



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

**PUBLIC HEARING  
SYDNEY**

**THURSDAY, 16 NOVEMBER 2023  
AT 10.00 AM**

**DAY 22**

**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 A. GUY** appears for a group of correctional officers  
**MS L. DOUST** appears for one correctional officer  
**MR C. WATSON** appears for two correctional officers  
**MR A. WILSON** appears for one correctional officer  
**MR I. LATHAM** appears for one correctional officer  
**MR B. DEAN** appears for a CSNSW member of staff  
**MR H. WHITE** appears for one correctional officer  
**MR J. TUTE** appears for a former CSNSW member of staff  
**MR E. JAMES** appears for one correctional officer  
**MR K. HORTON KC** appears with Ms Gaussen for a CSNSW member of staff  
**MR D. GASIC** appears for a former CSNSW member of staff

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**<THE HEARING RESUMED AT 10.02 AM**

5 **MR LLOYD:** Commissioner, before we proceed on with Ms Martin, there are three new - new-ish applications for leave to appear. Commissioner, you would recall that Mr Tyson was appearing on the last occasion for Ms Martin. He is absent today and Mr Tuite, the solicitor who is instructing him, is here.

**MR TUITE:** Commissioner, Tuite, T-u-i-t-e. I seek leave to appear.

10 **COMMISSIONER:** Yes. You have leave.

**MR LLOYD:** And Mr Horton of King's Counsel is here seeking leave to appear for Commissioner Kevin Corcoran.

15 **MR HORTON:** Yes. Horton, Commissioner, with Ms Gausen, seeking leave to appear for Kevin Corcoran.

**COMMISSIONER:** You have leave.

20 **MR HORTON:** Thank you.

**MR LLOYD:** And Mr Gasic is here for the next witness after Ms Martin, Ms Marilyn Wright.

25 **MR GASIC:** Commissioner, my name is Gasic, G-a-s-i-c, initial D. I appear for - seek leave to appear for Ms Wright.

**COMMISSIONER:** You have leave.

30 **MR LLOYD:** I have no further questions for Ms Martin, Commissioner, but I do wish to tender a bundle of some documents supplied to us since the close of play on Tuesday by the Department. It's - I think it's before you. It's a bundle containing some rosters and Parole Authority offender report in relation to Witness M.

35 **COMMISSIONER:** Sorry. It contains rosters?

**MR LLOYD:** Yes.

40 **COMMISSIONER:** You mean rosters for what?

**MR LLOYD:** If you open up the folder, Employee Daily Schedule. You see that in -

45 **COMMISSIONER:** Yes.

**MR LLOYD:** - large format there. They record the places within Dillwynia that various officers, most relevantly Mr Astill, were deployed to work at relevant times. I understand Mr Sheller wishes to ask some questions of Ms Martin based upon those documents.

5

**COMMISSIONER:** Well, looking at them in globo, how do they help me?

**MR LLOYD:** I might leave that to Mr Sheller. I can tell you what I understand they go to. It goes to one issue which is the response of Ms Martin to information that came to her attention about Astill, being some evidence about him being restricted from working in high needs, and these documents go to that evidence.

10

**COMMISSIONER:** So that's the roster document.

15 **MR LLOYD:** Correct.

**COMMISSIONER:** And the parole material?

**MR LLOYD:** That goes to a different issue, which is - you would recall, Commissioner, there's been some evidence about the movement of Witness M out of Dillwynia to Wellington and then a multitude of other places, and these documents go to the knowledge on the part of those people who were responsible for those movements relevant to this issue, which has been explored in the evidence about who knew about what investigation was being done about Witness M's allegations at what particular time.

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25

**COMMISSIONER:** Where does this document help you with that?

**MR LLOYD:** It adds, as I apprehend it, something to that evidentiary picture, in the sense of Witness M was being moved around by those people - this is as I understand it - knowledge of the fact that she had, in effect - or complaints had been made on her behalf about Astill, and that was linked to her movements between gaols.

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35 **COMMISSIONER:** You mean -

**MR LLOYD:** And, Mr Sheller says, culminating in her not being brought back to Dillwynia.

40 **COMMISSIONER:** Meaning by way of retribution or by way of protection?

**MR LLOYD:** As I understand it, the latter, not the former. But relevant to a picture about what was known about the status of the investigation into those allegations about her and Astill - Astill's conduct toward her.

45

**COMMISSIONER:** Well, I hear what you say. I don't understand it yet, but no doubt someone will help me.

**MR LLOYD:** You could mark it for identification -

**COMMISSIONER:** No, no. We'll mark it as an exhibit and -

5

**MR LLOYD:** I don't need to ask questions about it -

**COMMISSIONER:** It will become Exhibit 40.

10 <**EXHIBIT 40 TENDERED AND MARKED**

**MR LLOYD:** Thank you, Commissioner. Those are my questions for Ms Martin.

15 **COMMISSIONER:** Mr Sheller.

**MR SELLER:** Thank you, Commissioner.

<**SHARI PATRICIA MARTIN, ON FORMER OATH**

20

<**EXAMINATION BY MR SELLER:**

**MR SELLER:** Ms Martin, my name is James Sheller. I'm one of the legal representatives for Corrective Services. Just so you understand, and Mr Tuite understands as well, I've got one area which I'd like to ask you some questions about, and it relates to your capacity while Governor at Dillwynia to protect inmates against Mr Astill. I wonder if the witness could have Volume 8 available to her, please. Ms Martin, if you can turn behind Tab 84. Do you see behind Tab 84, there is a statement of Mr Paddison?

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**MS MARTIN:** That's correct.

**MR SELLER:** Now, you'll recall some questions asked of you on Tuesday by Mr Lloyd concerning Witness M. And just feel free to pause to have a look at the pseudonym list to remind yourself.

35

**MS MARTIN:** Yes. Yes.

**MR SELLER:** And you'll recall Mr Lloyd asked you some questions about a meeting at which there were a large number of people, particularly Witnesses R and V, who were reporting on what they had heard from Witness M about some assaults at the hand of Astill. There were a number of officers there: Officer Westlake, Officer Paddison and Officer Holman. Do you recall that meeting now? I know it's a number of years ago, but a lot of people in your office - or in an office to discuss Witness M?

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45

**MS MARTIN:** I don't recall the meeting fully because it was so long ago -

**MR SELLER:** All right.

**MS MARTIN:** - but Mr Lloyd described it to me.

5

**MR SELLER:** And I think you might recall via your evidence on Tuesday that there was an intelligence report prepared in relation to what was said about Witness M concerning Mr Astill?

10 **MS MARTIN:** That's correct.

**MR SELLER:** And you may also recall being asked some questions about some contacts made about Mr Hovey concerning what was being said about Witness M. Do you recall that?

15

**MS MARTIN:** Yes.

**MR SELLER:** And you might recall in your evidence on Tuesday some discussion about Mr Paddison being tasked with doing some - call it an interview or an investigation or a welfare check in relation to Witness M once you were aware about the complaints concerning her. Do you remember that?

20

**MS MARTIN:** It looked - sorry. It would have been to gather more information and to check that the inmate was - was okay.

25

**MR SELLER:** All right. Now, I've asked you to have a look at Mr Paddison's statement. I appreciate these aren't your words, but he has addressed this issue concerning M. And I just want you, if you could, to go to page 7 of his statement, paragraph 37. If you could just read that paragraph to yourself. You don't have to read it out loud. This is a - the context is post that meeting with R and V concerning Witness M?

30

**MS MARTIN:** That's correct.

**MR SELLER:** Now, you'll see what Mr Paddison has said is that Renee Berry sent an email confirming a cancellation advice concerning Witness M and that it emerged from Silverwater and it was in relation to Dillwynia?

35

**MS MARTIN:** That's correct.

40

**MR SELLER:** And you'll see Mr Paddison says that either he or you made a decision to cancel Witness M's transfer back to Dillwynia to protect her?

**MS MARTIN:** That's correct.

45

**MR SELLER:** And then you will see Mr Paddison goes on to say that:

"This was due to information that was provided by the inmates."

**MS MARTIN:** Correct.

5 **MR SHELLER:** That:

"Witness M was in fear of reprisal from Mr Astill."

Do you see that?

10

**MS MARTIN:** That's what he's written. That's correct.

**MR SHELLER:** Having had a chance to read that paragraph, do you have a recollection now that you made a decision that Witness M should not come back to Dillwynia in order to protect her?

15

**MS MARTIN:** More than likely.

**MR SHELLER:** Do you have a recollection now that the protection that Witness M required was as a result of a fear of reprisal from Mr Astill?

20

**MS MARTIN:** I'm not sure - I - I can't recall what I was thinking, but it would be more than likely.

**MR SHELLER:** Now, if I could just ask you - there are some annexures behind that particular statement that have hopefully got some letters in front. If you could go to Annexure G.

25

**COMMISSIONER:** Mr Sheller, just so I understand, you put to the witness that she made the decision.

30

**MR SHELLER:** Yes.

**COMMISSIONER:** Do we have a date when you suggest that decision was made?

35

**MR SHELLER:** Yes, I will show - one of the documents which is part of Exhibit 40 will assist on that question, which I'll show the witness in a moment, which will have a date in which this whole process was being - took place.

40

**COMMISSIONER:** "Whole process"? You mean -

**MR SHELLER:** The decision to not have Witness M come back to Dillwynia is addressed in that document which is now part of Exhibit 40.

45

**COMMISSIONER:** What is that date?

**MR SHELLER:** The date is 27 July.

**COMMISSIONER:** Of?

5 **MR SHELLER:** July 2017.

**COMMISSIONER:** 2017.

10 **MR SHELLER:** So the statement is just a bit of chronology. From Witness M's  
statement, she describes leaving at the end of May 2016, and she thought she was  
going to Bathurst for another court appearance, I think, and expected to come  
back. I think she talks about asking Mr Astill to hold her cell, being - 20 or 21  
July is the meeting with the officers - V. And then there's process into the  
15 following week, which includes this decision that Witness M not come back to  
Dillwynia.

**COMMISSIONER:** Okay.

20 **MR SHELLER:** Now, Ms Martin, have you found Annexure G?

**MS MARTIN:** Yes.

**MR SHELLER:** You recognise that as the email from Officer Berry?

25 **MS MARTIN:** I recognise an email here from Officer Berry.

**MR SHELLER:** And then if you go to the next annexure, H. Do you recognise  
that as what's referred to as the removal and transfer cancellation advice?

30 **MS MARTIN:** Yes.

**MR SHELLER:** This version - the version I have and the version you have may  
not be signed, but is that a type of form that you were familiar with from your time  
at Dillwynia and other facilities?

35

**MS MARTIN:** That's correct.

**MR SHELLER:** And you're aware that, at that time, someone in your position  
had the authority to make a decision that an inmate would not return to a facility?

40

**MS MARTIN:** Yes, but sometimes those things were - could be overridden.

**MR SHELLER:** Yes.

45 **MS MARTIN:** Yeah.

**MR SELLER:** But no doubt about your capacity or power at the time to make the decision?

**MS MARTIN:** Yes. Yes.

5

**MR SELLER:** Now -

**COMMISSIONER:** Sorry, just so I understand, this document is telling me that there's been a discussion -

10

**MR SELLER:** Yes.

**COMMISSIONER:** - and that Principal Paddison had made the request, not Ms Martin.

15

**MR SELLER:** The document now at H or what's in paragraph 37 of the statement?

**COMMISSIONER:** I'm just looking at the document which is H.

20

**MR SELLER:** Yes.

**COMMISSIONER:** That doesn't suggest Ms Martin was part of that decision.

25

**MR SELLER:** Well, what Mr Paddison - that's true. What Mr Paddison suggests - and I'm sorry to come to this slowly, but Exhibit 40 will show the Governor Ms Martin's involvement.

**COMMISSIONER:** Well, it's not apparent from this document.

30

**MR SELLER:** No, but hopefully the next document will (crosstalk).

**COMMISSIONER:** Well - okay.

35

**MR SELLER:** If the witness could have available to her a copy of Exhibit 40. Ms Martin, there are two documents that form part of this exhibit. The document I'd like to look at is the Parole Authority offender report. So that's the one that rests under your right hand at the moment. Do you see that one? If you could accept this document relates to the same person. That's Witness M?

40

**MS MARTIN:** That's correct.

**MR SELLER:** And is this the type of document you recall seeing during your time as Governor?

45

**MS MARTIN:** I may have seen a document like this on a case file, but this wouldn't come to me. Sorry.



**MR SHELLER:** If I could ask you to go most of the way down the bottom of the first page - sorry, it's got 13 in the bottom right-hand corner. If you go down to the section marked Institutional Behaviour, Breaches of Discipline. Do you see that?  
5

**MS MARTIN:** Yes.

**MR SHELLER:** And you'll see, just from that, that Witness M's behaviour within the prison system seems to be good.  
10

**MS MARTIN:** Yes.

**MR SHELLER:** So there was no basis for her not coming back to Dillwynia based on a problem with Witness M (crosstalk)?  
15

**MS MARTIN:** No, no.

**COMMISSIONER:** Sorry. Have I got the right document? You say page 13. Is that -  
20

**MR SHELLER:** There's some numbers in the bottom right-hand corner.

**COMMISSIONER:** They're in red.  
25

**MR SHELLER:** Page 13 is the relevant page.

**COMMISSIONER:** And this - well, as I read it, it's said to be a breach of discipline in 2016; is that right?  
30

**MR SHELLER:** Yes. And the point being that's the only blemish on her file (crosstalk) -

**COMMISSIONER:** Well, I think you suggested there wasn't any, but there is, plainly.  
35

**MR SHELLER:** Yes. Sorry. One breach, yes.

**COMMISSIONER:** Yes. I don't know what that means in terms of outcome, but nevertheless it's not a clear record.  
40

**MR SHELLER:** No. Based on what the witness has just answered, it wasn't a reason for her not to be returned to Dillwynia, that single breach. Now, Ms Martin, if you could then go to page 16. You'll see a document headed Inmate Profile Document?  
45

**MS MARTIN:** Correct.

**MR SHELLER:** And then if you go to the very bottom of that page, do you see a section headed Alerts?

5 **MS MARTIN:** Correct.

**MR SHELLER:** And is this again a type of document you're familiar with from your time as Governor at Dillwynia and other appointments?

10 **MS MARTIN:** Yes.

**MR SHELLER:** And you'll see in terms of the comments here again involving Witness M under the heading Alerts:

15 "Inmate not to be placed at Dillwynia."

**MS MARTIN:** Correct.

20 **MR SHELLER:** And then the words "contact Governor" and then over the page -

**MS MARTIN:** Correct.

25 **MR SHELLER:** - yourself, "for further information".

**MS MARTIN:** Correct.

**MR SHELLER:** And then there's that date, 27 July?

30 **MS MARTIN:** Correct.

**MR SHELLER:** Does that help you recall some involvement in a decision for Witness M to not come back to Dillwynia, on your part?

35 **MS MARTIN:** It - yes, it - it would be that I was involved.

**MR SHELLER:** And going back to, I think, some evidence you gave before, are you satisfied that your involvement -

40 **COMMISSIONER:** Sorry. Sorry. Sorry, Ms Martin. Let me understand that. Are you saying that you do remember being involved?

**MS MARTIN:** By reading this, yes -

45 **COMMISSIONER:** Sorry?

**MS MARTIN:** - I would have been involved.

**COMMISSIONER:** No, not would have been. Do you remember being involved?

5 **MS MARTIN:** Yes.

**COMMISSIONER:** You do? What did you do when you were involved?

10 **MS MARTIN:** I would have - I would have -

**COMMISSIONER:** No, not would have. What did you do - or what do you remember you did?

15 **MS MARTIN:** I would - I instructed them to put that notation on.

**COMMISSIONER:** Who did you instruct?

**MS MARTIN:** I can't recall.

20 **COMMISSIONER:** When did you give that instruction, do you remember?

**MS MARTIN:** It would have been when we put the movement orders in not to come back to Dillwynia.

25 **COMMISSIONER:** Who was in control of the movement orders and their documentation? Who was that?

**MS MARTIN:** Renee Berry.

30 **COMMISSIONER:** Renee Berry.

**MS MARTIN:** (Indistinct).

35 **COMMISSIONER:** You don't have a recollection of this at all, do you?

**MS MARTIN:** No, only when I read this, Commissioner.

**COMMISSIONER:** Yes. But you actually have no recollection?

40 **MS MARTIN:** No, Commissioner.

**COMMISSIONER:** No. Yes, Mr Sheller.

45 **MR SELLER:** Ms Martin, if I could just say to you something that Witness M said in her Commission statement was that she expected to come back to Dillwynia and was told by someone in Bathurst that she had a red dot against her

name. Are you familiar with someone having a red dot put against their name in terms of movements?

**MS MARTIN:** No, I'm not.

5

**MR SELLER:** Now, whatever your recollection may be, Ms Martin, of this decision that Witness M should not come back to Dillwynia, do you accept the proposition that any such decision must have been for the purpose of protecting her?

10

**COMMISSIONER:** Mr Sheller, perhaps you could ask a question which wasn't framed with an answer.

**MR SELLER:** Yes. What, to your knowledge, was the reason -

15

**COMMISSIONER:** She doesn't remember anything at all. I think you're sort of gambling in the wind, aren't you?

**MR SELLER:** I understand, Commissioner. Ms Martin, could I just - I'll get you to close up that document and just have a look at the other material within Exhibit 40. This is the roster - or part of the roster in relation to officers at Dillwynia, and it covers the period between 2016 and 2017. I think your evidence - or your evidence in paragraph 62 of your Commission statement was that at that some point in time, you took some steps concerning where Mr Astill was entitled to work within Dillwynia. Do you remember that in your statement?

20

25

**MS MARTIN:** That's correct.

**MR SELLER:** And I think you said that you took him out of high needs?

30

**MS MARTIN:** Yes.

**MR SELLER:** Do you recall for how long you took him out of that position, that is, an opportunity for him to work in high needs?

35

**MS MARTIN:** No.

**MR SELLER:** Would you accept that that may have only been for a short period of time, if at all?

40

**MS MARTIN:** I don't recall.

**MR SELLER:** Do you recall that generally, even from the time you were aware of concerns about Mr Astill, that he continued to work a usual style of roster at Dillwynia?

45

**MS MARTIN:** I wasn't in charge of the rosters. These are automatic. They automatically would come out (crosstalk) -

**MR SHELLER:** Yes.

5

**MS MARTIN:** - and the Manager of Security would be in charge of rosters.

**MR SHELLER:** But you again, within your authority, could have made changes to the roster so that Mr Astill would not work in certain areas; is that right?

10

**MS MARTIN:** I - I could have, yes.

**MR SHELLER:** And you don't have any recollection, other than for an unspecified time of him being removed from high needs -

15

**MS MARTIN:** I'm (crosstalk) -

**MR SHELLER:** - interfering with the roster and where he could go?

20

**MS MARTIN:** No. No.

**MR SHELLER:** All right. Close up that folder, please, Ms Martin. At the time that you were at Dillwynia, you had a delegation of authority, which meant you had powers over officers and where they worked within the facility. You've just given that evidence; that's right?

25

**MS MARTIN:** Yes.

**MR SHELLER:** In addition, you could take steps, if you wanted to, to relocate an officer?

30

**MS MARTIN:** To another Centre?

**MR SHELLER:** To another facility, yes.

35

**MS MARTIN:** I wouldn't have that power to do that.

**MR SHELLER:** You certainly had the power to raise with a Director or someone else in your chain - above your chain - or above your authority for an officer to be relocated at your request?

40

**MS MARTIN:** I - I - I never done that.

**MR SHELLER:** Did you - I take it, then, that you never suggested to Mr Shearer, for example, that Mr Astill should be relocated to another prison?

45

**MS MARTIN:** I don't recall.

**MR SELLER:** You, on your evidence, recognise for a significant period of time that Mr Astill was a problem at Dillwynia?

5 **MS MARTIN:** I had put a number -

**MR SELLER:** I think you've answered - sorry, I wasn't sure whether we got an answer or -

10 **COMMISSIONER:** Sorry, I - did I miss something?

**MR SELLER:** I think there was an objection, but I -

**COMMISSIONER:** I didn't hear it, I'm sorry. Yes, I require you to answer.

15 **MS MARTIN:** Could you repeat the question?

**MR SELLER:** On your evidence before the Commission, you appreciated for a significant period of time that Mr Astill was a problem within the Centre?

20 **MS MARTIN:** I had sent in intelligence reports, yes.

**MR SELLER:** And on your evidence, there was a point in time where you were saying, as I understood it, to Mr Shearer, "What can I do with Mr Astill?"

25 **MS MARTIN:** That's correct.

**MR SELLER:** What I'm suggesting to you is that within that period of time, you could have taken steps to manage Mr Astill within the Dillwynia Centre so that he had minimal exposure to the inmates. Do you agree?

**MS MARTIN:** Yes, I could, but we had not got anything back from the - the alleged allegations that we'd sent up.

35 **MR SELLER:** And equally you could - sorry. You didn't need to wait for material to come back from Professional Standards before you took action in relation to Mr Astill, did you?

40 **MS MARTIN:** I thought I had to.

**MR SELLER:** You could have raised the matter with Mr Shearer and asked, for example, for Mr Astill to be relocated?

**MS MARTIN:** Yes, I could have.

45 **MR SELLER:** But that didn't happen?

**MS MARTIN:** No, but I thought he - he had all the information.

**MR SHELLER:** Can I just ask you some questions about Witness O. If Ms  
5 Martin could have Volume 17, at 520. A letter from Mr Astill to you dated 25  
November 2017. Do you see that?

**MS MARTIN:** Yes.

**MR SHELLER:** Just from looking at the first page, do you recognise that in that  
10 letter, Mr Astill was saying a lot about Witness O?

**MS MARTIN:** Yes.

**MR SHELLER:** You knew from earlier that year that Witness O had raised  
15 a complaint concerning Mr Astill. That was one of the matters investigated by Mr  
Bartlett. Do you remember that now?

**MS MARTIN:** I remember it now, but I may not have remembered it in  
20 November.

**MR SHELLER:** Certainly what Mr Astill had said about Witness O, and on the  
assumption that you took steps to protect Witness M by her not coming back to  
Dillwynia, can you recall whether you took any steps at Dillwynia to protect  
25 Witness O?

**MS MARTIN:** No, I don't.

**MR SHELLER:** And do you remember having any concerns where Mr Astill  
was aware that Witness O was a complainant against him about whether she was  
30 at any risk of retribution?

**MS MARTIN:** No, I - I don't.

**MR SHELLER:** You don't recall taking any -  
35

**MS MARTIN:** I don't - I don't recall, no.

**COMMISSIONER:** Ms Martin -

40 **MS MARTIN:** Yes, Commissioner.

**COMMISSIONER:** - in your experience as a Governor, did you ever receive  
a letter like this one from any other prison officer?

45 **MS MARTIN:** I may have, Commissioner. I may have.

