **COMMISSIONER:** Was that a common decision-making process for you, or was this unusual?

35 **MR HOVEY:** To be perfectly honest, sir, it was unusual for us to receive this information in this format.

COMMISSIONER: Sorry, stop. What information? You mean the information by way of complaint, or the information that someone else had dealt with it?

40 **MR HOVEY:** A combination of the both, sir, of receiving the complaint and how it had been managed and managed locally in the form of an intelligence report. I can't remember another instance. There may well be one, but I can't remember it ever occurring outside of this.

45 **COMMISSIONER:** This, of course, was a very serious allegation, wasn't it?

MR HOVEY: Yes, and I know you took me to task with - on my evidence on Wednesday when I said with hindsight. I was looking at this in concept at that

particular time, and again, with all due respect to what you told me on Wednesday, in hindsight, it should have been managed differently, but, at the time, I made a decision as to how that would go forward.

5 **COMMISSIONER:** If you made a different decision what would have happened?

MR HOVEY: It would have gone to the Committee, and I can't pre-empt what the Committee might have decided.

10 **COMMISSIONER:** But it would have gone to someone else to have a look at it?

MR HOVEY: It would have done, yes.

15 **COMMISSIONER:** And by you not sending it anywhere else, I assume in the system, overall system, it just died?

MR HOVEY: Basically to my regret, yes, sir.

20 **COMMISSIONER:** So, in fact, it just effectively dealt with, people moved on, and we know what happened after that?

MR HOVEY: Because of that, I treated it more as a matter of record than a matter for action, yes, sir.

25 **COMMISSIONER:** Did you ever raise with the General Manager or the Director any concerns that the issue had not been taken further and properly investigated?

MR HOVEY: No, I did not, sir.

30 **COMMISSIONER:** But the reality is that as far as the service is concerned, the issue was never fully investigated, was it?

MR HOVEY: No, it wasn't.

35 **COMMISSIONER:** Again, I think I understand.

MR HOVEY: Thank you.

40 **COMMISSIONER:** Yes.

MR SHELLER: Sorry, Mr Hovey, I think you are accepting it was your decision for this matter not to go to the PSB is that right?

45 **MR HOVEY:** I accept that that was my decision, yes, sir.

MR SHELLER: And as a consequence, it didn't go to the PSC?

MR HOVEY: That's correct.

MR SHELLER: One of the things available to the PSC was plainly a referral to CSIU?

5

MR HOVEY: Yes, that was definitely an option.

MR SHELLER: And one consequence of that was either CSIU detectives or maybe your investigators would have spoken to the witnesses; is that right?

10

MR HOVEY: If a different course of action had been taken, that was certainly an option, yes.

MR SHELLER: Another course of action would have been consideration by the PSC as to Mr Astill's then employment position; do you agree with that?

15

MR HOVEY: I - that's a question I can't answer.

MR SHELLER: Well, do you recall from time to time whenever you were at a PSC meeting there was discussion as to what interim measures should be taken in relation to an officer under investigation?

20

MR HOVEY: Yes, sir. But you recall that I did say that I was just an observer. It's not the role of the Director of Investigations to advocate for someone to be suspended. That suggests a bias that you've already decided some form of - some form of guilt. So I stepped back from that and was never involved in any decision to suspend or take any sort of action against an officer.

25

MR SHELLER: But my question is a slightly different one.

30

MR HOVEY: Sorry.

MR SHELLER: The other voting members of the Committee -

35

MR HOVEY: Yes.

MR SHELLER: - could, as part of their evaluation of a matter such as this, raise questions as to what the employment status was of the officer at that time?

40

MR HOVEY: That's certainly one possibility, yes, sir.

MR SHELLER: And, for example, they may direct an inquiry to be made of the governor or the director as to whether that officer should be put on leave?

45

MR HOVEY: Certainly an option, yes, sir.

MR SHELLER: Relocated to another facility?

MR HOVEY: Certainly an option, yes, sir.

5 **MR SHELLER:** And the advantage, of course, of Dillwynia in terms of location is but one of three prisons in the area; that's right?

MR HOVEY: That is correct.

10 **MR SHELLER:** No doubt notification to the officer of some step along those lines - be it suspension, being put on leave or relocation - may attract an issue in itself in terms of union involvement and the like, but that's all part of an ordinary process in which the PSC involves itself; do you agree?

15 **MR HOVEY:** Yes, it is.

MR SHELLER: And so not only was this particular complaint not investigated by the PSB or not considered by the PSB and the PSC, the opportunity for some interim measures to be taken in relation to Mr Astill couldn't occur; do you agree?

20 **MR HOVEY:** That's correct, due to the operational decision I made at that time.

MR SHELLER: Can I then ask you to go to the next intelligence report, which I think is Annexure 2.

25 **COMMISSIONER:** Mr Hovey, I take it that, irrespective of the decision that had been made by the General Manager and the Director, you still had authority to send the issue across to the PSB?

30 **MR HOVEY:** The answer to your question is yes, sir, but I'd made the decision.

COMMISSIONER: Sure, I understand, but you could have made a different decision?

35 **MR HOVEY:** I could.

MR SHELLER: Now, Mr Hovey, I'm asking you to look at the intelligence report which I think is annexure 2. It has got the number 17-2051.

40 **MR HOVEY:** Yes.

MR SHELLER: Now, if I could ask you to look at the top, you will see the incident date on the first page, this is now page 1 of 5.

45 **MR HOVEY:** Yes.

MR SHELLER: See that date 21 July?

MR HOVEY: Yes.

5 **MR SHELLER:** Then over the page, page 2 under information, there's a reference to Officer Holman and a reference to the incident report form dated 21 July?

10 **COMMISSIONER:** Mr Sheller, I'm sorry to interrupt you, but before I lose it. Could we just go back to Annexure 1, to the admiralty code. Mr Hovey, do you see the - it's on page 2.

MR HOVEY: Yes.

15 **COMMISSIONER:** See the evaluations there, LIO evaluation response was F6, reliability unknown, cannot be judged.

MR HOVEY: Yes.

20 **COMMISSIONER:** CIG however becomes a B2. That's quite different. How do we explain that?

MR HOVEY: Somebody has changed the admiralty code during the process of the completing the reports, sir.

25 **COMMISSIONER:** So what's the ultimate conclusion? B2?

MR HOVEY: I'm sorry.

COMMISSIONER: Is the ultimate conclusion B2?

30 **MR HOVEY:** Yes.

COMMISSIONER: That's a very high classification, isn't it?

35 **MR HOVEY:** Can I say, sir, that that is very subjective. It's the opinion of the person completing it. This would appear - looking at the dissemination, this would appear that possibly it went - it didn't come through the SIU portal. I don't know that for a fact but possibly not. But, again, there may be a change due to some local knowledge. It may be that a person knows Witness HH and says, "Oh, yes, they are reliable. Everything they have told me in the past so this must be true."
40 That's not the way to do it as I'm sure you know.

COMMISSIONER: No, that's not the way you ultimately determine things, but it does raise the need for investigation. If you are not getting a report from someone you believe to be a truthful and reliable witness, surely you should be looking at it
45 pretty carefully, shouldn't you?

MR HOVEY: I haven't changed the admiralty code, Commissioner. I - to be honest, I -

5 **COMMISSIONER:** I'm not suggesting you have, but someone had a pretty strong view that this allegation had substance, didn't they?

MR HOVEY: Yes. And, in reality, it's only now that it's pointed out to me that I've seen that. I - I can't recall seeing that change in the admiralty code prior to this.

10 **COMMISSIONER:** Well, you can't go but one step higher in terms of reliability, can you - ie, report confirmed.

MR HOVEY: Yes.

15 **COMMISSIONER:** The assessment by this person is probably true.

MR HOVEY: Again, I come back to the fact, Commissioner that it's purely subjective on the thoughts and perhaps the local knowledge of the person that's (indistinct).

20 **COMMISSIONER:** That's not subjective. That's objective material upon which their opinion is based. That's not subjective. Do you understand?

25 **MR HOVEY:** I do, yes.

COMMISSIONER: And as it happens, tragically, that person turned out to be right, didn't they?

30 **MR HOVEY:** Regretfully, yes, sir.

COMMISSIONER: Yes. Sorry, Mr Sheller.

35 **MR SELLER:** Thank you. Now, I was just asking you to have a look at the intelligence report at Annexure 2, Mr Hovey.

MR HOVEY: Yes.

40 **MR SELLER:** I think I had asked you to confirm the incident date on page 1, 21 July?

MR HOVEY: Yes.

45 **MR SELLER:** And then by reference to the information you will see the reference to the work done by Mr Holman by way of incident report in a form dated 21 July 2017; see that?

MR HOVEY: Yes.

MR SHELLER: Then at the bottom of the page, the document appears to have been updated by reference to the second report.

5

MR HOVEY: Yes.

MR SHELLER: And I think you agreed, when answering some questions from Mr Lloyd on Wednesday, that that of itself that is the second report with its reference to threatening behaviour was a very serious matter?

10

MR HOVEY: Yes.

MR SHELLER: And that was off the back of what appears three paragraphs up, where there's reference to what might be described as at best an assault, multiple assaults on the part of Mr Astill in relation to Witness M.

15

MR HOVEY: Yes.

MR SHELLER: Coupling those two together, a very serious matter I think you conceded on Wednesday?

20

MR HOVEY: Yes.

MR SHELLER: Now, if you go this time to page 4 under - near the top of the page, under local author, you will see a reference to Ms Kellett, the Intel Officer.

25

MR HOVEY: Yes.

MR SHELLER: And you will see the submitted date of 30 July.

30

MR HOVEY: Yes.

MR SHELLER: Can I suggest - I withdraw that. Do you know whether this particular intelligence report was submitted earlier than that date and then updated subsequently?

35

MR HOVEY: My understanding of this system is, is that the date, 30th of the 7th 2017 is the date when Officer Kellett would have submitted that report.

40

MR SHELLER: Just pardon me a moment. Then if you go to page 5 of the report.

MR HOVEY: Yes.

45

MR SHELLER: This is the one where we've got again Mr Tayler and your sign-offs.

MR HOVEY: Yes.

5 **MR SELLER:** Now, you recall now having given evidence on Wednesday and been shown various documents. It's this intelligence report that was the subject of the emails involving Mr Greaves; do you understand that?

MR HOVEY: Yes.

10 **MR SELLER:** Now, I just want you, if you could, to go behind tab 84. That's Mr Paddison's statement.

MR HOVEY: Yes.

15 **MR SELLER:** Mr Paddison has some annexures to his statement. These are - can I just let you know, these aren't your work, nor is there any reference to you in them, but I just want to see if you can assist me on this. If you go to what is referred to as Annexure D, if you've got some little markings there.

20 **MR HOVEY:** Yes, sir.

MR SELLER: Do you recognise that as an email from Mr Paddison to a gentleman called Craig Smith?

25 **MR HOVEY:** Yes, I do.

MR SELLER: And do you see that the date of that is 22 July?

MR HOVEY: I do.

30

MR SELLER: And the time is 10.30?

MR HOVEY: Yes.

35 **MR SELLER:** And you recall 21 July was what was referred to as the incident report, date on the intelligence report I just showed you.

MR HOVEY: Yes.

40 **MR SELLER:** Then if you look at the - without having to read the whole of this particular email, you will see a reference to the person Witness M?

MR HOVEY: Yes.

45 **MR SELLER:** And please accept from me that the subject matter of this email from Mr Paddison to Mr Smith is the same subject matter as the intelligence report I just showed you a little while ago and which we discussed.

MR HOVEY: Okay, yes.

5 **MR SELLER:** It seems, from connecting dates at least, that within a day of the intelligence report at least being started, Mr Paddison was undertaking some investigation, to use his own words; do you see that?

MR HOVEY: Yes.

10 **MR SELLER:** The next day he was at work on it?

MR HOVEY: Yes.

15 **MR SELLER:** Then could I ask you to go to the next document, which I hope is Annexure E.

MR HOVEY: Yes.

20 **MR SELLER:** At the top of it, hopefully, you will see a reference to an email from Mike Paddo; do you see that?

MR HOVEY: Yes.

25 **MR SELLER:** Then if you scroll down, Mr Paddison is sending an email only a couple of weeks ago to an officer of this Commission.

MR HOVEY: Yes.

30 **MR SELLER:** On forwarding the email to the person he describes as the senior investigator?

MR HOVEY: Yes.

35 **MR SELLER:** Then if you scroll down, do you see an email from Lee Williams?

MR HOVEY: Yes, I'm sorry. Yes.

40 **MR SELLER:** And you will see that the email from Lee Williams is dated Monday, 24 July 2017, three days after the inception or the beginning of that intelligence report that I just showed you; do you see that?

MR HOVEY: Yes.

45 **MR SELLER:** Please feel free to read just to yourself, the email.

MR HOVEY: Yes.

MR SELLER: And you are satisfied that is the Lee Williams within your branch?

5 **MR HOVEY:** Yes, I believe so, yes.

MR SELLER: And it may be coincidence, but it looks like, at least that Lee Williams is doing some work in relation to this matter, that is, Witness M. Do you accept that?

10

MR HOVEY: I - I can't refute it, but I don't necessarily accept it. It's - sorry, but there's no case reference, I don't know what case she is working on. It would seem - there's just no nexus for me from the matter we're talking about to the involvement of Mrs Williams.

15

MR SELLER: It may be coincidence, but if it's not, Mr Hovey, it would suggest that the Investigations Branch was working quickly on this matter; do you agree?

20

MR HOVEY: It - it would prove the nexus between this email and the IR, and it would suggest that, yes.

MR SELLER: And Lee Williams would only be assigned a role in relation to this matter at your direction; do you agree?

25

MR HOVEY: No.

MR SELLER: Who else could have -

30

MR HOVEY: It could have been done by the Investigations Manager.

MR SELLER: Someone within the -

MR HOVEY: The branch.

35

MR SELLER: Your branch?

MR HOVEY: To be fair, sir, I think around this time I was performing the duties of the Investigations Manager as the Director, so I slightly misled with my answer there. If it were the case that I most likely would have asked for that to happen.

40

MR SELLER: Now, I mean, it's clear from the email chain that Mr Paddison seems to perceive a connection between what he was doing in relation to Witness M and what Ms Williams was doing; do you agree?

45

MR HOVEY: Yes, I do, although I - I don't see the involvement in Mrs Williams in the subsequent cancellation of the advice.

MR SELLER: I'll come to the substance. I think you're reading ahead, are you?

MR HOVEY: Possibly. I thought what's that you wanted me to do. I apologise.

5

MR SELLER: Now, then, could I ask you to have a look at volume, that is in front of you, or could the witness have available Volume 14. And it's document 452, Mr Hovey.

10 **MR HOVEY:** Yes, I have that.

MR SELLER: This is the email chain, 452, and reading from the bottom starts with the email from Mr Greaves.

15 **MR HOVEY:** Yes.

MR SELLER: And Mr Greaves, just to remind you, is part of PSB?

20 **MR HOVEY:** Yes. Mr Greaves was the Professional Standards manager, I believe.

MR SELLER: Working under Mr Robinson?

25 **MR HOVEY:** Yes.

MR SELLER: And someone to whom, if you wanted to, you would report the results of work done by the Investigation Branch to the point of sign-off on a sign-off report; correct?

30 **MR HOVEY:** No, we wouldn't report that to Professional Standards Branch unless it was a referral.

35 **MR SELLER:** Someone you could, sorry, Mr Greaves and Mr Robinson were persons to whom the Investigation Branch would ordinarily report matters of importance; do you agree?

MR HOVEY: Yes, certainly.

40 **MR SELLER:** Now, if we go to Mr Greaves' email, the one sent at 9.57 am.

MR HOVEY: Yes.

45 **MR SELLER:** You'll see by reference to those dashes that, by whatever means, Mr Greaves has ascertained that the concern about Witness M was a matter that was being handled by Mr Paddison and the Governor was aware of that; do you see that?

MR HOVEY: I - I can see exactly what you're saying that from those dashes, Mr Greaves in his email certainly indicates he has the - the knowledge of the complaint, yes.

5 **MR SELLER:** And he has knowledge of the complaint and knowledge that the work - the work in relation to that complaint - is being done by Mr Paddison to the knowledge of the Governor?

MR HOVEY: Yes.

10

MR SELLER: And Mr Greaves has characterised what Mr Paddison is doing as an investigation?

MR HOVEY: Yes.

15

MR SELLER: And you saw by reference to that email I showed you by Mr Paddison on 22 July to Mr Smith that that's how Mr Paddison characterised what he was doing?

20 **MR HOVEY:** Yes.

MR SELLER: Now, this email - that is, the one sent by Mr Greaves to Mr Shearer, cc'ing Mr Robinson - was on-forwarded to you. That's behind tab 453.

25 **MR HOVEY:** Yes.

MR SELLER: And you got it I think at 10.05 am, that is eight minutes after Mr Robinson had received it from Mr Greaves?

30 **MR HOVEY:** Yes.

MR SELLER: It appears to be the case that you never responded to Mr Robinson's email to you on forwarding this one?

35 **MR HOVEY:** It would appear from that evidence available, not via email, certainly.

40 **MR SELLER:** No. And no suggestion, at least via email, that you had told anyone, be it Mr Robinson, Mr Greaves or even Mr Shearer, that what Mr Greaves had found out was untrue?

MR HOVEY: No, not via email.

45 **MR SELLER:** Now, if we go up, then, to back at 452, Mr Greaves' email to Mr Robinson; the one sent at 2.07 pm?

MR HOVEY: Yes.

MR SELLER: This is where Mr Greaves recounts his conversation, this is two days later, sorry, I withdraw that. In the email that was sent on 13 October, that's two days later from the earlier exchange of emails, from Mr Greaves to
5 Mr Robinson, he recounts his conversation with Mr Shearer, who as director, has spoken to Ms Martin immediately beneath him in the hierarchy; do you see that?

MR HOVEY: Yes.

10 **MR SELLER:** There is a classification about what is being done, but then your name is mentioned?

MR HOVEY: Yes, I can see that.

15 **MR SELLER:** And there's a mention that Ms Martin has liaised with you?

MR HOVEY: It would appear from that, yes.

20 **MR SELLER:** Now, I don't think, when asked questions by Mr Lloyd about this on Wednesday, you claimed that what appears here, that is a liaising between Ms Martin and you, never occurred?

25 **MR HOVEY:** I don't think I'd said it never occurred, sir. I said I don't recall a - a conversation with Ms Martin. I think that was how I described it.

30 **MR SELLER:** Can I suggest that - sorry, I withdraw that. And what the email seemed to suggest, at least as a possibility, is that you had spoken to Ms Martin, and Ms Martin had told you that her then Manager of Security was investigating or taking steps in relation to this matter?

MR HOVEY: I think what the email suggests here was more relevant and that is that perhaps Mr Paddison was assembling relevant information rather than conducting an investigation.

35 **MR SELLER:** I showed you Mr Paddison working almost - sorry, within a day of the incident report being first generated. Do you remember that?

MR HOVEY: Yes.

40 **MR SELLER:** I've shown you Ms Williams at work potentially a couple of days later?

MR HOVEY: Potentially, yes.

45 **MR SELLER:** Do you agree with me that this would suggest that if you had participated in any discussion with Ms Martin that it was probably on that Friday, 21 July, the very day where this was all happening?

MR HOVEY: Yep, conjecture, but if I did have that conversation, then it's possible that it was that date, yes.

5 **MR SELLER:** And is it the likelihood - the likelihood is that Ms Martin telephoned you; do you agree?

MR HOVEY: Most likely I would suggest because there's no email record.

10 **COMMISSIONER:** We are getting into the realm of speculation, I think aren't we.

MR SELLER: I'm sorry?

15 **COMMISSIONER:** We are in the realm of speculation.

MR SELLER: As to the form of -

20 **COMMISSIONER:** As to whether it happened at all and as to the form of it. We are getting a long way from reality.

MR SELLER: What seems - if it's the case, Mr Hovey, that that conversation did occur, the consequence of it appears to be that Mr Paddison, the Manager of Security, was doing the intelligence-gathering exercise; agree?

25 **MR HOVEY:** It would appear so.

MR SELLER: And that Ms Williams, if she had an involvement, one of your investigators, seems to have been given the task of obtaining footage?

30 **MR HOVEY:** If that's what the footage was referring to, it would appear so.

MR SELLER: Ordinarily it would be the task of Ms Williams to be doing the intelligence gathering or the investigation; do you agree?

35 **MR HOVEY:** Certainly not the intelligence gathering, but the investigation, yes.

MR SELLER: Or at least making inquiries as to what further information needed to be obtained?

40 **MR HOVEY:** If the investigator was allocated that task, yes.