**COMMISSIONER:** You don't remember ever receiving such a letter?

**MS MARTIN:** I - I may - I may have. I can't -

5 **COMMISSIONER:** No, no. You don't remember receiving such a letter otherwise? No. I'm not, and have never been, a Governor of a gaol. But if an employee was to write to letter to me - one of my employees - in this form, I would be rather concerned about what was going on. Were you?

10 **MS MARTIN:** I - I - I didn't recall, sir, the letter - Commissioner.

**COMMISSIONER:** No, no. You don't remember even receiving the letter?

**MS MARTIN:** Today? No, I don't remember it.

15 **COMMISSIONER:** Well, let me ask you today, then: if you got this letter today, would you think, "Good heavens. What's going on?"

**MS MARTIN:** Yes, I would, Commissioner.

20 **COMMISSIONER:** And would it have raised alarm bells in you as to the performance of the officer?

**MS MARTIN:** It may have.

25 **COMMISSIONER:** You mean you're not sure?

**MS MARTIN:** I - I'd have to read the letter again just to double-check, but it may have.

30 **COMMISSIONER:** Well, it speaks of attack being the best method of defence, doesn't it?

**MS MARTIN:** It does, yes, Commissioner.

35 **COMMISSIONER:** Is that the way you would expect your senior prison officers to operate?

**MS MARTIN:** Not really.

40 **COMMISSIONER:** I mean, it bespeaks someone who wasn't suitable for the job, doesn't it?

**MS MARTIN:** Yes, Commissioner.

45 **COMMISSIONER:** Yes. All right.



**MR SHELLER:** Ms Martin, can you offer any reason why, having read that letter, steps were not taken in particular to protect Witness O against the risk of retribution?

5 **MS MARTIN:** No, I can't offer any reason why.

**MR SHELLER:** Those are my questions. Thank you.

10 **COMMISSIONER:** Does anyone else have any questions?

**MR DEAN:** Commissioner, I have some questions.

**COMMISSIONER:** Very well.

15 **MR DEAN:** My name is Barry Dean, Ms Martin -

**COMMISSIONER:** You might have to turn that mic so you're talking down it. Yes.

20 **MR DEAN:** Sorry, Commissioner.

**<EXAMINATION BY MR DEAN:**

25 **MR DEAN:** My name is Barry Dean, I appear for Mr Hamish Shearer and I have some questions, Ms Martin. You first met Mr Shearer in 2016. Was that correct?

**MS MARTIN:** That - that's correct.

30 **MR DEAN:** When he replaced Marilyn Wright as Director?

**MS MARTIN:** That's correct.

35 **MR DEAN:** At the time that Ms Wright retired, did you consider that you were in a position to become a Director or an Acting Director?

**MS MARTIN:** No. Maybe an Acting Director at some stage, but not a Director.

**MR DEAN:** You believed at that time that were you a good Governor?

40 **MS MARTIN:** I believed I was a good Governor.

**MR DEAN:** And you believed that you had a good management style?

45 **MS MARTIN:** Yes, I did.

**MR DEAN:** In light of the evidence put to you in this Commission by Senior Counsel Assisting, do you accept that you might have been mistaken about your abilities at that time?

5 **MS MARTIN:** No, I believe I did my job to the best of my abilities at that time.

**MR DEAN:** Can the witness be provided her statement, which I believe is in Volume 7, Tab 59A.

10 **MS MARTIN:** 59A?

**MR DEAN:** Tab 59A.

**MS MARTIN:** Yes.

15

**MR DEAN:** Can you turn to paragraph 49 of your statement. In that paragraph, you were referring to a discussion with Mr Shearer about your management style, weren't you?

20 **MS MARTIN:** No, he had come in and he had shown me - he wanted to sit down and show me a - a pyramid. He never mentioned anything negative about my management style. He wanted to show me a management pyramid.

25 **MR DEAN:** So he wanted to have a discussion about management - you would accept that, wouldn't you - by showing you the management pyramid?

**MS MARTIN:** Yes.

30 **MR DEAN:** It was the case, wasn't it, that at that time you weren't interested in hearing from Mr Shearer about management, were you?

**MS MARTIN:** I wasn't interested?

35 **MR DEAN:** Yes. You weren't interested in hearing from Mr Shearer about management.

**MS MARTIN:** I disagree with that.

40 **MR DEAN:** You considered that conversation to be a waste of your time?

**MS MARTIN:** No, I considered that conversation to be legitimate.

**MR DEAN:** Now, throughout your tenure under Mr Shearer, you were resistant to engaging with him, weren't you?

45

**MS MARTIN:** No, I disagree with that.

**MR DEAN:** But you didn't trust him, did you?

**MS MARTIN:** I think that he treated me quite badly.

5 **MR DEAN:** And you weren't completely forthcoming with him, were you, in your conversations with him?

**MS MARTIN:** Well, I disagree. In relation to what?

10 **MR DEAN:** Now, you gave evidence on Monday that after Mr Shearer did not proceed with the performance improvement plan - I'll quote:

"He wanted to speak about how I was feeling and why I was feeling this way, and I explained it all to him."

15

**MS MARTIN:** It was -

**MR DEAN:** Do you remember that evidence?

20 **MS MARTIN:** It was my understanding that Mr Shearer was encouraged to come and talk to me.

**MR DEAN:** Do you remember that that conversation occurred in about 7 April 2017?

25

**MS MARTIN:** If you're saying it. I can't recall.

**MR DEAN:** But would it be about that time?

30 **MS MARTIN:** I can't recall.

**MR DEAN:** Do you recall that after that conversation, Mr Shearer sent you an email that stated:

35

"Thank you for our chat today. It has given me much to think about. Have a great weekend with your family, and good luck with your shooting."

**MS MARTIN:** If - if he said that - if there's an email, there's an email.

40 **MR DEAN:** You recall that conversation, don't you?

**MS MARTIN:** I recall some of it, yes.

45 **MR DEAN:** Yes. And do you recall that Mr Shearer listened considerably to all your concerns at that meeting?

**MS MARTIN:** As I listened to his, yes.

**MR DEAN:** Do you remember sending an email to Mr Shearer on 7 April 2017 that stated:

5            "Thank you as well. Shooting not until after Easter, but I will have a more relaxed weekend now. Thank you again."

**MS MARTIN:** If that's there, I've sent - yes.

10   **MR DEAN:** Do I take it that you appreciated the conversation with Mr Shearer after that conversation with Mr Shearer?

**MS MARTIN:** I appreciated it, but I know Mr Shearer was told to come and speak to me.

15   **MR DEAN:** You're assuming that, aren't you?

**MS MARTIN:** No, I was told that he was told to come and speak to me.

20   **COMMISSIONER:** Who told you that?

**MS MARTIN:** I was told by - I'm just trying to think, Commissioner. I was told by - I think it was - I think he may have told me.

25   **COMMISSIONER:** And did he tell you why he was told to come and see you?

**MS MARTIN:** I think it was because of - we seemed to have a misunderstanding in relation to - I wasn't - I went and saw the Assistant Commissioner about it - a performance improvement plan that he was placing me on. And as I said, I was never placed on that plan. I think it was due to that.

30   **COMMISSIONER:** Yes.

**MR DEAN:** There was a reset in your relationship with Mr Shearer after that conversation, wasn't there?

**MS MARTIN:** I thought there could be, but I think that down the track it - it got back to the way it was.

40   **MR DEAN:** I want to suggest to you that Mr Shearer never told you that he was told to come and talk to you. What do you say to that suggestion? Do you agree or disagree?

**MS MARTIN:** I disagree.

45   **MR DEAN:** I also suggest to you that Mr Shearer did not belittle you throughout 2016 to 2018. What do you say to that suggestion? Do you agree or disagree?

**MS MARTIN:** I disagree.

5 **MR DEAN:** I also suggest to you that Mr Shearer did not bully you from 2016 to 2018. What do you say to that suggestion?

10 **MS MARTIN:** I disagree with that. The way he treated me had such a profound effect on me that eight months after I retired from the organisation, I wrote a letter to the then Secretary, Michael Coutts-Trotter.

**MR DEAN:** I want to suggest to you that your feelings towards Mr Shearer was because you did not obtain a promotion as an Acting Director under his tenure.

15 **MS MARTIN:** Well, it's not - it's not a promotion. It's - and it wasn't up to him; it was up to the Assistant Commissioner to act me in a higher position, and he - he told me why I wasn't being acted in a higher position.

20 **MR DEAN:** And you feel the same towards Mr Corcoran as you do towards Mr Shearer, don't you?

**MS MARTIN:** Probably not as strong as I did with Mr Shearer.

25 **MR DEAN:** The letter you wrote to Mr Coutts-Trotter was about both men, wasn't it?

**MS MARTIN:** It was, yes.

30 **MR DEAN:** Can you turn to paragraph 71 of your statement. Do you have that there?

**MS MARTIN:** Yes.

35 **MR DEAN:** Now, the only conversation that you can recall with Mr Shearer about Wayne Astill - actually recall - is the one that occurred after the muster in two thousand -

**MS MARTIN:** That's one I can actually recall.

40 **MR DEAN:** Yes. And that conversation occurred on the telephone?

**MS MARTIN:** Yes, it did.

45 **MR DEAN:** Do you agree that during that conversation, you asked Mr Shearer to attend Dillwynia to support you in talking with Mr Astill?

**MS MARTIN:** No, I asked him to come and speak to him. I didn't know what to do with him.

**MR DEAN:** You told Mr Shearer on that telephone call that Mr Astill was a Chief on a temporary assignment, didn't you?

5 **MS MARTIN:** I can't recall that. I - I remember saying, "I don't know what to do with this man." I - I remember saying that because I know I was desperate and I needed his assistance.

10 **MR DEAN:** That was the first time you had spoken to Mr Shearer about Mr Astill's conduct, wasn't it?

**MS MARTIN:** Not that I recall.

15 **MR DEAN:** What do you mean by that?

**MS MARTIN:** Well - well, I've said I can't recall when I spoke to Mr Shearer about Mr Astill. That was one I definitely did recall.

20 **MR DEAN:** You recall other conversations, do you?

**MS MARTIN:** I can't remember.

25 **MR DEAN:** You told Mr Shearer on that telephone call that you had received complaints suggesting that he was playing inmates against each other, didn't you?

**MS MARTIN:** Yes. I remember that.

30 **MR DEAN:** And you also advised Mr Shearer there were questions being raised about the intelligence officer who had directed searches on the cells of the SMAP inmates when that was seen as inappropriate or targeted, didn't you?

**MS MARTIN:** I - I can't recall that. I did tell him that we'd a number of intelligence reports sent in and we hadn't heard anything back.

35 **MR DEAN:** The reason you asked Mr Shearer to come to Dillwynia was because you wanted support to talk to Mr Astill?

**MS MARTIN:** I wanted him to talk to Mr Astill.

40 **MR DEAN:** You saw the complaints against Mr Astill as a management or human resources issue, not a misconduct issue?

**MS MARTIN:** No, I saw them as a misconduct.

45 **MR DEAN:** And your purpose in talking - or having Mr Shearer talk to Mr Astill was to end the constant rumours, innuendos and allegations to reduce the risk of further misunderstanding and complaints made against Mr Astill, wasn't it?

**MS MARTIN:** No, it was because I didn't know what more to do.

5 **MR DEAN:** You saw the complaints as mere misunderstandings due to Mr Astill's manner, didn't you?

**MS MARTIN:** No.

10 **MR DEAN:** I want to suggest to you that you never told Mr Shearer words to the effect, "We have put reports in on him, but nothing is happening. I need something done," as you state in paragraph 75 of your statement.

**MS MARTIN:** I disagree. I did say that to him because I was desperate.

15 **MR DEAN:** That evidence in paragraph 75 of your statement is false, isn't it?

**MS MARTIN:** It's - sorry?

20 **MR DEAN:** It's false. Untrue.

**MS MARTIN:** No. It's not untrue.

25 **MR DEAN:** Now, you gave evidence to Senior Counsel Assisting about allegations that Astill assaulted Witness M. Do you remember that evidence and the questions you were asked about Witness M?

**MS MARTIN:** Correct.

30 **MR DEAN:** And you gave evidence that you had no memory of any conversation with Mr Shearer about the Witness M allegations?

**MS MARTIN:** No, I didn't, but that's not to say that the Manager of Security - or I told someone to let the Director know.

35 **MR DEAN:** Yes.

**MS MARTIN:** I just don't have a recollection of that.

40 **MR DEAN:** You're accepting the proposition that you don't have any recollection of that?

**MS MARTIN:** I can't recall, no.

45 **MR DEAN:** Now, it's the case throughout 2017, in fact, that you did not believe the serious allegations that Astill had assaulted Witness M or any other inmate; isn't that the case?

**MS MARTIN:** No.

**MR DEAN:** You did believe them, did you?

5 **MS MARTIN:** Sorry, can you ask the question again?

**MR DEAN:** You're aware of serious allegations that Mr Astill had assaulted Witness M?

10 **MS MARTIN:** I was aware of alleged allegations, and an intelligence report was sent straight to the Investigations Branch.

**MR DEAN:** And you did not believe those allegations, did you, at that time?

15 **MS MARTIN:** I didn't believe them, that Astill had done that?

**MR DEAN:** Yes.

20 **MS MARTIN:** I - I sent reports straight up. Obviously I would have believed there was something going on.

**MR DEAN:** So you believed -

25 **MS MARTIN:** I'm not going to ignore reports of those allegations.

**MR DEAN:** I want to suggest to you that you never told Mr Shearer that Mr Astill was the officer alleged to have assaulted Witness M.

30 **MS MARTIN:** Well, I can't recall, but I - I disagree with that.

**MR DEAN:** Now, on 22 November 2017, do you remember that you attended a meeting with Mr Shearer and Mr Astill?

35 **MS MARTIN:** That's correct. That's as a result of the phone call we - we - we were discussing.

**MR DEAN:** And that really was your idea, wasn't it?

40 **MS MARTIN:** I asked Mr Shearer to come out because I didn't know what to do.

**MR DEAN:** But, in fact, you conducted that meeting, didn't you?

45 **MS MARTIN:** No, I wouldn't have been - he was the senior officer. He would have been in charge of that meeting.

**MR DEAN:** It was the case, wasn't it, that Mr Shearer only spoke at the end of the meeting?



**MS MARTIN:** I can't recall, but - Mr Shearer would have taken control of that meeting.

5 **MR DEAN:** I want to suggest to you that last evidence you just gave was false.

**MS MARTIN:** Which evidence?

**MR DEAN:** That Mr Shearer conducted the meeting.

10

**MS MARTIN:** He would have conducted - he would have been in charge of that meeting as the senior officer.

15 **MR DEAN:** It was the case, wasn't it, that you never told Mr Shearer that there were allegations of a sexual nature against Mr Astill before Ms Sheiles made her disclosure to Mr Virgo in October 2018?

**MS MARTIN:** I assumed Mr Shearer was aware of most of the intelligence reports that had been sent through, through the PCMC.

20

**COMMISSIONER:** Does that mean -

**MS MARTIN:** I might have -

25 **COMMISSIONER:** Does that mean, Ms Martin, you never told Mr Shearer?

**MS MARTIN:** No, I - I was just about to say, Commissioner.

**COMMISSIONER:** Well, your answer to Counsel's question diverted.

30

**MS MARTIN:** Oh, I'm sorry.

**COMMISSIONER:** You didn't answer his question. Are you saying you didn't tell Mr Shearer or not?

35

**MS MARTIN:** Mr Shearer was aware of the incident with Witness M. He was aware of the current issue that he came to the meeting, and I did tell him that there had been other intelligence reports. But as I've said during this - this Inquiry, I can't recall when I spoke to him in relation to reporting others. It may have been me; it may have been my Manager of Security.

40

**MR DEAN:** So in terms of my question, when I put to you that you never told Mr Shearer there were allegations of a sexual nature against Mr Astill before Ms Sheiles made her disclosure to Mr Virgo, do you agree with that or disagree?

45

**MS MARTIN:** From my recollection, I - I - I would disagree with that. I reported everything. If it wasn't me, it was my Manager of Security or the officer in charge of - of the Centre on the day in my absence.

5 **MR DEAN:** Do you recall the mediation that Mr Woods ran with Mr Astill in 2018?

**MS MARTIN:** There was a mediation, yes.

10 **MR DEAN:** That mediation was your idea, wasn't it?

**MS MARTIN:** No.

15 **MR DEAN:** You took the steps to arrange the mediation with Mr Woods, Mr Astill, the inmates and the chaplain, didn't you?

**MS MARTIN:** I would have been instructed to do so.

20 **MR DEAN:** But you took those steps, didn't you?

**MS MARTIN:** Under instruction, yes.

25 **MR DEAN:** Your evidence that Mr Shearer instructed you to conduct the mediation is false, isn't it?

**MS MARTIN:** No.

**MR DEAN:** You know that your evidence was false when you gave it, don't you?

30 **MS MARTIN:** No.

**MR DEAN:** Those are my questions, Commissioner.

35 **COMMISSIONER:** Does anyone else have any questions?

**MS GHABRIAL:** I just have a couple of questions, Commissioner.

**<EXAMINATION BY MS GHABRIAL:**

40 **MS GHABRIAL:** Ms Martin, my name is Ms Ghabrial and I appear for a group of correctional officers. I just wanted to ask you just some clarification questions in relation to your relationship with Ms O'Toole. Firstly, were you aware that staff at Dillwynia understood or were aware of the fact that your husband, Phil, worked with Leanne O'Toole's husband, Graham, as police officers? Were you aware that  
45 staff at Dillwynia knew that?

**MS MARTIN:** They worked in the same unit, but they worked - one worked in - in Penrith; one worked in Wetherill Park.

5 **MS GHABRIAL:** I think your husband, Phil, and Leanne O'Toole's husband, Graham, worked at sometime or at some stage as weapons instructors together; is that correct?

10 **MS MARTIN:** Yes. My husband was at Wetherill Park; Leanne's husband was at Penrith. My husband travelled the state.

**MS GHABRIAL:** Right. Okay.

15 **MS MARTIN:** So they may have crossed paths every now and again, but it would have been very rarely.

20 **MS GHABRIAL:** I'm going to suggest to you that there is some evidence that they - before the Inquiry, in some of the statements of various witnesses, to suggest that your husband, Phil, and Leanne O'Toole's husband, Graham, were actually good friends as a result of their connection at New South Wales Police.

**MS MARTIN:** Well, they were colleagues. I mean, they'd known of each other for many, many years, but they were just colleagues. I - I don't understand what this has got to do with anything.

25 **MS GHABRIAL:** Well, what I want to suggest to you is that - perhaps I could ask this first. When did your husband start working with New South Wales Police? Do you remember?

30 **MS MARTIN:** No.

**MS GHABRIAL:** Was it in the 80s or earlier?

**MS MARTIN:** It would have been.

35 **MS GHABRIAL:** And you said that your husband worked at Wetherill Park?

**MS MARTIN:** At the end, yeah.

40 **MS GHABRIAL:** Did he work at Penrith or Lakemba at any time?

**MS MARTIN:** No. No.

45 **MS GHABRIAL:** I understand the evidence at this time does suggest - and I think Leanne O'Toole has said this in her statement to the Commission - that your husbands knew each other and, as a result of that, you socialised together; is that correct?

**MS MARTIN:** Oh, we may have the first time I went to Dillwynia. The second time I came back, Leanne and I had sort of drifted apart.

5 **MS GHABRIAL:** Your families went on camping trips together; correct?

**MS MARTIN:** I think we went on one. And that was early - when I first went to Dillwynia.

10 **MS GHABRIAL:** And celebrated birthdays often and had barbecues and get-togethers often with other officers?

**MS MARTIN:** No, not really. No, not really. I don't think "often" would be - no.

15 **MS GHABRIAL:** Were you aware that Leanne's husband, Graham, worked for a number of years in the 80s with Wayne Astill when Wayne Astill was a police officer?

20 **MS MARTIN:** No. I - I was never aware of that.

**MS GHABRIAL:** Did your husband ever work with Wayne Astill?

**MS MARTIN:** No. He doesn't know him.

25 **MS GHABRIAL:** There were occasions, Ms O'Toole says, that because of her husband's connection with Wayne Astill as a police officer that Wayne Astill was also present at various social occasions at which you and your husband, Phil, attended?

30 **MS MARTIN:** No, that's incorrect. I - I - I don't go out very much with people I worked with. So, no, that's incorrect. My husband's never met - met the man.

35 **MS GHABRIAL:** What I'm going to suggest to you is that the evidence that you've given - and I'll take you back to specific questions asked of you by Counsel Assisting the Commission. There were various questions asked of you about you favouring Astill and taking certain steps to ensure that he remained in his acting position as the Chief Correctional Officer as a result of your favouritism of him. Do you remember those questions being asked of you?

40 **MS MARTIN:** Yes.

**MS GHABRIAL:** And I'm going to ask you this: Was that because of your connection and your husband's connection to Wayne Astill, either -

45 **MS MARTIN:** My husband didn't know -

**MS GHABRIAL:** I'll just finish the question. Either directly or through Leanne O'Toole's husband's friendship and relationship - I withdraw that - relationship and contact with Wayne Astill as a police officer in New South Wales Police?

5 **MS MARTIN:** I - I - I disagree with what you're saying because my husband didn't know the man.

**MS GHABRIAL:** And can you understand why it is that people had the impression that you and your husband and Leanne O'Toole and her husband were  
10 all friends? Can you understand that?

**MS MARTIN:** No. I - I - my husband didn't know any of them. He knew Leanne's husband. He knew Leanne.

15 **MS GHABRIAL:** Was it the case that you are just trying to paint a picture to the Commission that you weren't friends with any of these people to protect yourself in these proceedings?

**MS MARTIN:** With any - I - I just said that Leanne O'Toole -  
20

**MS GHABRIAL:** You were close friends with Leanne O'Toole?

**MS MARTIN:** I was the first time I worked at Dillwynia. I've - I've admitted that. The second time, we drifted apart. Mr Astill - I've never gone out with  
25 Mr Astill or his partner. My husband didn't know Mr Astill or his partner. My husband had worked with Ms O'Toole's husband years and years and years ago. They did work in weapons training, but he worked Penrith. My husband work at Wetherill Park. He travelled the state, so he was never home.

30 **MS GHABRIAL:** And is it the case that you're telling the Commission that you didn't have any friendship and didn't socialise at any time with Mr Astill -

**MS MARTIN:** No.

35 **MS GHABRIAL:** - just to protect yourself in this Commission?

**MS MARTIN:** But I - I - I never did.

**MS GHABRIAL:** Nothing further. Thank you, Commissioner.  
40

**MR WHITE:** Yes. Thank you, Commissioner.

**<EXAMINATION BY MR WHITE:**

45 **MR WHITE:** Ms Martin, my name is White and I represent Deborah Wilson. Are you aware that Ms Wilson was the intelligence officer?