MR SELLER: One of the obvious things that needed to happen in this case was for Witness M to be interviewed; do you agree?

45 **MR HOVEY:** That would have been a logical outcome, yes.

MR SELLER: And the person to conduct such an interview would be Ms Williams?

5 **MR HOVEY:** Possibly, one of - I had eight people on the ground at that time so one of eight people could have done.

COMMISSIONER: Ms Williams, you say, would have been conducting the interview in what role? What role was she playing to conduct the interview?

10 **MR HOVEY:** Sorry, Commissioner, I missed that.

COMMISSIONER: If she was to conduct the interview under what hat? What role was she exercising to do that?

15 **MR HOVEY:** Sorry, sir, I understand. It would have been done in her role as, in her employment as a Senior Investigator if -

20 **COMMISSIONER:** Senior Investigator operating on the authority of what body? Your organisation?

MR HOVEY: Yes.

COMMISSIONER: As part of what process within your organisation?

25 **MR HOVEY:** The ability to - the intelligence analyst can't attend a gaol and interview inmates. That is a specialised function of an investigator. If this occurred, sir, I'm suggesting that perhaps an investigator was tasked with attending a centre to take a statement.

30 **COMMISSIONER:** This is where I continue to get confused. It's coming in and you're operating upon the intelligence that you receive, as I understand it you're not doing an investigation?

35 **MR HOVEY:** That's right.

COMMISSIONER: It would have required the authority of the other body before an investigator would be tasked with doing an investigation?

40 **MR HOVEY:** With conducting an investigation, yes, sir.

COMMISSIONER: Right. And then that person couldn't themselves investigate, they'd have to get - sorry, couldn't take the interview they would have to get an investigator to go out and take the interview.

45 **MR HOVEY:** Take a statement, yes, sir.

COMMISSIONER: A statement.

MR HOVEY: Because this person would be interviewing an inmate. It would mean going into the Correctional Centre.

5 **COMMISSIONER:** I understand why there might be that protocol, but you understand what I mean by we're playing table tennis.

MR HOVEY: I'm completely with what you're saying, Commissioner, yes.

10 **MR SHELLER:** Sorry, if it's the case, Mr Hovey, that Ms Williams has been tasked something on 24 July, that is a couple of days after the start of the preparation of the intelligence report, it seems that she didn't have to wait some determination by the PSB that you do something?

15 **MR HOVEY:** If - if this was a task allocated to take a statement to assist with an intelligence analysis, it wouldn't require the imprimatur of the Professional Standards (indistinct).

20 **COMMISSIONER:** Sorry, that's the points on which I fail. As I understand it from what you're telling us, no investigation is conducted by your Intelligence Officer. Only if the PSB says there will be an investigation, will an investigation be conducted. Now, have I got that right or not?

25 **MR HOVEY:** That's correct, sir.

COMMISSIONER: So it's not under your authority that that investigation would be happening; it would be on behalf of the PSB if there's an investigation happening?

30 **MR HOVEY:** If it's an investigation, yes, it would be on behalf of the Professional Standards Committee.

35 **COMMISSIONER:** And it's not at that stage a matter of intelligence gathering; it's actually a matter of gathering evidence?

MR HOVEY: In the first instance, I'd suggest, sir, that what we're actually doing, if this was the case, and I can't say it is for certain, but it would be logical that we're interviewing Inmate M and taking a statement which hopefully would provide some form of evidence or ongoing path to inquiries.

40 **COMMISSIONER:** That's right. So we have moved from intelligence into evidence at this point.

45 **MR HOVEY:** Yes, which would allow us to make a referral to the PSB because we have a statement that says this occurs.

COMMISSIONER: I understand. I think I understand.

MR HOVEY: Yes.

5 **MR SHELLER:** If we just go back to Mr Paddison's email, that was the annexure D to his statement at Tab 84.

MR HOVEY: Sorry, 84. I don't have that. That was taken away.

10 **MR SHELLER:** Sorry. It's the tab D behind his statement, which is Tab 84. Have you got that?

MR HOVEY: At Tab -

15 **MR SHELLER:** Yes.

MR HOVEY: Yes, I have that.

20 **MR SHELLER:** If you go to the third paragraph of Mr Paddison's email to Mr Smith, you will see a reference to what's alleged?

MR HOVEY: Yes.

25 **MR SHELLER:** And then the last paragraph, you will see Mr Paddison hoping that Mr Smith would conduct the interview?

MR HOVEY: Yes.

30 **MR SHELLER:** Do you have any recollection, if you had had this discussion with Ms Martin and it had concerned Mr Paddison about this process, that is yet someone else being tasked with interviewing Witness M?

MR HOVEY: I have no recollection of that conversation with Ms Martin, no.

35 **MR SHELLER:** I take it you would accept that the process that is outlined by Mr Paddison of a witness concerning whom there is a complaint, and it's a serious complaint, being interviewed in relation to her complaint by someone outside the whole misconduct set-up is clearly inappropriate?

40 **MR HOVEY:** If I was aware of this process, we wouldn't condone it, absolutely.

MR SHELLER: Now, then if I could just ask you to come back to the intelligence report so we're going back to your statement, Tab 86, and we're going back to Annexure 2.

45 **MR HOVEY:** Yes.

MR SHELLER: And if you go to page 4.

MR HOVEY: Yes.

5 **MR SHELLER:** Under the CI analysis - sorry, I will ask you this. Just go back to page 3 under the Local Analysis, last paragraph. You will see the reference to Witness M, who is currently housed at Silverwater -

MR HOVEY: Yes.

10 **MR SHELLER:** - "Could not be interviewed regarding this matter."

MR HOVEY: Yes.

15 **MR SHELLER:** Appreciate again these are the words of someone else, but, as I understand it, not only could not be interviewed, should not be interviewed, at least at the local level; is that right?

20 **MR HOVEY:** I would suggest that the - my interpretation of this is probably the best way to describe it. My interpretation of this is, is that Mr Tayler, who did this - sorry - Officer Kellett who did this, made this comment is basically saying she couldn't interview Witness M because that inmate was in a different Correctional Centre that the one that she worked in.

25 **MR SHELLER:** So there's no prohibition on one of your investigators interviewing Witness M if you so desired; do you agree?

MR HOVEY: No.

30 **MR SHELLER:** And then if you go across then to the fourth page -

MR HOVEY: Yes.

35 **MR SHELLER:** - under CI Analysis this is where Mr Tayler, to his credit connected two intelligence reports.

MR HOVEY: Yes.

MR SHELLER: One which is Annexure 1 and the one which is Annexure 2?

40 **MR HOVEY:** Yes.

MR SHELLER: And then we have got Mr Astill's name?

45 **MR HOVEY:** Yes.

MR SHELLER: And then a commentary about the inability to assess the reliability of sources?

MR HOVEY: Yes.

5 **MR SHELLER:** And validity. And I think you've accepted that what Mr Tayler says there is either wrong or at least works on the assumption that Witness M wasn't available for interview?

MR HOVEY: Yes.

10 **MR SHELLER:** The way to get over Mr Tayler's concern was of course to have such an interview with Witness M?

MR HOVEY: Yes.

15 **MR SHELLER:** And that interview was essential for the discharge of the intelligence - the Investigation Branch function; do you agree?

MR HOVEY: It would have been a - a better course of action, yes.

20 **MR SHELLER:** It was an essential course of action, wasn't it, Mr Hovey?

MR HOVEY: Those are your words. I'm saying it would have been better (indistinct).

25 **MR SHELLER:** Well, I'm asking you to accept, adopt my words, agree with them or disagree with them. An essential course of action, wasn't it, Mr Hovey?

MR HOVEY: I'll accept that.

30 **MR SHELLER:** Otherwise the situation where it would arise where Witness M was not heard; do you agree?

MR HOVEY: Yes.

35 **MR SHELLER:** And the question of hearsay, or second-hand information raised by Mr Tayler in the second paragraph under CI Analysis on page 4 could be resolved with Witness M was interviewed. That's obvious, isn't it?

MR HOVEY: Yes.

40 **MR SHELLER:** Now, the sign-off by you on this document, we see on page 5?

MR HOVEY: Yes.

45 **MR SHELLER:** And like the first intelligence report, Annexure 1, at least as at 27 September 2017 this was a matter not brought to the attention of the PSB; agree?

MR HOVEY: Agreed.

MR SHELLER: And that was your decision; agreed?

5

MR HOVEY: Yes.

MR SHELLER: Sorry, I haven't been taking the objections, I'm sorry. And that means that what Mr Greaves was saying in his email a couple of weeks later about the absence of a referral to the PSC or to the PSB concerning this matter, was correct?

10

MR HOVEY: I - I believe that was a reasonable email for Mr Greaves to send.

MR SHELLER: Well, he was 100 per cent correct. This matter involving Witness M and the allegation against Mr Astill not being referred to the PSC or to the PSB?

15

MR HOVEY: That's right.

20

MR SHELLER: And so that when you were put on the email chain and it was forwarded to you what Mr Greaves said, you didn't send an email back disputing the fact?

MR HOVEY: Is there a record that I viewed the email?

25

MR SHELLER: Just answer my question, if you could, Mr Hovey. You didn't send an email back saying Mr Greaves you've got it wrong?

MR HOVEY: I would suggest it would be in the email trail, if I did.

30

MR SHELLER: I've got a little while to go, Commissioner, I note the time, if that's convenient?

COMMISSIONER: Very well. We'll take the morning adjournment.

35

<THE HEARING ADJOURNED AT 11.30 AM

<THE HEARING RESUMED AT 11.57 AM

40

MR SHELLER: Thank you, Commissioner. Mr Hovey, just in relation to this intelligence report that was Annexure 2, do you accept from the process of asking you questions about the document but also the apparent involvement of other persons in the matter, that this wasn't an example where there was a resources problem for you in managing this matter?

45

MR HOVEY: No, I don't accept that.

MR SELLER: Now, you'd agree that the normal -

5 **COMMISSIONER:** Sorry, Mr Sheller. He says he didn't accept your proposition.
Do we need to explore why he doesn't accept your proposition?

MR SELLER: Yes, Commissioner. What do you say, Mr Hovey, was the resources problem in relation to this matter?

10 **MR HOVEY:** Just at the time that this was submitted, I - I can see why you
wouldn't assume there was a resources problem because of the sequence of dates,
etcetera. However, we're talking of an isolated report dealt with in a particular
period. During the whole of this time, there was a shortage of investigators, as I've
15 said previously in my testimony. I was performing the duties of the Investigations
Manager and the Director at the time. So whether those dates suggest something to
you or not, there was a resource issue during that period.

MR SELLER: Are you suggesting that decisions you made in relation to this
20 matter concerning Witness M were because of a resources problem?

MR HOVEY: I'm suggesting that I make decisions in faith but I'm suggesting that
at the time I was probably working 12, 14 hour days trying to cover two jobs and
it did impact decision-making.

25 **MR SELLER:** The decision not to refer the Witness M matter to the PSB and
then to the PSC again had the consequence that the Assistant Commissioners who
participated in PSC at that time weren't aware of it?

30 **MR HOVEY:** They weren't aware of it through PSC. There's nothing that would
have stopped a report through their normal chain of command.

MR SELLER: Right. Now, you accept that you were the one who decided not
to refer the matter to the PSB. What's your explanation for not doing that,
35 Mr Hovey?

COMMISSIONER: Well, he has given us that, hasn't he? Because it was signed
off at the local level. That's as I understand it.

40 **MR SELLER:** That was in relation to the first intelligence report, I think that
was his evidence. This is the second one involving Witness M.

COMMISSIONER: I see. All right.

45 **MR HOVEY:** My recollection with regards to this is basically I signed this off
based on the CI analysis. I think - I'm unsure what time I signed this off but
regrettably I didn't forward it on.

MR SELLER: Do you recall having a discussion with anyone outside the Investigation Branch about whether you should forward this intelligence report on or not?

5 **MR HOVEY:** No, I don't recall.

MR SELLER: Do you recall having any discussions with the Governor, with Governor Martin concerning this matter after any initial discussion?

10 **MR HOVEY:** I don't recall.

MR SELLER: It's possible?

15 **MR HOVEY:** I don't recall, so -

MR SELLER: I take it you wouldn't agree - sorry, I withdraw that. You don't accept the proposition that anyone was asking you not to submit this intelligence report to, or at least what you knew to the PSB?

20 **MR HOVEY:** Can you just clarify that question for me, please?

MR SELLER: One possibility, Mr Hovey, is that your decision not to submit this information concerning Witness M to the PSB was as a result of a discussion with a third party?

25 **MR HOVEY:** Never.

MR SELLER: Is it correct that, as far as you were aware, at the time that you signed off on this intelligence report, Mr Astill remained at Dillwynia?

30 **MR HOVEY:** As far as I'm aware, he did, yes.

MR SELLER: And he had not been interviewed, to your knowledge, by anyone in relation to these matters concerning Witness M?

35 **MR HOVEY:** No. As far as I'm aware, he wasn't interviewed.

MR SELLER: And your decision to not have the matter sent to PSB contributed to him not being interviewed about these matters?

40 **MR LLOYD:** I take an objection.

COMMISSIONER: Yes, please answer.

45 **MR HOVEY:** Thank you. In answer to the question, as I've said previously, I regret the decision that I made but I made it in good faith and, yes, that is the outcome.

MR SHELLER: What's the good faith you say you were acting under, Mr Hovey, to make this decision or not referring what you agree are serious allegations?

5 **MR HOVEY:** At the time, I made a decision operationally, and whilst - excuse me Commissioner, but with hindsight that decision was regrettable. At the time, I made it in good faith.

MR SHELLER: Why did you make it?

10

MR LLOYD: I take that objection.

COMMISSIONER: Yes, I require you to answer.

15 **MR HOVEY:** I don't think I can answer that question totally. At the time, I would have probably had the decision to move matters as quickly as possible. I was under pressure for timely completion, timely outcomes with very few resources.

20 **MR SHELLER:** But, Mr Hovey, if the matter had been referred and for example made it to the PSC, one of the options would have been its on-referral to the CSIU.

MR HOVEY: I think we've said that before, yes.

25 **MR SHELLER:** And just from looking at the allegations, that was a very likely consequence of a matter such as this, if accurately summarised before the PSC, that is it would go to seconded police officers.

MR HOVEY: That's certainly a possibility, yes.

30

MR SHELLER: And once it had gone to the CSIU, your responsibility ceased; correct?

MR HOVEY: Correct.

35

MR SHELLER: And so the matter was no longer one that would take up your time and energy; do you agree?

MR HOVEY: I - I suppose that's one way of looking at it, yes.

40

MR SHELLER: Then Mr Hovey, if you could just go through then to Annexure 3. This is the intelligence report, I just want to ask you, if you can, from just looking at it, whether you'd agree with me this was another report which didn't give rise to you engaging one of your investigators to take statements?

45

MR HOVEY: It didn't because by the time I received this report, the police commenced the investigation and the arrest of Mr Astill had occurred.

MR SHELLER: Sorry, this report is, if we go to - this is, sorry, Annexure C, this was one of the reports received in June 2018 by -

5 **MR HOVEY:** Sorry, we're talking Annexure 3?

MR SHELLER: Yes.

10 **MR HOVEY:** Yes, I think you can see, and I can confirm, that this intelligence report looking at page 8 was completed in June 2018.

MR SHELLER: That's right, by Ms Wilson?

15 **MR HOVEY:** That's right.

MR SHELLER: Now, that was long before Mr Astill was arrested?

MR HOVEY: What was the date of Mr Astill's arrest?

20 **MR SHELLER:** February 2019?

MR HOVEY: Yeah, if you look at page, which is 09 in the book that you've given me.

25 **MR SHELLER:** Yes.

MR HOVEY: As I said in my evidence two minutes ago, I actually saw this report on 28 May 2019 which was post the arrest of Mr Astill.

30 **MR SHELLER:** But based on some evidence you've given before, I appreciate what you have had to say about resources and the like, this intelligence report made its way to the IB or to the SIU and through -

35 **MR HOVEY:** Yes.

MR SHELLER: Through SIU, the IB in June 2018.

40 **MR HOVEY:** It came through to IB, yes, I agree. What I'm saying is, is that it wasn't looked at by IB, by the intel unit from the 12th of the 4th 2019 when it was passed to me, and I cleared it on 28th of the 5th 2019.

45 **MR SHELLER:** But I thought from some evidence you gave earlier that part of your role - I appreciate the workload - was to have an understanding of what reports were coming through to the IB; correct?

MR HOVEY: For misconducts and investigation, yes.

MR SELLER: Yes.

5 **MR HOVEY:** And certainly I would have been, if this report had have come through, for argument's sake in May 2019, I'm satisfied that I would have been briefed. But at that time, I was unaware of the existence of this report until it came to me for clearance in May 2019.

10 **MR SELLER:** Sorry, I'll just get this right. This report would have been with the IB?

MR HOVEY: Yes.

MR SELLER: In June 2018?

15 **MR HOVEY:** Yes.

MR SELLER: And as I understood your evidence earlier, one of your tasks in relation to these reports, coming in 150 to 200 a year, was to have knowledge as to what was coming in?

20 **MR HOVEY:** If I was briefed on it, then I would have that knowledge.

MR SELLER: And can you say one way or the other whether you were briefed on this one?

25 **MR HOVEY:** I suggested to you that the first time I became aware of this report was in May 2019, and I'd suggest that the first time the intelligence analyst became aware of this report was April 2019.

30 **MR SELLER:** If you go to Annexure 4.

MR HOVEY: Go to Annexure?

35 **MR SELLER:** 4.

MR HOVEY: Form?

MR SELLER: 4. This is the next intelligence report, October 2018.

40 **MR HOVEY:** Sorry, Annexure 4, I beg your pardon. I misheard what you said. Yes.

MR SELLER: Now, this one is the one concerning Ms Sheiles.

45 **MR HOVEY:** Yes.

MR SELLER: And this document came from Mr Virgo.

MR HOVEY: It did.

5 **MR SELLER:** And is this one that you again didn't become aware of for some period of time.

MR HOVEY: I think I've already given testimony that I was aware of the concept or the content of this report.

10 **MR SELLER:** Yes.

MR HOVEY: Because it had been brought to my attention. Looking at the date, the 9th of the 10th 2018, I think that correlates with the highly confidential briefing I had issued to Commissioner Severin at the time.

15

MR SELLER: And there was no particular role in relation to, for you concerning that matter because police had been called to deal with it. Do you remember that?

20 **MR HOVEY:** The sequence of events for that was that my recollection is Mr Virgo brought this to my attention. Given the nature of what it was involved, he rang me. We used to work together. I had a good working relationship with Mr Virgo. Again, my recollection is that I was at home. It was an evening call, and I called the Commander of the CSIU that night. The reason that I adduced that is
25 because I believe in my briefing note by the time I briefed the Commissioner, I've advised him that detectives have attended Dillwynia and interviewed the lady involved. And I was able to provide him with the next stage of events for police.

COMMISSIONER: So when did this report come to you?

30

MR HOVEY: Only (crosstalk)

COMMISSIONER: Only on the 28th. Yes okay and when did it come to your department, so to put - when was -

35

MR HOVEY: This report, I'm agreeing with the dates that it shows on that report, sir.

COMMISSIONER: No, no.

40

MR HOVEY: What I'm saying is -

COMMISSIONER: When did your officers first get this report?

45 **MR HOVEY:** I was aware of the content of this report.

COMMISSIONER: No, no, not you, your people?

MR HOVEY: It would have been on the day that it was sent through, sir.

COMMISSIONER: Which is?

5

MR HOVEY: That was the 9th of the 10th 2018, but, by that time, action was already underway with the SIU.

COMMISSIONER: Well, what does the first page Incident Date tell me?

10

MR HOVEY: Yeah, I - I can't comment on that, sir.

COMMISSIONER: Well -

15 **MR HOVEY:** It should be the date that the lady involved reported the incident or alleges the incident occurs.

COMMISSIONER: Well, that's what it seems to be because when you go over the page.

20

MR HOVEY: Yes.

COMMISSIONER: Which I expected you to take me to. That's where the report starts.

25

MR HOVEY: I'm suggesting that perhaps that information has perhaps been erroneously entered because I don't think it is the date of the alleged incident. It's probably the date that the report was written and time.

30 **COMMISSIONER:** Well, sorry, 24 February 2018, Curtin submitted a report containing the following relevant information. That starts, of course, back at December 2017.

MR LLOYD: Commissioner, I think you might be at Annexure 5.

35

COMMISSIONER: Sorry?

MR LLOYD: You might be on Annexure 5.

40

COMMISSIONER: I am.

MR LLOYD: I thought that Mr Sheller was asking about Annexure 4.

COMMISSIONER: I'm on 5 and I will complete it because I understand it.

45

MR HOVEY: Sorry, may I answer the question, sir?

COMMISSIONER: No, I don't know when your people, whoever your person was, received this intelligence report.

5 **MR LLOYD:** So the report at Annexure 4, Commissioner.

COMMISSIONER: No, I'm behind Annexure 5.

MR LLOYD: Sorry. We're at (indistinct).

10 **COMMISSIONER:** Okay. Well, have a look at Annexure 5 for me, please. So the incident date is said to be 24 February 2018.

MR HOVEY: Yes.

15 **COMMISSIONER:** Now that correlates with the Correctional Officer, Curtin submitting a report containing the following information.

MR HOVEY: That's correct, sir.

20 **COMMISSIONER:** Now who is that report submitted to?

MR HOVEY: No, this is - this is the report that had been submitted locally at the centre.

25 **COMMISSIONER:** Okay.

MR HOVEY: Which led to the completion of that investigation report at Annexure 5 on 15 August 2018. So in this particular instance, the officer completing the intelligence report - my apologies - has put in the correct date because the incident was in the February.

30 **COMMISSIONER:** Very well. So when does this actually get to your officer?

MR HOVEY: So that would have - page 5 of this report, sir. It would have been 15 August 2018.

COMMISSIONER: So it's taken from February when there's a report submitted to August to get to your people?

40 **MR HOVEY:** Sir, the reference to the report being submitted was locally at the Correctional Centre.

COMMISSIONER: Yes, I understand that.

45 **MR HOVEY:** Yes.

COMMISSIONER: But, nevertheless, it's been reported locally.

MR HOVEY: Yes.

COMMISSIONER: But it takes months to get to you?

5

MR HOVEY: And we didn't get it until 15 August 2018. That's correct.

COMMISSIONER: All right. I'm sorry, Mr Sheller.

10 **MR SELLER:** Thank you. Just in relation to, Mr Hovey, Annexures 4 - sorry, I withdraw that - Annexures 5 to 8, is this just, is one way of summarising this, that the matters coming through from Dillwynia concerning Mr Astill were not analysed prior to his arrest?

15 **MR HOVEY:** Yes, that is -

MR SELLER: And that once he was arrested, there was no specific role for you and your team to investigate these matters because they would necessarily or potentially become part of the criminal proceedings.

20

MR HOVEY: They were part of the police investigation. That's correct, sir. So any reports of this nature that came through would simply have been forwarded to the officer in charge of the police investigation.

25 **MR SELLER:** Do you accept that overall, Mr Hovey, in relation to the Annexures 1 to 8 attached to your statement, all of which concern Mr Astill and Dillwynia, that you did not arrange or have your staff arrange any complainant or witness to be interviewed?

30 **MR HOVEY:** I didn't.

MR SELLER: And you didn't take any steps to see Mr Astill be interviewed on any of these matters?

35 **MR HOVEY:** No, I didn't.

MR SELLER: You do agree with that.

MR HOVEY: I said no I didn't. Yeah, I agree.

40

MR SELLER: Those are my questions, thank you, Commissioner. Thank you, Mr Hovey.

COMMISSIONER: Does anyone else have any questions?

45

MS GHABRIAL: I do, Commissioner but I'm going to be some time. If anybody has any shorter questions before I start.

COMMISSIONER: I don't think that will matter. They will remain here whatever, I think.

5 <**EXAMINATION BY MS GHABRIAL:**

MS GHABRIAL: My name is Ms Ghabrial, and I appear for a group of Correctional Officers, including Mr Clark and Mr Virgo with whom you, obviously, have interacted and have knowledge of. Firstly, I would just like to start off by asking some clarification questions in respect to some evidence that you gave on Wednesday. In relation to the Investigations Branch and where it is in the Corrective Services of New South Wales organisation during the period from the start of 2016 to the end of 2018 which is the period of the offending in these reports being submitted by Mr Astill, obviously we have the Commissioner at the top and there are a number of divisions underneath the office of the Commissioner; correct?

MR HOVEY: Correct.

20 **MS GHABRIAL:** All right. And as I understood your evidence on Wednesday, the Investigations Branch sat under the division of governance and continuous improvement; correct?

MR HOVEY: That's correct.

25 **MS GHABRIAL:** And as I understand it, there were six other divisions at that time. I'm just going to name them, if you -

MR HOVEY: That would help, thank you.

30 **MS GHABRIAL:** Community Corrections, Custodial Corrections.

MR HOVEY: Yes.

35 **MS GHABRIAL:** And I just pause there for a moment. Custodial Corrections - the now Commissioner Corcoran was the Assistant Commissioner of Custodial Corrections at some stage during that period; is that correct?

MR HOVEY: Yes, he was, yes.

40 **MS GHABRIAL:** And then obviously I've mentioned Governance and Continuous Improvement. On the material that is available to date and some other material that I've managed to look at in respect of Corrective Services New South Wales' executive structure, during the period 2016 to about the end of 2017, and please correct me if I am wrong, it was Assistant Commissioner Koulouris -

MR HOVEY: Yes.

MS GHABRIAL: - who was the head of the division of Governance and Continuous Improvement; is that correct?

5 **MR HOVEY:** That's correct.

MS GHABRIAL: And then when he finished, was it around the end of 2017, early 2018, around that time?

10 **MR HOVEY:** I thought it was - I thought it was later. I actually thought it was towards the end ever 2018, but I stand corrected. I'm relying on memory.

MS GHABRIAL: But at some stage it changed.

15 **MR HOVEY:** Yes.

MS GHABRIAL: And it became Assistant Commissioner Severin; correct?

MR HOVEY: No.

20 **MS GHABRIAL:** Who was it?

MR HOVEY: Mr Severin was the Commissioner.

25 **MS GHABRIAL:** That's right, sorry. It was Assistant Commissioner?

MR HOVEY: Scassera.

30 **MS GHABRIAL:** Scassera, Carlo Scassera, and he was the recipient of the highly confidential briefing in October 2018 as a result of the call you got from Stephen Virgo?

MR HOVEY: Yes, of course, just going through the chain of command.

35 **MS GHABRIAL:** Obviously by that stage he had come into the position of Assistant Commissioner for that position?

MR HOVEY: Yes.

40 **MS GHABRIAL:** Then there's offender management programs?

MR HOVEY: Yes.

MS GHABRIAL: Security and Intelligence?

45

MR HOVEY: Yes, security - yes.

MS GHABRIAL: Yes.

MR HOVEY: Yes, sorry.

5 **MS GHABRIAL:** Strategy and Policy?

MR HOVEY: Yes.

10 **MS GHABRIAL:** And Corrections Reform?

MR HOVEY: Yes.

15 **MS GHABRIAL:** All right. So the reason I've asked that question is because - and I might not get it, but it's been a bit sort of vague from my perspective, that you've got the Investigations Branch under Assistant Commissioner for Governance and Continuous Improvement.

MR HOVEY: Yes.

20 **MS GHABRIAL:** As I understand it, with you being the Director.

MR HOVEY: Yes.

25 **MS GHABRIAL:** The chain of command, the next person up from you is the Assistant Commissioner?

MR HOVEY: Yes.

30 **MS GHABRIAL:** So there's nobody in between the two of you?

MR HOVEY: No.

35 **MS GHABRIAL:** And he or she at the relevant time is the person that oversees the Director of Investigations Branch during the relevant period?

MR HOVEY: Yes.

MS GHABRIAL: And they were both males obviously during that period?

40 **MR HOVEY:** Yes.

45 **MS GHABRIAL:** Where was the CIG? Was the CIG also under Governance and Continuous Improvement, or was it under Security and Intelligence or any of those other divisions?

MR HOVEY: Located in the organisational structure, it was with S&I - with Security and Intelligence - and located at Silverwater.

COMMISSIONER: Has anyone put these job descriptions on paper so we can see them?

5 **MS GHABRIAL:** I have requested them from the Commissioner for Corrective Services.

COMMISSIONER: Mr Sheller, do you have a diagram that everyone can look at and understand?

10

MR LLOYD: Commissioner, can I just hand this up and see?

COMMISSIONER: A chart. We really need a chart. Is that a chart or not?

15 **MR LLOYD:** That is a chart.

COMMISSIONER: Hard to read, is it?

20 **MR LLOYD:** The executive structure which has got at least a record of those six divisions.

COMMISSIONER: Can someone colour the relevant bits that we need to understand?

25 **MR LLOYD:** Certainly.

COMMISSIONER: It's otherwise a daunting document.

30 **MR LLOYD:** For my part, sorry to interrupt Ms Ghabrial, but the one I've handed up, Commissioner, if you look in the second column -

COMMISSIONER: On the first page?

35 **MR LLOYD:** Yes. The first page is as at September '19. The second column is the Corrective Services New South Wales which has got the Commissioner there, and then -

40 **COMMISSIONER:** What it doesn't tell me is what is going into their area of responsibility.

MR LLOYD: It only tells you part.

COMMISSIONER: That's what I need to know.

45 **MR LLOYD:** I appreciate that. That's a different exercise.

COMMISSIONER: You might have this one back, then. Mr Sheller's people should be able to do it pretty quickly for us.

MS GHABRIAL: Sorry, Commissioner.

5

COMMISSIONER: It's all right.

MS GHABRIAL: I do have an organisational chart, but it appears, unfortunately - and I sourced it myself - it appears unfortunately to actually reflect the way that the organisation currently looks, but it does actually show everybody's positions in Corrective Services New South Wales, but it won't be of any assistance.

10

COMMISSIONER: It might ultimately be of assistance when I get to looking forward but - so I don't discard it.

15

MS GHABRIAL: I'm happy to hand it up.

COMMISSIONER: No, I think we will wait until we get to that topic. But I would like one that reflects the time of greatest concern.

20

MS GHABRIAL: Of course. So CIG is completely separate?

MR HOVEY: Yes.

25

MS GHABRIAL: In that it's so separate it's under a completely different division?

MR HOVEY: Yes.

30

MS GHABRIAL: Under a different Assistant Commissioner?

MR HOVEY: Yes.

MS GHABRIAL: With the division that IB is in, I just want to clarify: You've got IB?

35

MR HOVEY: Yes.

MS GHABRIAL: You're the director?

40

MR HOVEY: Yes.

MS GHABRIAL: And as I understand it, please correct me if I am wrong, I'm just trying to piece it together without familiarity.

45

MR HOVEY: Sure.

MS GHABRIAL: You've got the Staff Intelligence Unit?

MR HOVEY: Yes.

5

MS GHABRIAL: Staff Intelligence Unit, otherwise known as and everybody is referring to it as the SIU?

MR HOVEY: Yes.

10

MS GHABRIAL: And the SIU is the unit or a subunit under the IB; correct?

MR HOVEY: That's correct.

15

MS GHABRIAL: All right. Another subunit under the IB is the CSIU; correct?

MR HOVEY: Correct.

20

MS GHABRIAL: Over which you are the Director of both; correct?

MR HOVEY: I just clarify because the CSIU, ma'am, is a police unit.

MS GHABRIAL: Yes.

25

MR HOVEY: So although it was housed within my building, and I had some managerial oversight of it, I was a secondment manager rather than - I wasn't able to give them orders or directions or anything of that nature. But, yes, it was under the umbrella.

30

MS GHABRIAL: But under you. So you are the Director?

MR HOVEY: Yes.

35

MS GHABRIAL: Two subunits?

MR HOVEY: Yes.

MS GHABRIAL: Under your direction; correct?

40

MR HOVEY: Yes.

MS GHABRIAL: Any other units under IB?

MR HOVEY: Yes.

45

MS GHABRIAL: All right. Please clarify because this is where I'm going. We have got these two?

MR HOVEY: The other one is the Investigations Unit. So there's actually - it's easier described as coming into three units. Director of IB looks after the Investigations Unit itself; the SIU, the Staff Intelligence Unit, and the CSIU which
5 confusingly is called the Corrective Services Investigation Unit, but that's a police acronym not Corrective Services.

MS GHABRIAL: Okay. Only three subunits under the IB?

10 **MR HOVEY:** Yes.

MS GHABRIAL: All right. And so, as I understand it, just to clarify, CSIU over here, which is police?

15 **MR HOVEY:** Yes.

MS GHABRIAL: Still under you but police?

20 **MR HOVEY:** Yes.

MS GHABRIAL: And SIU and the Investigations Unit?

MR HOVEY: Yes.

25 **MS GHABRIAL:** Is there a name for the Investigations Unit or is it just called the Investigations Unit?

MR HOVEY: It's called the Investigations Unit, part of the Investigations Branch.

30 **MS GHABRIAL:** Okay. So somebody at the gaol fills out an IR, intelligence report, and selects the dropdown SIU function?

MR HOVEY: Yes.

35 **MS GHABRIAL:** And we know that that bypasses the Governor and goes out of the gaol and lands electronically in subunit SIU?

MR HOVEY: Yes.

40 **MS GHABRIAL:** Does it at all go to the Investigations Branch or can anyone in the Investigations Branch see it when it lands in SIU?

MR HOVEY: Absolutely not.

45 **MS GHABRIAL:** So SIU and then it's opened up by an intelligence analyst.

MR HOVEY: Yes.

MS GHABRIAL: We know during the relevant period you had Andrew Tayler.

MR HOVEY: Yes.

5

MS GHABRIAL: From 2016 to - and I think the evidence you're going to find is that ultimately although you don't have a recollection that Andrew Tayler was there actually physically until the end of 2018, close to the end of 2018, but he actually did occupy that role of intelligence analyst from 25 June 2018 to 23
10 September 2018 at which time he retired, okay. So we know that he was there during that period, and he was working as an intelligence analyst; do you accept that?

MR HOVEY: I - I accept that the records show that.

15

MS GHABRIAL: And if he was to say that he worked as an intelligence analyst during that period right up until he retired, then there would be nothing to suggest that that wasn't the case, was there, on your own memory?

MR HOVEY: I don't think there would.

20

MS GHABRIAL: Now, all right. So then you've got Sarah Casey on these records comes in on 7 March 2018 under the position ID 15384, which is the position of CSNSW investigations intelligence analyst. That's what the records
25 show.

MR HOVEY: I just reinforce that's what the record shows, yes.

MS GHABRIAL: But is it the habit of a government organisation to give
30 somebody a role with the pay attached to that role if they're not actually -

COMMISSIONER: Well, I'm not going to allow that question.

MS GHABRIAL: Okay.

35

COMMISSIONER: Can you help me in this: Where are you going? I would like to know what the purpose of this is.

MS GHABRIAL: There is certain evidence given by this witness, Commissioner, in respect of the understaffing and the lack of resources, and I'm just going to who
40 was where, where the units were, where they sat, and who is doing what and essentially -

COMMISSIONER: What are you trying to prove?

45

MS GHABRIAL: There are certain things that I'm going to challenge.

COMMISSIONER: Well, what are you going to challenge?

MS GHABRIAL: Pardon.

5 **COMMISSIONER:** What are you going to challenge?

MS GHABRIAL: The understaffing.

10 **COMMISSIONER:** You are going to submit he was wrong when he says he was understaffed, are you?

MS GHABRIAL: There was evidence that was given by this witness that for a period of - I think the Commission will recall this - that there was a period of about 10 months where absolutely nobody looked at any intelligence reports at all because there why no intelligence analysts.

COMMISSIONER: Yes.

20 **MS GHABRIAL:** Where I'm going with this line of inquiry is to demonstrate that that couldn't possibly have been the case, not just because of the records but because of other things that I will be putting to this witness.

COMMISSIONER: It hasn't been challenged by Mr Sheller.

25 **MS GHABRIAL:** I'm challenging it.

COMMISSIONER: Right. Have you got a basis to challenge it, have you?

MS GHABRIAL: I believe I do, Commissioner.

30

COMMISSIONER: What is it?

MS GHABRIAL: (Indistinct).

35 **COMMISSIONER:** Is it a document?

MS GHABRIAL: Annexure 5 is a document that the Commission has identified as being a report that was submitted, albeit that the complaint was made in February 2018 but wasn't submitted until 15 August 2018. So the Commission will remember that. The author of that intelligence report was Deborah Wilson.

40

COMMISSIONER: Yes.

45 **MS GHABRIAL:** There is a - just bear with me for a moment - the Commission will also recall that there has been some evidence before the Commission in respect of an email behind Tab 524, this questioning of Deborah Wilson on 7 November 2023, in relation to the email that Deborah Wilson sent to Shari Martin

of 19 August 2018. Now, some questions about that are asked of Deborah Wilson from page 65 through to 68 or thereabouts. And your Honour may recall that tab 524, Volume 17, tab 524, Deborah Wilson to Shari Martin, it's Sunday 19 August 2018. So Deborah Wilson is the author of the intelligence report in Annexure 5, submitted to the SIU on 15 August 2018. This email reads:

"Hi."

This is to Shari Martin -

"Can you please furnish any further reports you have on Wayne Astill to..."

And the email address is blacked out -

"I have forwarded copies of the paperwork from your safe."

Now, Commissioner when one actually looks at the intelligence report that the Commissioner had picked up as being submitted so long after the actual event or incident, and reading the body of that report, it is apparent from the body of that report that a number of reports submitted by various staff at Dillwynia are referred to as enlightening or trying to enlighten the SIU in respect of all of these reports and this is now submitted and it appears that this officer is behaving in this way.

COMMISSIONER: That's all internal to the gaol?

MS GHABRIAL: This is contained in the report to SIU, and Deborah Wilson has included in that report that reports from other officers have been made and submitted.

COMMISSIONER: To her.

MS GHABRIAL: Submitted. I don't know whether to SIU but there's reference to those reports having been made and submitted.

COMMISSIONER: Are you saying they've gone to the SIU?

MS GHABRIAL: Well this is the point I would like to make. The person that's blacked out in the email, that Deborah Wilson has referred to on 19 August, only four days after the IR was submitted to the SIU, the name of that person is Sarah Casey, the Intelligence Analyst at the SIU. So, clearly, despite the fact that Annexure 5 shows or records that Sarah Casey opened or looked at that IR in April of 2019, there's evidence to actually suggest that that wasn't the case, and that it was seen, the information was seen by Sarah Casey before it was even opened. So I don't accept that the date that is recorded on the next page as being the date that that IR was opened, and I -

COMMISSIONER: Sorry, I'm not following.

MS GHABRIAL: So the evidence –

5 **COMMISSIONER:** I'm not following because, as I understand it, the information was gathered over a period of time within the prison and was not submitted for months.

MS GHABRIAL: That's right.

10 **COMMISSIONER:** That's plain from the documents. Are you saying there's something sinister behind the documents that I don't know?

15 **MS GHABRIAL:** Well, I'm going to suggest that Sarah Casey had made contact with Deborah Wilson after that intelligence report – or the possibility; I can't positively put it – but it looks like IR report submitted on 15 August. 19 August Deborah Wilson, the author of that IR report has asked Shari Martin for the reports to send to Sarah Casey. We know that it's Sarah Casey, to sends to Sarah Casey on 19 August, only four days later.

20 **COMMISSIONER:** Yes.

MS GHABRIAL: So, clearly, someone in SIU, Sarah Casey, has seen this IR and asked for the reports referred to in that IR?

25 **COMMISSIONER:** Yes. Well, that's fair enough.

30 **MS GHABRIAL:** But the evidence of this witness is that nobody opened that report and Sarah Casey didn't open that report until April 2019, and that can't possibly be the case.

COMMISSIONER: Well, no. All it's suggesting is: can you please furnish any further reports you have, i.e., any internal to the gaol.

35 **MS GHABRIAL:** Yes. It's the fact that the intelligence report submitted by Deborah Wilson on 15 August actually makes reference to the existence of other reports in relation to Mr Astill.

COMMISSIONER: Yes, within the gaol.

40 **MS GHABRIAL:** Within the gaol. And that Sarah Casey appears to have made, within that four-day period, contact with Deborah Wilson to ask for those reports to be furnished to her.

45 **COMMISSIONER:** True.

MS GHABRIAL: Yes. But the evidence of this witness is that Sarah Casey didn't open that IR until the following year in April 2019. That can't possibly be the case. She must have seen the contents of that IR.

5 **COMMISSIONER:** Well, that's a reasonable assumption, yes.

MS GHABRIAL: Well, I was going to put -

COMMISSIONER: Where does it go?

10

MS GHABRIAL: Well, I was going to ask this witness if that was brought to his attention by Sarah Casey and whether he was aware that Sarah Casey had made that request of the gaol.

15 **COMMISSIONER:** I'm not sure where it goes, though, in terms what the police were doing. Does it go anywhere?