**MS MARTIN:** That's correct.

5 **MR WHITE:** And your understanding was that, as intelligence officer, in relation to complaints that were made concerning inappropriate conduct towards other officers that it was not her role as intelligence officer to investigate those complaints, particularly with inmates?

**MS MARTIN:** That's correct.

10 **MR WHITE:** And it would have, in fact, been inappropriate for her to do so?

**MS MARTIN:** To investigate, but she could gather information to add value to her report.

15 **MR WHITE:** And it would be perfectly appropriate for her in such circumstances to invite the person to come forward to make a complaint?

**MS MARTIN:** Yes.

20 **MR WHITE:** In relation to - you understand that her role was the submission of investigation reports to the Investigation Unit?

**MS MARTIN:** Her role? Sorry, I -

25 **MR WHITE:** You understand that Ms Wilson, as the information officer - sorry, intelligence officer.

**MS MARTIN:** Intelligence officer.

30 **MR WHITE:** It was her role to submit the reports to the Investigation Unit?

**MS MARTIN:** Yes, that's correct. Intelligence reports.

35 **MR WHITE:** And I think you have acknowledged in your evidence that there was a problem in terms of receiving feedback from the Investigation Unit in relation to the result of the investigations?

**MS MARTIN:** That's correct.

40 **MR WHITE:** And do you agree that Ms Wilson commonly raised that issue with you in discussions about the lack of any feedback coming back in relation to the investigation reports that were sent?

45 **MS MARTIN:** In relation to all intelligence sent. Even if a mobile phone was found, we would never get any information back.

**MR WHITE:** But the issue I'm asking you about is, do you agree that that problem, that is, lack of feedback, was raised by Ms Wilson to you?

**MS MARTIN:** Not constantly, but a couple of times, yes.

5

**MR WHITE:** All right. And your understanding was that - your understanding was that the incident reports that formed the basis of the investigation reports that were sent to the Investigation Unit, those concerning Mr Astill were kept in a safe in your office?

10

**MS MARTIN:** Yes. Deborah Wilson came to me with them, and she would put them in the safe because - I don't know - they were her working documents. So they were placed in there by Deborah Wilson.

15

**MR WHITE:** And was it your understanding that the reason Ms Wilson sought to have them placed in the safe was because of her concerns that Mr Astill might have got access to them?

**MS MARTIN:** Yes, I - I'd mentioned that earlier in my evidence. Yes.

20

**MR WHITE:** And you agree that Mr Astill also performed the role as intelligence officer from time to time?

**MS MARTIN:** Yes. Very rarely, but, yes, time to time.

25

**MR WHITE:** And do you agree that Ms Wilson expressed concerns to you about him being in that position?

**MS MARTIN:** I - I mentioned that just before, yes, and earlier in my evidence. She - she came to me, and she expressed concerns, and she gave me the - asked could she put documents - or her working documents in the safe.

30

**MR WHITE:** And you agree that the concerns she expressed were, firstly, about him not doing the work?

35

**MS MARTIN:** No, I can't recall that.

**MR WHITE:** But certainly she expressed concerns about him having access to information concerning allegations that were made about himself?

40

**MS MARTIN:** Well, they had guaranteed me that - she'd guaranteed me that he hadn't had access to it and could she put the - the information in my safe.

**MR WHITE:** But her concern about him working in that position, do you agree, that she expressed to you, was him getting access to material that involved him?

45

**MS MARTIN:** I - I asked when she brought the stuff in - I said, "Had he got access?" And she said, "No."

5 **MR WHITE:** But I'm asking you about concerns she expressed about him working in the position because of him getting access to material that affected him.

10 **MS MARTIN:** Well, I said she had concerns raised that he was working in the intel. I explained to her that it had all gone to - I didn't approve it. When I came back, he was in there and that CIG would have had to - or she knew the process - would have had to approve the fact that he could do the intelligence course. So - but I'm not denying that she - she didn't come to me with a concern, and that's when she brought the - the documentation.

15 **MR WHITE:** Do you remember being asked some questions about Ms Casey requesting reports from you in the form of an email that was sent from Ms Wilson to you?

20 **MS MARTIN:** Only since reading it from here, yes.

**MR WHITE:** So you remember being asked about that, the email -

**MS MARTIN:** Yes, yes.

25 **MR WHITE:** - that Ms Wilson sent to you about those reports?

**MS MARTIN:** Yes.

30 **MR WHITE:** And I think your evidence was that you gave the reports to Ms Wilson to send to Ms Casey?

35 **MS MARTIN:** I'm sure I would have. I probably - I may not have even been at that Centre that day. You've got to remember I could have been at my other Centre. So -

**MR WHITE:** But I just want to suggest to you that you did not give those reports to Ms Wilson to send to Ms Casey and that you might be mistaken about that.

40 **MS MARTIN:** Oh, well, I would have told her to go and get them. If someone needed a report, I would have told her to go and get them. Because I may not have been at the gaol that day.

45 **MR WHITE:** See, what the email indicated is that she had already taken the reports out of the safe that she had placed in there and had sent them to Ms Casey, hadn't she?

**MS MARTIN:** Oh, she may have. As I said, I only remembered it from there.



**MR WHITE:** Well, there were no more reports, I suggest to you, for her to have been able to send to Ms Casey. What do you say about that?

5 **MS MARTIN:** Well, if she - if she sent all the ones that were in there, then that would be the case.

**MR WHITE:** All right. Do you recall that in about July/August 2017 about a reference - and I think you may have given evidence about this, about  
10 a notebook or an exercise book that had been given to Ms Wilson from Witness B?

**MS MARTIN:** I think I said I - I couldn't recall it, but if - if Deb Wilson has said, it - it would have been. I have no reason to (indistinct).  
15

**MR WHITE:** What I want to suggest to you is that Ms Wilson actually showed you that exercise book notebook and discussed that with you. Do you agree with that?

20 **MS MARTIN:** I can't recall.

**MR WHITE:** All right. And is it your understanding that Ms Wilson scanned a copy of that and forwarded that to the Investigation Unit?

25 **MS MARTIN:** I assume she would have, yes. But I - I can't recall, but that would be her normal practice.

**MR WHITE:** And you have no reason to suggest otherwise; is that correct?

30 **MS MARTIN:** Well, that would be her normal practice.

**MR WHITE:** And in November 2017 - and I think you gave evidence about this also - there was a report which was prepared concerning a complaint from Trudy Sheiles and 14 other women who spoke to Ms Wilson. Do you remember that?  
35

**MS MARTIN:** Is that the one about a Witness M?

**MR WHITE:** This is a meeting which took place between Ms Wilson and Ms Sheiles and 14 other inmates where various information was obtained and a report  
40 was prepared. Do you have any memory -

**MS MARTIN:** Is there - is there a report here on that?

**MR WHITE:** I'm not - sorry, Commissioner. I'm not aware of the answer to that  
45 question, but - the answer is no. Do you have any knowledge of that instance?

**MS MARTIN:** No. No - no, I don't.

**MR WHITE:** So you have no memory of Ms Wilson conducting the interview with Ms Sheiles and 14 other inmates where a version was taken from those persons and a report was prepared? You have no memory of that?

5

**MS MARTIN:** I don't. And I think I would if - if you're saying there was 14 inmates there. So - but I don't - I don't have any memory.

**MR WHITE:** All right. And I take it that following that answer, you also have no memory of that report being given to you?

10

**MS MARTIN:** No. No.

**MR WHITE:** And it not being forwarded by Ms Wilson to the Investigation Unit but being handed to you?

15

**MS MARTIN:** No. I - I don't recall that.

**MR WHITE:** You just don't recall that?

20

**MS MARTIN:** No. And - and if a report was done and if it was associated with serious misconduct, I would have got Ms Wilson to send it to the Investigations Branch. But I - I don't recall that.

**MR WHITE:** Thank you, Commissioner.

25

**<EXAMINATION BY MR LATHAM:**

**MR LATHAM:** My name is Latham. I act for Mr Woods. I just wanted to ask some questions about the way you performed your work. As an employee of Corrective Services, you had an obligation to record the work that you did; is that correct?

30

**MS MARTIN:** To record the work I did?

35

**MR LATHAM:** To make written records of the work that you did and the directions you made.

**MS MARTIN:** What, in - in our Governor's diary?

40

**MR LATHAM:** Well, anywhere. For example, in the Governor's diary, did you make records of the work -

**MS MARTIN:** Sometimes I would; sometimes I wouldn't. Depends. I had two diaries, so at Emu Plains and at Dillwynia. Sometimes I would; sometimes I wouldn't, I would just commence duty - admin duties because I'd be so busy during the day.

45

**MR LATHAM:** And there was a Corrective Services filing system, wasn't there?

**MS MARTIN:** There was TRIM.

5

**MR LATHAM:** Yep. And that was the filing system for Corrective Services?

**MS MARTIN:** In those days, I think. I'm not quite sure.

10 **MR LATHAM:** And you had a file on Mr Astill, didn't you?

**MS MARTIN:** No, I had a number of files - well, yes, but I had a number of - that had been there from - from when I was - I'd been away for two years. So that was continued for the two years I was away from the Centre. But there was  
15 a filing cabinet with different officers' files in relation to performance. It may be some type of complaint that they'd made and they wanted me to keep it on record in relation to - I made an example the other day. There was a young officer. She said every time she went to a soccer match, one of the officers from - from work were there, and she felt uncomfortable. And I - and I advised her to go to the  
20 police if she felt that was stalking. She said no, she just wanted me to make a record of it. And if anything else happened, that she would come back and let me know. So it was, you know, something like that. If I had a big - I may have had a complaint from equal employment opportunity. I would file those in there. So - yeah.

25

**MR LATHAM:** And at least one of those files was a manila folder with Astill's name on it, wasn't it?

**MS MARTIN:** It would have been, yes.

30

**MR LATHAM:** And after Mr Woods finished for the month that he filled in for you (indistinct) -

**MS MARTIN:** Yeah.

35

**MR LATHAM:** - he left the report on the mediation in that file, didn't he?

**MS MARTIN:** He may have. I can't recall.

40 **MR LATHAM:** What did you do with that file?

**MS MARTIN:** Well, the file would still be there when I - when I left.

**MR LATHAM:** Did you put it into the official filing system with Corrective  
45 Services?

**MS MARTIN:** I can't recall if I got my assistant - PA to TRIM it. I'm not sure.

**MR LATHAM:** Nothing further, Commissioner.

**MR DEPPELER:** Yes, Commissioner. If I might (indistinct).

5

**COMMISSIONER:** You'll need a microphone.

**<EXAMINATION BY MR DEPPELER:**

10 **MR DEPPELER:** Ms Martin, my name is Deppeler. I appear on behalf of a number of Corrective Services officers, including Ms Jean Dolly. You gave evidence to the Commission in respect of questions asked by Counsel Assisting about an interaction that you had with Ms Cox when she came to you regarding an AVO that she wanted taken out against Astill. Do you recall giving -

15

**MS MARTIN:** I - I recall the evidence in relation to Ms Cox coming to my office hysterical.

20 **MR DEPPELER:** And you indicated in your statement at paragraph 67 that you don't recall which staff member brought Ms Cox to your office. I want to suggest that that was Ms Dolly who brought Ms Cox to your office on that occasion.

**MS MARTIN:** I don't recall, but -

25 **MR DEPPELER:** Well, I want to suggest to you a sequence in respect of that. Ms Dolly entered your office with Ms Cox and informed you that Ms Cox wished to take out an AVO against Astill.

**MS MARTIN:** Mmm.

30

**MR DEPPELER:** And you then said to Ms Cox words to the effect of, "You will not be fucking taking an AVO against one of my best officers." Do you recall saying that?

35 **MS MARTIN:** No.

**MR DEPPELER:** You then, I suggest, said to Ms Dolly, "You're a fucking troublemaker. Take her to the BIU. Get the fuck out of my office." Do you recall saying that?

40

**MS MARTIN:** No.

**MR DEPPELER:** You then, I suggest, once they left your office, radioed to inform Ms Dolly to take Ms Cox to the high needs area instead of the BIU. Do you recall that?

45

**MS MARTIN:** No.

**MR DEPPELER:** You've also given evidence in response to questions asked by Counsel Assisting about referring Ms Dolly to the PSB in relation to the "Poppy" incident. Do you recall that?

5

**MS MARTIN:** Yes, Mr Lloyd showed me that.

**MR DEPPELER:** And you accepted, following a question from Counsel Assisting, that did you not think about contacting the PSB in relation to Mr Astill's conduct?

10

**MS MARTIN:** I said I can't recall if I had or if I hadn't.

**MR DEPPELER:** Well, Ms Martin, if it's the case that you hadn't contacted PSB in relation to Mr Astill, I will put it to you that you informed the PSB about Ms Dolly and not Mr Astill because you were trying to disincentivise Ms Dolly from making any further reports about Mr Astill. Would you agree with that?

15

**MS MARTIN:** No, I don't agree with that.

20

**MR DEPPELER:** Can I ask one last question. Ms Martin, did you feel that there was any pressure on you from the Director or Assistant Commissioner in respect of keeping officer complaints to a minimum?

25

**MS MARTIN:** No. I didn't think there was any pressure.

**MR DEPPELER:** Yes. Thank you, Commissioner. Nothing further.

**COMMISSIONER:** Anybody else? It seems not. Mr Lloyd?

30

**MR LLOYD:** Yes, Commissioner. Commissioner, could I just hand up to you a small bundle of documents. We only got them this morning. It's some emails, some of which Ms Martin received and sent, and I think I should ask some questions about it. These, plainly, aren't questions that arise from anything that has been put to Ms Martin in cross-examination, but -

35

**COMMISSIONER:** Well, you proceed and we'll see what needs to happen with that.

**MR LLOYD:** I was about - the two representatives here most obviously affected are Mr Dean for Mr Shearer and also Mr Horton for Mr Corcoran, and I'll just have a copy distributed to Mr Horton for him to look at in the very short time available. And I'll come to tender them in a moment, but for now could I just have the same bundle handed to Ms Martin.

45

**<EXAMINATION BY MR LLOYD:**

**MR LLOYD:** Now, Ms Martin, I just want to show you something in this bundle. Page numbers in red down the bottom right-hand corner.

**MS MARTIN:** Yes.

5

**MR LLOYD:** Do you see there's an email there, page 2, from Mr Shearer to you, 30 November 2016?

**MS MARTIN:** Yes, page 2. Yep.

10

**MR LLOYD:** Now, if you look at - I'll just take you to some of the things to see if you have any recollection of it. It talks about:

15                   "Thank you for attending a meeting today and taking the time to forward your speaking notes in advance."

Do you see that?

**MS MARTIN:** Yes.

20

**MR LLOYD:** And I'll just take you down, out of sequence, to see if this jogs your memory. Go about three-quarters of the way down the page to a paragraph starting, "When, during the meeting." Do you see that?

25                   **MS MARTIN:** Yes.

**MR LLOYD:** And you'll see some things are said - I'll ask you about the substance of it in a moment, but there's a statement by Mr Shearer about:

30                   "...a disrespectful response to me in front of the other six GMs present."

Do you see that?

**MS MARTIN:** Yes.

35

**MR LLOYD:** Just from what I've shown you so far, do you have any recollection about -

**MS MARTIN:** Yes, I remember this. Yes.

40

**MR LLOYD:** Can you tell us what you remember about the circumstances in which -

**MS MARTIN:** I think this was a -

45

**MR LLOYD:** (Crosstalk).

**MS MARTIN:** Sorry.

**MR LLOYD:** That's all right.

5 **MS MARTIN:** I think this was a Regional Governors' meeting. I'd prepared  
a briefing note in relation to our area, and I'd sent that through. We came into  
it - this was - they were talking about the benchmarking, et cetera. This was  
about - I think it was about a report I'd put in earlier in relation to converting  
10 the - our external area outside of Dillwynia, converting that to, I think, the mothers  
and children's. I think that's what that was about. And he asked me something,  
and I said, "Look, that's already been sent to the Commission. You'll have to ask  
Mr Corcoran for it." and he said that was disrespectful.

15 **MR LLOYD:** And in terms of the meeting of Regional Governors, the reference  
to six, that matches in number the Correctional Centres for which Mr Shearer had  
oversight at that time?

**MS MARTIN:** Page 6, is that?

20 **MR LLOYD:** No, no, no. The reference to six GMs present.

**MS MARTIN:** Oh, yes. Yes, that sounds -

25 **MR LLOYD:** Do you remember - and so this is a meeting of Mr Shearer and the  
Governors at the Centres over which you had oversight; is that right?

**MS MARTIN:** That's correct.

30 **MR LLOYD:** And without going to all the detail, obviously at that meeting  
a number of issues were discussed, one of which is your proposal about the  
conversion of part of Dillwynia for the mothers and children section?

**MS MARTIN:** That's correct. I think that's what that was about.

35 **MR LLOYD:** And at any event, the email from Mr Shearer raises, obviously  
enough, some concerns that he had about the way you behaved at the meeting, if  
you look at, for example, paragraphs 2 and 3; agree?

40 **MS MARTIN:** This was the type of thing I'd get all the time. Before I left that  
meeting, when everyone was gone, he called me back in, and he said to me  
that - he commented about the comment that I'd made, "Ask the Commissioner for  
it because he has a copy." And he said that I - he went on to say that it was  
a privilege to be a Governor, I didn't deserve that privilege and - he said a number  
of other things, and - and I left.

45

**MR LLOYD:** So there's a meeting - this is in person, the -

**MS MARTIN:** Yes, it was - everyone had gone from this meeting, and I was the last one out. He called me back into the conference room, and he had a discussion with me.

5 **MR LLOYD:** And one of the things at that discussion you've told us about where he was -

**MS MARTIN:** Yes, yes.

10 **MR LLOYD:** - criticising your behaviour, in a sense?

**MS MARTIN:** Yes. And I think another thing was - it was about the benchmarking, and a couple of other - the Governors had mentioned it. But if I mentioned it, it was obviously an issue. So -

15

**MR LLOYD:** But what I really want to ask you about here is, if you remember - it's a few days ago now - that on Monday, the first day of your evidence, I asked you some questions about the intelligence report that came to be sent in relation to Witness C and the letter that had been written by an inmate alleging that she was having a sexual relationship or an intimate relationship with Astill. Do you remember that?

20

**MS MARTIN:** Yes.

25 **MR LLOYD:** And you gave a number of answers about the knowledge you had about the allegations contained in that letter. Do you remember that?

**MS MARTIN:** Yes.

30 **MR LLOYD:** And that you caused that intelligence report to be sent out describing that allegation?

**MS MARTIN:** Yes.

35 **MR LLOYD:** And that it was important for that allegation to be investigated by the Investigations Branch?

**MS MARTIN:** Yes.

40 **MR LLOYD:** And I think you agreed with me, in effect, that at least on the allegations in the letter, it was extremely serious?

**MS MARTIN:** Yes.

45 **MR LLOYD:** The date - I'll just remind you - that that document bears, in terms of the date on which the intelligence report was sent out, was 9 November 2016.



**MS MARTIN:** Yes.

**MR LLOYD:** This meeting, both between Mr Shearer and the other managers and you and the private meeting between you and Mr Shearer which followed, is  
5 obviously -

**MS MARTIN:** Yes.

**MR LLOYD:** - around about 19 days later?  
10

**MS MARTIN:** Yes.

**MR LLOYD:** My question is this: Do you have a recollection when you were speaking to Mr Shearer, either with the other Governors present or privately, of  
15 raising with him the issues in that report?

**MS MARTIN:** No, I - I mustn't have.

**MR LLOYD:** When you say you mustn't have, the Commissioner asked you  
20 about what evidence you were actually giving when you say "mustn't have". May I first ask: Do you have a recollection one way or the other about whether you raised this?

**MS MARTIN:** No, I don't.  
25

**MR LLOYD:** When you say you mustn't have, I noticed you were looking down at the page in front of you.

**MS MARTIN:** Yes.  
30

**MR LLOYD:** That's right, isn't it? You were looking at that?

**MS MARTIN:** Yes. Yes.

**MR LLOYD:** When you say you mustn't have, is that based upon you looking at the words here, and because they don't record any reference to it, you're  
35 concluding that you mustn't have raised it?

**MS MARTIN:** That's correct.  
40

**MR LLOYD:** Sitting here today, you don't remember one way or the other?

**MS MARTIN:** No, I don't.

**MR LLOYD:** Thinking about the situation as it was, this coming a little less than  
45 three weeks after that intelligence report had been sent and you were in a private

meeting with Mr Shearer, what do you think, in terms of your usual practice, you would have been likely to do in terms of raising that complaint about Astill?

5 **MS MARTIN:** Our one-on-one interaction was very upsetting for me.

**MR LLOYD:** And is it fair - tell me if I've got it right - that you, in terms of being upset, were obviously particularly interested in your project that had been the subject of the speaking notes?

10 **MS MARTIN:** No, I - I just think the way he was talking to me and - yeah, it would have upset me.

**MR LLOYD:** And in terms of that interaction, might that suggest to you in terms of your own practice that you wouldn't have been in the mindset to go on and raise things, even ones as important as this? Is that fair?

**MS MARTIN:** I would have been too upset. And I wasn't thinking about it.

20 **MR LLOYD:** I tender that bundle, Commissioner.

**COMMISSIONER:** It will become Exhibit 41.

**<EXHIBIT 41 TENDERED AND MARKED**

25 **MR LLOYD:** Close that up now.

**MS MARTIN:** Okay.

30 **MR LLOYD:** Could I ask you about a separate question which arose from some of the questions Mr Dean asked you. In particular, do you remember you gave evidence to the Commissioner earlier this week, and you spoke about it again today, about the telephone conversation which you had with Mr Shearer after the two or three inmates had come to see you in your office?

35 **MS MARTIN:** Yes.

**MR LLOYD:** And it's paragraphs 74 and 75 of your statement to the Commission, if you need to go back. That's at Tab 59A in that Volume.

40 **MS MARTIN:** Sorry, what section was that?

**MR LLOYD:** It's - if you've got Tab 59A, go, please, to paragraph 74.

45 **MS MARTIN:** Yes.

**MR LLOYD:** Re-read 74 and re-read 75. Now, I just want to try and get the best evidence that you can give about the sequence of events about this phone conversation. Do you understand?

5 **MS MARTIN:** Yes.

**MR LLOYD:** Paragraph 74 comes after you describing an occasion when two or three inmates came to see you in your office.

10 **MS MARTIN:** Correct.

**MR LLOYD:** I asked you earlier this week - I thought in the end you agreed with me that what you're referring to there is the occasion that Witnesses R and V came to see you where the other officers - Paddison, Holman and Westlake - were present?

15 **MS MARTIN:** Yes. Yes.

**MR LLOYD:** And so in terms of sequence - don't worry about the dates, but just the order in which things happened - that meeting happened and then, after that meeting, you telephoned Mr Shearer?

20 **MS MARTIN:** Yes.

**MR LLOYD:** In paragraph 75, you say that in the telephone call with Mr Shearer, you say:

"I don't know what to do about this man. We have put in reports in on him, but nothing is happening. I need something done."

30

Do you see that?

**MS MARTIN:** Yeah. Words to that effect, yes.

35 **MR LLOYD:** Now, Ms Martin, on a number of occasions when I've asked you about things - don't take this as a criticism, but you have not remembered. Do you remember on a number of occasions you have not had a recollection of particular events?

40 **MS MARTIN:** And - and that's not deliberate. I - I genuinely don't.

**MR LLOYD:** Don't misunderstand my questions. Just remember there's a number of things you don't have a recollection at all.

45 **MS MARTIN:** That's true.

**MR LLOYD:** Here, you are telling us in paragraph 75 that you do have an actual recollection.

**MS MARTIN:** Yeah.

5

**MR LLOYD:** Is that right? You have a genuine recollection?

**MS MARTIN:** I do. And I had a genuine - in the back of my head, it was coming out. I remember a phone call, and I remember it, saying, "I don't know what to do with this guy." I - I remember this phone call.

10

**MR LLOYD:** Can I just explore some things about your memory, then. Do you remember where you were?

**MS MARTIN:** I think that I was at Dillwynia Correctional Centre at - in my office.

15

**MR LLOYD:** Do you remember for how long the conversation went?

**MS MARTIN:** No.

20

**MR LLOYD:** Do you remember saying - you've got here some things you said. Do you remember saying anything else?

**MS MARTIN:** No. I - I can just remember that, bits and pieces.

25

**MR LLOYD:** Do you remember anything that Mr Shearer said?

**MS MARTIN:** I - I recall that he said he would come out.

30

**MR LLOYD:** Do you remember for how long the conversation went?

**MS MARTIN:** No. No.

**MR LLOYD:** The words that you've got, which you say are your best recollection of words to the effect that you said -

35

**MS MARTIN:** Yes.

**MR LLOYD:** You've got:

40

"We have put in reports on him. Nothing is happening."

**MS MARTIN:** Yes.

45

**MR LLOYD:** Are you sure that the words that you used included reference to "reports", as in, more than one?

**MS MARTIN:** I'm sure - I'm sure I said, "We've put reports in. Nothing's happening."

5 **MR LLOYD:** Do you remember describing in the conversation what the content of those reports were, that is, what were the reports about?

**MS MARTIN:** I - I don't recall that.

10 **MR LLOYD:** Do you have an idea based upon your usual practice - you are here dealing with a Director to whom you're immediately reporting?

**MS MARTIN:** It may - it may have been. I wouldn't have gone into detail. I would have just said "inappropriate misconduct" or "serious misconduct",  
15 something like that.

**MR LLOYD:** And just so we can understand that evidence, that's - and, again, don't take it as a criticism from me. You would have said "inappropriate misconduct". No, just listen. Is that you telling us what you think it is likely that  
20 you would have said as opposed to an actual recollection?

**MS MARTIN:** Correct.

**MR LLOYD:** And I took you through documents which included showing you  
25 that by this time, that is, July/August of 2017, there being two intelligence reports sent about Astill. Do you remember the first one was the letter from Witness P -

**MS MARTIN:** That's correct.

30 **MR LLOYD:** - about the fling with the officer?

**MS MARTIN:** That's correct.

**MR LLOYD:** And then the next one was the allegations, which recorded both the  
35 sexual assault of Witness M and the intimidation of the witnesses after that. Do you remember that?

**MS MARTIN:** That's correct.

40 **MR LLOYD:** And would you take it from me that by the time of this telephone conversation, they're the two intelligence reports?

**MS MARTIN:** Yes.

45 **MR LLOYD:** Are they, in your own mind, the reports that you would have at least had in your mind when you said these words?

**MS MARTIN:** More than likely, yes.

**MR LLOYD:** And do you know whether, in the circumstances here, some of which are you speaking to your immediate direct report, the Director for Regional  
5 West or Metro West -

**MS MARTIN:** Yes. Metro West.

**MR LLOYD:** With whom, I think it's fair, you'd had a pretty fractious or difficult  
10 relationship?

**MS MARTIN:** I agree.

**MR LLOYD:** Do you know based upon the way you were aware you were  
15 behaving around this time about whether it's likely or probable that you would have gone into any detail about what was in those two intelligence reports?

**MS MARTIN:** I may - I may have just said what I said before, inappropriate - I may have just said to him, "We've had two reports on him." But  
20 when you say "behaving" and "acting", I would not not report incidents to my superior. I - I reported quite a bit to him.

**MR LLOYD:** Could I ask you this question: Was it a regular thing in your  
25 experience as a Governor up to July/August 2017 for you to contact the Director to whom you reported and have a conversation to the effect, "I have an officer. I don't know what to do with him. Can you come out and talk to him?" Was that -

**MS MARTIN:** That - that wasn't -

**MR LLOYD:** - (crosstalk)?  
30

**MS MARTIN:** No, that wasn't - that's why I remember. It wasn't. But I - I - I did contact him with - you know, I had to report other incidents. If I wasn't on  
35 duty, the officer in charge of the Centre would - would report to him. I would report to him sometimes if I was rung up in the middle of the night. I would text him just to let him know what was going on.

**MR LLOYD:** Can I ask you this question: do you remember any other time in  
40 your experience as a Governor, just start with at Dillwynia, where you had a conversation with the Director to whom you reported like this? That is, "I have an officer. I don't know what to do with it. We're making reports. Can you come and help me?" Did that happen on any other occasion?

**MS MARTIN:** Oh, it may have with other incidents. But, you know, prior to  
45 that - prior to Mr Shearer, there may have been - it was a bit different. I had a better relationship. I would have rung up my Director and asked their advice.

So - yeah. But with him, no, that was the first time I'd actually asked - asked for his help.

**MR LLOYD:** And only time?

5

**MS MARTIN:** I've got a feeling yes.

**MR LLOYD:** One final matter. I think Mr Dean asked you another question, and you gave an answer about the meeting that you told the Commissioner about earlier when I was asking you questions, with then Assistant Commissioner Corcoran. Do you remember -

10

**MS MARTIN:** Yes. Yes.

**MR LLOYD:** And something you said today suggested that there was a discussion at that meeting with Assistant Commissioner Corcoran about why it was that you weren't being moved into an Acting Director position?

15

**MS MARTIN:** No, no. That was actually with Mr Shearer. Yes.

20

**MR LLOYD:** What was said?

**MS MARTIN:** Mr Shearer said that I - it's because I was challenging - I challenged what the Assistant Commissioner asked me to do.

25

**MR LLOYD:** Those are my questions. I'm not sure whether anything arises from the questions (indistinct).

**COMMISSIONER:** We'll find out in a minute. Ms Martin, you say that you said to Mr Shearer that you needed something done.

30

**MS MARTIN:** Yes, Commissioner.

**COMMISSIONER:** What did you want done?

35

**MS MARTIN:** I - I - I suppose anything. Anything.

**COMMISSIONER:** Well, that doesn't help me very much. What did you have in mind - when you said you needed something done, what did you have in mind that could be done?

40

**MS MARTIN:** At the time, probably to have him moved or to see what's happening with all the stuff I'd reported. If he could just help me.

**COMMISSIONER:** Did you want him out of your gaol?

45

**MS MARTIN:** Yes.

**COMMISSIONER:** Why did you want him out of your gaol?

5 **MS MARTIN:** Well, in saying that, I wanted to be able to know if the allegations that were put up - if they were substantiated, well, he needed to be - be sacked. Police action needed to be taken.

**COMMISSIONER:** Right.

10 **MS MARTIN:** I - I just didn't know what to do with him.

**COMMISSIONER:** So you'd reached the point, you say, where the allegations were sufficient to justify sacking him, if they were true?

15 **MS MARTIN:** Oh, if they were true, probably some type of discipline, yes.

**COMMISSIONER:** And had you come to a view - well, a minute ago, you said sacking him. Do you retract that?

20 **MS MARTIN:** Well, it's hard because of what I know now. You know, he should have been arrested and obviously suspended immediately.

**COMMISSIONER:** I'm asking you why it was that you say that you said to Mr Astill, "I need something done," you see?

25 **MS MARTIN:** I said to Mr Shearer I needed something done. I think I was frustrated that I hadn't heard anything.

**COMMISSIONER:** Well, I don't want to go over the same ground. I'm trying to find out what it was you had in mind should be done.

**MS MARTIN:** I - I don't know. I was probably asking for his advice, what should be done.

35 **COMMISSIONER:** Did you have any thoughts of your own as to what should be done at that point in time?

**MS MARTIN:** At that point in time, I felt that he should have been removed from the Centre.

40 **COMMISSIONER:** Removed from the Centre. If that was your view, did you tell anyone that?

**MS MARTIN:** I don't think so.

45



**COMMISSIONER:** You didn't? We'll have the morning adjournment and then, if anyone has any further questions arising from those matters, we can attend to them.

5 <THE HEARING ADJOURNED AT 11.39 AM

<THE HEARING RESUMED AT 11.55 AM

10 **COMMISSIONER:** Yes. Does anyone have any questions arising from that?

**MS GHABRIAL:** I do, Commissioner, if I may,

<EXAMINATION BY MS GHABRIAL:

15 **MS GHABRIAL:** I'll try not to be too long, Ms Martin. When the  
Commissioner was asking you questions about what was going through your mind  
at the time that you spoke with Hamish Shearer and said, "I don't know what to do  
about this man," asking him essentially, "You need to do something," you  
indicated to the Commissioner that at that time you felt that Mr Astill should have  
20 been removed from the Centre. Do you remember giving that evidence?

**MS MARTIN:** Yes.

25 **MS GHABRIAL:** As the Governor of the gaol, and as an experienced  
long-serving employee of Corrective Services New South Wales, you understood  
at that time that you could pick up the phone and call the PSB, didn't you?

**MR TUTE:** Object. Privilege.

30 **COMMISSIONER:** Yes, I require you to answer.

**MS MARTIN:** I understood that the information had gone to his - to the  
Investigations Branch. And I've said, in giving evidence, I can't recall if I did or if  
I didn't communicate with Mr Hovey, asking him where the investigations were at.  
35 It wasn't our usual practice, which I've given in evidence, to be ringing up because  
we could have impeded investigations, et cetera. So I've answered -

40 **MS GHABRIAL:** But by this time of this phone call, would it be fair to say that  
what you were communicating to Mr Shearer using those words that you say you  
used was a frustration at the lack of action or at the inaction in terms of the reports  
that had already been submitted? Was that what you were essentially trying to  
convey?

45 **MS MARTIN:** Yes, I - I felt that I was frustrated and desperate. Yeah.

**MS GHABRIAL:** And so would it be fair to say that your thought processes  
were that, "Well, these reports have gone to the IB, nothing has been done about

them and I feel that he needs to be removed from the gaol"? Would that be a fair thing to say?

**MR TUIITE:** Objection. Privilege.

5

**COMMISSIONER:** Yes, I require an answer.

**MS MARTIN:** I can't recall what my thought process was during that time.

10 **MS GHABRIAL:** And what I'm going to suggest to you is that if you felt at the time that reports had gone to the Investigations Branch and nothing was being done about them, would that be a fair thing to say at that point?

**MS MARTIN:** Well, I hadn't received anything back.

15

**MS GHABRIAL:** So would it be fair to say that not having received any feedback from the Investigations Branch in relation to at least two intelligence reports that had gone to that branch, in light of the evidence that you've given to the Commissioner about the frustration that you felt and the thought in your mind at the time you had that phone call that Mr Astill needed to be removed from the Centre, are you seriously suggesting to the Commissioner that you didn't think to call the PSB?

20

**MR TUIITE:** Objection. Privilege.

25

**COMMISSIONER:** I require an answer.

**MS MARTIN:** I said I can't recall if I did or I didn't. I've said that a number of times.

30

**MS GHABRIAL:** You knew at the time of that phone call with Hamish Shearer that the primary purpose of your role as the Governor was not only to provide leadership and direction to your staff but also in relation to the effective and accountability-based management of all aspects of the Correctional Centre, which included the safety and security of your employees and the inmates. You knew that at the time that you had this phone call, didn't you?

35

**MR TUIITE:** Objection. Privilege.

40

**COMMISSIONER:** I require an answer.

**MS MARTIN:** Did I think that at the time? No, but I knew that was -

45

**MS GHABRIAL:** You knew - you knew that that was the primary purpose of your role.

**MS MARTIN:** I knew that as my job, yes.

**MS GHABRIAL:** And you did absolutely nothing to ask anybody to have Mr Astill removed from the gaol, did you?

5 **MR TUTE:** Objection. Privilege.

**COMMISSIONER:** I require an answer.

**MS MARTIN:** I disagree with that.

10

**MS GHABRIAL:** So as to protect the safety and security of not only the inmates but also your employees as well.

**MR TUTE:** Objection. Privilege.

15

**COMMISSIONER:** I require an answer.

**MS MARTIN:** I disagree with that.

20 **MS GHABRIAL:** Nothing further, Commissioner. Thank you.

**COMMISSIONER:** Anybody else? No. Thank you, Ms Martin. That concludes your evidence. You're excused.

25 **<THE WITNESS WAS RELEASED**

**COMMISSIONER:** Yes, Mr Lloyd.

30 **MR LLOYD:** The next witness is Marilyn Wright, and I call her. While she's coming to the witness box, Commissioner, her statement is behind Tab 90 in a newly created Volume 8A.

**<MARILYN WRIGHT, AFFIRMED**

35 **<EXAMINATION BY MR LLOYD:**

**MR LLOYD:** Could you tell us your name?

**MS WRIGHT:** Marilyn Wright.

40

**MR LLOYD:** And your address is known to the Commission.

**MS WRIGHT:** Yes.

45 **MR LLOYD:** Ms Wright, you made a statement to the Commission, and you did that on 27 October 2023?

**MS WRIGHT:** Yes.

**MR LLOYD:** And in that statement, you were telling the truth?

5 **MS WRIGHT:** Yes, I was.

**MR LLOYD:** I tender the statement.

**COMMISSIONER:** It will become Exhibit 42.

10

**<EXHIBIT 42 TENDERED AND MARKED**

**MR LLOYD:** In that folder in front of you, Ms Wright, will you try and find Tab 90.

15

**MS WRIGHT:** Yes.

**MR LLOYD:** That's the statement that I've just asked you about?

20 **MS WRIGHT:** Yes.

**MR LLOYD:** Can I just ask you some questions. You were in the position - you tell us this in 5 - of Director, Custodial Corrections, Metropolitan Region, between June '13 and August '16?

25

**MS WRIGHT:** Yes, I was. But I was only temporarily appointed from 24 June up until April 2016 when I was permanently put into that position.

**MR LLOYD:** So only permanently in that role between April and August '16?

30

**MS WRIGHT:** Yes.

**MR LLOYD:** Now, can I just ask you: your solicitors have supplied us with some documents - but I'll try and relieve you of the need to look at them - about your retirement date.

35

**MS WRIGHT:** Yes.

**MR LLOYD:** You tell us it was 26 August 2016?

40

**MS WRIGHT:** It was. That's correct.

**MR LLOYD:** And without taxing you with the documents, there are documents which record that date of retirement.

45

**MS WRIGHT:** Yes, there are.

**MR LLOYD:** And you're certain that you were out of that position on that date?

**MS WRIGHT:** Absolutely, yes.

5 **MR LLOYD:** And didn't perform any role acting up temporary or anything to do with this role after that date?

**MS WRIGHT:** No. That's right.

10 **COMMISSIONER:** Ms Wright, I wonder whether you could make sure that your voice is projected into that microphone.

**MS WRIGHT:** Yes.

15 **COMMISSIONER:** It's quite hard to hear you.

**MR LLOYD:** When you were Director, either acting or in the permanent role, one of the Correctional Centres that was under your watch was Dillwynia?

20 **MS WRIGHT:** Yes, it was.

**MR LLOYD:** Were there five others?

25 **MS WRIGHT:** I had the whole of the Metropolitan Region until such time as I left. So I had Long Bay Complex, John Morony Complex, Silverwater Complex, plus Emu Plains.

**MR LLOYD:** And so was it either the Governors or Managers of Security at those Correctional Centres who reported directly to you?

30

**MS WRIGHT:** Yes, the General Managers, yes, the chain of command.

**MR LLOYD:** And did you have regular meetings with those General Managers?

35 **MS WRIGHT:** Yes, I did. We had regular meetings together, and also I visited them separately. So if they wished to bring up things individually, we could talk about those then.

40 **MR LLOYD:** And at least for a time, one of those General Managers was Ms Shari Martin?

**MS WRIGHT:** That's correct.

45 **MR LLOYD:** How would you describe your professional relationship with her?

**MS WRIGHT:** Good. We had a good working relationship. Yes.

**MR LLOYD:** Was it common, in your dealings with her, for you to discuss any issues of misconduct or allegations of misconduct by officers at Dillwynia?

5 **MS WRIGHT:** If it came up, if there was such a situation, we - we probably might have done, yes.

**MR LLOYD:** Do you remember there being situations where you and she discussed any allegations of misconduct by officers?

10 **MS WRIGHT:** Not that I recall, no.

**MR LLOYD:** In terms of your role and you reporting to those more senior than you, who did you report to in the period, whether acting or permanently?

15 **MS WRIGHT:** The Assistant Commissioner of Correctional Operations, Mr Corcoran.

**MR LLOYD:** Was that throughout the whole period?

20 **MS WRIGHT:** Yes.

**MR LLOYD:** How often -

25 **MS WRIGHT:** Sorry. Excuse me. I made a mistake there. To begin with, it was Assistant Commissioner Brian Kelly. And when he left, Mr Corcoran got that position.

**MR LLOYD:** And do you remember when that was?

30 **MS WRIGHT:** I think it would have been sometime in 2014.

**MR LLOYD:** And in terms of you reporting up to Assistant Commissioner - or then Assistant Commissioner Corcoran -

35 **MS WRIGHT:** Yes.

**MR LLOYD:** - how would that be done: In person, in writing, a mixture?

40 **MS WRIGHT:** A mixture. Probably - probably more face to face and by phone.

**MR LLOYD:** Were there regular meetings?

**MS WRIGHT:** With Mr Corcoran? Yes, yes.

45 **MR LLOYD:** How regular?

**MS WRIGHT:** Very regular. I would see him every week.

**MR LLOYD:** And the meetings, were they for the purpose of you giving formal reports to him or were they more informal or something else?

5 **MS WRIGHT:** Quite often they were more informal, just what's happening at the moment. Other times it would be very formal, looking at planning ahead, looking at the - the budgets and resources available. There was a time where it changed. So there was a lot of things we had to get into place.

10 **MR LLOYD:** And you told us you couldn't remember Governors or General Managers giving you reports of officer misconduct when I asked you that a short while ago.

**MS WRIGHT:** Yes, from - from -

15

**MR LLOYD:** That was just from Ms Martin, was it?

**MS WRIGHT:** Just from Ms Martin, yes.

20 **MR LLOYD:** Did you have reports from other General Managers of allegations of officer misconduct?

**MS WRIGHT:** Yes, they would often tell me that they've had to stuff up to Professional Standards in regard to officers' performance, yes.

25

**MR LLOYD:** When you were told by other General Managers of things of that kind, that is, allegations of misconduct that had been put up to Professional Standards, were those kinds of things discussed at your weekly meetings with Assistant Commissioner Corcoran?

30

**MS WRIGHT:** No. Because they'd gone to Professional Standards, they would be dealt with there. And in due course, once the decisions had been made, it would come back down the line, and usually it would be my job to speak to the officer concerned regarding their findings.

35

**MR LLOYD:** So what you're telling us there is that where the reports had gone up to Professional Standards, you let that process address the problem?

**MS WRIGHT:** Yes. That happened to be in a separate -

40

**MR LLOYD:** Rather than there being a reporting regime from you up to the Assistant Commissioner about those matters; correct? Let me ask you a different question. That was the process to deal with complaints of officer misconduct -

45 **MS WRIGHT:** Yes.

**MR LLOYD:** - reporting to Professional Standards?

**MS WRIGHT:** Yes.

5 **MR LLOYD:** And so that is you - that is, any allegations of officer misconduct, wasn't a regular agenda item in your meetings with the Assistant Commissioner?

**MS WRIGHT:** No, not usually. We didn't usually have that many.

10 **MR LLOYD:** And you mentioned often things coming back down from Professional Standards for you to deal with?

**MS WRIGHT:** Yes.

15 **MR LLOYD:** Was that there'd be a result of the disciplinary process?

**MS WRIGHT:** Yes.

**MR LLOYD:** You'd be notified?

20 **MS WRIGHT:** Yes.

**MR LLOYD:** And then if, for example, it's a reprimand or a caution, you'd be tasked with writing the letter to the particular officer?

25 **MS WRIGHT:** It usually came with the letter already for me to - to be -

**MR LLOYD:** A letter drafted -

30 **MS WRIGHT:** Yes.

**MR LLOYD:** - under your name to go out?

**MS WRIGHT:** Yes. Yes.

35 **MR LLOYD:** And, to your knowledge, drafted by someone probably with some legal skills?

**MS WRIGHT:** That's right. Yes.

40 **MR LLOYD:** There's just one factual thing I want to ask you about. You deal with this in paragraph 16 of your statement. Just re-read that to yourself. Perhaps 18, too, Ms Wright.

45 **MS WRIGHT:** Yes. That's right.

**MR LLOYD:** Now, could Ms Wright please be shown Volume 10, Tab 169.



**MS WRIGHT:** Thank you.

**MR LLOYD:** Do you see behind that Tab is a document styled Intelligence Report, IR 16-2783?

5

**MS WRIGHT:** That's correct.

**MR LLOYD:** And you've seen documents of this kind before?

10 **MS WRIGHT:** Yes.

**MR LLOYD:** Now, you see it records an incident date, 19 October 2016?

**MS WRIGHT:** Yes.

15

**MR LLOYD:** And in the middle of the page - the first page, Witness C?

**MS WRIGHT:** Yes, I do.

20 **MR LLOYD:** There's a pseudonym list in that orange envelope. If you just access it and inform yourself of the identity of Witness C.

**MS WRIGHT:** Yes.

25 **MR LLOYD:** Now, I just want to put some things about some details. Go to page 3 of the report, please.

**MS WRIGHT:** Yes.

30 **MR LLOYD:** Do you see under Information, there's a reference to a letter addressed to Witness HH which was intercepted.

**MS WRIGHT:** Yes.

35 **MR LLOYD:** And the content, so described, of the letter, are, you see:

"I hate her fucking guts. She is a dead-set screw-loving dog, bad fucking dog, still up to her same old tricks. She's even having a fling with one of the male officers, the dirty slut."

40

Do you see that?

**MS WRIGHT:** Yes, I do.

45 **MR LLOYD:** And I'll just make it clear, Ms Wright, I'm not suggesting you wrote these words. Do you understand?