MS GHABRIAL: Well, in respect of the Terms of Reference in respect of this Inquiry, looking to the actions and inaction of people, the Commissioner has received information about reports being submitted, and Mr Hovey, with the greatest respect, has given positive evidence that almost a whole year, 10 months, including the period that Sarah Casey appears to have spoken with Deborah Wilson, that nobody looked at any intelligence reports at all. And that can't be the case. That can't be - that can't possibly be the case.

25

COMMISSIONER: All right. Well, look, I will let you continue for a little, but I'm not sure it's going to help me a great deal. You take your course.

MS GHABRIAL: Mr Hovey, you heard what I had to say?

30

COMMISSIONER: Yes.

MS GHABRIAL: So Deborah Wilson is the author of Annexure 5.

35 **MR HOVEY:** Yes.

MS GHABRIAL: She submits the report of 15 August 2018?

MR HOVEY: Yes.

40

MS GHABRIAL: Within a four-day period, she's had a conversation with somebody and obtained Sarah Casey's email address. Now, you would have to accept that if Deborah Wilson, the author of that intelligence report, is asking Shari Martin to furnish reports in respect of Mr Astill, that it's a very reasonable inference that arises that what's being asked for are the reports referred to in that intelligence report. That would be a reasonable inference, wouldn't it?

45

MR HOVEY: I think that, from what you've described - and I'm unaware of those emails, I don't see them, you know that I'm not in the distribution list - I would say that in this instance, the intel analyst has started some information gathering, yes.

5 **MS GHABRIAL:** All right. So this is the question I need to ask you.

MR HOVEY: Yes.

10 **MS GHABRIAL:** The evidence that you've given is that the dates that are attributed to the CI analyst and you as the Director on the last page when it comes to you to review -

MR HOVEY: Yes.

15 **MS GHABRIAL:** - the evidence to date that you've given is that they're the dates that the IR has been opened by each of those persons?

MR HOVEY: Right.

20 **MS GHABRIAL:** That's the evidence you've given?

MR HOVEY: Am I allowed to - am I allowed to -

25 **MS GHABRIAL:** Yes, just give me a second. That is the evidence you've given so far.

MR HOVEY: I've already said yes.

30 **MS GHABRIAL:** All right. So, clearly, that can't be the case in light of this email communication. Can you please explain how it is that Sarah Casey could have seen the contents of this intelligence report before it was actually involved in April 2019?

35 **MR HOVEY:** Yes, and it's not sinister and it's not -

MS GHABRIAL: No. That's why I'm asking to explain it, please.

MR HOVEY: My turn now.

40 **MS GHABRIAL:** Yep.

45 **MR HOVEY:** It's not complicated either. What I'm suggesting is, is that I've been out of this workforce for 15 months, maybe not quite that length of time. I don't have access to the emails. I don't have access to the documentation. I don't have access to the database. If I did, I might have been able to corroborate some of the information. But you're privy to the email. All I went on was what I saw in that email. Because there was no CI review, no CI analysis, I formed the view that

Ms Casey had not - that date on the bottom under Ms Casey's name is the date she forwarded it to me. And because there's no review behind it, I'm thinking she hasn't had a chance to read through it because there's no comment. But I can see that she's printed that email off and sent it to me because she can't -

5

MS GHABRIAL: You mean the intelligence report, not email?

MR HOVEY: I'm sorry, I beg your pardon. It's so confusing being a third wheel in someone else's conversation. But the point that I'm trying to make is, is that I was unaware of any inquiries that were being made. As I previously explained in my testimony, the intel analyst was only performing probably 20 per cent of her weekly duties performing the intelligence function. The rest of the time she was screening employment for new officers.

10
15 I would suggest, in light of the information that you've given to me, that the intel analyst has opened that up, started to make inquiries, but given that she can't devote her whole attention to it, and I - I don't know. I don't know the circumstances. But she forwarded that to me so that it could be released to the investigating police.

20

MS GHABRIAL: So, I think you've answered the question. But the evidence that you've given to date about the significance of the dates underneath each of those names, yours and either Sarah Casey's or Peter Tayler's is not that that's the date it was opened but the date that it was forwarded on to you; correct?

25

MR HOVEY: Yes.

MS GHABRIAL: So can I ask you this: So as to assist the Commission, how is it that we can find out when it is - or when it was that the analyst actually opened the intelligence report, because clearly that's not the date, is it?

30

MR HOVEY: No. I would suggest not given - and I agree with your assessment of that email, I'm not arguing that point. It can be done. You will need to have someone conduct an audit of the IIS.

35

MS GHABRIAL: But it can be done?

MR HOVEY: It can be done.

40 **MS GHABRIAL:** And just in respect of the evidence that you did give, that for a period of 10 months nobody - you had such staffing issues that nobody was opening any intelligence reports, well, clearly, that was incorrect, wasn't it?

45

MR HOVEY: Look, you have a document that you've alluded to shows people in a particular role. I would suggest that possibly - for argument's sake, I know that Andrew Tayler was off for a substantial amount of time following a significant medical episode. That doesn't reflect in the - in the face of how things (indistinct).

My recollection was, was that we - we certainly had a backlog of intelligence reports that had to be cleared. My recollection was, was that was for a period of months that we hardly cleared any.

5 But, you know as I pointed out, given the fact that I had no access to this information, I could have been more accurate if I had access to it and I was able to just sort of conduct a review and to see. But - but I'm not sure what you're inferring, but there's no intention on my part to mislead. I'm just recalling from my recollection of how that was.

10

MS GHABRIAL: So you would have to accept, would you not, that the evidence that you gave to the Commission in respect of there being absolutely nobody in terms of the ability to look at any intelligence reports was not correct?

15 **MR LLOYD:** I object to that.

COMMISSIONER: Well, look, I understand the position. I don't know that we need to explore it further. But was there an answer back to Deborah Wilson, to that email?

20

MS GHABRIAL: So, in relation to Ms Wilson -

COMMISSIONER: Mr Lloyd is shaking his head. The answer is yes or no, I would have thought. Is there an answer?

25

MS GHABRIAL: So she assumed that she had scanned-

COMMISSIONER: No, no, no.

30 **MS GHABRIAL:** Sorry.

COMMISSIONER: Is there an email responding to Deborah Wilson's email?

MS GHABRIAL: I'm not aware of it in any in the tender bundle.

35

COMMISSIONER: Everyone is shaking their heads. So nothing happened?

MS GHABRIAL: I don't know the answer to that question.

40 **COMMISSIONER:** That's over to Mr Sheller, I think. Mr Sheller, I would like to know whether anything happened in response to this?

MR SELLER: (Indistinct).

45 **COMMISSIONER:** Yes.

MS GHABRIAL: Thank you for clarifying that and certainly hopefully we will be able to get those records in respect of the accesses to when those occurred. Can I also just -

5 **COMMISSIONER:** Sorry, I'm not sure what you meant by that last statement?

MS GHABRIAL: Well, the evidence this witness has given is that the date, and I'll just take your Honour to - Commissioner, to an example of it.

10 **COMMISSIONER:** Are you saying you want to know the dates when people looked at things?

MS GHABRIAL: Yes, so that's not the date that the IR -

15 **COMMISSIONER:** No, I understand.

MS GHABRIAL: But there is a way of finding out when the intelligence report was actually opened by way of audit, and so that would be something -

20 **COMMISSIONER:** What are you trying to prove in this? Where is it going? I mean, I'm prepared to accept there was a lack of resources. I'm prepared to accept that there may have been exceptions. Where does it go?

MS GHABRIAL: It just assists the Commission to understand how the system worked at the time. In light of the evidence that has been given so far, it would appear that there is an immediate delivery of the intelligence report to the SIU, or was at the relevant time, to the SIU, and that it was capable of being accessed immediately. And so the evidence to date about there being no ability to actually open them up in a timely manner by reference to those dates so far in the evidence is not really accurate and (indistinct).

30

COMMISSIONER: Well, that's fine. We've got that far, but what does it -

MS GHABRIAL: A more accurate reflection (indistinct) is really as far as (indistinct).

35

COMMISSIONER: In the one case but that doesn't destroy his evidence that he was under-resourced.

40 **MS GHABRIAL:** I'm not saying that he was not under-resourced. I'm just saying that the evidence he has given there were no analysts to look at anything is not correct.

45

COMMISSIONER: We got to that point. I understand that.

MS GHABRIAL: I'm moving on now.

COMMISSIONER: All right.

5 **MS GHABRIAL:** Now, during the relevant time, I understand that you also had - bear with me for a moment. Can I ask you, just in relation to the Investigations Branch, so you were the Director. I understand there was also another member of the Investigation Branch called Matthew Horan?

MR HOVEY: Initially, yes.

10 **MS GHABRIAL:** Yes and Matthew Horan was actually acting as a Deputy Director to you; is that correct?

MR HOVEY: No, that's not correct.

15 **MS GHABRIAL:** Where did he sit?

20 **MR HOVEY:** He actually sat in what later became the Investigations Manager role. When I first took over the Investigation Branch it was a combination of civilian and custodial positions. Due to the nature of Corrections, or quasi military or a para military organisation, it required a Senior Custodial Officer which, in that case, was a deputy superintendent, and he performed the role of the Investigations Manager.

25 **MS GHABRIAL:** So do you remember when Matthew Horan started at the Investigations Branch?

MR HOVEY: He was already at the Investigations Branch when I started in 2014.

30 **MS GHABRIAL:** And what did he do for you in the Investigation Branch?

MR HOVEY: He performed the function of the Investigations Manager.

35 **MS GHABRIAL:** He did. Okay. And was that up until when?

MR HOVEY: My recollection is that was probably late 2016.

MS GHABRIAL: All right.

40 **MR HOVEY:** You would have to check the -

MS GHABRIAL: And then that was then when you took over as the Investigations Manager until Joseph Kemplerle came into the picture?

45 **MR HOVEY:** So the situation was, was that the organisation was undergoing a process called benchmarking. Mr Horan was a substantive Senior Assistant Superintendent acting as a Deputy Superintendent. The benchmarking was taking

place for Senior Assistant Superintendents. The concern was, was that he may lose his role, his position, in the organisation, and he and I had a conversation that he was unlikely to be competitive for what was going to become an Investigations Manager role because he was a custodial officer and it was anticipated we'd get specialist investigations managers applying for the position. I released Mr Horan early to avoid him being placed in a situation where he would either be forced into a redundancy situation or forced into the demotion which was the situation at the time.

10 **MS GHABRIAL:** But can I ask you this: during the period Mr Tayler worked with the Investigations Branch in the second period that he was working from 2016 to 2018, Matthew Horan was there?

MR HOVEY: For part of that time.

15 **MS GHABRIAL:** And so what role did he play at that time?

MR HOVEY: Sorry, I didn't mean to overtalk you but only for a short period of time, at the start.

20 **MS GHABRIAL:** So in 2016?

MR HOVEY: Yes. That's - that's my recollection, yes.

25 **MS GHABRIAL:** Now, I wanted to ask you something about - bear with me a moment - Annexure 2 to your statement, which is the second - I think it's been referred to as the second intelligence report that Peter Tayler did and had the foresight to include the earlier intelligence report from May -

30 **MR HOVEY:** Yes.

MS GHABRIAL: 2016 - yes, May 2016, which was submitted on 9 November 2016. So you gave some evidence to the Commission today that you reviewed this when it was submitted to you by Andrew Tayler; correct?

35 **MR HOVEY:** I reviewed the CI analysis, yes.

MS GHABRIAL: And so having given the evidence you've given about the dates, the date that he submitted that to you for review, if you have a look at page 5?

40 **MR HOVEY:** Yes.

MS GHABRIAL: Was 26 September 2017; is that correct?

45 **MR HOVEY:** Yes. Yes.

MS GHABRIAL: And then between that time and the following day, is when you conducted the review of the analysis done by Mr Tayler; is that correct?

MR HOVEY: Yes.

5

MS GHABRIAL: So it's not the case that Mr Tayler conducted all of those inquiries and investigations and - investigation is a bad word but inquiries and analyses in that period, he had done all of that prior to submitting it to you on 26 September -

10

MR HOVEY: Yes, that's the date it left his dashboard, it came onto mine.

MS GHABRIAL: Okay. And you gave evidence that you signed off on in good faith, do you remember giving that evidence?

15

MR HOVEY: Yes.

MS GHABRIAL: When you looked at this and conducted your review, as I understand it, you were also occupying and you agree with this, the role of the Investigations Manager at that time?

20

MR HOVEY: Yes.

MS GHABRIAL: Correct? And I appreciate that this isn't an investigation that has been commenced, but you were in that role at that time; correct?

25

MR HOVEY: I was in both roles at that time.

MS GHABRIAL: And so when you conducted your review of this analysis done by Mr Tayler, you would have checked in the same way you would have as an Investigations Manager, the documents that he was referring to; correct?

30

MR HOVEY: The Investigations Manager does not have any oversight, input or review of the intelligence reports. I would have done this with the director's hat on.

35

MS GHABRIAL: With the director's hat on, okay. But would you not have - correct me if I am wrong, would you not have had in your mind to look at the documents that he was referring to?

40

COMMISSIONER: Ms Ghabrial, this is where table tennis comes in, as I understand it, because before he exercised his powers as Investigations Manager, it has to go across and come back again. That's what he is telling you.

45

MS GHABRIAL: I understand. I'm asking a different question.

COMMISSIONER: No. Well, you are asking the same question.

MS GHABRIAL: I'll ask it a different way. This report that you're reviewing refers to the earlier IR?

5 **MR HOVEY:** Yes.

MS GHABRIAL: Okay. So in your review with your director's hat on for the SIU in it, reviewing his work to sign off on it, and make a decision as to whether or not it should be referred on to the PSC or the PSB or an investigation started, did you
10 not look at the earlier IR to satisfy yourself that he had reviewed everything properly and included accurate conclusions or opinions?

MR HOVEY: Thinking back six years, I - I don't think I did.

15 **MS GHABRIAL:** Would that not have been your practice to check?

MR HOVEY: In an ideal world it probably would have been my practice to check. However, understanding that performing both those roles, working the hours that I did, six, seven days a week, I don't think that I did check that report.
20

MS GHABRIAL: You would accept, on page 4, if I could just take you to that, that - have you got page 4 there?

MR HOVEY: I have.
25

MS GHABRIAL: So directly under the heading CI analysis -

MR HOVEY: Yes.

30 **MS GHABRIAL:** - is obviously (indistinct) related to that particular earlier report, and then analyst Tayler says this in the second sentence in respect of the allegations contained in this report, he then says:

35 "However, the same problem arises with this IR as did in the first; namely, that the reliability of the sources cannot be assessed and the validity of the information cannot be judged."

40 Now, end quote on that. When those words were being used by Mr Tayler, did you understand that he was making reference to the assessment of the reliability from the first report and comparing it to his assessment of the reliability of the information in this second report? Did you understand that to be the case?

MR HOVEY: Look, six years ago, I can't tell you accurately and honestly before
45 this Commission that that's what I thought at the time. I - I'd be guessing. I'll be honest.

MS GHABRIAL: Did you think to ask Peter Tayler?

MR HOVEY: Andrew.

MS GHABRIAL: Andrew Tayler what that actually meant?

5

MR HOVEY: I can't remember what I thought at that time. This is over six years ago, and, as I pointed out, I've been exited from the organisation with no access to this type of material for nearly 15 months. I can't recall.

10 **MS GHABRIAL:** Because you are now aware through the course of this Inquiry that the assessment that was made by the analyst in respect of the first report was a B2 rating.

MR HOVEY: Was a sorry?

15

MS GHABRIAL: Was a B2 rating?

MR HOVEY: Yes, that's the first time reading that, at the Inquiry. I'm aware of the different rating, yes.

20

MS GHABRIAL: So as a Director, thinking back to your time as the Director, if you had known that that was the rating for the first report, would you not have raised that with Mr Tayler in respect of that statement he makes there?

25 **MR HOVEY:** I would have -

MR LLOYD: Object on behalf of the witness.

COMMISSIONER: Yes, I require you to answer.

30

MR LLOYD: Could I also raise a different objection, though, Commissioner. I'm just slightly concerned about fairness to this witness. This is either the third or, on one view, first time he has been asked about this topic because, Commissioner, you would remember he asked him questions, I asked him a lot of questions, Mr Sheller asked him questions for my part. It's not clear to me how much more you are going to get about more questions unless they're of a different -

35

COMMISSIONER: Mr Lloyd, I understand what you are saying. It's behind what I've been saying. You understand what is being said. We know the story.

40

MS GHABRIAL: Okay. I'll move on, thank you.

COMMISSIONER: All right.

45 **MS GHABRIAL:** Sorry, I do note it's 1 o'clock. I do have some more questions. Does the Commissioner wish to take the luncheon adjournment?

COMMISSIONER: All right. We'll adjourn now. How much longer will you be?

MS GHABRIAL: 15 minutes, maybe 20 minutes at the most.

5 **COMMISSIONER:** I will hold you to that.

MS GHABRIAL: Pardon?

10 **COMMISSIONER:** I will hold you to that.

MS GHABRIAL: I can put a timer on, Commissioner, if you would like me to.

COMMISSIONER: No, I've got one up here, it's all right.

15 **MS GHABRIAL:** Okay, fantastic, thank you.

<THE HEARING ADJOURNED AT 1.00 PM

<THE HEARING RESUMED AT 2.07 PM

20 **COMMISSIONER:** Yes, Ms Ghabrial.

MS GHABRIAL: Yes, thank you, Commissioner. Mr Hovey, I had actually forgotten to ask a couple of my preliminary questions that I was going to ask. I think I got off on a tangent. When you gave your evidence on Wednesday, you gave a brief account of the background of your history in Corrective Services prior to the time that you worked as the 2IC in Taskforce Sky. Do you remember giving that evidence? So I just wanted to ask you some clarification questions in relation to that. So when did you actually start - what year did you actually start working for Corrective Services New South Wales?

30

MR HOVEY: 1997.

MS GHABRIAL: 1997?

35

MR HOVEY: Yes.

MS GHABRIAL: Okay. And I understand that you are currently 60; is that correct? Is that how old you are currently? Sorry I thought I read somewhere.

40

MR HOVEY: That's right. I'm just wondering what my age has got to do with it, but I'm 63.

MS GHABRIAL: I just wanted to say 1997 so clearly you had a life before coming to Corrective Services New South Wales?

45

MR HOVEY: Hopefully.

MS GHABRIAL: Is that correct? A different profession, perhaps?

MR HOVEY: Say again?

5

MS GHABRIAL: A different profession before coming to Corrective Services?

MR HOVEY: I was a civil servant in the United Kingdom.

10 **MS GHABRIAL:** Okay. Did you ever work or do any work prior to coming to Corrective Services New South Wales for the New South Wales Police?

MR HOVEY: For New South Wales Police?

15 **MS GHABRIAL:** Yes.

MR HOVEY: No.

20 **MS GHABRIAL:** Now, when you worked in Taskforce Sky as the 2IC, in that Taskforce, I understand that was under the umbrella of Corrective Services New South Wales; is that correct?

MR HOVEY: Yes.

25 **MS GHABRIAL:** Did that Taskforce work alongside the New South Wales Police?

MR HOVEY: No.

30 **MS GHABRIAL:** It didn't. Did that Taskforce have in it any members of the New South Wales Police seconded to that Taskforce?

MR HOVEY: No, it didn't.

35 **MS GHABRIAL:** In relation to the people that worked within the Investigations Branch during the relevant period, being the 2016 to 2018 period relating to Mr Astill's offending, I understand that during that period, and now that we've clarified, we have got the SIU, we've got the Investigations Unit and we have got the CSIU. Now, I understand CSIU are actually police officers on secondment
40 from New South Wales Police?

MR HOVEY: Yes.

45 **MS GHABRIAL:** And so now that we know that we have also got this separate Investigations Unit, now that I understand that, that's the unit, is it, that has the investigators that are retired police officers?

MR HOVEY: Not necessarily, but some of them would have been at that time, would have been retired police officers. They're actually Corrective Services employees.

5 **MS GHABRIAL:** Yes, but they were retired or retired from the New South Wales Police?

MR HOVEY: Some of them but not all.

10 **MS GHABRIAL:** Okay. Were there retired police officers in the CSIU or that was just in -

MR HOVEY: Serving. Serving police officers from State Crime Command.

15 **MS GHABRIAL:** All right. As the Director of the Investigations Branch, were you responsible for the recruitment of the investigators in the Investigations Unit?

20 **MR HOVEY:** I had been involved at some stages, but the majority, I think, my recollection is, is that prior to joining the branch, or becoming the Director of the branch, I sat on some recruitment panels to get investigators. But post joining the branch, the majority of the we recruitment was done by either Matthew Horan or Joe Kemplerle.