**MS WRIGHT:** Yes, I do.

**MR LLOYD:** That is, not the words in the letter or make the record of what was in the letter in this document. Do you understand?

5

**MS WRIGHT:** Yes. Yes.

**MR LLOYD:** And do you see under Summary, over the page, there's another reference to the mail addressed to X inmate, Witness HH, which was intercepted?

10

**MS WRIGHT:** Yes.

**MR LLOYD:** And then go over under the heading CI Analysis on page 5.

15

**MS WRIGHT:** Yes.

**MR LLOYD:** Just take it from me that there's evidence that this - these words under that heading are written by someone within the Investigations Branch.

20

**MS WRIGHT:** Yes.

**MR LLOYD:** But you see underneath that, it would appear from the document that at least some of the information is gathered from a phone conversation with a Pamela Kellett.

25

**MS WRIGHT:** That's right.

**MR LLOYD:** Do you remember Pamela Kellett?

30

**MS WRIGHT:** Yes, I do.

**MR LLOYD:** Now, I want to ask you about some information. And, again, Ms Wright, please understand I'm not suggesting to you that you wrote the information on this page. Do you understand?

35

**MS WRIGHT:** Yes.

**MR LLOYD:** Go down, please, to the second-last paragraph:

40

"Ms Martin took the letter to the relevant Regional Commander, Marilyn Wright, who has since retired. Both Ms Wright and Ms Martin then spoke to Astill, giving him a warning and a caution."

Do you see that?

45

**MS WRIGHT:** Yes, I do.

**MR LLOYD:** Now, you've told us in your statement you don't remember any occasion where you were involved in giving Astill a warning or a caution?

**MS WRIGHT:** That's correct.

5

**MR LLOYD:** And, indeed, I think you say you have no recollection of him at all?

**MS WRIGHT:** No, I don't.

10

**MR LLOYD:** And we hardly need you to tell us this, but it is obvious that you could not have been involved in giving him a warning or a caution about a letter if you take it from me the letter was dated October 2016?

15 **MS WRIGHT:** That's right.

**MR LLOYD:** There is some evidence before this Commission that there had been an earlier complaint that had come to the attention of Ms Martin about Astill's dealings with Witness C. The information that had earlier come to Ms Martin's attention in around February and March of 2016 involved the following things: one, Astill sharing a can of Coke with that particular inmate; two, a suggestion that he had intervened in a highly unusual way in her favour in a dispute arising from a visit -

25 **MS WRIGHT:** Mmm.

**MR LLOYD:** - and that there were concerns, take it from me, within Dillwynia about his conduct in relation to those events.

30 **MS WRIGHT:** Right.

**MR LLOYD:** I'll add this detail so I can ask you the question: there was also some evidence of concerns about him inappropriately entering one of the accommodation wings at night by himself. Now, I'll just start with this: do you have any recollection of ever being told about allegations or complaints about conduct of that kind by any officer?

**MS WRIGHT:** No, not at that time. Are we going back to the beginning of January or February of that year?

40

**MR LLOYD:** Do you remember ever being told of allegations, concerns or complaints of the kind I've just asked you about?

**MS WRIGHT:** No.

45

**MR LLOYD:** And that's in relation to any officer.

**MS WRIGHT:** Yes. Okay.

5 **MR LLOYD:** And I take it, then, you don't have any recollection of being involved in giving a warning and a caution to Wayne Astill about those kinds of things?

**MS WRIGHT:** No. And I - I wouldn't - wouldn't be able to do that. It would have to go up to Professional Standards.

10 **MR LLOYD:** What you're saying by that is if there was information of that kind that I just asked you about - the Coke can, et cetera - that that would, in your usual practice, not be the kind of thing where you would be giving a warning and a caution?

15 **MS WRIGHT:** No.

**MR LLOYD:** It would be a matter which would have to go straight to Professional Standards to be investigated properly?

20 **MS WRIGHT:** It certainly is. And also if - if - if I felt that it was - if it was just the Coke can incident, that it could just be dealt with by counselling, I would still have to check with PSB to make sure there wasn't prior - prior behaviour of that sort.

25 **MR LLOYD:** So what you're saying is if I was to raise with you for your response the possibility that the reference in this paragraph about you being involved in giving Astill a warning and a caution was, in fact, a reference to a warning and a caution about the Coke can incident and these other things, as opposed to the letter, you're telling us that that - you would reject that possibility?

30

**MS WRIGHT:** Yes, I do.

**MR LLOYD:** Those are my questions.

35 **COMMISSIONER:** So at the end of the day, you say you never engaged with Mr Astill at all; is that right?

**MS WRIGHT:** Yes. I - I do say that, Commissioner.

40 **COMMISSIONER:** Now, I want to ask you some other questions. You had responsibility for multiple gaols?

**MS WRIGHT:** I did, yes.

45 **COMMISSIONER:** We've had a considerable amount of evidence about the way Dillwynia was functioning and also of considerable problems in the way it was

functioning under Ms Martin's governance. I don't know whether you've heard some of that evidence?

**MS WRIGHT:** Yes, I have heard some of that evidence. Yes.

5

**COMMISSIONER:** Now, were you aware of problems in the governance of the gaol when you were carrying out your responsibilities in relation to it?

**MS WRIGHT:** No. I would often go up there and speak one on one with Ms Martin. We would tour the - the gaol to see what was going on. I'd monitor reports coming through each day. There - there wasn't that much coming through from Dillwynia. I didn't receive any kind of complaints or grievances coming from staff to me. So -

**COMMISSIONER:** That seems to be one of the problems, that there was a great fear induced in that gaol about reporting, both by officers and inmates -

**MS WRIGHT:** Yes.

**COMMISSIONER:** - reporting problems. That seems to have been one of the problems.

**MS WRIGHT:** Now - now showing up, yes.

**COMMISSIONER:** Sorry?

**MS WRIGHT:** Now we're going through this process, yes, shows up that it was.

**COMMISSIONER:** It does. Which leads me to ask, I'm sorry, but why - given your management role, why could it be that you didn't know there were problems?

**MS WRIGHT:** I think for the lack of reporting that was going through. I wasn't aware - I know - I know Ms Martin said she put in intel reports, but I was not aware of that.

35

**COMMISSIONER:** If the conclusion be that there were problems and you didn't know about them, that suggests a failure in the management of Corrective Services, because you should have known, shouldn't you?

**MS WRIGHT:** I would have hoped I would have known.

**COMMISSIONER:** Yes.

**MS WRIGHT:** Given the performance of the other gaols, though, with the same kind of management, we did not have that problem.

45

**COMMISSIONER:** Well, a different manager.

**MS WRIGHT:** Yes, different managers.

5 **COMMISSIONER:** Yes. Now, we've had evidence that when Dillwynia started - and you probably weren't involved when it did start.

**MS WRIGHT:** I was.

10 **COMMISSIONER:** You were?

**MS WRIGHT:** Yes, I -

15 **COMMISSIONER:** It was described to us as being - intended to be a different kind of gaol.

**MS WRIGHT:** It was, yes.

20 **COMMISSIONER:** But it's also been described to us as a management process which worked with kid gloves.

**MS WRIGHT:** Well, I've managed it - Dillwynia when it first opened for the first nearly two years, and the idea was to bring in a more normalised routine within the gaol, that people would have a bit more responsibility for getting themselves up, ready for work, ready to come out, go to programs or go to work, and be a bit more normalised kind of place instead of having to have people telling them what to do all the time.

**COMMISSIONER:** So you say you managed Dillwynia at that stage?

30 **MS WRIGHT:** For - yes, for nearly two years.

**COMMISSIONER:** You were the Governor, were you?

35 **MS WRIGHT:** I was the Governor.

**COMMISSIONER:** So -

**MS WRIGHT:** It was under the new island agreement -

40 **COMMISSIONER:** Yes, I understand.

**MS WRIGHT:** - and so I was called a General Manager. But basically it was the same kind of -

45 **COMMISSIONER:** Well, the management that you introduced has been described to us - you probably know this - as being management with kid gloves.

**MS WRIGHT:** Yes. I wouldn't agree with kid gloves. I would just treat people with respect, and the same with the inmates. And I encouraged all my officers to be role models and model that behaviour that we wanted.

5 **COMMISSIONER:** And later, it seems - and it's been described this way, that management reverted to what has been referred to as "old school".

**MS WRIGHT:** Yes.

10 **COMMISSIONER:** Which - I've never been involved in managing a gaol, but there seems to be a difference between kid gloves and old school.

**MS WRIGHT:** Absolutely.

15 **COMMISSIONER:** Which I assume has to do with imposition of discipline and the way people are being treated?

**MS WRIGHT:** Yes.

20 **COMMISSIONER:** And am I right in thinking that as far as you're concerned, kid gloves, if I can use that expression, was the better way to manage Dillwynia rather than old school?

25 **MS WRIGHT:** That's the way I managed other Centres that I was Governor at as well.

**COMMISSIONER:** Were you aware, when you became regional - responsible for the region, that the gaol had reverted to old school?

30 **MS WRIGHT:** I don't believe all of them did, no.

**COMMISSIONER:** Sorry?

35 **MS WRIGHT:** I don't believe that all of them did, no. It all depends who was the - the Governor there at that time and what their management style was.

**COMMISSIONER:** Well, we've had Leanne O'Toole, who you would know -

40 **MS WRIGHT:** I know Leanne, yes.

**COMMISSIONER:** - describe to us as necessary to impose a greater discipline upon the staff, suggesting that was the way the old school operated. You understand that?

45 **MS WRIGHT:** It's a bit more regimented, follow orders -

**COMMISSIONER:** That's right.

**MS WRIGHT:** - brusque treatment of people. Yes.

5 **COMMISSIONER:** That's right. Were you aware that was happening in this gaol?

10 **MS WRIGHT:** Yes, you've always got a different style of management coming in with different people. A lot of those more senior people have been there right at the beginning. So - but none of them had raised anything with me to say that, you know, it got to a point where it was becoming an issue.

15 **COMMISSIONER:** It's very hard, Ms Wright, for a more junior officer to raise something about their senior officer with a yet again more senior officer, isn't it? That's an unreal expectation. Would you agree?

**MS WRIGHT:** Yes, I would, in most situations. But, however, they did know who I was and how I would manage things.

20 **COMMISSIONER:** Yes. But it seems that - well, if the picture is right, which is one of considerable unhappiness amongst a number of officers, that things had gone wrong. But you weren't aware of them; correct?

**MS WRIGHT:** Well, that seems to be the way, yes.

25 **COMMISSIONER:** And the way things went wrong ultimately was exhibited upon the tragedy that happened in the gaol, because of the inability of people to report those inmates and prison officers. Do you understand that?

30 **MS WRIGHT:** Yes, I do.

**COMMISSIONER:** Now, the gaol should not have been structured or managed so that those people couldn't tell what was going on, should it?

35 **MS WRIGHT:** No. And even though there are other avenues for complaints to be made, it doesn't appear that people took that way.

40 **COMMISSIONER:** Well, at the moment, the evidence points very much to a fear of retribution visited upon either inmates, which was possible, or prison officers themselves.

**MS WRIGHT:** Yes.

45 **COMMISSIONER:** Which suggests that the processes - and I appreciate there's multiple options which you would tell me about, but those processes don't seem to have been able to work.

**MS WRIGHT:** No, I agree. In this situation, it didn't.



**COMMISSIONER:** And we have to find some way of making sure they work in the future.

5 **MS WRIGHT:** Yes.

**COMMISSIONER:** Just a couple of other matters. The evidence suggests that there were multiple intimate and maybe cohabiting relationships amongst prison officers in this prison.

10

**MS WRIGHT:** Yes.

**COMMISSIONER:** Is that common, in your experience, in -

15 **MS WRIGHT:** Yes. Yes, it is.

**COMMISSIONER:** Many institutions would not let that happen because of the difficulties in managing people who are engaged - quite properly, but nevertheless engaged in -

20

**MS WRIGHT:** Yes.

**COMMISSIONER:** - intimate relationships. Has that ever been discussed in your time in prisons, that maybe that was not the right way to allow -

25

**MS WRIGHT:** It used to be the rule of close working relationships, where you try to manage that, but that fell by the wayside.

**COMMISSIONER:** What was that rule?

30

**MS WRIGHT:** It was about people, like, working in a room together. If they were a married couple or a relative of somebody else, how that could be a conflict of interest in some cases. I had to - I tried to deal with that myself at one time, at one of the gaols I went to, because it was quite apparent that there was - could be a conflict of interest within that working relationship. It can be (indistinct) issue, but we did come to agreements about how we could manage it better. It was for their own sakes as well.

35

**COMMISSIONER:** Well, the best way to manage it would be to have couples separated and placed in different gaols, wouldn't it?

40

**MS WRIGHT:** That would be ideal, but that is not the case.

**COMMISSIONER:** Well, I appreciate it's not - I appreciate that, but maybe it should be the case.

45

**MS WRIGHT:** Yes.

**COMMISSIONER:** The second issue that's emerged - I think it was described as "tenure". The evidence that I have so far suggests that some people - some prison officers stay in the same gaol for a very long period of time -

5

**MS WRIGHT:** Yes.

**COMMISSIONER:** - and probably in pretty much the same role, which may lead to behavioural problems -

10

**MS WRIGHT:** It (indistinct) -

**COMMISSIONER:** - and difficulties of management. Now, many would say that there's a number of years, however you define it, that probably is the ideal, and after that someone should be transferred to a different location. Do you have a view about that?

15

**MS WRIGHT:** I did. I've always encouraged rotation within the - the gaols, where I could, to get people to move around. It's very difficult sometimes to get people to move. I would like to see it be that people only stayed so long in a gaol and moved around. And, in fact, when I'm sort of coaching or mentoring people, I always suggest they don't stay any longer than three years in any one particular place. But you do, you become complacent (crosstalk).

20

**COMMISSIONER:** Yes. Yes. Well, it's good for the institution and its management, but it's also good for the officer, isn't it, to be faced with a different location, different challenges and so on?

25

**MS WRIGHT:** Exactly.

30

**COMMISSIONER:** Yes. I get the impression that you've thought about these things, but maybe your thoughts haven't always been accepted; is that right?

**MS WRIGHT:** Yes. I just try and do what I could do within my - my - within the gaol that I was managing or within the region that I was managing and try and encourage people to move.

35

**COMMISSIONER:** And did you discuss these issues with those above you?

**MS WRIGHT:** Not formally, no, I haven't. We did bring in rotation into the gaols across the board so that people moved around inside the gaols, but that didn't always help you that much (crosstalk) -

40

**COMMISSIONER:** That doesn't necessarily solve the problem, no.

45

**MS WRIGHT:** - the same things there.

**COMMISSIONER:** Well, if you didn't -

**MR SHEARER:** (Crosstalk) didn't help with gaol harmony as well -

5 **COMMISSIONER:** Yes.

**MR SHEARER:** - this process of people (crosstalk).

10 **COMMISSIONER:** Yes. Well, if you didn't get the chance to talk to your superiors, they may be listening now.

**MS WRIGHT:** I think it would be a good idea. I think it would be a good idea to encourage people -

15 **COMMISSIONER:** Yes.

**MR SHEARER:** - to move around and not be in the same gaol for donkey's years.

20 **COMMISSIONER:** Yes. Yes. Yes, Mr Lloyd.

**MR LLOYD:** Just on those - the questions the Commissioner asked about ideally moving people around, could you just give us the benefit of your experience about how that works in regional Correctional Centres where -

25 **MS WRIGHT:** Exactly. That - that would be the - the more difficult areas to do. Within the Metro area, it's very easy. Because even on the same complex, you'd have about three different gaols they could move on.

30 **MR LLOYD:** And we've got a prime example with Emu Plains and Dillwynia.

**MS WRIGHT:** Yes.

35 **MR LLOYD:** But for - so in the metropolitan area and particularly where there are Correctional Centres very, very close, outside of the city area, that it would be easy to do what you're suggesting?

**MS WRIGHT:** Yes.

40 **MR LLOYD:** For the regional Centres where there might be hundreds of kilometres -

**MS WRIGHT:** Yes.

45 **MR LLOYD:** - to travel to the next Centre, if that idea was to be implemented, that would mean that at least some of the officers would be required to relocate.

**MS WRIGHT:** Exactly. It would be very costly. And I think with (indistinct) within a town, in the regions there, it would be very difficult to carry that out.

5 **MR LLOYD:** Probably not the only job that exists that might require relocation from time to time, though?

**MS WRIGHT:** Oh, no. That's right.

10 **MR LLOYD:** I need to correct something -

**COMMISSIONER:** Well, there'd be many jobs where relocation would be required. The easiest one to think about is police. School teachers is another one.

15 **MS WRIGHT:** Yes.

**COMMISSIONER:** There's lots of professions where people are required to move.

20 **MR LLOYD:** Particularly in public office.

**COMMISSIONER:** Yes.

25 **MR LLOYD:** Sorry, that wasn't a question. I need to - I've been informed of something I need to correct in your statement. In paragraph 21, there's a question that's recorded -

**MS WRIGHT:** Oh, yes.

30 **MR LLOYD:** - which I've been informed should - or at least your answer, it is in response to - not to that question but, rather, to this one:

"Do you remember being made aware of the sexual assault investigation in 2016 which was reported to PSC by way of email?"

35 Is that what you were responding to there, that question?

**MS WRIGHT:** Yes.

40 **MR LLOYD:** And that's how we should read your answer?

**MS WRIGHT:** Yes.

**MR LLOYD:** Those are the questions.

45 **COMMISSIONER:** Mr Sheller.

**MR SHELLER:** Thank you.

**<EXAMINATION BY MR SHELLER:**

5 **MR SHELLER:** Ms Wright, my name is James Sheller. I'm one of the legal representatives for Corrective Services.

**MS WRIGHT:** Yes.

10 **MR SHELLER:** I think you heard some evidence earlier today from Ms Martin concerning what she could do - or what she could have done in circumstances where she had taken a view that something needed to be done concerning Mr Astill.

15 **MS WRIGHT:** Yes.

**MR SHELLER:** From your time both as a Regional Commander and then going back to Governor, are you able to inform us as to what the processes - or what was available to a person as a Governor in order to manage a person such as Mr Astill given what was known about him by the Governor?

20 **MS WRIGHT:** Yes. You couldn't just go and move somebody from the gaol.

**MR SHELLER:** Right.

25 **MS WRIGHT:** You would have to - in this situation, those reports should have gone up to Professional Standards -

**MR SHELLER:** Yes.

30 **MR SHEARER:** - why you thought that was necessary -

**MR SHELLER:** Right.

35 **MS WRIGHT:** - what the - what the issue was about that person. And then they would then look at that and decide. And in this situation, they would probably think, "Well, there's questions to be answered there." They might suspend that person until an investigation had been made.

40 **MR SHELLER:** So, from your experience, was it open to the Governor, for example, if there was an urgent situation, to make a phone call to someone within Professional Standards?

45 **MS WRIGHT:** Yes, they could - yes. Or you could go through your - your Director, discuss it with them and then go through the Professional Standards.

**MR SHELLER:** And if the type of things that you've seen from reading documents, including the document behind Tab 169, were fairly relayed to the

Director and/or Professional Standards, is it the case that inevitably some action would have been taken -

**MS WRIGHT:** Yes.

5

**MR SELLER:** - concerning the officer?

**MR SHEARER:** I - I would have thought so, yes.

10 **MR SELLER:** Now, just by reference to the intelligence report - if you've still got the - Volume 10 in front of you.

**MS WRIGHT:** Yes.

15 **MR SELLER:** And it was Tab 169. I take it you've had an opportunity to read some of the material of this intelligence report.

**MS WRIGHT:** Yes.

20 **MR SELLER:** If you could just accept from me - I'm sorry, I withdraw that. Are you aware from your dealings with Professional Standards that there's a separate body called the Investigative Branch?

**MS WRIGHT:** Yes.

25

**MR SELLER:** And that that operates before Professional Standards start acting on a -

**MS WRIGHT:** Yes.

30

**MR SELLER:** - particular matter? There's been some evidence that this particular intelligence report, the one behind 169 where you're mistakenly referred to - although it made it to the Investigative Branch and was worked on by that branch, it never made it to Professional Standards. On that basis, could you - what  
35 would your response be to that fact, that this type of material never made it to Professional Standards?

**MS WRIGHT:** I would be very surprised.

40 **MR SELLER:** Would you consider that to be a failure in the system?

**MS WRIGHT:** Yes, absolutely.

**MR SELLER:** Yes, those are my questions. Thank you, Ms Wright.

45

**COMMISSIONER:** Does anyone else have any questions? It seems not. Nothing, Mr Lloyd?

**MR LLOYD:** No.

5 **COMMISSIONER:** Yes. Thank you, Ms Wright. That concludes your evidence. You're excused.

**MS WRIGHT:** Thank you.

10 **<THE WITNESS WAS RELEASED**

**MR LLOYD:** I call Hamish Shearer. Behind Volume 8A, Tab 97A, Commissioner.

15 **COMMISSIONER:** Mr Sheller, there's one question I don't think we have the answer to in relation to Ms Wright. Do we know whether she has any tertiary qualifications?

**MR SHELLER:** I'll find out.

20 **COMMISSIONER:** Could you find out for us -

**MR SHELLER:** Yes. Yes.

25 **COMMISSIONER:** - what professional training or qualifications she might have?

**MR SHELLER:** Yes.

30 **COMMISSIONER:** Thank you.

**<HAMISH ANDREW SHEARER, SWORN**

**<EXAMINATION BY MR LLOYD:**

35 **MR LLOYD:** Could you tell us your name?

**MR SHEARER:** Hamish Andrew Shearer.

40 **MR LLOYD:** And your address is known to the Commission. Mr Shearer, in that volume that's to your left, behind Tab 97A -

**MR SHEARER:** Behind what Tab?

45 **MR LLOYD:** 97A. I fear that that's not the right Volume. Sorry, we'll get it. So 97A - just go back to the start of the - just pardon me, Commissioner. I'll approach.

**COMMISSIONER:** Yes.

**MR LLOYD:** That's a statement that you made. And is it right that you signed that today or yesterday?

5

**MR SHEARER:** Today.

**MR LLOYD:** And what you say in that statement is the truth?

10 **MR SHEARER:** Yes, it is.

**MR LLOYD:** I tender that statement, Commissioner.

**COMMISSIONER:** It will become Exhibit 43.

15

**<EXHIBIT 43 TENDERED AND MARKED**

**MR LLOYD:** Mr Shearer, can you just look at your statement. I'll read you some paragraphs and then ask some questions. You started your time with Corrective Services New South Wales end of July 2016?