25 **MS GHABRIAL:** Okay. So in that respect, when you were the Director of the Investigations Branch, did you have a say in who was employed as an investigator, even if you weren't involved in the actual recruitment process?

30 **MR HOVEY:** No. But I don't want to mislead there. The recommendation would come to me as the Director to sign off - to make an offer of employment for that person. So the reason why the recruitment was delegated to the Investigations Manager or Deputy Superintendent was because if I was the convenor and did the recruitment, I would then have to go to the AC to get that signed off. So it was a much tidier process for the recruitment. And plus the fact the people being recruited would work to that person directly as part of their team, and you want
35 them to pick a member of the team that fits in, that has the ability, that they select rather than somebody I imposed on them. So that's why I didn't do it.

40 **MS GHABRIAL:** Did you engage in that process of signing off on a person, an investigator for the Investigation Unit, during that period of 2016 to 2018?

MR HOVEY: Quite probably. I - I honestly can't recall. But if any recruitment was undertaken, which I don't think was much because there were recruitment freezes during that period, but if it was done, I would have signed on it I am sure.

45 **COMMISSIONER:** Ms Ghabrial, where is this going?

MS GHABRIAL: I'm just exploring retired police officers.

COMMISSIONER: You have explored that. Where are we going?

5 **MS GHABRIAL:** Whether this witness receives information about which command they came from.

COMMISSIONER: Why do we need to know this?

10 **MS GHABRIAL:** Exploring whether any of those people had a connection to Wayne Astill.

COMMISSIONER: Why don't we go to that?

15 **MS GHABRIAL:** I was just about to.

COMMISSIONER: Good. Just a bit slow, that's all.

20 **MS GHABRIAL:** So when were you signing off on people to be employed as investigators in the Investigations Unit, would you be aware of where they've come from, if they were a retired police officer and what command they worked in?

25 **MR HOVEY:** Invariably not. What I would have access to is their performance at interview, their write up from the convenor and the panel members. But certainly not their, their resumés or their background, no.

COMMISSIONER: Ms Ghabrial, I'm trying to encourage you to go to the point. Why don't you ask the question you want to ask?

30 **MS GHABRIAL:** I'm now asking that question, thank you.

COMMISSIONER: Good.

35 **MS GHABRIAL:** So during the period 2016 to 2018, are you aware that any of - as to whether any of the investigators working in the Investigations Unit under your Investigation Branch had any connection to Wayne Astill from their life as a police officer?

40 **MR HOVEY:** I'm not aware of that at all.

MS GHABRIAL: During your time at Taskforce Sky, you came to know of Mr Astill, correct?

45 **MR HOVEY:** Yes. I put that in my statement.

MS GHABRIAL: And as I understand it, you understood from that time, as 2IC that he was known to be a dodgy police officer?

5 **MR HOVEY:** It was - my recollection is it was a comment made, Taskforce Sky from 18 years ago, I can't remember the name. Taskforce Sky was looking at two particular officers at that Correctional Centre and the information that we received was that Wayne Astill was on the periphery of that, that he went motorbike riding, I think it was, with these two officers, and something had come up in conversation that he'd been -

10 **MS GHABRIAL:** Can I ask you this, then: When you received the first report -

COMMISSIONER: Sorry, the transcriber didn't catch your last sentence. Something that come up, you say, in conversation that he'd been something.

15 **MR HOVEY:** I recall something come up in conversation, Commissioner, he was a cop beforehand and questionable or something of that nature, it was, Commissioner.

20 **MS GHABRIAL:** And so I just wanted to ask you this: When you received the first report that's Annexure 1 to your statement on the 14th - when it was sent to you on 11 November 2016, on page 6 of that, and you signed off on it, on 14 November 2016 -

MR HOVEY: Yes.

25 **MS GHABRIAL:** - did you - knowing that Mr Astill's name appeared in that intelligence report, did you think to yourself, well, hold on a second, I heard things about Mr Astill back in my time in Strikeforce Sky, maybe I should call upon his Professional Standards file. Did you not think that?

30 **MR HOVEY:** No. No, I didn't.

MS GHABRIAL: When you saw his name in that report -

35 **MR HOVEY:** I understand the question, and I'm saying no, I didn't.

MS GHABRIAL: No, but when you saw his name in that report did you remember that that was the same Wayne Astill from Taskforce Sky?

40 **MR HOVEY:** No, not particularly.

MS GHABRIAL: I just wanted to also ask you some questions about the referral process to the Professional Standards Committee.

45 **MR HOVEY:** Yes.

MS GHABRIAL: You gave some evidence earlier that the - comes in with the IR report, and I'm going to talk about the SIU drop down function, not the referrals or anyone else.

5 **MR HOVEY:** Yes.

MS GHABRIAL: So with the officer filling it out on the - using the SIU function, transports across to the SIU, then the investigation analyst opens it up, conducts the analysis, and then submits the report to you for you to review it and sign off on it. Am I correct so far?
10

MR HOVEY: Yes. Broadly speaking, yes. Yes.

MS GHABRIAL: And as I understand your evidence, and please correct me if I am wrong because, again, I didn't work there and I'm just trying to understand.
15

MR HOVEY: I understand.

MS GHABRIAL: So the evidence I understand you gave was that once you had reviewed it, it is at that point that you and only you can make the decision as to what happens next. Is that the effect of your evidence?
20

MR HOVEY: I think that would probably be a fair synopsis of both what the process would be. It would be evident from the information in the CI analysis as to where that was going to go next. So it may be that I'd return, perhaps via email or a phone call and just say, look, make sure that gets a PSC referral. If, in the case the wording of some of the CI analysis that I've read here, I would most likely have agreed to hold it as intelligence holdings.
25

MS GHABRIAL: Could I ask you this: Could any of your intelligence analysts make that referral separately to you?
30

MR HOVEY: 100 per cent they could, yes.

35 **MS GHABRIAL:** They could?

MR HOVEY: Yes.

MS GHABRIAL: Okay.
40

MR HOVEY: I would have appreciated the courtesy of being told, but they didn't need authorisation. If they thought that it warranted a referral yes, they could do that.

45 **MS GHABRIAL:** So they didn't need for you to say, well, this now needs to be referred; they could have done that themselves?

MR HOVEY: Yes, absolutely.

MS GHABRIAL: So Sarah Casey, Andrew Tayler, they could have done that?

5 **MR HOVEY:** Yes.

10 **MS GHABRIAL:** I think, in fairness to you, you address that at paragraph 35 of your statement to the Commission where you say at the end of that paragraph, and you are referring specifically to Sarah Casey, I'm assuming the same would apply to any of your intelligence analysts, that she could refer the complaint to the Professional Standards Committee?

MR HOVEY: Yes.

15 **MS GHABRIAL:** But, in clarifying that, she could do that independently of you?

MR HOVEY: Yes, absolutely.

20 **MS GHABRIAL:** And any other analyst could do the same?

MR HOVEY: To be fair to Sarah, she would be professional enough to advise me she has done that, but, yes, she could do that.

25 **MS GHABRIAL:** And they could - if you decided you didn't want to refer it, they could still disagree with you and do it anyway?

MR HOVEY: I would - I can't think of any occasion when I have ever, ever told anybody not to refer something to the Professional Standards Committee.

30 **MS GHABRIAL:** Thank you. Now, I don't know whether you recall because there has been so much evidence, and I won't keep you too much longer, but remember when Mr Lloyd of Senior Counsel was asking you about the email chain - it might have been - I think it was - the email chain that Mr Paddison had, that was Annexure E to his statement. So tab 84 of volume 8, I think - I just
35 wanted to ask you questions about that. Yes, remember the Mike Paddo to one of the investigators involved in this Inquiry, do you remember that, those questions?

MR HOVEY: Yes, I've got it in front of me.

40 **MS GHABRIAL:** And so - and you were asked questions about the email from Lee Williams to Michael Paddison on 24 July 2017. So, firstly, Lee Williams we also know is one of the investigators in the Investigation Unit; correct?

45 **MR HOVEY:** Yes. She was at that time.

MS GHABRIAL: At that time. All right. And was she a retired police officer?

MR HOVEY: Yes - she ex-police officer is a better way to describe it.

MS GHABRIAL: She refers in that email, if you have a look.

5 **MR HOVEY:** Yes.

MS GHABRIAL:

10 "My colleague, Grant Simpson, he is to come out tomorrow for a separate matter."

MR HOVEY: Grant Simpson is a retired police officer who was at the same rank as Ms Williams within the Investigations Branch.

15 **MS GHABRIAL:** All right.

MR HOVEY: Another senior investigator.

20 **MS GHABRIAL:** Thank you. Just in relation to some questions that were asked of you by Mr Sheller of Senior Counsel, you were taken through - actually no, I'm sorry, it was Counsel Assisting. You were asked about the process of investigation by the PSB for investigations taken by the Investigations Branch over the relevant period. I would like again to focus specifically on SIU reports or reports coming into the SIU via the dropdown function.

25 **MR HOVEY:** Yes.

30 **MS GHABRIAL:** Okay. So you're getting referrals from different places. Are they all referrals coming into the SIU so you get referrals from PSB, you get referrals from SIU dropdown function, do they all go to the SIU first?

35 **MR HOVEY:** Okay. So perhaps I can describe it like this so that it makes it very, very clear. IIS consists - for the management of whether it's intelligence or investigations, consists of dashboards. If an investigation was given to us by the Professional Standards Committee, it would be administered by the Professional Standards Branch and appear in our investigations dashboard.

MS GHABRIAL: The Investigation Unit?

40 **MR HOVEY:** The Investigations Unit dashboard yes. That would then undergo a process of allocations. If an Intelligence Officer at a correctional centre sent through an SIU report from the gaol, it would go into the SIU dashboard, which -

45 **MS GHABRIAL:** SIU unit?

MR HOVEY: SIU unit.

MS GHABRIAL: All right. Would it be fair to say then just on what you've said that all of the reports coming into the SIU unit are reports that come in through the IIS system under the SIU function or via a phone call, one of the two?

5 **MR HOVEY:** Yes.

MS GHABRIAL: All right. So can I ask you this: when you said that the - and please correct me if I am wrong - I understood you said that - is it the SIU got about 150 to 200 information reports per year or the Investigation Branch?

10

MR HOVEY: At least. Investigation Branch, I think. I'm fairly certain the question I was asked was relevant to the number of investigations, but I can't remember. That was certainly around the 150 to 200 mark.

15 **MS GHABRIAL:** Investigations?

MR HOVEY: Investigations, but certainly intelligence reports would have been around 200 at least as a minimum.

20 **MS GHABRIAL:** All right. So assuming around 200 a year from 2016 to 2018, they're all in respect of staff? Would that be fair to say?

MR HOVEY: Yes. The whole point would be (indistinct).

25 **MS GHABRIAL:** The whole lot is in respect of staff?

MR HOVEY: Yes.

30 **MS GHABRIAL:** Are you able to tell the Commission how many of those investigation reports over that period were actually investigated?

MR HOVEY: How many of the intelligence reports were investigated?

35 **MS GHABRIAL:** Received by the SIU were actually investigated over that period.

MR HOVEY: As I said in my testimony before lunch, I haven't got access to those figures. It's not a piece of data that I would know or retain.

40 **MS GHABRIAL:** Thank you. Can I just ask you some final questions. I just wanted to take you to the day that you got the called from Stephen Virgo.

MR HOVEY: Yes.

45 **MS GHABRIAL:** And just finish on that. So you received that call obviously in October 2018?

MR HOVEY: That's my recollection, yes.

MS GHABRIAL: Was it sometime around the time that was submitted or it was it was submitted that he was giving you the heads up it was coming?

5

MR HOVEY: My recollection is that Mr Virgo - Mr Virgo and myself used to work together earlier in all our careers. My recollection is that he rang me to give me a heads up that the information report was being submitted, and gave me the details, the name of the lady involved, etcetera.

10

MS GHABRIAL: At that stage, at that time, did it occur to you that this was the same Wayne Astill that you knew from Taskforce Sky or that still hadn't twigged?

MR HOVEY: With all due respect, ma'am, this is five years ago. I can't recall what I thought or remembered on that day.

15

MS GHABRIAL: But there was no reason to doubt the truth of the complaint that Mr Virgo was passing on to you; correct?

MR HOVEY: Let me qualify. My experience of Mr Virgo is that he is a competent and diligent Correctional Officer. So I had no - no doubt that what he was telling me - irrespective of whether it was true or not, I believed the process that he followed because I - I trust him, yep.

20

MS GHABRIAL: Just in that respect, can I take you to, please, Volume 17, tab 538, it's an email chain that you were taken to earlier today that involved Mr Shearer and (indistinct) go to that.

25

MR HOVEY: Which?

30

MS GHABRIAL: So it's tab 538, Volume (indistinct).

MR HOVEY: 538.

MS GHABRIAL: At the top of that page, you see the email from Mr Shearer to you at 9.30 am; yes?

35

MR HOVEY: Yes.

MS GHABRIAL: That's in response to an email that you sent to H. Shearer which appears below, at 8.43 am on 9 October. Do you see that there?

40

MR HOVEY: Yes.

MS GHABRIAL: And your email is then in response to what appears below, and the email sent by Officer Virgo that appears below that on the next page?

45

MR HOVEY: Yes.

MS GHABRIAL: Yes.

5 **MR HOVEY:** Yes.

MS GHABRIAL: So would it be fair to say that when you received the email from Hamish Shearer to which you responded, so the first email of 8th of (indistinct) you actually read what Stephen Virgo had said in the email below?

10

MR HOVEY: I - I'd suggest to you yes, I was already aware given the action that had been taken.

MS GHABRIAL: And obviously that answered my next question. So you would have the phone call with Officer Virgo before this email chain?

15

MR HOVEY: That's - look, that's my recollection of - I can explain the reason why I -

COMMISSIONER: Well, it follows doesn't it, from your reference to subpoena. When the subpoena issued when proceedings had been commenced.

20

MR HOVEY: I'm sorry, Commissioner?

25 **COMMISSIONER:** Correct? You refer to subpoena, don't you:

"I'd suggest we need better particulars, a lot of smoke and mindful of vexatious complaints."

30 And, well, I don't know, did you understand the investigation to have started by this stage, police investigation?

MR HOVEY: Yes, I did, I was aware.

35 **COMMISSIONER:** You are out of the picture, aren't you?

MR HOVEY: Ostensibly, I was asked a question about but I've referred back.

COMMISSIONER: It would have been wrong for you to be doing anything?

40

MR HOVEY: I would say so.

MS GHABRIAL: Can I ask why it was that you said the words:

45 "I know there has been a lot of smoke around this officer."

Can I ask why you said those words?

COMMISSIONER: It's obvious, isn't it? The date is 9 October.

MS GHABRIAL: Well, a lot of smoke, your Honour.

5

COMMISSIONER: I think by this stage the documents reveal a fair bit of smoke, don't they? Correct?

MS GHABRIAL: I'm asking this witness what he meant by the use.

10

COMMISSIONER: Well, I'm not sure it is going to help me.

MS GHABRIAL: Was it fair to say it didn't take the call from Officer Virgo for you to have known that prior to that call there was a lot of smoke in relation to Officer Astill because there were a lot of complaints that had been sent to the SIU about him up until that point. Would that be fair to say?

15

MR HOVEY: I - I'm not sure what - what you're asking me, and I don't recall why I said - I know there has been a lot of smoke around this officer." Maybe part of a verbal conversation, possibly. I don't know. I'm sorry.

20

MS GHABRIAL: And then you say these words:

"But I am also mindful of vexatious complaints."

25

MR HOVEY: Yes.

MS GHABRIAL: You have just given evidence to the Commission that you have no reason to doubt what Officer Virgo was saying to you. Did you think that that was an appropriate opinion to pass on?

30

COMMISSIONER: No, you put the proposition incorrectly. He said he didn't know whether it would be true but he trusted the process. That's what he said.

35

MS GHABRIAL: I'll ask the question differently. Did you think it was appropriate to say those words, given that you were already under the process.

MR HOVEY: Given that I already?

40

MS GHABRIAL: Were out of the process by this stage that you were mindful of vexatious complaints.

MR HOVEY: I was asked a specific question in this email about suspensions. I was suggesting that this was referred to the Director of Professional Standards. Trying to be helpful I said I would suggest we need better particulars. This is on 9 October at 8.43. It's highly likely, I would suggest, that, at this stage, I had no response from police because it was later in the day that I issued, if it's the same

45

date, I don't know but if it is the same date it would be later in the day when I issued the briefing note to the Commissioner. I - I'm just not sure what - where you're trying to push my response.

5 **MS GHABRIAL:** Can I just have one moment, please, Commissioner. Nothing further, Commissioner.

COMMISSIONER: Thank you. Yes.

10 **MR WHITE:** I will be very brief.

<**EXAMINATION BY MR WHITE:**

15 **MR WHITE:** My name is White and I appear on behalf of Deborah Wilson. I just want to take you to some evidence you gave on Wednesday in response to Mr Lloyd's questions, and, in particular, this is at page 92, Commissioner, for your assistance, of the transcript. You were asked about a submission of IR reports and you were asked specifically about an IR report concerning the Witness, M, and you were asked that sometime in the second half of 2017 an officer from
20 Dillwynia lodged a report about those same allegations. That's concerning Witness M which included a scanned copy of a diary or notebook recording the allegations. You were then asked:

25 "Now, take it from me we've heard some evidence to that effect. I take it you have no recollection of receiving any."

You said:

30 "No, not - not that I recall."

So you had no recollection of receiving that?

MR HOVEY: Yes, that's correct.

35 **MR WHITE:** You were then asked:

"And again you told us earlier that even if it wasn't read electronically, there would be a footprint if a report of that kind was made."

40 And you agreed with that?

MR HOVEY: Yes, that's correct, it would be on the dashboard.

45 **MR WHITE:** And then you were asked:

"And so, again, you'd be telling us anyone who said that a report had been sent to either the CIG or CSIU of that kind must be wrong."

And you said:

"They must be mistaken, yes."

5

That was your answer.

MR HOVEY: The context around that response, sir, was in relation to if that report could not be found.

10

MR WHITE: Yes. And that's what I was about to ask you. You were premising that answer on the basis that the report was able to be found or reports were able to be ascertained, and no such IR was sent or no such footprint existed on such a IR report; is that correct?

15

MR HOVEY: Yes, if I could put that in my words. If there was no footprint and no report, it was my opinion that the report didn't exist. That's what I was answering.

20

MR WHITE: All right. But you would agree that you, yourself, have not conducted a thorough investigation as to all IR reports that were sent at about that time; do you agree?

MR HOVEY: Yes. Yes, I've admitted that.

25

MR WHITE: And do you agree there may well be some report that you're not aware of that could indeed have referred to Witness M that may well have had such an attachment?

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MR HOVEY: I - I - sir, just to clarify. I have said that I haven't seen that report. My - again, opinion, view, is that the Commission would have sought every report that referred to Astill or from Dillwynia or from your client or from wherever and that report has not been found. That is what I am basing my response on. Not anything - no error on my part or no lack of action, as you're inferring.

35

MR WHITE: I understand that. Just in fairness to you, though, that not every IR report has, in fact, been produced. There are - the request has been made for reports relating to Mr Astill, but do you concede that there may well be a possibility that reports perhaps indirectly referring to Mr Astill or even specifically referring to Mr Astill may not have been produced and may still be out there somewhere that haven't been produced to this Commission?

40

MR HOVEY: All I can respectfully suggest is that that is a matter to be taken up with Corrective Services. I'm working on the premise that they have, in good faith, provided you with every email available, and if you haven't got it, that's what I'm basing my comment on, then -

45

5 **MR WHITE:** I'm not suggesting otherwise, Mr Hovey, but what I am suggesting is in the absence of a thorough investigation of every investigation report including the ones that have been provided to the Commission and those that haven't, it's not possible to conclusively say, is it, that the type of IR report that you were asked about by Mr Lloyd doesn't, in fact, exist?

10 **COMMISSIONER:** Mr White your question depends upon the power to examine the computer file, doesn't it? What you are suggesting is there may not be Astill in the headline but it may be referred to in the body of the document. Is that right?

MR WHITE: Well it may be either, Commissioner.

15 **COMMISSIONER:** It could be either but your concern is that it may have been buried in the body of some document which the level of search that can be undertaken doesn't reveal; isn't that right?

20 **MR WHITE:** I'm not limiting it to that, Commissioner. I'm saying that in the - what I'm putting to the witness is, in the absence of a thorough investigation by him as to every investigation report, including those that have been provided to the Commission, and those that haven't, he can't say -

25 **COMMISSIONER:** Sorry, Mr White, are you saying the same thing. You are saying exactly what I am saying, and what I then ask you to consider is whether or not that is speculation on top of speculation.