20

**MR SHEARER:** Yes.

**MR LLOYD:** And the position that you started in was Director, Custodial Operations, Metro West?

25

**MR SHEARER:** That's correct.

**MR LLOYD:** And you took over from Marilyn Wright?

30

**MR SHEARER:** Yes, I did.

**MR LLOYD:** You tell us in paragraph 4, and I think elsewhere, about a verbal handover that you had from Ms Wright?

35

**MR SHEARER:** Yes.

**MR LLOYD:** And what you inherited in that role was the oversight, at that time, of six Correctional Centres?

40

**MR SHEARER:** Yes.

**MR LLOYD:** Later expanding to 10?

45 **MR SHEARER:** That's correct.

**MR LLOYD:** That was in 2018?



**MR SHEARER:** Yes.

5 **MR LLOYD:** And in paragraph 6, in terms of your professional history after 2018, you were seconded as Director, Custodial Operations, South Region?

**MR SHEARER:** Yes, I was.

10 **MR LLOYD:** A similar role but in a different part of New South Wales?

**MR SHEARER:** Yes.

15 **MR LLOYD:** And then end of 2020, permanently transferred from Metro and Central West Region to Director, Custodial Operation, North Region?

**MR SHEARER:** Yes.

**MR LLOYD:** And, again, similar role, different region?

20 **MR SHEARER:** Yes.

**MR LLOYD:** And that's your current position?

25 **MR SHEARER:** Yes, it is.

**MR LLOYD:** If you then just skip forward a bit to 12 - that's your background prior to first being employed by Corrective Services - you had not worked in Corrective Services?

30 **MR SHEARER:** No, I hadn't.

**MR LLOYD:** You had 23 years' service as an officer in the New Zealand Army?

35 **MR SHEARER:** Yes.

**MR LLOYD:** Could you tell us a bit about what kind of training in particular in management and what your roles were in the New Zealand Army?

40 **MR SHEARER:** I - I graduated from Duntroon in Australia, went back to New Zealand, served roles through the ranks from second lieutenant through to lieutenant colonel before I retired. Those roles were operational roles and administrative roles. I served predominantly in - initially in the infantry and then I served as - as an SAS officer. And I had a number of operational deployments over that period. As far as education goes, I completed a master of management, 45 defence studies, when I was at Staff College in Canberra. And in one of my staff roles in New Zealand, I did a postgraduate diploma in human resource management.

**MR LLOYD:** After your service with the New Zealand Army finished, you came to be employed at the Australian Federal Police at the Australian Institute of Police Management?

5

**MR SHEARER:** That's correct.

**MR LLOYD:** Can you tell us a bit about that role and what kinds of things you did there?

10

**MR SHEARER:** So the role I went into was called Director, International Programs. So I was one of the facilitators. I was responsible for writing and facilitating leadership and management programs and engaging with number of stakeholders, often in the engagement about some of those programs. My - my value work was predominantly in the Pacific initially and also support to Australian programs and then that expanded when we picked up some additional AusAID sponsored programs through Micronesia, East Timor and Iraq.

15

**MR LLOYD:** You tell us that you then moved over, after eight years in that position you've just described, to take up the position of Director in July of 2016?

20

**MR SHEARER:** That's correct.

**MR LLOYD:** And that when you took up that position, you did not have any experience with Corrective Services?

25

**MR SHEARER:** No, I didn't.

**MR LLOYD:** Did you feel that - let me put it bluntly - when you started that you were out of your depth in dealing with the nuts and bolts of Corrective Services?

30

**MR SHEARER:** Yes.

**MR LLOYD:** You tell us that you had, when you started at Corrective Services, a one-week Corrections leadership program?

35

**MR SHEARER:** That's right.

**MR LLOYD:** But no other formal, technical or operational training?

40

**MR SHEARER:** Not at that time.

**MR LLOYD:** There have been a number of correctional officers who have sat in that chair during this Inquiry who have been asked a question by me to this effect: When you were doing your job, did you feel that you were really just required to make it up for yourself? Could you tell the Commissioner whether that applies to you, at least when you started?

45

**MR SHEARER:** It's fair to say, because a lot of it was new and a lot of the practices and policies were new, and obviously I relied on the advice of others to give me a steering of how to manage certain matters.

5

**MR LLOYD:** Did you feel like you were effectively left to make up - make it up for yourself as you went along, the way to perform your role?

**MR SHEARER:** I felt I was learning by osmosis.

10

**MR LLOYD:** Dealing with correctional officers, there must have been, in those six gaols initially, hundreds of correctional officers at those Correctional Centres?

**MR SHEARER:** Yeah. And at first - at that time, I think maybe six or seven hundred officers across that region.

15

**MR LLOYD:** Did you come to notice any differences of the culture of corrections officers compared to the culture - cultures that you'd come from in the Army and Federal Police?

20

**MR SHEARER:** Yeah, it was huge. It was a - I was - I was shocked at the sorts of stuff that was going on. I - I think I mentioned to my wife on a couple of occasions in that first sort of year that, "This isn't the job for me, because these guys are a bunch of pricks." And the interesting thing is we've got great officers and poor culture.

25

**MR LLOYD:** When you say - I don't want to intrude on the conversations with your wife, but the guys you were referring to, were they officers in the employ of the Centre or management or both?

30

**MR SHEARER:** Probably both, but most of those that I had a direct relationship with.

**MR LLOYD:** Now, the ones you had a direct relationship with - again, I'll just confine at the moment to the period when you started - that included the six either Governors or General Managers or most senior person at the six Correctional Centres?

35

**MR SHEARER:** Yes, it did.

40

**MR LLOYD:** And so you had direct relationships between - or with those six people?

**MR SHEARER:** Yes, I did.

45

**MR LLOYD:** They were effectively directly reporting to you?

**MR SHEARER:** They were.

**MR LLOYD:** In terms of moving up and your direct reports up, you reported upwards to people?

5

**MR SHEARER:** My direct report was Kevin Corcoran, the Assistant Commissioner.

**MR LLOYD:** There's a number of Assistant Commissioners?

10

**MR SHEARER:** Yes, there are.

**MR LLOYD:** But of those Assistant Commissioners, it was then Assistant Commissioner Corcoran to whom you reported?

15

**MR SHEARER:** Yes, it was.

**MR LLOYD:** How was your relationship with him?

**MR SHEARER:** It was challenging. I think over the years, my relationship with him has become a - one of professional respect. But it's had its highs and lows.

**MR LLOYD:** Were there problems in that relationship from your perspective that affected your ability to do your job?

25

**MR SHEARER:** Right from the get-go, I recognised I just didn't have any staff to run a region. That - that was challenging, to just try and get immediate advice and to, I guess, understand what I was required to process.

**MR LLOYD:** I think you tell us in paragraph 15, just to remind you, about at least an incident related to what you just said. You tell us that you were struggling when you commenced to do all that was required. Do you see that?

**MR SHEARER:** Yes.

35

**MR LLOYD:** And in mid-July, you raised concerns about lack of staff to then Assistant Commissioner Corcoran?

**MR SHEARER:** Yeah, that was the second time - that was the second incident around staffing support.

40

**MR LLOYD:** Okay. Well, let's go back to the first time that you raised with then Assistant Commissioner Corcoran the issues that you had about the staffing levels.

**MR SHEARER:** And, look, it was - it was that - I got a - at the time, it was a really busy period. It wasn't just managing the region, but it was managing this really traumatic benchmarking, and it required a lot of executive support across

the state. So you weren't just supporting your region; you were often supporting staff and representing the - the leadership of the organisation as we transitioned across other regions. So, you know, often you would fly to other Centres as well.

5 I was able to secure an officer - one of my Governors - she was very supportive, and she gave me one of her assistant superintendents to - to work alongside. It was - it was just a seconded role from the gaol, and he was - he was really my sounding board for matters. And because of the weight of emails that I just weren't getting to, I was really just focusing on trying to do the action - action  
10 emails that I needed to do something with. The others - there was a lot that went by the wayside. I gave him access to my email to - to respectfully identify any - anything that I should be aware of that I had missed. Somehow that message was communicated back to Kevin Corcoran, and he told me to cease that action.

15 **MR LLOYD:** Did he say why?

**MR SHEARER:** He spoke about the sensitivity of the emails that I would be getting and that it wasn't appropriate that one of my - the staff that were working with me had access to those.

20 **MR LLOYD:** Could I just help us with this. Before that seconded superintendent came over to assist you for the period of time you said, how was your role staffed? Well, first, where did you physically sit?

25 **MR SHEARER:** So my office was in a - it may have been - it may have in Henry Deane initially, that's the headquarters where we were, the sort of desk arrangement with the directors. At some point, it - it was established in a house - a cottage on site at Mary Wade Correctional Centre, which is - which is the old Juniperina gaol.

30 **MR LLOYD:** And in terms of your staff, when you first started, did you have any?

35 **MR SHEARER:** Not directly, but there were HR staff available to me at Henry Deane. And also I think it was a shared EA responsibility as well.

**MR LLOYD:** So you had some admin people there who you could access?

40 **MR SHEARER:** I could, yes.

**MR LLOYD:** But no person in that kind of professional role to assist you doing the professional, if I can describe it that way, parts of your job?

45 **MR SHEARER:** Look, there were specialists in the headquarters that I could have taken matters to, but I didn't have anyone working directly with me. No, it was more about (indistinct) relationship.

**MR LLOYD:** In terms of the training specific to Corrective Services that you received, you tell us that, if you go back to paragraph 13, in late '22, you did a 10-week called training course?

5 **MR SHEARER:** Yes, I do.

**MR LLOYD:** That qualified you to be a correctional officer?

**MR SHEARER:** Yes.

10

**MR LLOYD:** You say, later in the paragraph, when you were employed as a director, you were informed you had an opportunity to undertake that training course, but you weren't provided with that opportunity until late 2022?

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

**MR LLOYD:** So, really, what happened you were told you would be able to do the course back in July of '16?

20 **MR SHEARER:** When I joined and I met Kevin Corcoran, he discussed with me some opportunities that would be available for me at the Academy, but it was really trying to, I guess, find time to do those. I spoke with the Academy around some essential packages, but I just didn't have the ability to be able to do a course as well as do my day-to-day functions.

25

**MR LLOYD:** A gap of about six-and-a-half years?

**MR SHEARER:** Yes.

30 **MR LLOYD:** Can I just ask this: That course to be trained as a correctional officer, is that the basic entry level course to qualify, in effect?

**MR SHEARER:** It is for correctional officers, yes.

35 **MR LLOYD:** You told us about the big change in culture between the two institutions you had served prior to here and the Corrections culture?

**MR SHEARER:** Mmm.

40 **MR LLOYD:** You've got to give a verbal answer.

**MR SHEARER:** Sorry, yes.

45 **MR LLOYD:** Do you think it might have helped you to have done that training a bit before, say, six-and-a-half years in various roles in order to manage the culture of the organisation you now have this position?

**MR SHEARER:** It would have helped especially on the technical side of the role. That course goes through a range of training; for instance, what is use of force, how you do searching, some of those sort of very basic officer roles, the expectations in the role, some of the legislation which is particular to them. So  
5 that stuff I found illuminating, it was great. It was -

**COMMISSIONER:** Mr Shearer, I'm a little bit surprised. I would have thought that sort of training was essential if you are going to manage other people in the  
10 gaol system. Isn't that right?

**MR SHEARER:** Yes, Commissioner. It's - it's fair to say there was probably a lottery out on how long I'd survive as a direct entry recruit.

**COMMISSIONER:** Well, be it a lottery or not, would it be right to think that  
15 someone coming in, as you did, at your level, and it may be the case with you, was employed because of their experience and skills elsewhere, but you needed the basics at least about the system in which you were required to operate as a middle manager?

**MR SHEARER:** Commissioner, I think that's - there's - there's been some  
20 changes recently for some lateral recruits, but at that time there wasn't.

**COMMISSIONER:** Well, I'm pleased to hear there has been some changes  
25 recently, but how long were you in service before you were given training in the basics?

**MR SHEARER:** It's seven years now, so it was - I completed it last November,  
so probably six-and-a-half years.

**MR LLOYD:** Just so that - I think I introduced six and a half, I don't want you to  
30 be accused of overstatement. It's end of July, I think, until November, so six and a third.

**MR SHEARER:** Yeah.  
35

**MR LLOYD:** Just out of interest, Mr Shearer, I'm just going through the various  
positions. For that approximately six-and-a-third years or so, you'd been in this  
position of director for Metro West, South Region and North Region in that  
40 period.

**MR SHEARER:** And - and - and Metro and Central West, which is the 10-gaol  
region, yes.

**MR LLOYD:** Have you got an idea, just give us an approximation, of how many  
45 Correctional Centres, if you combine all the ones that you had some oversight of in those various positions?

**MR SHEARER:** I remember talking at the Academy and talking a figure of about - I probably had about 30 at some stage, out of the 36.

5 **MR LLOYD:** Again, I don't want to be unfair to you but it must be, over that period, thousands of correctional officers manning the 30 or so Centres that you had oversight over?

**MR SHEARER:** That's correct.

10 **MR LLOYD:** All at a time before you had been given any basic training in the performance of the duties of a correctional officer?

**MR SHEARER:** Yes.

15 **MR LLOYD:** What do you think about that, just sitting here today?

**MR SHEARER:** I don't think that model has been followed since my recruitment.

20 **MR LLOYD:** Can I ask you to just look at page 9 - paragraph 9 I'm sorry, of your statement. No set expectation about how often you would visit each Correctional Centre. Do you see that?

25 **MR SHEARER:** That's - if I can just add to that. I think there was an expectation to get around them regularly.

**MR LLOYD:** But you say at the last sentence Governors are aware they could contact you at any time via phone or an email if there was an important issue.

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

**MR LLOYD:** And I think one of the problems you've identified in your workload was the volume of emails?

35 **MR SHEARER:** Yes, it was.

**MR LLOYD:** I note the time, Commissioner.

40 **COMMISSIONER:** Yes, we'll take the lunchtime adjournment.

<THE HEARING ADJOURNED AT 12.59 PM

<THE HEARING RESUMED AT 2.01 PM

45 **MR SHELLER:** Commissioner, just in relation to your question concerning the training of Ms Wright, she tells us she got a graduate certificate in training and development - we think it might be from Southern Cross University - in 1994 and



then she obtained a graduate diploma in correctional administration from what's now Charles Sturt University at Bathurst in 2002.

5 **COMMISSIONER:** So she did get some tertiary training -

**MR SELLER:** Yes.

**COMMISSIONER:** - related to management? Yes.

10 **MR SELLER:** Yes.

**COMMISSIONER:** Good. Thank you.

15 **MR SELLER:** Thank you.

**MR LLOYD:** Thank you, Commissioner. Mr Shearer, have you still got before you your statement?

20 **MR SHEARER:** Yes, I do.

**MR LLOYD:** If you just look at paragraph 17, you're telling us there about the handover from Marilyn Wright.

25 **MR SHEARER:** Yes.

**MR LLOYD:** Do you see that? And your notes record that you were told by Ms Wright that Shari Martin can be difficult, uses colourful language, comes across as aggressive. Do you see that?

30 **MR SHEARER:** Yes.

**MR LLOYD:** And had a strained relationship with then Assistant Commissioner Corcoran?

35 **MR SHEARER:** Yes.

**MR LLOYD:** If you then look at 18, you heard comments from other people within Corrective Services about Shari Martin?

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

**MR LLOYD:** And you tell us that they were to the effect that she was difficult to work with?

45 **MR SHEARER:** Yes.

**MR LLOYD:** Can you just tell us something about what you were told?

**MR SHEARER:** I can't recall the exact incidents, but there were a number of officers who I spoke with that, when they heard that Shari was in my region, they indicated she was going to be challenging.

5

**MR LLOYD:** So you knew from a very early time that if what you were being told from these multiple sources was right, you might have a problem on your hands in managing this particular Governor; fair?

10 **MR SHEARER:** Yes.

**MR LLOYD:** And then in 19 you go on to tell us you then had your own direct experiences of the attempts you made to manage or oversee her?

15 **MR SHEARER:** Yes.

**MR LLOYD:** And is it fair to say that they were confirmatory of what you'd been told?

20 **MR SHEARER:** Yes, they were.

**MR LLOYD:** Most challenging Governor, I think you say, you've ever dealt with?

25 **MR SHEARER:** She was.

**MR LLOYD:** And that - I take it that's not just when you were in this position of Director, Metro West; that's throughout the approximately 30 Centres?

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

**MR LLOYD:** Could I just ask you this: In the time when you were managing her in her role at Dillwynia - that's between about July of '16 and when she left on 21 December '18 - did you think she was up to the job?

35

**MR SHEARER:** I had no reason to question her ability as a Governor.

**COMMISSIONER:** That's not quite the answer. You've indicated in your statement - Mr Lloyd just took you to them - that she was the most difficult of your Governors.

40

**MR SHEARER:** Yes, sir.

**COMMISSIONER:** And you identified her as being resistant to engagement, not as open as forthcoming and so on. Now, they're pretty severe criticisms.

45

**MR SHEARER:** Yes, sir.

**COMMISSIONER:** Did that cause you to think, "Is Ms Martin really capable of governing two gaols?"

5 **MR SHEARER:** Yes, I did.

**COMMISSIONER:** It did cause you to question that?

10 **MR SHEARER:** It caused me to question her suitability, yes.

**COMMISSIONER:** Yes. And as a consequence, if you were questioning her suitability, that went, of course, to the effectiveness of the management of the gaols themselves, didn't it?

15 **MR SHEARER:** Commissioner, my - my views were about her interpersonal relationships with me, not her operational ability. I had no - I had no reason to question that.

20 **COMMISSIONER:** Well, you said she wasn't forthcoming; she didn't dial into conferences; didn't attend yearly conferences. They're not the hallmarks of someone who's doing a good job, are they?

**MR SHEARER:** No, they're not, sir.

25 **COMMISSIONER:** And you've heard, no doubt, much of the evidence that's been given to this Inquiry -

**MR SHEARER:** Yes.

30 **COMMISSIONER:** - and you've learnt about the unhappiness in this prison, both between officers and inmates and inmates to officers?

**MR SHEARER:** Yes.

35 **COMMISSIONER:** That all bespeaks poor management, doesn't it?

**MR SHEARER:** It does.

40 **COMMISSIONER:** Hearing what you've heard, do you think you made the right call earlier on in not doubting her capacity to manage the gaol?

**MR SHEARER:** Is that question regarding the performance improvement plan?

45 **COMMISSIONER:** Anything. You've heard, I'm sure, much of the evidence that we've heard about the unhappiness, the problems, the difficulties that people were experiencing in this gaol. The movement from what was called kid gloves to old style. All of those issues bespeak a problem in this gaol.

**MR SHEARER:** Yes, they were. And I agree she wasn't up to the job.

**COMMISSIONER:** When did you come to that view?

5

**MR SHEARER:** Well, in the first period, I was learning the job, so I didn't really have a comparison. I - I knew the culture was quite challenging, and I was considered an outsider. As I gained the confidence of some good officers, I then formed an opinion about those who weren't so good.

10

**COMMISSIONER:** And that would be some years ago now, I assume?

**MR SHEARER:** I started to meet some really good Governors probably in the first 12 months to two years. And then there was a level of trust where I felt that I was getting - I could get some honest answers and get - get some acceptance that I - I wasn't just an outsider; I was one of the team.

15

**COMMISSIONER:** Was that when you came to form judgments about those who weren't doing so well?

20

**MR SHEARER:** Yeah. And I've continued to form those judgments, sir.

**MR LLOYD:** Do we take it from that, Mr Shearer, that there was a time that you came to suspect that you were not getting honest answers from her about what was happening within Dillwynia and Emu Plains?

25

**MR SHEARER:** No, I never thought she wasn't giving me honest answers.

**MR LLOYD:** You just mentioned you came to the view that there were some Governors who you could rely upon for honest answers. Do you remember saying that?

30

**MR SHEARER:** Yes.

**MR LLOYD:** Did you by that mean that there were some Governors who you could not rely upon on to give you honest answers?

35

**MR SHEARER:** I didn't know the validity of other Governors' views, but I had formed a view that a couple of the Governors, particularly the ones I was working closely with, could be relied upon for support and advice.

40

**MR LLOYD:** Is a better way of putting the question I asked you about honest answers and Ms Martin that you didn't know one way or the other whether you were getting honest answers?

45

**MR SHEARER:** That's true.

**MR LLOYD:** Could I just ask you this: Did you hear, or do you otherwise know, about the various bits of evidence that I asked Ms Martin to comment on coming from officers and inmates within Dillwynia about the culture in the place?

5 **MR SHEARER:** No.

**MR LLOYD:** Did you have a view about the culture and, in particular, the management of Dillwynia? Just take the period July '16 to the end of '18.

10 **MR SHEARER:** I thought the culture was led very strongly from Shari Martin. Sorry, that's not your question.

**MR LLOYD:** Well, it might give us a clue as to what you mean. Do you take it - you told us some things that you thought about her interpersonal skills. Do  
15 you remember that?

**MR SHEARER:** Yes, I do.

**MR LLOYD:** Do we take it from that that you thought the culture being led by  
20 her - that the culture was not a good one?

**MR SHEARER:** It was more strained in that gaol than the other ones, yes.

**MR LLOYD:** So without taking you to each of the bits of evidence that I put to  
25 her, in effect, multiple officers have come to this Commission and said there was a distrust of management, a fear of management and generally a belief that management would not treat complaints about misconduct by other officers seriously.

30 **MR SHEARER:** I didn't draw that conclusion.

**MR LLOYD:** Did you hear - or were you aware of any belief by an officer or officers of the kinds of thing I've just put to you?

35 **MR SHEARER:** I had received two complaints from officers, one anonymous and one - one of the Principals that I engaged with, about Shari Martin.

**COMMISSIONER:** Mr Shearer, you said that the culture was more strained than  
40 in other gaols. What did you mean when you said that?

**MR SHEARER:** I felt engagement with the other Governors was more open and engaged.

**COMMISSIONER:** You see, you've described reports given to you of Ms  
45 Martin as using colourful language, comes across aggressive, strained relationships with Mr Corcoran, difficult, disrespectful. Now, that's not someone leading good culture, is it?

**MR SHEARER:** No, sir.

5 **COMMISSIONER:** Well, it's a bit hard to just put the word "strained" on it, isn't it?

**MR SHEARER:** My relationship was strained. I had no questions -

10 **COMMISSIONER:** No, we're talking about the culture in the prison itself, not your relationship. You were talking about the culture in the prison.

15 **MR SHEARER:** I wasn't aware of those - sorry, I'll reframe that. Each Centre has its own culture led by the executive teams. That one was a little bit different and more command and control oriented than the other gaols.

**COMMISSIONER:** Now, tell me this: I'm not quite sure what your job description involved, but you're the manager up the line, as it were, from your Governors; is that right?

20 **MR SHEARER:** Yes, I was.

**COMMISSIONER:** And I'm not a management expert, but I assume that means that you are required to ensure that those managing underneath you are doing the job properly; is that right?

25 **MR SHEARER:** That's right.

**COMMISSIONER:** And of course, in a gaol, one of the critical things to get right is the culture, isn't it?

30 **MR SHEARER:** Yes, it is.