MR WHITE: It's just that, Commissioner, the witness has given unequivocal evidence that -

30 **COMMISSIONER:** That's his knowledge. That's as far as he knows, basing it upon what has been produced. End of story as far as he is concerned. Now, we look at Mr Sheller and seek Mr Sheller's assurance that the power of the search has been such as to pick up anything that might have had an Astill reference. Do we know the answer to that at the moment, Mr Sheller?

35 **MR SELLER:** I think we've certainly undertaken the most thorough searches imaginable.

40 **COMMISSIONER:** Well, I think we probably need to satisfy Mr White. He probably needs to know what was involved and you can get instructions.

MR SELLER: Yes.

45 **COMMISSIONER:** I'm not sure this witness can help you in the area of speculation.

MR WHITE: The only reason I'm addressing it with the witness he expressed an opinion.

COMMISSIONER: We understand what that is based on so that's the end of that.

MR WHITE: I have nothing further in that case, thank you Commissioner.

5

COMMISSIONER: Anyone else? Mr Lloyd.

<EXAMINATION BY MR LLOYD:

10 **MR LLOYD:** I have one matter. Mr Hovey, do you remember when I got to that point of the questions I was asking you where we reached the report made by Mr Virgo in October of 2018? Do you remember that?

MR HOVEY: Yes, I do, yes.

15

MR LLOYD: Toward the end of the questions.

MR HOVEY: Yes.

20 **MR LLOYD:** And I said to you something to the effect that I was going to spare having to put in front of you hundreds and hundreds of documents pointing at the -

MR HOVEY: I recall that.

25 **MR LLOYD:** So instead of doing that, I just took you through some things in short, do you remember that?

MR HOVEY: Yes, I do.

30 **MR LLOYD:** I fear, in light of some things put to you by Ms Ghabrial, I may have done you an injustice, and I want to ask you a couple of questions about the highly confidential briefing you gave to the Commissioner on 10 October.

MR HOVEY: Right. Thank you.

35

MR LLOYD: That was the day after the email containing the smoke around this officer and your reference to getting this inmate interviewed; do you remember that?

40 **MR HOVEY:** Right.

MR LLOYD: I don't want to have you turn this up; I will just remind you of some things in the confidential briefing, sent by you to the Commission on the 10th.

You say:

45

"By this time, inmate Sheiles has been interviewed and has provided detectives with a detailed version."

MR HOVEY: Yes.

MR LLOYD: And that they found her to be a credible witness.

5

MR HOVEY: Yes.

MR LLOYD: And that detectives had commenced an immediate investigation that identified lines of inquiry? Do you remember that?

10

MR HOVEY: Yes.

MR LLOYD: And the allegations were serious, but in order to progress the investigation, police wanted to keep Astill effectively operating apparently as normal so they could do their covert operation?

15

MR HOVEY: Yes, I do recall that, yes.

MR LLOYD: And all those things were said by you in that briefing on the 10th?

20

MR HOVEY: Yes.

MR LLOYD: I just want to come back, then, to something which may be better understood in light of that from your email of the day before where you say:

25

"I believe the inmate should be interviewed to ascertain the substance of the complaint."

Do you remember that in the email from the day before?

30

MR HOVEY: Yes.

MR LLOYD: Is what you're making reference to, or when you saw that in any event, that that reference, is that on your understanding what was going to happen with the police?

35

MR HOVEY: Yes.

MR LLOYD: That is the police were engaged to your knowledge?

40

MR HOVEY: They were because I'd actually referred that matter to them.

MR LLOYD: And getting - your words were get the inmate in ASAP?

45

MR HOVEY: Yes.

MR LLOYD: You knew by then the police were on the job?

MR HOVEY: Yes. Yes.

MR LLOYD: Those are my questions.

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COMMISSIONER: Yes, thank you, Mr Hovey. I know it's been a long journey but thank you. You are excused.

MR HOVEY: Thank you, Commissioner.

10

<THE WITNESS WAS RELEASED

MR LLOYD: Ms Davidson will call the next witness.

15 **MR SHELLER:** Ms Melis will ask any questions.

COMMISSIONER: Thank you. Who is the witness? Ms Davidson, who is the witness?

20 **MS DAVIDSON:** The next witness, Commissioner, is Thomas Woods.

MR LATHAM: (Indistinct).

COMMISSIONER: I'm sorry?

25

MR LATHAM: Sorry, Commissioner, Latham, initial I. I appear for Mr Woods.

COMMISSIONER: Have I given you leave?

30 **MR LATHAM:** I think my solicitor obtained leave the other day.

COMMISSIONER: Very well.

35 **MR DEANE:** May it please the Commission, Deane, initial B. I seek leave to appear for Hamish Shearer.

COMMISSIONER: Yes, you may have leave.

<THOMAS WOODS, SWORN

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<EXAMINATION BY MS DAVIDSON:

MS DAVIDSON: Mr Woods, could you tell the Commission your full name.

45 **MR WOODS:** Thomas Woods.

MS DAVIDSON: Your address is known to the Commission?

MR WOODS: I believe so, yes.

5 **MS DAVIDSON:** Did you prepare a statement in this matter which you signed today, 10 November 2023?

MR WOODS: Yes.

10 **MS DAVIDSON:** Commissioner, that statement is behind Tab 97 in Volume 8. You may not have a signed copy.

COMMISSIONER: I assume the signed one is the same that I have?

15 **MS DAVIDSON:** It is, but I tender the signed copy.

COMMISSIONER: It will become Exhibit 34.

<EXHIBIT 34 TENDERED AND MARKED.

20 **COMMISSIONER:** Yes.

MS DAVIDSON: Mr Woods, is it the case that you were Acting Governor at Dillwynia for some period between late 2017 and at least February 2018?

25 **MR WOODS:** I believe that is correct, yes.

MS DAVIDSON: But you're not able to recall the precise -

30 **MR WOODS:** Not the specific dates.

MS DAVIDSON: Dates. And during that period, you were substantively, or you had, I should say you had before that period been Acting Governor at the MRRC?

35 **MR WOODS:** Yes.

MS DAVIDSON: And did you return to the MRRC?

MR WOODS: Yes.

40 **MS DAVIDSON:** As Governor after your stint at Dillwynia?

MR WOODS: Yes.

45 **MS DAVIDSON:** And did you understand your period of acting at Dillwynia to be as a result of the fact that Shari Martin was on leave?

MR WOODS: Recreational leave, yes.

MS DAVIDSON: Just pull the microphone a little closer, thank you. Thanks very much, Mr Woods. Have you got your statement there with you?

5 **MR WOODS:** I do.

MS DAVIDSON: Turn to paragraph 14. You have given some evidence in your statement in relation to mediations with Witnesses P, V and B that you were asked to conduct by Shari Martin.

10

MR WOODS: Yes.

MS DAVIDSON: You've indicated at paragraph 14 what you recall to have been complaints that were raised by the inmates during the mediation. Did you understand the inmates' complaints to include intimidation by Officer Astill?

15

MR WOODS: Yes.

MS DAVIDSON: That is, that he was intimidating them?

20

MR WOODS: Yes.

MS DAVIDSON: And did you understand that before the mediation?

25 **MR WOODS:** Through the report.

MS DAVIDSON: Through his report.

MR WOODS: Possibly yes but I was remaining neutral. I let the inmates to have their say and the officer to have his say and (indistinct).

30

MS DAVIDSON: That is, you regarded it as important to allow the inmates to have their say?

35 **MR WOODS:** That's the purpose of the mediation.

MS DAVIDSON: In circumstances where you had an understanding that witnesses were concerned that they were being intimidated by Officer Astill, did that give you pause in relation to the usefulness of the mediation exercise?

40

MR WOODS: I don't recollect at any time me having to pause the mediation.

MS DAVIDSON: Right. But in terms of your thinking about it, if an inmate is alleging that she has been intimidated by an officer, does that suggest to you that there might be some problem with trying to mediate that between the inmate and the officer?

45

MR WOODS: So the question would be what was, in her opinion, the intimidation. So the thing I've tried to identify that from memory and one of the instances was the stance that the officer had taken, his folding arms and staring at her, and that, from my recollection, was one of the incidents that was intimidation.

5

MS DAVIDSON: You also understood that there were comments about "Smells like dog" or a dog smell?

MR WOODS: That was a memo that was from a report from Astill that jogged that memory, yes.

10

MS DAVIDSON: Do you understand an inmate being called a dog to be a very serious thing to say about an inmate in the gaol environment?

MR WOODS: The term "dog" has some connotations towards inmates, that they perceive to mean that they've been giving information to police or someone else. It also refers to a four-legged animal. So we are aware that at Dillwynia they had greyhounds as part of a program.

15

MS DAVIDSON: Yes.

20

MR WOODS: That's what I take the reference to mean.

MS DAVIDSON: So that's what you took that reference to mean?

25

MR WOODS: Yes.

MS DAVIDSON: You didn't consider the other possibility - that is, the other common meaning of dog in the gaol environment?

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MR WOODS: For what purpose? I mean the officer, this is me just reading back again from the - this comment that the accommodation area it smelt like dogs and just drawing it to their attention. So if the dog - if the dogs are not permitted to be in the units, then he's got the rights to say something in regards to they go to other institutions and (indistinct) in regards to allergies and (indistinct).

35

COMMISSIONER: Mr Woods, it surprises me if you're saying that the common use of the word in criminal circles and in gaols didn't cross your mind. Are you saying it didn't cross your mind?

40

MR WOODS: Not that I think, Commissioner.

COMMISSIONER: Not at all?

MR WOODS: No.

45

COMMISSIONER: Well, I find that hard to believe, I'm sorry.

MS DAVIDSON: Do you recall reading Officer Astill's report to Governor Martin in advance of the mediation?

5 **MR WOODS:** No.

MS DAVIDSON: No. That is, do you recall the or you simply don't know one way or the other?

10 **MR WOODS:** I don't recall speaking to officer Martin in regards to that report. I was advised that they had received a report.

MS DAVIDSON: I think we are at cross-purposes. Officer Astill's report to Officer Martin, to Governor Martin that was sent to you, that you've included as an annexure to your statement?

15 **MR WOODS:** Yes.

MS DAVIDSON: Do you recall reading that in advance of the mediation?

20

MR WOODS: From the email that appears, it appears I received that report. I may be stand corrected by the date, but possibly it would be, yes.

MS DAVIDSON: But you don't recall one way or the other, is that -

25

MR WOODS: No.

MS DAVIDSON: Did you understand that to include - that is, that report - by the time the mediation commenced, to include accusations of the officer was making in relation to the witnesses who, that is Witness B and Witness V, who were participants in the mediations?

30

MR WOODS: Can you repeat the question, please?

MS DAVIDSON: Did you understand, in the course of the mediation, that the matters that Officer Astill had sought to raise in the report included making additional accusations in relation to the witnesses who were the subject, or participants in the mediation?

35

40 **MR WOODS:** I don't recall how it stood out to me at that time, no.

MS DAVIDSON: I'm sorry.

MR WOODS: I don't recall how it stood out to me. Well, I've read the report but held the mediation, allowing the inmates to have their say, for the officer to have his say.

45

MS DAVIDSON: Were there some matters that you regarded as - that is, between officers and inmates - as being inappropriate for mediation?

5 **MR WOODS:** From that report?

MS DAVIDSON: No, just as a general matter.

10 **MR WOODS:** In general, there would be some instances that might not be suitable for mediation, yeah.

MS DAVIDSON: Would one of those instances be where an inmate, because they felt intimidated by the officer, might not feel capable of explaining their concerns in front of that officer?

15 **MR WOODS:** That may be the case, yeah.

MS DAVIDSON: But you didn't understand these mediations to involve that concern?

20 **MR WOODS:** I didn't have any reason not to carry out the mediation. So nothing came to my mind to interfere or stop the process.

MS DAVIDSON: Would another instance where a matter might not be appropriate for mediation be where an officer had allegations about an inmate's conduct that might become the subject of charges against that inmate?

25 **MR WOODS:** So an officer has put a report in about the inmate then that becomes an adjudication if he's raising concerns that there's difficulties managing an inmate or inmates are having difficulties being managed by an officer, then some of that would be appropriately managed by a mediation.

30 **MS DAVIDSON:** Right. But if an inmate is being accused, for example, of selling an illicit substance within the gaol, that's not the kind of thing that could be appropriately resolved by a mediation, could it?

35 **MR WOODS:** That should have been subject to a report being submitted.

MS DAVIDSON: Right.

40 **MR WOODS:** Or not.

MS DAVIDSON: The officer should take a different process in relation to that?

45 **MR WOODS:** Yes.

MS DAVIDSON: Couldn't mediate it with the inmate?

MR WOODS: It's been identified that the officer and the inmates that have got difficulties being managed then that overall is you mediate on. That's what I was mediating on.

5 **MS DAVIDSON:** So if the concerns between officers and inmates - a particular officer and a particular inmate - included that the officer thought that the inmate's conduct should be the subject of charges -

MR WOODS: Then they should have charged the inmate.

10

MS DAVIDSON: I'm sorry?

MR WOODS: Should have charged the inmate.

15 **MS DAVIDSON:** They should have charged the inmate, but it wasn't something that you could be expected to resolve in the course of mediation?

MR WOODS: Not mediation, no.

20 **MS DAVIDSON:** Would that also suggest to you that maybe mediation wasn't the right forum for trying to resolve concerns between an officer and a particular inmate? That the concerns the officer was raising -

25 **MR WOODS:** So I had limited information in regards to why the mediation had been arranged.

MS DAVIDSON: Sorry, you had limited information?

MR WOODS: I agreed to do the mediation.

30

MS DAVIDSON: Yes.

MR WOODS: Through that process I received the report that had been submitted to the Governor, on a range of issues.

35

MS DAVIDSON: Yes.

40 **MR WOODS:** So the officer was expressing he was having problems with management of those inmates. The inmates had relayed complex difficulties to the Governor, I believe. From those complaints, she has determined that mediation was the most appropriate. I don't know why it wasn't dealt with earlier - no reason to know that - but I was asked to do it. So I undertook to do that.

45 **MS DAVIDSON:** And it is your evidence that you did do that regardless of your views one way or the other of whether that was appropriate or inappropriate or you simply didn't have enough information in your view to form an opinion on that?

MR WOODS: At the time of me agreeing to do it, I had no other information other than it was a mediation that I was going to conduct.

5 **MS DAVIDSON:** All right. But by the time you did actually come to do it in January 2018, did you regard yourself as having enough information by then - I withdraw that - well, yes, in January 2018. Did you regard yourself as having enough by then to form a view?

10 **MR WOODS:** Other than that, Mr Astill's report being forwarded to me, the only other information I was gathered was from the inmates on the day.

MS DAVIDSON: Was from the inmates on the day. So to the extent that Mr Astill's report indicated concerns of his in relation to at least Witness V's
15 conduct seeking to buy buprenorphine within the gaol environment -

MR WOODS: Yeah.

MS DAVIDSON: Did that raise any concerns on your part in relation to the
20 appropriateness of the mediation?

MR WOODS: If it did, I wouldn't have continued with the mediation, so obviously I never had any concerns.

25 **MS DAVIDSON:** Right. Can you go to paragraph 17 of your statement. You say there that there was no issue of sexual assault or inappropriate sexual relationships raised during the mediation.

MR WOODS: Yep.
30

MS DAVIDSON: In circumstances where the officer who is the subject of those allegations is present in a mediation with inmates, it's not remotely surprising that no such concerns of that kind were raised in front of the officer, is it?

35 **MR WOODS:** I had no such knowledge of that.

MS DAVIDSON: Right.

COMMISSIONER: Sorry, I missed that answer; what was it?
40

MR WOODS: Sorry, Commissioner. I had no knowledge.

COMMISSIONER: Well, that's not the question you were asked.

45 **MS DAVIDSON:** It's entirely unsurprising, isn't it, that inmates wouldn't be willing to raise in a forum where they have been asked to mediate with the officer who is the alleged perpetrator concerns of that kind. Quite unsurprising, isn't it?

MR WOODS: Yes.

5 **MS DAVIDSON:** And indeed, it's also unsurprising that inmates who are already feeling intimidated by the officer would feel further intimidated by being asked to participate in a mediation with that officer, isn't it?

MR WOODS: But they did raise concerns.

10 **MS DAVIDSON:** They did raise concerns?

MR WOODS: Yes. So I'm taking it you're alluding that they never raised additional concerns.

15 **COMMISSIONER:** But, Mr Woods, the simple proposition is this, which counsel is directing your attention to. The power imbalance between a prisoner and an officer couldn't be greater, could it?

20 **MR WOODS:** I agree, yes.

COMMISSIONER: Sorry?

MR WOODS: I agree.

25 **COMMISSIONER:** You agree? And that power imbalance is going to lead inevitably to great caution, if not reluctance, to disclose facts which may damage the officer and rebound upon the inmate; correct?

30 **MR WOODS:** I would agree, given the knowledge I have now, yes.

COMMISSIONER: One of the things you would never do if you were investigating a possible crime is to interview the alleged offender and the victim at the same time in the same place, would you?

35 **MR WOODS:** No, you wouldn't, no.

COMMISSIONER: You wouldn't, and that's effectively what you were doing, isn't it?

40 **MR WOODS:** I don't believe so.

MR LATHAM: Sorry, Commissioner. The evidence is not that this person instigated the mediation.

45 **COMMISSIONER:** I'm not suggesting that, but he conducted it. You conducted it, you had control of it, didn't you?

MR WOODS: I conducted the mediation, yes.

COMMISSIONER: Well, do you see what I'm putting to you and counsel is reinforcing it, that this was hardly a process likely to reveal any truth, was it?

5

MR WOODS: I believe that the inmates did well to raise some of the concerns. If they'd raised them all, then perhaps it wasn't the right place. But given that I never received the inmates' complaints, I took on good faith that the Governor who is the original recipient of those complaints had made that decision.

10

COMMISSIONER: Wouldn't it have been much better for you to sit down with the inmate and ask the inmate alone and perhaps with a witness from your side of the fence but not the officer complained about and try and find out what the true position was, wouldn't that have been the proper course?

15

MR WOODS: Commissioner, I did approach the inmates and just confirmed that they were still agreeable to have that mediation. They never - they didn't know me, until I introduced myself.

20

COMMISSIONER: That doesn't matter. The point I'm putting to you is that the mediation was a wholly inappropriate way of trying to get to the truth, wasn't it?

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MR WOODS: I'm not sure how to answer that because it wasn't about me getting to the truth of any matter. It was about me allowing, facilitating the inmates to raise what their concerns were and for the officer to raise why he behaved in any particular way. I wasn't there to find who committed any crimes. I wasn't there to be adjudicating on anything. It was facilitating discussion.

30

COMMISSIONER: See, paragraph 15 of your statement, you say you recall it was claimed a witness was sitting in a large, in a lounge chair in the accommodation area and was approached by Astill. He raised his leg and placed a foot on the chair. The witness claimed this action put his crotch at eye level. Now, if that's not an assault, it's very close to one, isn't it?

35

MR WOODS: Commissioner, I agree that has been possibly intimidation.

COMMISSIONER: You view it as?

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MR WOODS: That they may have seen that as being intimidation.

COMMISSIONER: Intimidation, yes. I'm suggesting it is very close to an assault, if not an assault, isn't it?

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MR WOODS: Commissioner, you're more learned than me in regards to -

COMMISSIONER: I'm trying to find out what you understood at the time, Mr Woods, do you see?

MR WOODS: Well, I wouldn't have deemed that as being an assault.

5 **COMMISSIONER:** It clearly, though, has a sexual connotation, though, doesn't it?

MR WOODS: I don't know how to answer that.

10 **COMMISSIONER:** Sorry?

MR WOODS: I didn't see that, at that time.

15 **COMMISSIONER:** I mean, a man behaving in a way that puts his crotch in a woman's face without touching it but puts their leg on the chair in order to achieve it, does that not raise a sexual connotation for you?

20 **MR WOODS:** I understood that the inmate was sitting down in a chair, it's a lounge chair, that he had approached and put his shoe up on the edge, putting his crotch at eye level. So there were some things that I spoke to Mr Astill in regards to his behaviour, but I don't necessarily agree with you, that it's an assault.

COMMISSIONER: But do you agree that it has got a sexual connotation, whatever we call it?

25 **MR WOODS:** Some could take it as that, yes.

COMMISSIONER: Only some?

30 **MR WOODS:** I see it as intimidation.

COMMISSIONER: You didn't see it as having any sexual content at all?

MR WOODS: No.

35 **COMMISSIONER:** All right.

MS DAVIDSON: You say at paragraph 15:

40 "This..."