**COMMISSIONER:** So it was incumbent upon you, was it not, to find out just what the culture was inside the gaols that you were responsible for?

35 **MR SHEARER:** Yes, would have been.

**COMMISSIONER:** And if you identified problems, it was your job to work out how to fix them, wasn't it?

40 **MR SHEARER:** Yes.

**COMMISSIONER:** Well, again, you've heard the evidence as to the state this gaol got itself into. And you tell me you didn't know; is that right?

45 **MR SHEARER:** I introduced a number of initiatives to change the culture in the management group -

**COMMISSIONER:** No, no. Come back to this gaol. We now know of some of the problems. The evidence is clear, right? I understood you to tell me that you didn't know of those problems. Is that right or wrong?

5

**MR SHEARER:** There were only two issues raised with me directly from Centre staff, sir. I had no - I had no understanding of - I had no understanding of the culture that existed there day to day. When I visited the Centres, that wasn't evident to me. And when I spoke to staff and inmates, that wasn't evident to me.

10

**COMMISSIONER:** No, but we just discussed the fact that it was your job to ensure that you did understand the culture, wasn't it?

**MR SHEARER:** Yes.

15

**COMMISSIONER:** And you didn't understand the culture?

**MR SHEARER:** I didn't.

**COMMISSIONER:** It made it very hard for you to perform satisfactorily in your management role, didn't it?

**MR SHEARER:** Yes.

**MR LLOYD:** Were there any discussions between you and those above you in the hierarchy about any of the problems at Dillwynia?

**MR SHEARER:** Not that I can recall.

**MR LLOYD:** How frequently did you have any meetings with Assistant Commissioner Corcoran?

**MR SHEARER:** I had regular meetings. I had a one-on-one every fortnight, and I had a number of meetings - steering committees, executive committees - which were probably each week for the first year or two.

35

**MR LLOYD:** Can you remember Dillwynia and Shari Martin's performance being discussed at any of those meetings?

**MR SHEARER:** I can't recall Dillwynia's performance being raised, but I do recall that it was common knowledge that Shari was difficult to work with.

40

**MR LLOYD:** And when you say "common knowledge", discussed at the meetings?

45

**MR SHEARER:** That had been discussed at meetings I had attended, yes.

**MR LLOYD:** And discussed outside the meetings with the then Assistant Commissioner?

**MR SHEARER:** Not that I'm aware of.

5

**MR LLOYD:** In terms of - you said in answer to a question I asked you about five minutes ago that Shari Martin, operationally, was adequate. Do you remember giving evidence to that effect?

10 **MR SHEARER:** I thought so.

**MR LLOYD:** Or your belief.

**MR SHEARER:** Yes.

15

**MR LLOYD:** There are a couple of things - if you need to remind yourself, 33 and 34 of your statement - I'm sorry, I've directed you to the wrong paragraphs. Just pardon me. Paragraph 20 of your statement. The issues that you had with Shari came to a head in February/March '17?

20

**MR SHEARER:** Yes.

**MR LLOYD:** And that followed two attempted escapes within days of each other?

25

**MR SHEARER:** That's right.

**MR LLOYD:** And you considered that both attempts involved poor staff response at the Centre that she managed?

30

**MR SHEARER:** That's what the reports indicated.

**MR LLOYD:** And one of them was a significant operational incident. Do you see that?

35

**MR SHEARER:** Yes.

**MR LLOYD:** And was the other also an operational incident?

40 **MR SHEARER:** Sorry, which other one?

**MR LLOYD:** Well, you say "two attempted escapes", and you said both attempts involved poor staff response.

45 **MR SHEARER:** Yes.



**MR LLOYD:** The two things you're talking about there, were they both operational problems?

5 **MR SHEARER:** Yes, they were.

**MR LLOYD:** Is it right to say, then, by at least February/March '17, you had concerns about her performance operationally?

10 **MR SHEARER:** Yes.

**MR LLOYD:** And so concerns by this time both in terms of her performance in the operation of the Centre and also some concerns you've told us about in terms of the culture?

15 **MR SHEARER:** Yes.

**MR LLOYD:** Did you think by February/March '17 that she wasn't capable of discharging her obligations?

20 **MR SHEARER:** I felt she needed improvement.

**MR LLOYD:** Coming back to my question: did you think that without that improvement, that is, the state of play without that improvement, meant that she was not capable of discharging her functions?

25 **MR SHEARER:** Yes.

**MR LLOYD:** Was that something that was discussed with those above you?

30 **MR SHEARER:** I informed Kevin Corcoran that I was going to raise a performance improvement plan for her.

**MR LLOYD:** And was that agreed?

35 **MR SHEARER:** I'm sorry?

**MR LLOYD:** Was that agreed, that that would be done?

40 **MR SHEARER:** It wasn't an agreement. I just informed him that that's what I intended to do.

**MR LLOYD:** Did that come into place, that performance plan?

45 **MR SHEARER:** No, it didn't.

**MR LLOYD:** Why?

**MR SHEARER:** I reflected on the - the incident, which is the - which is the one preceding this performance improvement plan. I thought about my role as a Director to grow the management team and not to adopt a punitive approach. I recognised that she was in the twilight of her career, and this was a - a bad mark on her - a summary of her career, if you like. So I chose to withdraw that performance improvement plan. I had a - I had a draft one that wasn't sent.

**COMMISSIONER:** What was the incident that prompted you to do the draft?

10 **MR SHEARER:** There was an incident at Dillwynia where inmates had gained access to a roof.

**COMMISSIONER:** So it's the same incident -

15 **MR SHEARER:** No. The two in December were escapes. One was where an inmate had fled through the kitchen area, had jumped into a sterile zone and then run back in again, but it wasn't identified by the - the folks manning the monitor room - the cameras. The second incident, there were four inmates that were identified late at night close to the admin building, and it appeared that the - there was no sign of forced exit from the room. Their - their accommodation - it appeared that the accommodation hadn't been locked properly at the end of the day. I'd like to talk about the - I'm sorry.

**MR LLOYD:** Go on.

25 **MR SHEARER:** So - and the incident was inmates had gained access to the roof. I was notified by Kevin Corcoran, "What's going on at Dillwynia?" I said, "I don't think anything," and I rang Shari, and she was midway through managing an incident. This was reported so I could brief those above me and I could determine whether additional resources or media support was needed.

35 When I contacted Shari, she was very flippant on the phone, saying something to the effect that, "I've got time. I don't have to tell you now." The issue was that the matter had already been reported through the Special Operations Group that had responded to the incident. They were on the complex at Windsor, but they were called as a consequence of the incident. So it was reported back through their chain of command to the Commissioner before Custodial Operations was aware.

40 **MR LLOYD:** An example here that you've just told the Commissioner about of her not passing on to you in a timely way critical information?

**MR SHEARER:** Yes.

45 **MR LLOYD:** And I think you've told us elsewhere in your statement that because of the nature of your role involving, at that time, that is, early '17, six Correctional Centres, you couldn't be on the ground in each of them, obviously, every day?

**MR SHEARER:** That's correct.

5 **MR LLOYD:** And to do your job properly, you needed Governors who would honestly and in a timely way tell you about important things?

**MR SHEARER:** Yes.

10 **MR LLOYD:** And was this an example which led you to think that that was not likely to be happening at Dillwynia?

**MR SHEARER:** Yes.

15 **MR LLOYD:** And I think where you got to before was you formed the view around this time that the incident involving the inmates on the roof, that without improvement, she was not capable of discharging her job - her duties?

20 **MR SHEARER:** I felt the logical step was to develop her in the role, not to remove her from the role.

**MR LLOYD:** And I thought you told me that you thought at that time, without improvement, she was not capable of discharging her duties. Do you remember that?

25 **MR SHEARER:** Yes.

**MR LLOYD:** You determined, for that very reason, to have her on an improvement plan?

30 **MR SHEARER:** Yes.

**MR LLOYD:** But then changed that decision so that she was not on an improvement plan?

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

40 **MR LLOYD:** So that unless it was some sort of self-improvement by her, she would be left in the position in circumstances where she was not capable of discharging her duties?

**MR SHEARER:** Yes.

**MR LLOYD:** That does not sound like effective management. Do you agree?

45 **MR SHEARER:** No.

**MR LLOYD:** Why not? As in, are you agreeing with me that that is not effective management?

5 **MR SHEARER:** At the time, I thought the alternative solution to work with her and grow her was a better outcome than a punitive approach.

**MR LLOYD:** Didn't end up being a better outcome for the women at Dillwynia, though, did it?

10 **MR SHEARER:** No, it didn't.

**MR LLOYD:** In terms of your knowledge of the system for Governors or the other people within gaols to report out of the gaol allegations of misconduct by officers, you tell us some things in your statement about your knowledge. Can I  
15 just run through this with you. You had an understanding of an intelligence report?

**MR SHEARER:** Sorry -

20 **MR LLOYD:** You had an understanding of a document called an intelligence report?

**MR SHEARER:** Yes, vaguely.

25 **MR LLOYD:** Did anyone ever tell you about how the system worked when it came to intelligence reports being sent out?

**MR SHEARER:** Not formally, no.

30 **MR LLOYD:** When you started, what did you understand to be the system by which a person within a gaol who received a complaint of misconduct by an officer would report that matter to the people who needed to know outside the gaol?

35 **MR SHEARER:** I understood that those reports were to be forwarded to Professional Standards Branch.

**MR LLOYD:** Did you know about the Investigations Branch when you started?

40 **MR SHEARER:** I knew of Mick Hovey and Investigations Branch responsibility generically. I thought they were under the same work area as Professional Standards Branch initially.

45 **MR LLOYD:** Did anyone ever tell you how they operated together, as in, the Investigations Branch and the Professional Standards Branch?

**MR SHEARER:** No, but I - I did learn that Mick Hovey had often - was often involved with officer complaints.

5 **MR LLOYD:** What about the Corrections Intelligence Group? Were you told how that operated and where it fitted in?

**MR SHEARER:** Not really, no.

10 **MR LLOYD:** What about the SIU, the police seconded to the Investigations Branch? Did you know anything about what they did? CSIU.

**MR SHEARER:** That was Mick Hovey's team, as I understood it.

15 **MR LLOYD:** Did you understand the distinction between the police seconded to him and his regular staff?

**MR SHEARER:** No.

20 **MR LLOYD:** It sounds like those things would have been important things for you to have been told in terms of knowing about the system outside the gaol for dealing with complaints about officers. Do you agree?

**MR SHEARER:** Yes.

25 **MR LLOYD:** When did you find out about those things, as in, that system and how these various agencies or branches related? If you have been told, that is.

30 **MR SHEARER:** I received a letter from Peter Robinson, who was the Director of PSB, in late - I think it was 2019, and an email where he said, "Everything should come through us at PSB, and we will - we will - we will triage it out to Investigations Branch." That was probably the first time that I understood the - that arrangement.

35 **MR LLOYD:** The first time that anyone told you in terms of the place for a Governor or manager in one of your Correctional Centres - the first place to go in reporting outside the gaol an allegation of misconduct, is this the first time that anyone told you about that?

40 **MR SHEARER:** I knew about reporting to PSB, and I didn't really understand the reporting structures through the intelligence briefs, no.

**MR LLOYD:** Was the management of disciplinary or conduct complaints by the branches or agencies outside the gaol - was that something discussed between you and your superiors?

45

**MR SHEARER:** Sorry, can you -

**MR LLOYD:** The management of disciplinary or conduct complaints by the agencies outside the gaol, the Professional Standards or Investigations, was that something you discussed in your meetings with those more senior than you?

5 **MR SHEARER:** I think the arrangements with PSB were commonly discussed, not - not so much the Investigations Branch or the (indistinct) with Mick Hovey.

**MR LLOYD:** You tell us in paragraph 32 about being aware of five reports of misconduct or criminal offending at Dillwynia. Do you see that?

10

**MR SHEARER:** Yes.

**MR LLOYD:** And I'll come back and ask you some things about your knowledge of reports at Dillwynia, but I first want to ask you about what you knew about other Correctional Centres. In 39, you tell us four officers were moved out of Emu Plains for misconduct.

15

**MR SHEARER:** Yes.

20 **MR LLOYD:** Do you see that? And in 40, you name some of those. Do you see that?

**MR SHEARER:** Yes. Yes.

25 **MR LLOYD:** Two of those allegations were about sexual misconduct. Do you see that?

**MR SHEARER:** Yes.

30 **MR LLOYD:** And I think your position is that of the five reports from Dillwynia, you did not understand those to be about sexual misconduct; is that right?

35 **MR SHEARER:** There were - I believe there were two that involved sexual misconduct from Dillwynia.

**MR LLOYD:** One of them was about M. Have a look at 34.

**MR SHEARER:** Yes, that's correct.

40

**MR LLOYD:** And the other one was the complaint - I think you deal with in 38 of your statement - that was made -

**MR SHEARER:** Yes.

45

**MR LLOYD:** - by an inmate, Trudy Sheiles. And so just dealing with the period before Trudy Sheiles, what you're telling us about is between when you started in

July '16 and, say, October '18, you became aware of one allegation involving sexual misconduct at Dillwynia and two at Emu Plains?

**MR SHEARER:** Yes.

5

**MR LLOYD:** Do we take it from that that hearing about allegations of inappropriate sexual relationships or sexual misconduct by officers towards inmates was uncommon? It was irregular that you heard about that kind of thing?

10 **MR SHEARER:** I think in that period they were. I won't say they weren't uncommon.

**MR LLOYD:** Of the other four Correctional Centres, can you remember - again, same period, July '16 to October '18, can you remember approximately how many allegations of sexual misconduct by officers there were?

15

**MR SHEARER:** Two of those other Centres were Silverwater Women's and Mary Wade, both female Centres. I was aware of another incident at Mary Wade with a - a male officer being referred to Professional Standards Branch for an intimate friendship with an inmate.

20

**MR LLOYD:** Is that the most that you can recall from those other four?

**MR SHEARER:** At this point, yes.

25

**MR LLOYD:** And you agree that any allegation of sexual misconduct or inappropriate sexual relationships between an officer and an inmate is extremely serious?

30 **MR SHEARER:** Yes, it was.

**MR LLOYD:** And required investigation?

**MR SHEARER:** Yes.

35

**MR LLOYD:** You may or may not have known the specifics of who or which branch was doing the investigation, but someone broadly within the rubric of Professional Standards would have to investigate?

40 **MR SHEARER:** Yes.

**COMMISSIONER:** Tell me this: Was it considered by officers at your level to be a crime if a prison officer was in sexual relations with an inmate?

45 **MR SHEARER:** Yes, sir.

**MR LLOYD:** May I ask you whether you have any recollection of Shari Martin or anyone else telling you sometime around November 2016 about allegations of an inappropriate sexual relationship between Astill and Inmate C? You'll just have to look at that pseudonym list to make sense of my question.

5

**MR SHEARER:** No.

**MR LLOYD:** And you're sure about that? No one mentioned that to you?

10 **MR SHEARER:** No, they didn't.

**MR LLOYD:** That is, nothing about a letter containing allegations to that effect by one inmate?

15 **MR SHEARER:** No.

**MR LLOYD:** And nothing about incidents involving sharing Coke cans or other preferential treatment?

20 **MR SHEARER:** No.

**MR LLOYD:** Could Mr Shearer please be given access to Volume 14. Just turn, please, first to Tab 450.

25 **MR SHEARER:** Yes.

**MR LLOYD:** You see it's an email from a Mr Greaves to a number of people, and you'll see you're one of the recipients?

30 **MR SHEARER:** Yes.

**MR LLOYD:** And:

35 "Dear executive members, find attached the self-explanatory memorandum regarding allegations of criminal activity at Dillwynia."

Do you see that?

40 **MR SHEARER:** Yes. Yes.

**MR LLOYD:** And:

45 "The CSNSW Investigations Branch has found no evidence to support most of the allegations. No viable remaining lines of enquiry to pursue. The case will now be closed."

**MR SHEARER:** Yes.



**MR LLOYD:** And if you need to just go to the memorandum itself, it's at 451. Do you remember reading this memorandum sometime around January of 2017?

5 **MR SHEARER:** Yes, I do.

**MR LLOYD:** And do you remember what you thought about the matters that were recorded in it, being allegations which had been investigated of sexual activity between officers and inmates at Dillwynia?

10

**MR SHEARER:** Yes.

**MR LLOYD:** And you see I've taken you to the parts where the conclusion was reached that there are no - no evidence to support most of the allegations, no remaining lines of inquiry to pursue and the case will now be closed?

15

**MR SHEARER:** Yes.

**MR LLOYD:** Did you form the view that there was no obligation on you to take the matter any further because that's - had been the outcome of the investigation?

20

**MR SHEARER:** I had formed the view that the advice was the matter was closed and had been investigated.

**MR LLOYD:** And it wouldn't be a matter for you to second-guess that conclusion by the Professional Standards manager, Mr Greaves; true?

25

**MR SHEARER:** That's right.

**MR LLOYD:** You can close that one up. In your Commission statement, I've already drawn your attention to your paragraph 34 where you talk about the second incident you remember occurring on 22 July '17 and the inmate was moved to Wellington.

30

**MR SHEARER:** Yes.

**MR LLOYD:** Do you see that?

**MR SHEARER:** Yes.

40

**MR LLOYD:** Vague on the details, but do remember the allegations were of a sexual nature?

**MR SHEARER:** Yes, I do.

45

**MR LLOYD:** You say the officer was not named, but the inmate was Witness M?

**MR SHEARER:** Yes.

5 **MR LLOYD:** And you remember being advised that an IR - that's an intelligence report - had been prepared and sent to Investigation Branch?

**MR SHEARER:** Yes.

10 **MR LLOYD:** And then you make reference to an email being sent by Michael Paddison to the Governor of Wellington?

**MR SHEARER:** Yes.

15 **MR LLOYD:** Can I just ask you - and just in fairness, in this instance, the officer was not named and you didn't become aware of who it was?

**MR SHEARER:** That's correct.

20 **MR LLOYD:** Can I ask you what the source of your recollection of these things is. Taking the first thing, 22 July 2017, and the inmate being moved to Wellington. When did you find out about this incident the first time?

**MR SHEARER:** I received an email from Shari Martin.

25 **MR LLOYD:** What did the email tell you?

30 **MR SHEARER:** The email said something to the effect is, "We are gathering information. Will be sent to IR." And the inmate and some reference to other actions at Dillwynia I can't recall.

**MR LLOYD:** Is that the email that you're talking about in the second part of the paragraph? The email was sent by Michael Paddison?

35 **MR SHEARER:** Yes.

**MR LLOYD:** I think you were forwarded a copy of that email.

**MR SHEARER:** It was an email trail from Shari's email.

40 **MR LLOYD:** Could I just ask that Mr Shearer be provided with Volume 8. If you, in that volume, Mr Shearer, can locate Tab 84 and then find in that Tab annexure D.

45 **MR SHEARER:** Yes.

**MR LLOYD:** Do you see, if you go to the second page in Annexure D, there's an email from Michael Paddison to Craig Smith, copied to Shari Martin?

**MR SHEARER:** Starting, "Sir"?

**MR LLOYD:** Yes.

5

**MR SHEARER:** Yes.

**MR LLOYD:** Do you see that email - take it from me, Craig - I withdraw that. Did you know Craig Smith was the Governor of Wellington?

10

**MR SHEARER:** I believe I did at the time, yes.

**MR LLOYD:** This email is describing Mr Paddison, saying he's currently undertaking an investigation at Dillwynia in relation to inappropriate interactions between the custodial staff member and Witness M. Do you see that?

15

**MR SHEARER:** Yes.

**MR LLOYD:** And then it describes some of the alleged conduct in the next paragraph?

20

**MR SHEARER:** Yes.

**MR LLOYD:** And here, on the part of Witness M, bringing the situation to light in fear of reprisals. Do you see that?

25

**MR SHEARER:** Yes.

**MR LLOYD:** And a request to arrange an interview with Witness M to ascertain the validity of the allegations. Do you see that?

30

**MR SHEARER:** Yes.

**MR LLOYD:** Is that, on your best recollection, the email that you were shown by Shari Martin?

35

**MR SHEARER:** Yes, it was.

**MR LLOYD:** And so whenever it was that you saw the contents of that email, you, at the point of seeing those words in the email, you knew that there were allegations being made by an inmate about an unnamed officer that, if true, would have amounted to a criminal act by the officer?

40

**MR SHEARER:** Yes.

45

**MR LLOYD:** If you go, then, to Annexure F behind that same Tab.

**MR SHEARER:** Yes.

**MR LLOYD:** You will see in the second half of the page, an email from you, Thursday 27 July, to Michael Paddison?

5

**MR SHEARER:** Yes.

**MR LLOYD:** "Can you call me?"

10 **MR SHEARER:** Yes.

**MR LLOYD:** Now, do you remember what caused you to send that email?

**MR SHEARER:** Yes, I do.

15

**MR LLOYD:** What was it?

20 **MR SHEARER:** He had just won a role in Mary Wade Correctional Centre. It was in an important time of when they were establishing a routine and a structure and the security arrangements. I wanted him to be part of that working group that was forming in those next few weeks.

**MR LLOYD:** Now, the 22 July email I just asked you about, do you recall the date that you saw that?

25

**MR SHEARER:** (Indistinct).

**MR LLOYD:** That one is at Annexure D.

30 **MR SHEARER:** D. I believe the email trail was the same day that Shari sent me the email. I can't recall, but to the best of my memory.

35 **MR LLOYD:** Having received an email - the email from Mr Paddison to Mr Smith sometime on or around 22 July and the email of 27 July, it's likely, isn't it, Mr Shearer, that the allegations recorded in the 22 July email would have been still in your mind? You wouldn't have forgotten about them within five days, I take it?

**MR SHEARER:** No.

40

**MR LLOYD:** Those allegations being very serious -

**MR SHEARER:** Yes.

45 **MR LLOYD:** - in a gaol that you had oversight?

**MR SHEARER:** Yes.

**MR LLOYD:** I think you told us you can remember speaking to Mr Paddison?

5 **MR SHEARER:** Yeah. I don't think it was immediately after that. I think I had a matter in the IRC. I caught up with him maybe within about a week or two of that time.

**MR LLOYD:** And do you remember the content of your conversation with him, whenever it was you had it?  
10

**MR SHEARER:** No, I don't. No.

**MR LLOYD:** It would be pretty likely that one of the things discussed was the contents of the 22 July email. Do you agree?  
15

**MR SHEARER:** I can't recall it ever being discussed.

**MR LLOYD:** I should put this to you. Mr Paddison gave evidence to the Commission to the effect that he thought it was more likely than not that he would have talked about this to you in a conversation after this 27 July email. What's your response, in terms of your own view, about the likelihood of that?  
20

**MR SHEARER:** I don't think it occurred.

25 **MR LLOYD:** You don't - you think the conversation occurred, but you don't think you had a discussion with Mr Paddison?