That is the allegation of the crotch at eye level:

45 "...amongst other things may have caused me to address Officer Astill directly following the mediation."

MR WOODS: Yes.

MS DAVIDSON: What do you recall if anything about addressing Astill directly following the mediation?

5 **MR WOODS:** That would have been about his demeanour, how he was being perceived, I may have drawn his attention to harassment and bullying policy which specifically states that the size and stature of an officer can be perceived as being intimidating.

10 **MS DAVIDSON:** You understood him to have a large size and stature?

MR WOODS: Yeah.

15 **MS DAVIDSON:** Do you recall actually having that conversation with him or is that now you are thinking about things you may have said to him?

MR WOODS: Thinking of things I may have said to him after the meeting because at that time of the decision because I did have a discussion with him.

20 **MS DAVIDSON:** Right. But do you actually remember now (crosstalk).

MR WOODS: The actual details of that conversation, I can't recall, but I do - I am familiar with the discussion with a number of staff including harassment conveying the policy to them.

25 **MS DAVIDSON:** You had discussed with a number of staff the bullying and harassment policy?

MR WOODS: Yes.

30 **MS DAVIDSON:** During your time at Dillwynia?

MR WOODS: No, during my career.

35 **MS DAVIDSON:** During your career?

COMMISSIONER: Mr Woods, are you familiar with the concept of sexual harassment?

40 **MR WOODS:** Yes.

COMMISSIONER: If, in an office, say the office in which my staff are working one of the male members of the staff went up to a female member, his put his leg on the chair and thrust his crotch towards that female member of my staff, do you think that would be sexual harassment?

45 **MR WOODS:** Mr Chairman, I have no recollection of his crotch being thrust in the inmate's face.

COMMISSIONER: Well, he raised his foot, placed his crotch at eye level.

MR WOODS: You said "thrust".

5

COMMISSIONER: Well, I will take out the word "thrust", put his leg at eye level but it's on the leg of the chair. Now, would you call that sexual harassment in an office space?

10 **MR WOODS:** I said earlier, I viewed that as intimidation.

COMMISSIONER: But if it happened in an office place would you see it as sexual harassment?

15 **MR WOODS:** I took a dim view of it, yeah.

COMMISSIONER: I'm sorry?

MR WOODS: I'd take a dim view of it.

20

COMMISSIONER: Would you answer my question, please.

MR WOODS: No.

25 **COMMISSIONER:** Sorry, the answer is?

MR WOODS: I would say that if somebody put their foot up on a chair to talk to someone, I wouldn't see as sexual harassment.

30 **COMMISSIONER:** You would see it as sexual harassment?

MR WOODS: I wouldn't.

COMMISSIONER: You wouldn't?

35

MR WOODS: I would not see someone putting a shoe on the chair as sexual harassment.

40 **COMMISSIONER:** No, but putting the crotch at eye level to the female sitting in that chair, which means the distance between the crotch and the face has to be probably less than a foot or a third of a metre.

MR WOODS: From memory, there's the lounge chairs.

45 **COMMISSIONER:** No, I'm not asking you that question.

MR WOODS: All right.

COMMISSIONER: I'm asking the hypothetical question in order to understand your concept of sexual harassment.

5 **MR WOODS:** My concept of sexual harassment is when one approaches or touches or says something to the opposite sex and they tell them to stop and it continues as sexual harassment.

10 **COMMISSIONER:** So you wouldn't see - again, just my hypothetical - you wouldn't see if one of my male staff member is putting a leg on the female staff's member's chair and putting his crotch at the level of the person's face as being sexual harassment? It's not a hard question to answer.

15 **MR WOODS:** The assumption there is that the crotch is right at her face. The crotch is at -

COMMISSIONER: The crotch at eye level. That's part of the face.

20 **MR WOODS:** The picture that has been drawn by all the people is not the same picture that was drawn in my mind when I heard that being presented. But it certainly was behaviour that the officer should not have been displaying.

COMMISSIONER: Well, I think we have exhausted the subject, Mr Woods.

25 **MS DAVIDSON:** Can you go to paragraph 20 of your statement. You refer there to asking the witnesses if they were willing to participate.

MR WOODS: Yes.

30 **MS DAVIDSON:** You said in one of your earlier answers the witnesses didn't have a relationship with you - that is, you hadn't been an officer at Dillwynia previously.

MR WOODS: Yep.

35 **MS DAVIDSON:** And just understood you that were the Acting Governor of the gaol, presumably?

MR WOODS: Yes.

40 **MS DAVIDSON:** Did you introduce yourself as the Acting Governor?

MR WOODS: Based on I was the Acting Governor, and I'd been asked to conduct a mediation.

45 **MS DAVIDSON:** Right. So it would be unsurprising for an inmate to agree to do something that the Governor of the gaol asked them to do; is that right?

MR WOODS: If they didn't want to do it, they would have made it quite clear.

5 **MS DAVIDSON:** Well, that's what I'm trying to explore with you. Were you regularly in the practice of asking inmates to conduct mediations with officers or was this an unusual thing for -

MR WOODS: Not uncommon, but it's not something that's usual. But I have seen mediations take place before.

10 **MS DAVIDSON:** Right. What I'm suggesting to you is that an inmate, given the power imbalance between an inmate and the Governor of a gaol, if the Governor of a gaol asks them to do something, they're very likely to agree to do it, are they not?

15 **MR WOODS:** They are able to respond in a negative and many do. So when they're asking me if these particular inmates were being forced to do it, that was wasn't how I perceived it, and if they said to me "I'm not happy to do it", then that would have been the end of the story.

20 **MS DAVIDSON:** Did you have experience of inmates declining to participate in mediations?

MR WOODS: Yes.

25 **MS DAVIDSON:** You say at paragraph 21 that you understood the purpose of the mediation was for the witnesses and the officer to openly discuss their disagreements; do you see that?

30 **MR WOODS:** Yes.

MS DAVIDSON: In circumstances where the complaint is being made by the inmates related to the conduct of the officer, how could mediation be a way of openly discussing disagreements and coming to an understanding?

35 **MR WOODS:** I didn't receive the original complaints. The inmate complaints I only received on the day. So whether - if I had received any complaints beforehand, I still don't think I would have disagreed that mediation would have taken place, but as an opportunity here for the inmates to raise their concerns, where it had been known to the officer how their perception was about his actions.

MS DAVIDSON: But once on the day you understood from what they did say during the mediation - I think you said you understood they felt intimidated?

45 **MR WOODS:** Yep.

MS DAVIDSON: And you understood they were complaining about Officer Astill's conduct?

MR WOODS: Yep.

5

MS DAVIDSON: How was it that it would have been possible or you thought that it was still a reasonable idea for a mediation to be conducted of those kinds of concerns to come to an understanding? It wasn't the right forum, was it, Mr Woods?

10

MR WOODS: Given the knowledge and hindsight of what was taking place, I would have said no. But at that time, I don't - there was no - at no time did I think that I should stop the mediations.

15

MS DAVIDSON: All right. I accept that you didn't stop the mediations, but just looking at the knowledge you had at the time.

MR WOODS: The knowledge I had at the time.

20

MS DAVIDSON: During the mediation, while it was occurring -

MR WOODS: Yes.

MS DAVIDSON: - the inmates were raising concerns about intimidation?

25

MR WOODS: Yes.

MS DAVIDSON: They had raised the "Smells like dogs" comment, had they?

30

MR WOODS: Yes, from that report, I have a memory that that was raised.

MS DAVIDSON: Right. And did you understand -

35

MR WOODS: But I don't know if it was the inmates that raised it or whether it was the officer that raised it, but it was raised.

MS DAVIDSON: Right. Well, there would be no reason for Officer Astill to have raised that as a concern, would there? It makes sense for the inmates to have raised it?

40

MR WOODS: There was comments - yeah, it was more than likely it was inmates, but I don't recall but it was raised.

45

MS DAVIDSON: It would make sense for inmates to be very concerned understanding the common usage of the term dog in gaol that if inmates were being called by dogs as an officer, that that would be a matter of real concern to them.

MR WOODS: It was a very loose term used in all institutions.

5 **MS DAVIDSON:** Quite, but it was a loose term used to mean the same thing, right, that you were dobbing or being an informant; is that not right?

MR WOODS: Generally, yes.

10 **MS DAVIDSON:** Right. And it could place an inmate at risk to their physical safety from other inmates, couldn't it, being called a dog by an officer?

MR WOODS: It's also just derisive as well.

15 **MS DAVIDSON:** Well, it's derisive, but it's derisive for a reason, isn't it, Mr Woods?

MR WOODS: It's commonly used, in many situations.

20 **MS DAVIDSON:** All right. So you understood, having been a senior officer in a gaol for a long time -

MR WOODS: Yes.

25 **MS DAVIDSON:** - that inmates could have really significant concerns about being called a dog by an officer?

MR WOODS: In some circumstances, yes.

30 **MS DAVIDSON:** Right. And, again, assuming that was raised in the course of this mediation - that is, a concern of that seriousness by an inmate - again, to continue to conduct the mediation in those circumstances was something you regarded as appropriate, was it?

35 **MR WOODS:** I didn't think it was something that would stop the mediation.

MS DAVIDSON: I suggest to you that it is something that should have stopped the mediation; do you agree?

40 **MR LATHAM:** I make the objection under section 23.

COMMISSIONER: Yes, I require you to answer.

45 **MR WOODS:** If I would agree, then I would have stopped it, but on the information being presented to me and how I viewed the information, at no stage was I prepared to stop, not - consider stopping the mediation.

MS DAVIDSON: Can you have a look at paragraph 22. You indicate there that you've conducted mediations on a number of occasions. Had you done that frequently between inmates and officers?

5 **MR WOODS:** On occasion, yes.

MS DAVIDSON: And had those other occasions that you conducted mediations in relation to related to inmate complaints about officer conduct?

10 **MR WOODS:** Yes.

MS DAVIDSON: You indicate if complaints or grievances are received they must be managed.

15 **MR WOODS:** Yes.

MS DAVIDSON: Where a complaint is being raised by an inmate about officer misconduct, what the inmate understands to be officer misconduct, did you understand - or what did you understand to be management responsibility - that is, a responsibility of a person in your position in relation to that kind of complaint or concern?

MR LATHAM: I make an objection under section 23.

25 **COMMISSIONER:** I require you to answer.

MR WOODS: So to manage behaviour, people need to understand what the behaviour is causing. So if an inmate perceives an officer that is doing something that is causing them angst and they're going off, if I don't attend to that at first, then it gets worse. So I think I've raised, a section 66 and I gave some examples.

MS DAVIDSON: Which paragraph are you referring to?

MR WOODS: 66. So there's some examples where mediations taking place.

MS DAVIDSON: Those are circumstances in which you have used mediation.

MR WOODS: So the irate inmate would be abusing staff member. And get the two to sit down and just explain exactly what was going on so they both understood what was happening.

MS DAVIDSON: Right.

MR WOODS: So if the inmates reading the inmate's newspaper, then the next time that newspaper be delivered.

MS DAVIDSON: Did you understand your management responsibility to also include consideration of whether there needed to be some report made by you in relation to that officer's conduct?

5 **MR LATHAM:** I make the objection under section 23.

COMMISSIONER: I require you to answer.

10 **MR WOODS:** So at the conclusion, I left a report for Shari Martin in regards to how the mediation had went.

15 **MS DAVIDSON:** I understand that. I'm asking you a more general question. In circumstances where inmates have, during a mediation process, raised a concern about officers' conduct, did you understand your management responsibility to include consideration much whether some misconduct process should have been initiated in relation to that officer?

MR LATHAM: Objection.

20 **COMMISSIONER:** Yes, I require you to answer.

25 **MR WOODS:** At the time I made a report to - (indistinct) going to say. I made a report regarding the occurrence of the mediations to the Governor. I don't recall the details. The inmates had raised their concerns that were previously raised with the Governor. They had heard the views and officer had his responses, so how they perceived certain things was explained by the officer. So I don't believe I was hearing anything of misconduct by an officer.

30 **MS DAVIDSON:** Because the officer had given you an explanation for that, is that -

MR WOODS: The explanation was provided.

35 **MS DAVIDSON:** The explanation was provided by the same officer who was being accused of the misconduct?

MR WOODS: Yes.

40 **MS DAVIDSON:** And you accepted that explanation?

MR WOODS: I wasn't making judgment. It was a mediation, and the inmates at the end of the day appeared to be content that they'd been heard. In regards to the officer's behaviour, I had a conversation with him, drawing his attention to certain things.

45 **MS DAVIDSON:** Do you remember - I know you don't have your report, or don't have access to your report to Shari Martin that you left for her - but do you

remember raising concerns about the officer's behaviour in your report to Shari Martin?

5 **MR WOODS:** Sorry, I can't recall any details of that report.

MS DAVIDSON: All right. Do you say that you had a conversation with Astill afterwards where you raised bullying and harassment with him?

10 **MR WOODS:** Yeah, referred him to policy, yeah.

MS DAVIDSON: Referred him to the policy, right. Do you recall one way or the other whether you mentioned that referring him to the policy in your report to Shari Martin?

15 **MR WOODS:** I don't recall.

MS DAVIDSON: Do you remember the chaplain Susie Johnson being present in these mediations as a support person?

20 **MR WOODS:** From the emails, yes.

MS DAVIDSON: That is, you don't have any independent recollection of that?

25 **MR WOODS:** I recall there was someone there but I couldn't - I think it was - she was a chaplain but as to regards to her name, I couldn't recall.

MS DAVIDSON: All right. Ms Johnson recalls that after the mediation with Witness B she had a discussion with you. Do you recall having a conversation with her after the mediation with Witness B -

30 **MR WOODS:** The chaplain.

MS DAVIDSON: - with the chaplain.

35 **MR WOODS:** I don't recall, no.

MS DAVIDSON: She says that you said to her:

40 "Susie, they're best friends. I think they have just cahooted together to do this to Officer Astill."

MR WOODS: Right. So I may have mentioned in the process of that that there may have been some collusion, but that was after the second or the third mediation, which was not a surprise that there was collusion.

45 **MS DAVIDSON:** Witness B was the second mediation so let's just be clear on the timing. She recalls this happening after the second mediation.

MR WOODS: Okay.

5 **MS DAVIDSON:** Do you recall saying something about cahooting or collusion?

MR WOODS: Collusion, possibly more collusion.

MS DAVIDSON: Is cahooting a word you would have used?

10 **MR WOODS:** No.

MS DAVIDSON: Right. Do you recall saying to her something along the lines of they were colluding together to do this to the officer?

15 **MR WOODS:** I may have mentioned that there was some collusion.

MS DAVIDSON: Is that a view you'd reached that they were colluding together?

20 **MR WOODS:** That there were some statements that were kind of verbatim and that I don't recall, but that would have gave me the thought of collusion.

MS DAVIDSON: Did that undermine their credibility in your mind?

25 **MR WOODS:** Not at all. It was not unexpected. They had prior knowledge of the meetings, they have watched (indistinct) they'd been asked to attend, so it would be unsurprising that they hadn't discussed that.

30 **MS DAVIDSON:** She recalls you saying that they had cahooted together to do this to Officer Astill, which she understood to mean you saying you didn't believe them.

MR WOODS: That would have been her perception.

35 **MS DAVIDSON:** But in referring to doing this to Officer Astill, do you recall whether that's something (crosstalk).

MR WOODS: I don't recall seeing that.

40 **MS DAVIDSON:** Right. Do you recall reaching that impression that the two inmates, as friends together, were trying to do something to Officer Astill?

MR WOODS: No. No.

45 **MS DAVIDSON:** What did you understand the purpose of your report to Shari Martin to have been?

MR WOODS: To advise her on how the mediation had went.

MS DAVIDSON: Right.

MR WOODS: As I've seen it.

5

MS DAVIDSON: I'm sorry, the?

MR WOODS: I was reporting how I'd seen how the mediation had progressed.

10 **MS DAVIDSON:** Right. You had already made a report, if you go to the end of your statement, and look at the last email, it's called Mediation Outcome.

MR WOODS: Yes.

15 **MS DAVIDSON:** That's an email that you sent to Hamish Shearer and copied to Shari Martin on 13 February?

MR WOODS: Yep.

20 **MS DAVIDSON:** 2018.

MR WOODS: Yes.

25 **MS DAVIDSON:** I'm just trying to understand what was the purpose of an additional report to Shari Martin?

MR WOODS: There was no additional report. The report was to Shari. This was (indistinct) to Hamish Shearer.

30 **MS DAVIDSON:** Right. That is, is it your evidence that you prepared a report to Shari first?

MR WOODS: And left it at the centre, yes.

35 **MS DAVIDSON:** Right. And you refer at paragraph 30 to an extract document addressed to Director Shearer.

MR WOODS: That's this one, yeah.

40 **MS DAVIDSON:** Was this an extract from the report that you gave to Shari Martin?

MR WOODS: No, this is the extract I got from a bundle as evidence for this.

45 **MS DAVIDSON:** Sorry, it was an extract that you got from?

MR WOODS: When I refer to extracts, it was from this bundle of information that was given.

5 **MS DAVIDSON:** From a window of information you were given?

MR WOODS: From information that was given for this.

MS DAVIDSON: For the purposes of preparing this statement?

10 **MR WOODS:** Yeah.

MS DAVIDSON: Yes, okay. So were there things that you recall, just again trying to understand, anything about the additional report to Shari Martin that you didn't say to Hamish Shearer but you did say to Shari Martin in the report you prepared for her?

MR WOODS: So I don't recall what I did that wasn't in the report to Shari.

20 **MS DAVIDSON:** It's all right. Do you recall during the mediation with Witness V, which was the first one - I'm sorry, which was the second of the three that you conducted, an accusation being raised by Officer Astill in relation to Witness V putting strips in people's drinks?

25 **MR WOODS:** I - I don't recall that being raised. It was contained in his report but I don't recall it being raised in that meeting - that mediation.

30 **MS DAVIDSON:** Witness V says that after she asked him "Why are you doing this to us?" He was just like a monkey that threw a banana, threw a statement at me and said, "Well, I've heard you're putting strips in people's drinks." Do you recall that happening?

MR WOODS: No, and I don't recall the officer acting like a monkey either. So the mediation was cordial.

35 **MS DAVIDSON:** You recall the mediation being cordial?

MR WOODS: Being cordial, yes.

40 **MS DAVIDSON:** Do you recall Officer Astill raising other allegations in relation to Witness V's conduct during the mediation? Of the kind he had raised in his report?

45 **MR WOODS:** On occasion, I know he had made reference to his report but I don't recall specifically what ones he was raising.

MS DAVIDSON: Do you recall, on a separate topic, Mr Woods, being part of a phone hook-up in your capacity, not necessarily at the time of you being Acting

Governor at Dillwynia, but in your capacity as an Acting Governor elsewhere in the lead-up to ICAC Operation Estry hearings, are you familiar with those?

5 **MR WOODS:** I don't think - if you can refresh my memory.

MS DAVIDSON: In relation to allegations of serious misconduct by various Correctional Officers in relation to a use of force at Lithgow in 2014?

10 **MR WOODS:** I was at Lithgow in 1990 through to 1991.

MS DAVIDSON: I'm not going to ask you about anything to do with the substance of the allegations that were the subject of Operation Estry, I'm just trying to place some context to the question I'm about to ask you. This is a phone hook-up with the Assistant Commissioner of Custodial Corrections and other
15 Governors at which there was discussion of ICAC having public hearings in relation to a Corrective Services New South Wales matter, Operation Estry was the name of it. Do you recall being part of any such phone hook-up?

20 **MR WOODS:** No.

MS DAVIDSON: One of the officers who is mentioned was officer Brad Peebles?

25 **MR WOODS:** I know Officer Peebles, yes.

MS DAVIDSON: Does that refresh your memory in relation to participating in any phone hook-up where his name was mentioned in relation to Operation Estry, that is phone hook-up with the Assistant Commissioner Custodial Corrections?

30 **MR WOODS:** Nothing is coming to me.

MS DAVIDSON: John O'Shea, another name that is mentioned in the phone hook-up.

35 **MR WOODS:** I know John.

MS DAVIDSON: Does that refresh your memory in relation to participation?

40 **MR WOODS:** No.

MS DAVIDSON: In such a phone hook-up. Do you recall the Assistant Commissioner Custodial Corrections in reference to either Officer Peebles or Officer O'Shea saying something along the lines of "It will all blow over"?

45 **MR WOODS:** I've not no recollection. I don't know if you've got me mixed up with somebody else. I've got no recollection of -

MS DAVIDSON: That's all right. Nothing further, Commissioner.

5 **COMMISSIONER:** Mr Woods, you obviously had these three mediations where Mr Astill was present and spoke. He spoke making allegations and he spoke responding to them; correct?

MR WOODS: He was responding to the matters that the inmates were raising and explaining his behaviour and his reasons.

10 **COMMISSIONER:** You also had access to the documents that were provided to you by Governor Martin, didn't you?

MR WOODS: Astill's report?

15 **COMMISSIONER:** Yes.

MR WOODS: Yeah.

20 **COMMISSIONER:** Now, did you form the conclusion that in everything that he was saying to you, Mr Astill was telling the truth?

MR LATHAM: I make the objection, Commissioner.

25 **COMMISSIONER:** Well, I ask you to answer the question.

MR WOODS: If I had access to my report that was left for Shari, then that would have helped refresh my memory.

30 **COMMISSIONER:** Do we have that document?

MS DAVIDSON: No, Commissioner, we don't.

COMMISSIONER: It hasn't come to us or it doesn't exist?

35 **MS DAVIDSON:** It was left in hard copy form, we are told, for Ms Martin.

COMMISSIONER: It has now gone?

40 **MS DAVIDSON:** It hasn't been produced but if it was in hard copy form it could have potentially been held in a number of locations.

COMMISSIONER: I understand. Mr Woods, we don't have the document but I'd be amazed if you don't have a recollection of the view you formed.

45 **MR WOODS:** Well, Commissioner, I don't.

COMMISSIONER: You have no recollection of whether you thought Mr Astill was telling the truth?

5 **MR WOODS:** I - I could speculate but could be proven wrong if the document's produced.

10 **COMMISSIONER:** Well, I'm not asking you to speculate I'm asking you to tell me now what you remember of the view you formed of whether or not he was telling the truth?

15 **MR WOODS:** A number of his actions were taking place, could have been under the guise of normal duty in conducting cell searches or if he explained the reasons and the reasons why documented why he had done cell searches. Could they have been fabricated? Perhaps. Could they be used to do that? So there may have been some reference in the report, and I don't recall the detail, but I do recall, as I said earlier, that even though I believed there may have been some collusion in some of the responses, contrary to what Suellen Johnson was saying, I have not allowed Astill to influence my decision in any shape or form.

20 **COMMISSIONER:** Again, the transcript has missed the word "I have not" something "my decision in any shape or form."

MR WOODS: Influence. My decision was never influenced by Astill.

25 **COMMISSIONER:** Very well. Mr Sheller?

MR SHELLER: No.

30 **COMMISSIONER:** Anyone else any questions?

MR LATHAM: Yes, Commissioner.

<EXAMINATION BY MR LATHAM:

35 **MR LATHAM:** Could I ask you three questions, Mr Woods. I think you said looking back you would have stopped the mediation; do you remember saying that?

40 **MR WOODS:** Given that I'd seen Astill being sentenced to 23 years earlier this year and there was a number of stuff that was raised towards that, given that there was other information known it should have been stopped, perhaps yes.

MR LATHAM: And do you think you should have been given that information before being asked to conduct the mediation?

45 **MR WOODS:** If it was known, yes.

MR LATHAM: Sorry.

MR WOODS: If there was information known, yes.

5 **MR LATHAM:** If you had that information now, would you have conducted the mediation at all?

MR WOODS: No.

10 **MR LATHAM:** I've got nothing further, Commissioner.

COMMISSIONER: Why not? Why wouldn't you have conducted it?

15 **MR WOODS:** My understanding was there was far more than what I was coming across in that mediation.

COMMISSIONER: Just develop that point: what do you mean?

20 **MR WOODS:** Well, the sexual assaults, that there was other stuff getting missed.

COMMISSIONER: Yes, all right. Anyone else? Ms Davidson?

MS DAVIDSON: No, Commissioner.

25 **COMMISSIONER:** Very well. That concludes your evidence, Mr Woods. You are excused.

MR WOODS: Thank you.

30 **<THE WITNESS WAS RELEASED**

MS DAVIDSON: Commissioner, the next witness is Douglas Greaves. I do note the time, Commissioner. I propose that if it's possible, we sit until 4.15 and I'll be as efficient - no?

35

COMMISSIONER: Can't do that.

MS DAVIDSON: All right.

40 **COMMISSIONER:** The latest is probably about five minutes past 4.

MS DAVIDSON: All right. I will be as efficient as I can.

45 **COMMISSIONER:** If we don't make it to the end, we don't make it to the end. My suspicion from what I know is you wouldn't make it to the end today anyway.

MS DAVIDSON: Yes, I think that's probably right. I understand the witness is available on Monday.

<DOUGLAS GREAVES, SWORN

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<EXAMINATION BY MS DAVIDSON:

MS DAVIDSON: Mr Greaves, can you tell the Commissioner your full name.

10 **MR GREAVES:** Douglas Audley Greaves.

MS DAVIDSON: And you provided a statement to this Commission that is signed on 10 November 2023?

15 **MR GREAVES:** Yes.

COMMISSIONER: It will be Exhibit 35 if he swears to the truth of it.

MS DAVIDSON: Yes, are the contents of that statement true?

20

MR GREAVES: Yes.

<EXHIBIT 35 TENDERED AND MARKED.

25 **MS DAVIDSON:** Commissioner, I do have a signed copy that I can hand up for tender.

COMMISSIONER: Thank you.

30 **MS DAVIDSON:** I'm sorry, Commissioner. And annexed to that statement, I've misplaced it on the bar table, is there a USB that contains some video lectures that you prepared?

MR GREAVES: Yes.

35

MS DAVIDSON: I tender that as well, Commissioner.

COMMISSIONER: What is in there that is relevant?

40 **MS DAVIDSON:** It's ethical conduct and ethical leadership lectures that were provided to members of Corrective Services staff over the, delivered personally by Mr Greaves over the period that he was, as I understand it, on the basis of his evidence, over the period that he was in the role within Professional Standards Branch and subsequently recorded by him for the purposes of ongoing availability
45 to staff.

COMMISSIONER: That will be Exhibit 36.

<EXHIBIT 36 TENDERED AND MARKED.

5 **MS DAVIDSON:** If I could ask if Mr Greaves could be given access to Volume 14. Could I ask you to turn within that volume to Tab 452. Mr Greaves, this is not dealt with in your statement, but this is an email chain that you were a part of. I understand that you have reviewed this document; is that right.

10 **MR GREAVES:** I did, but I will probably need to re-read it to refresh my memory.

MS DAVIDSON: Yes, could you just have a look at it now?

15 **MR GREAVES:** Sure.

MS DAVIDSON: Do you see at the bottom email in the chain on 11 October 2017 you are emailing Hamish Shearer indicating that some information has come to PSB's attention in relation to Dillwynia Correctional Centre?

20 **MR GREAVES:** Yes.

MS DAVIDSON: And you're asking Mr Shearer to determine whether what you've set out there in the bullet points is correct and, if so, could you please advise why the allegations against the officer was not referred to the PSC or the PSB. Do you recall sending this email?

25 **MR GREAVES:** I have very faint memories of so many things, but fortunately I always documented whatever happened. So I have a clear understanding based on reading what must have happened back then.

30 **MS DAVIDSON:** All right. In terms of what you're setting out in the bullet points there, taken at face value, there was an allegation of serious misconduct and should have been reported to the PSC; do you see that?

35 **MR GREAVES:** Yes.

MS DAVIDSON: And that hasn't happened, but instead Manager of Security Paddison has been tasked to undertake an investigation into the allegation and that Governor Shari Martin was aware of that. Are you able to explain why it is that you might have thought that was of sufficient concern to raise with Hamish Shearer?

MR GREAVES: Sure. It might help if I provide some context to it if that's okay.

45 **MS DAVIDSON:** Briefly, sure.

5 **MR GREAVES:** I note saying PSB conducting very sensitive inquiries out the Sydney region. Given the timing of this, I believe this would have been research conducted by PSB into emails between people involved in Operation Estry. In the course of doing those inquiries, we ran across a range of emails that related to matters unrelated to Estry. So I believe this would have been an example of that where an email we saw contained some reference or some explanation and the text in the dot points would reflect what was in that email that we would have found.

10 I always am concerned to hear that a misconduct allegation has been made but not referred to PSB. PSB's role was very much to be the central point for coordinating the response. And on top of that, the idea that if there is a misconduct allegation, which is plainly serious, the idea of an investigation per se being conducted totally contrary to policy needs further examination without any question.

15 **MS DAVIDSON:** And certainly the idea that an investigation might be being done by an officer from within the gaol where the same officer who was the subject of the allegation was also employed was a matter for concern as well, was it not?

20 **MR GREAVES:** Absolutely.

MS DAVIDSON: Why was that?

25 **MR GREAVES:** A key feature of PSB is to ensure impartiality. When the new team was formed in PSB in 2014, A/C Koulouris was very clear that he wanted us to be totally fair, impartial regardless of who was involved, and there could be so many obvious conflicts of interests, risk of prejudice, risk of compromise, in an investigation as such being conducted. Now, at the same time, the term "investigation" is used very loosely within Corrective Services. Often people refer to inquiries as investigations and vice versa. I note yesterday - sorry, not
30 yesterday - Director Hovey's evidence, he had mentioned that PSB was conducting investigations. We never conducted investigations.

35 **MS DAVIDSON:** Right.

COMMISSIONER: Ms Davidson, can you remind me, what was the date of that accusation about attempting to kiss?

40 **MS DAVIDSON:** It was July of - the intelligence report in relation to it was July.

COMMISSIONER: Of?

MS DAVIDSON: Of 2017. The date of the incident, I'd need to check.

45 **COMMISSIONER:** No, what I'm more concerned with is when it was reported or identified.

MS DAVIDSON: July. If you look to the next email in the chain, Mr Greaves, you see that's another sent from you, this time to Peter Robinson, he was the Director of the PSB is that right.

5 **MR GREAVES:** Yes, my immediate supervisor.

MS DAVIDSON: Was he a Director at the time you were employed it PSB.

10 **MR GREAVES:** No, he joined PSB shortly before I joined in October 2014. He was the Director for most of the time that I was there. When he took up a position in Queensland, Melanie Robinson was one person who acted in that role. And there was another senior lawyer from outside Corrective Services who acted in that role. They were both there before Carlo Scassera was appointed as Assistant Commissioner. Sorry, I'm talking about theAssistant Commissioner, there was
15 a Steven Karras who was appointed the Director after Peter had left and after two other people had acted in that role.

MS DAVIDSON: I see. Just going back to the middle email in the chain there, did you read that -

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MR GREAVES: Yes.

MS DAVIDSON: - when you were refreshing your memory? You indicate there that this wasn't an investigation as such which is consistent with the answer you
25 gave about the word investigation being used perhaps loosely. You see what you've said about it there. Do you recall having this telephone conversation with Hamish Shearer that you're recounting here?

MR GREAVES: No. My memory of the Astill matter is when I heard this Inquiry was happening, I could remember, oh, yeah, that name rings a bell, and
30 I remember the two pregnant inmates allegation, but I have no direct memory of anything else. I'm totally reliant on all paperwork regarding what transpired during this matter.

35 **MS DAVIDSON:** You've said here in the first paragraph:

40 "There was some information about an officer. Shari liaised with Michael Hovey about it in line with his staff intelligence role and the interview described below was one step down the path of assembling relevant information. If Mick is still in intelligence-gathering mode, then it makes sense that the matter hasn't yet been referred to the PSC. As a result I don't see a need for any further action."

45 Looking at this now, was it still a matter of concern that Michael Paddison was undertaking inquiries or gathering information assembling information or does it depend on what steps he was actually taking to do that?

MR GREAVES: Yes, the latter, very much. I mentioned loose use of the term "investigation". It would have been perfectly reasonable for Paddison to be collecting CCTV perhaps, if he had been tasked to do so. If so, Mick had tasked him to do those things, find out who was on duty that day, were the inmates
5 actually there, simple checks that didn't involve any interviews with inmates, didn't involve anything that could risk compromising the inquiry. As I understand it, that would have been appropriate.

MS DAVIDSON: If Officer Paddison was tasked with interviewing the inmate
10 who was the alleged victim of the behaviour, would that have been problematic?

MR GREAVES: Totally inappropriate for so many reasons.

MS DAVIDSON: Can you briefly describe what those reasons would be?
15

MR GREAVES: I think Mick has mentioned some of them previously. Interviews of inmates should only be conducted by trained interviewers. Using somebody in the centre to interview an inmate about a situation like that, you have no idea who - what the loyalties of the staff are within the centre. Gaols tend to be
20 very much a hothouse environment where people live in each other area pockets day and night for extended periods, so it's very hard to know who is actually loyal to whom. Those are the things that occur to me straight off the top of my head, I could come up with more.

MS DAVIDSON: You see Peter Robinson's reply to you:
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"Thanks Doug, it still remains a bit..."

MR GREAVES: Yep.
30

MS DAVIDSON: Do you recall having any discussion with him about that response?

MR GREAVES: No, for previously described reasons. Peter and I did have frequent discussions about situations like this. That response to me indicates I had
35 flagged this is unusual, but there is a possible explanation here. It could be something wrong, but, on the face of it, the explanation does fit with the appropriate roles of various people, and based on what we knew from this, I believe, my assumption would have been, well, we'll find out about this in due
40 course because Mick is gathering information, he is going to take it to the PSC, it is going to be pursued, we will find out about it later.

MS DAVIDSON: You don't recall, I assume, taking any further steps.

MR GREAVES: Based on Peter's response, I'm confident I wouldn't have done anything else.
45

MS DAVIDSON: Indeed, you said you didn't see a further need for further action on PSB's part.

5 **MR GREAVES:** Yes, I would have agreed with Peter. It certainly looks unusual, but no cause for suspicion at this point.

MS DAVIDSON: Could the witness be given access to Volume 8. Could you turn to Tab 84, and we can organise some assistance for you with that if - 84K is what we're looking for.

10 **MR GREAVES:** No worries.

MS DAVIDSON: Again this is not something dealt with in your statement, Mr Greaves.

15 **MR GREAVES:** Right.

MS DAVIDSON: Can you have a look on the second page of that tab. You will see an email - the start of it is on the last two lines, I should say, of that first page, an email from Hamish Shearer on 12 September 2017. Then if you turn over the page, you will see what it says. Can you just read over that.

MR GREAVES: Yep.

25 **MS DAVIDSON:** You see this was an email sent in September 2017.

MR GREAVES: Yes.

MS DAVIDSON: Do you recall whether the process that's being described here - that is, a change of approach agreed between the Assistant Commissioner and Directors of Custodial Corrections in relation to referrals to PSB - was something that PSB was aware of at the time - that is in 2017?

35 **MR GREAVES:** I don't recall if we became aware of it in 2017. I think that's likely. It may have been later in 2018. I'm very confident that we were never consulted about it beforehand - before this email.

MS DAVIDSON: Why is it you say that?

40 **MR GREAVES:** Because it would have rung all sorts of alarm bells if we had been consulted.

MS DAVIDSON: What alarm bells would they have been?

45 **MR GREAVES:** There's a number of factors. But I do need to say that we became aware of it because we saw a very similar email sent by another director and probably at about the same time period.

MS DAVIDSON: That is a director for a different region not Metro West; is that right?

5 **MR GREAVES:** That's correct, yes.

MS DAVIDSON: So you think you've seen similar language to this but not the particular email from Hamish Shearer.

10 **MR GREAVES:** It may be identical language.

MS DAVIDSON: Right.

MR GREAVES: But certainly the same theme.

15

MS DAVIDSON: Right.

MR GREAVES: That in Custodial Corrections, as opposed to any other division, there would be a filtering of matters being referred to PSB and the directors potentially the AC as well, I'm not sure about that but certainly the directors would filter matters that would be sent to PSB, notwithstanding our role, notwithstanding relevant policy.

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MS DAVIDSON: That is, it says in the last paragraph here:

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"In future any incidents of a disciplinary or performance nature that warrant elevation are in the first instance to be raised with me and we will decide whether a performance or disciplinary..."

30

Investigative, but I assume investigation -

"..is most appropriate."

By "we", did understand these who were the decreases of this email and its directors together were going to decide whether things should be referred to PSB?

35

MR GREAVES: For me it's unclear who we would be, whether it's the Governor and the director or whether it's the directors with the Assistant Commissioner, it could be either way.

40

MS DAVIDSON: You see that there's a reference in the first paragraph to the decision being taken amongst other things to provide greater transparency of key issues. Do you have any view on whether the mechanism that was set out here would have provided greater transparency on key issues?

45

MR GREAVES: No, I'm at a bit of a loss to understand that word. The directors all received on a regular basis - weekly, I believe - summaries from PSB of all

misconduct allegations that had been considered by the Professional Standards Committee.

5 **MS DAVIDSON:** That is, there was no (crosstalk).

MR GREAVES: No -

10 **MS DAVIDSON:** - from directors of information concerning what was going on in their areas -

MR GREAVES: Sure.

MS DAVIDSON: - was there?

15 **MR GREAVES:** No. Sure.

MS DAVIDSON: The fact there was reporting?

20 **MR GREAVES:** Yeah, because they were the delegated decision-makers within Custodial Corrections. The Assistant Commissioner received the weekly summary, and indeed he was a member of the Professional Standards Committee himself. Therefore, I'm pretty sure that was - definitely after Carlo Scassera arrived, then Custodial Corrections Assistant Commissioner was a member of the Committee. So he had transparency. If it was planned that there would be
25 a conference between the director and the governors together, then I'd contend that may be greater transparency but it's a significant risk to security in terms of the confidentiality of the allegations, the response that's going to be implemented and such like. Need-to-know principle should apply. So I cannot see any way in which there will be greater transparency from this.

30

MS DAVIDSON: It refers here to the AC - and this is in the first paragraph".

"The AC and Directors of Custodial Corrections changing our approach."

35 The AC of Custodial Corrections at this time was Kevin Corcoran; is that right ?

MR GREAVES: Yes.

40 **MS DAVIDSON:** So did you understand this to be describing a change in policy that had been agreed with Kevin Corcoran?

MR GREAVES: I certainly believe that, with firm conviction. I can't imagine that Hamish would have issued an email like this without prior approval from Kevin Corcoran.
45

MS DAVIDSON: Right, and is that reinforced by the fact that you believe you've seen an email like this that was issued by a director in another area?

MR GREAVES: Yes, definitely.

MS DAVIDSON: There's a reference in this paragraph to:

5

"..not overburdening the resources of PSB and its investigative staffing".

MR GREAVES: Yep.

10 **MS DAVIDSON:** Did you regard the resources of PSB and its investigative staffing as being overburdened?

MR GREAVES: A small point: PSB did not have any investigative staffing anyway. That was IB. Separate functions.

15

MS DAVIDSON: Yep.

20 **MR GREAVES:** But there's no question both were grossly overburdened. I totally support what I've heard Mick say about the limited resources and the challenges that IB was facing, but it was very similar in PSB. When I joined in 2014, the number of referrals being dealt with I found frankly amazing.

25 **MS DAVIDSON:** Notwithstanding that, you wouldn't have regarded an approach that gave a filtering role to governors and directors as being an appropriate response to that overburdening of resources, or would you?

MR GREAVES: No, I'd regard it as totally inappropriate for a number of reasons.

30 **MS DAVIDSON:** What are they?

MR GREAVES: Well, for a start, if you're going to deal with matters at a local level, then only the local level will know that this person has been subjected to a misconduct allegation.

35 **MS DAVIDSON:** And why that is a problem?

MR GREAVES: Because PSB needed to maintain the corporate records, the central corporate records, of all misconduct matters.

40 **MS DAVIDSON:** Was that because officers tended to move around?

45 **MR GREAVES:** Very much so. If, say, for example, you have an officer who works for a little while here, there and there, a bit of sexual assault there, a bit of - well, no, that would be criminal. No. Harassment, intimidation, matters like that, that could conceivably be resolved at a local level could occur repeatedly over a period of years and you'd never know. Particularly with casual staff, if they

move from one centre to another, if they're dealt with locally, no one would have that central record.

5 Now, that is vital because PSB's database of misconduct matters was crucial for performing conduct and service checks for promotions, for medals, for transfers, matters such as that, for research -

MS DAVIDSON: I'm going to need to stop you there. I note the time.

10 **MR GREAVES:** Right.

COMMISSIONER: I'm sorry but I'm going to have to adjourn. You are available Monday?

15 **MR GREAVES:** Sure.

COMMISSIONER: Well, then, we'll see you on Monday morning at 10 o'clock.

20 **MR GREAVES:** Thank you very much.

COMMISSIONER: Before I adjourn, can I see Counsel Assisting now? I will see both of you outside right now.

25 **<THE HEARING ADJOURNED AT 4.03 PM TO MONDAY, 13 NOVEMBER 2023 AT 10.00 AM**