**MR SHEARER:** The conversation wasn't around the Dillwynia matter; the conversation was around the benchmarking at the centre. So, no, I don't recall any discussion around this report from Mr Paddison.  
30

**MR LLOYD:** Do you remember, from the time you read the 22 July email, being curious as to which of the officers at Dillwynia was the subject of the allegation of criminal conduct?  
35

**MR SHEARER:** Yes.

**MR LLOYD:** Pretty likely in the discharge of your role that you would have asked someone for the identity of that person, don't you think?  
40

**MR SHEARER:** I - at the time, I didn't know if the officer had been identified. No, I didn't.

**MR LLOYD:** Isn't the officer being identified - a pretty obvious way to find out whether the officer had been identified was to ask someone. Do you agree?  
45

**MR SHEARER:** Yes.

**MR LLOYD:** You could have asked Mr Paddison or Ms Martin?

**MR SHEARER:** Yes, I could have.

5

**MR LLOYD:** You could have asked to see an intelligence report, to see what it contained?

**MR SHEARER:** Yes, I could have.

10

**MR LLOYD:** And I think you told us - I won't take you back there - that you were informed that an IR had been prepared and sent?

**MR SHEARER:** Yes.

15

**MR LLOYD:** You weren't curious to know which of the officers at Dillwynia was the subject of the allegation, if it was known who (indistinct)?

**MR SHEARER:** I didn't ask.

20

**MR LLOYD:** You should have asked, shouldn't you?

**MR SHEARER:** Yes, I should have.

25

**MR LLOYD:** Could I take you forward, still in that same Tab 84, to F. There's an email from you down the bottom of the first page behind F, 12 September 2017, to a number of people. If you look at the distribution list, were they people responsible in management at each of the Correctional Centres?

30

**MR SHEARER:** Sorry, can I have that reference again?

**MR LLOYD:** Tab F. I'm sorry, Tab K. It's at the bottom of the first page behind that Tab.

35

**MR SHEARER:** Yes, I see the email you're referring to.

**MR LLOYD:** Is the distribution list - are they the people within management of the Centres you had?

40

**MR SHEARER:** Yes, they were.

**MR LLOYD:** And do you remember sending this email?

**MR SHEARER:** Yes, I do.

45

**MR LLOYD:** Do you see:

"The AC..."

That's Assistant Commissioner?

5 **MR SHEARER:** Yes, it is.

**MR LLOYD:**

10 "...and Directors of Custodial Corrections changing our approach with regard to referrals."

**MR SHEARER:** Yes.

**MR LLOYD:**

15 "Direct to PSB for investigation. Decision taken to enable Directors to better manage disciplinary and performance issues..."

Do you see that?

20

**MR SHEARER:** Yes.

**MR LLOYD:**

25 "...to provide greater transparency and not overburden the resources."

Do you see that?

**MR SHEARER:** Yes.

30

**MR LLOYD:** And:

35 "In future, any incidents of disciplinary or performance nature that warrant elevation are in the first instance to be raised with me, and we'll decide whether a performance or disciplinary investigation is most appropriate."

**MR SHEARER:** Yes.

**MR LLOYD:** Why did you send this email?

40

**MR SHEARER:** It was Kevin Corcoran's direction.

**MR LLOYD:** The topic canvassed in this particular email come up in one of the meetings that you described that you had at Dillwynia?

45

**MR SHEARER:** It was not - no, it was a Custodial - I can't remember what the term is now - Custodial Corrections executive meeting. It's the way that Kevin (indistinct) the Directors. That occurred the day before the email.

5 **MR LLOYD:** To your knowledge, did this proposal here for dealing with referrals - did that get rolled out across all of the regions?

**MR SHEARER:** It was a direction from the meeting. It was in the minutes, and that was expected to be endorsed. I recall the meeting minutes referred to it  
10 having already occurred in the north under one of the Directors, and that was the model which was adopted or requested to be adopted across the state.

**MR LLOYD:** Did you understand that this change effected a significant alteration to the way that complaints of misconduct on the part of officers were to  
15 be managed?

**MR SHEARER:** Yes.

**MR LLOYD:** And did you understand there to be any policy written down or  
20 protocol or anything in writing to govern or direct the way the new policy was to work?

**MR SHEARER:** No.

25 **MR LLOYD:** Did you think that odd?

**MR SHEARER:** Yes.

**MR LLOYD:** Did you know whether any attempt was made by anyone to inform  
30 the people managing the Investigations Branch or the Professional Standards Branch of the change?

**MR SHEARER:** No.

35 **MR LLOYD:** It would have been absolutely essential on what you understood to be the reporting system, reporting outside the gaol, for each of the people across those branches to know what the reporting line was for misconduct, wouldn't it?

**MR SHEARER:** Yes.  
40

**MR LLOYD:** And this was effecting a change in the sense that you, or the people in your equivalent position across the regions, would become the first port of call for complaints of the kind identified in the document?

45 **MR SHEARER:** Yes.



**MR LLOYD:** Did you think that you had the skills to be able to fulfil the role of the first port of call for complaints of that kind in the Centres you had oversight of?

5 **MR SHEARER:** My position was always going to be that nothing would change in my region and that referrals would still go through PSB.

**MR LLOYD:** That would be contrary to what you were saying in the email?

10 **MR SHEARER:** I - I believe the email was - I believe the direction from the AC was that it needed to go to the Director but not that it needed to be managed as a - as a local matter.

15 **MR LLOYD:** Sorry, Mr Shearer, I'm just looking at the words, the last paragraph:

"In future, any incidents of 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 investigation is most appropriate."

20 Do you see that?

**MR SHEARER:** Yes.

25 **MR LLOYD:** But you've told us that those words came as a direction from then Assistant Commissioner Corcoran?

**MR SHEARER:** Yes.

30 **MR LLOYD:** This is language that you understood to be a direction to those people in management, that if there was a disciplinary or performance issue with any officer that required elevation, that it would first be raised with you?

**MR SHEARER:** Yes.

35 **MR LLOYD:** Not with the Professional Standards Council or Professional Standards Branch or the Investigations Branch or the CSIU?

**MR SHEARER:** Yes.

40 **MR LLOYD:** But you?

**MR SHEARER:** Correct.

45 **MR LLOYD:** Did you have the resources or knowledge or training or skills to be able to manage that role of being the first port of call for referrals of that kind?

**MR SHEARER:** No.

**MR LLOYD:** Was that discussed at the meeting, whether you had any training, experience or knowledge to be able to deal with that kind of burden?

5

**MR SHEARER:** Not that I recall.

**MR LLOYD:** There's a reference in the first paragraph about overburdening resources of the PSB. Do you see that?

10

**MR SHEARER:** Yes.

**MR LLOYD:** Was it discussed at the meetings that the numbers of complaints about disciplinary or conduct issues that were coming out of gaols were significant?

15

**MR SHEARER:** I can recall a conversation in that meeting, or thereabouts, where there were some concerns around the turnaround time for investigations and backlog. I don't know if "backlog" was the correct word, but it took some time to get some investigations back to the Centre.

20

**MR LLOYD:** Did this change happen, to your knowledge, that you became the first contact for complaints of this kind?

25

**MR SHEARER:** I didn't see any change to what we'd done previously.

**MR LLOYD:** You see, Mr Shearer - I withdraw that. You have told us about your experience in management, both at the Australian Federal Police and in what I took to be the latter part of your time in the New Zealand Army; true?

30

**MR SHEARER:** Yes.

**MR LLOYD:** You're familiar by this time with the concept of corporate governance?

35

**MR SHEARER:** Yes.

**MR LLOYD:** That is, in a corporation, the people who are running the show should have a pretty good understanding of what their roles are and what they're meant to do in the discharge of their obligations?

40

**MR SHEARER:** Yes.

**MR LLOYD:** Did you think about what it was that the Governors and people in management to whom you addressed this email would be left to think about what they were to do when they had complaints of misconduct made about their officers?

45

**MR SHEARER:** I thought it created some confusion.

5 **MR LLOYD:** It sounds like a very poor change in terms of the management of this particular issue. Do you agree?

**MR SHEARER:** I agree.

10 **MR LLOYD:** And this particular issue, that is, how Governors would deal with complaints of misconduct by officers, is of central importance, that is, it has to be managed properly, doesn't it?

**MR SHEARER:** Yes, it does.

15 **MR LLOYD:** Is it really right in your recollection that this change was effected, at least to your knowledge, without the benefit of any written policy or guideline or protocol to tell people how this was meant to work in practice?

20 **MR SHEARER:** I never saw any policy or protocol.

**MR LLOYD:** Could I ask you this point: in paragraph 67 of your Commission statement, you say you recall - this is in relation to the email of 13 October '17 - that you read and spoke to Shari Martin and Doug Greaves about an allegation in an email of 13 October. Do you see that?

25

**MR SHEARER:** Yes.

**MR LLOYD:** And:

30 "I was informed that it went to IB..."

That's the Investigations Branch; correct?

35 **MR SHEARER:** Correct.

**MR LLOYD:**

"...when I was first notified of the complaint in July '17."

40 However, you weren't aware of any outcome. Do you see that?

**MR SHEARER:** Yes.

45 **MR LLOYD:** That's the same complaint, that is, the 22 July '17 email?

**MR SHEARER:** Yes.

**MR LLOYD:** Could I ask you - you can close up the - Volume 8. Could Mr Shearer have Volume 14. If you go, please, Mr Shearer, to Tab 452.

**MR SHEARER:** Yes, I'm there.

5

**MR LLOYD:** You see, if you go down the bottom, about three-quarters of the way down, email, Doug Greaves to you, copied to Peter Robinson?

**MR SHEARER:** Yes.

10

**MR LLOYD:** 11 October '17:

"Good morning, Hamish. PSB is currently coordinating some very sensitive inquiries."

15

Do you see that?

**MR SHEARER:** Yes.

20

**MR LLOYD:** And:

"While doing so, some information involving Dillwynia has come to our attention."

25

**MR SHEARER:** Yes.

**MR LLOYD:** Just pausing there, Mr Shearer. The allegations of sexual assault by the unnamed officer on Witness M had come to your attention here at roughly two and a half months or thereabouts before this?

30

**MR SHEARER:** Yes.

**MR LLOYD:** Having regard to the gravity, unlikely that they would have left your mind by this time. Do you agree with me?

35

**MR SHEARER:** I can recall the - the referral, or the IR, as it was referred to, being raised, yes.

**MR LLOYD:** Have a look:

40

"The information available to PSB suggests that an officer has been accused of making sexual advances towards inmate Witness M..."

Do you see that?

45

**MR SHEARER:** Is it in the same part of the email or further up?

**MR LLOYD:** Just down the - still down - the one from Mr Greaves to you. Second paragraph, "The information available." Do you see that?

5 **MR SHEARER:** Sorry, can you draw my attention -

**MR LLOYD:** Doug Greaves to you, 11 October 2017.

**MR SHEARER:** I'm there now, yes.

10 **MR LLOYD:** Second paragraph -

**MR SHEARER:** PSB.

15 **MR LLOYD:** - or third, depending on your view:

"...that an officer employed has been accused of making sexual advances towards Witness M..."

20 **MR SHEARER:** Yes, I see that.

**MR LLOYD:**

"...including allegations about attempting to kiss her."

25 Do you see that?

**MR SHEARER:** Yes.

30 **MR LLOYD:** And:

"Should have been reported to Professional Standards who would have considered an investigation by the CSNSW Investigations Branch."

35 Do you see that?

**MR SHEARER:** Yes.

**MR LLOYD:** And:

40 "It hasn't happened, but instead Michael Paddison had been tasked to undertake an investigation. Governor Shari Martin was aware of his investigation."

45 **MR SHEARER:** Yes.

**MR LLOYD:** You must have worked out that that was the exact same thing as -

**MR SHEARER:** Yes, I did.

**MR LLOYD:** - the 22 July - do you see the one above, Doug Greaves to Peter Robinson?

5

**MR SHEARER:** Yes.

**MR LLOYD:**

10 "Hamish called me after making inquiries with Shari Martin."

**MR SHEARER:** Yes.

**MR LLOYD:**

15

"It appears this wasn't an investigation as such. Instead, some information about an officer. Shari liaised with Mick Hovey about it in line with his staff intelligence role, and the interview conducted below is one step down the path of assembling relevant information."

20

Do you see that?

**MR SHEARER:** Yes.

25 **MR LLOYD:** Now, you weren't a recipient of this email, but I wanted to ask you about whether you remember having a conversation with Shari Martin, that being the event that Mr Greaves is referring to in the first sentence.

30 **MR SHEARER:** Yeah, I vaguely recall calling her and then calling Doug Greaves.

**MR LLOYD:** And so do you remember, starting with the first of those conversations, what you and Ms Martin discussed?

35 **MR SHEARER:** I asked her where - where it was, and I believe she said something to the effect, "It's being referred up through IB."

**MR LLOYD:** So - and then you effectively conveyed that to Mr Greaves?

40 **MR SHEARER:** I - I relayed what she'd told me.

**MR LLOYD:** So your state of understanding - or your state of mind as at 13 October or thereabouts was that the allegations about Witness M and the unnamed officer were being investigated?

45

**MR SHEARER:** That's my understanding.

**MR LLOYD:** And you thought that that was the appropriate thing, that is, there had been an investigation?

**COMMISSIONER:** Sorry. You thought they were being investigated by whom?

**MR SHEARER:** Well, it went up as an IR, so I - I assumed that to be Mick Hovey's Investigations Branch.

**COMMISSIONER:** Mr Hovey. All right.

**MR LLOYD:** That is, even though they're not your words, "Shari liaised with Mick Hovey about it" - do you see those words written?

**MR SHEARER:** Yes, I do.

**MR LLOYD:**

"...and the interview was one step down the path of assembling relevant information."

Do you see those words?

**MR SHEARER:** Yes.

**MR LLOYD:** I had understood you were telling us that that was, in effect, what you had been told by Shari Martin, that is, there'd been an investigation - an intelligence report and the matter was being investigated by Mick Hovey?

**MR SHEARER:** That was my understanding.

**MR LLOYD:** And you thought that that was the appropriate thing?

**MR SHEARER:** Yes, I did.

**COMMISSIONER:** Well, it doesn't say that, does it? I mean, Mr Robinson says, "This is all a bit odd - seems a bit odd to me." But it appears this wasn't an investigation, so Shari Martin saying, "No investigation, just gathering information." She liaised with 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 in relation to staff intelligence. It's not telling you about an investigation, is it?

**MR SHEARER:** I - I wasn't aware of the - the practices that followed that IR report. I thought that the practice was that Mick Hovey's team were going to manage the process.

**COMMISSIONER:** Well, you see, Doug then signs off as okay - although Peter Robinson thinks it's a bit odd - by saying, "If Mick is still in intelligence-gathering mode, it makes sense it hasn't yet been referred to PSC. No further action needed for this one." Well, that sounds like a dead hole, doesn't it?

5

**MR SHEARER:** It shouldn't have occurred.

**COMMISSIONER:** Yes. Because it hasn't been investigated. It's not being investigated. This is telling you it's come to a halt.

10

**MR SHEARER:** That's wrong - absolutely wrong.

**COMMISSIONER:** Yes.

15 **MR LLOYD:** In terms of the things about it that were wrong, one of the things that was wrong was any - if it was happening, any investigation being done by the people within the gaol.

**MR SHEARER:** It should have been done by the police.

20

**MR LLOYD:** But you didn't know what the status of the investigation, if there was one, by the Investigations Branch was?

**MR SHEARER:** No.

25

**MR LLOYD:** But I thought you said your belief because of your knowledge of the intelligence report was that that's what -

**MR SHEARER:** That it had been referred.

30

**COMMISSIONER:** But sorry, Mr Lloyd. That doesn't stack up based on this document.

**MR LLOYD:** Well -

35

**COMMISSIONER:** I mean, you can't get to that conclusion on this document.

**MR LLOYD:** I'll explore it if - bearing in mind they're not the witness's words, but I'll explore it.

40

**COMMISSIONER:** No, I follow they're not the witness's words, but what he was putting to you was his understanding of where the process had got to. And it doesn't seem to me it's got anywhere near being an investigation.

45 **MR LLOYD:** I'll - if it's convenient, I'll come to that right now.

**COMMISSIONER:** Yes.



**MR LLOYD:** Your understanding about what had happened, that was gathered from, first, the fact that you knew about the intelligence report?

5 **MR SHEARER:** Yes.

**MR LLOYD:** You hadn't seen the contents?

**MR SHEARER:** No, I hadn't seen the report.

10

**MR LLOYD:** The only other source of information you had about what was happening with respect to any investigation done by Investigations Branch came from Shari Martin?

15 **MR SHEARER:** Yes, it did.

**MR LLOYD:** What did she tell you about that?

20 **MR SHEARER:** The initial email in July told me she was preparing the IR and some information. When she rang me, she told me it was with Mick Hovey's branch.

**MR LLOYD:** That's the conversation that -

25 **MR SHEARER:** That I relayed to Mr Greaves, yes.

30 **MR LLOYD:** And did you - at that point when you're speaking to Shari Martin - she's telling you that it's with Mick Hovey's branch. Did you not at that point say, "Okay. Well, this is a Correctional Centre that I have some oversight of. There's an allegation that is of criminal conduct by an officer. Who is it?"

**MR SHEARER:** No, I didn't think that at the time.

35 **MR LLOYD:** Could you tell the Commissioner why or how it could be that, in your role, you wouldn't want to know who it was that is alleged to have committed the criminal conduct within the gaol?

40 **MR SHEARER:** When the report was first submitted, they hadn't identified the officer. On occasions, after investigations had reviewed the matters, they come back as vexatious claims or otherwise and nothing else. In hindsight - when I use that word, it's not a - it's not a copout, but I don't follow that practice now. At that time, I wasn't inquisitive enough and asking enough questions about some of these matters.

45 **MR LLOYD:** In terms of being inquisitive, you had a Governor or General Manager at Dillwynia who, at a minimum, you had issues of an interpersonal nature with?

**MR SHEARER:** Yes.

5 **MR LLOYD:** And by this time, the issues certainly extended to having serious doubts about her capacity to do the job properly?

10 **MR SHEARER:** I did think our relationship had changed after my meeting in April, and I felt she was more forthcoming. I had no reason to question her robustness in reporting matters to me.

**MR LLOYD:** No reason to question that?

**MR SHEARER:** Not at that stage.

15 **MR LLOYD:** Had she ever reported a matter of serious misconduct to you?

**MR SHEARER:** There were matters at Emu Plains that were reported earlier in the year. She also managed those.

20 **MR LLOYD:** In terms of the available options to test the accuracy or truthfulness of what Ms Martin was telling you about where things were, one of the options was to ring Mick Hovey, wasn't it?

25 **MR SHEARER:** Yes, it was.

**MR LLOYD:** And that's what you should have done?

**MR SHEARER:** Yes, that would have illuminated the issue.

30 **MR LLOYD:** Another one would have been to get the intelligence report itself -

**MR SHEARER:** Yes.

35 **MR LLOYD:** - to see what it said -

**MR SHEARER:** Yes.

**MR LLOYD:** - and about who?

40 **MR SHEARER:** Yes.

**MR LLOYD:** And another was to simply make an inquiry yourself about which of the officers at Dillwynia were the subject of these allegations of criminal conduct?

45

**MR SHEARER:** Yes.

**MR LLOYD:** You see, you told us earlier about the number of times that allegations of sexual misconduct had come to your attention at Emu Plains, Dillwynia and the other four Correctional Centres you had oversight of. Do you remember that?

5

**MR SHEARER:** Yes.

**MR LLOYD:** And by my count, putting to one side what came to your attention in October, it was one at Dillwynia, two at Emu Plains and I think you mentioned perhaps two elsewhere.

10

**MR SHEARER:** There were two at Dillwynia. There was another one in March (crosstalk).

15

**MR LLOYD:** March?

**MR SHEARER:** It was an overseer.

**MR LLOYD:** I see. So that would make two at Dillwynia, two at Emu Plains and you could remember two at other Centres?

20

**MR SHEARER:** I can remember one at Mary Wade.

**MR LLOYD:** This was a, in the scheme of things, pretty uncommon sort of thing, an allegation of criminal conduct by an officer committed within the gaol. Do you agree?

25

**MR SHEARER:** Yes.

**MR LLOYD:** And of the utmost importance to make sure it was being handled properly?

30

**MR SHEARER:** Yes.

**MR LLOYD:** And do you agree that at this point, by not making an inquiry of the Investigations Branch and in particular Mick Hovey to find out what was happening, that that was a failure by you?

35

**MR SHEARER:** Yes.

40

**MR LLOYD:** Can I ask you to close that bundle. And could Mr Shearer, at this point, have access to Exhibit 39. Could you go, in that Volume, first to page 54.

**MR SHEARER:** Yes.

45

**MR LLOYD:** Now, before asking you about this document, I just wanted to, in fairness, draw to your attention some paragraphs in your Commission statement, which I think you've also got open. At 35 - that's the first one.

5 **MR SHEARER:** Yes.

**MR LLOYD:** November '17, you became aware of inmate complaints?

**MR SHEARER:** Yes.

10

**MR LLOYD:** And you tell us you discuss those further below. The paragraphs where you identify what you became aware of in relation to the matter you raise at 35 are 51 through 58 - sorry, 59.

15 **MR SHEARER:** Yes.

**MR LLOYD:** And 65, I think.

**MR SHEARER:** Yes.

20

**MR LLOYD:** If there are parts of the - those paragraphs that you want to make reference to in the questions that I'm about to ask you, please tell me and I'll give you an opportunity to go back. But I want to ask you just by reference to the documents in the smaller Volume there, Exhibit 39, to see if you can help us. At 25 page 54 in Exhibit 39, if you go to the second page -

**MR SHEARER:** Yes.

30 **MR LLOYD:** - do you see we've moved forward in time to 3 January '18 where Wayne Astill sends you an email. See that?

**MR SHEARER:** Yes.

**MR LLOYD:** And:

35

"I've attached a letter detailing a number of issues I said I would provide."

Do you see that?

40 **MR SHEARER:** Yes.

**MR LLOYD:**

45 "Governor Martin has this letter also, and I arranged for Acting Governor Tom Woods to deal with it while she's on leave."

Do you see that?

**MR SHEARER:** Yes.

**MR LLOYD:** That - if you then go back to page 50 -

5

**MR SHEARER:** Yes.

**MR LLOYD:** - that's the document that Astill was sending?

10 **MR SHEARER:** Yes.

**MR LLOYD:** And that document, in turn, refers to a meeting on 22 November 2017?

15 **MR SHEARER:** Yes.

**MR LLOYD:** And that was a meeting that you were at?

**MR SHEARER:** Yes, I was.

20

**MR LLOYD:** You, Shari Martin and Astill?

**MR SHEARER:** Yes.

25 **MR LLOYD:** Do you have a recollection of that meeting?

**MR SHEARER:** Yes, I do.

**MR LLOYD:** I want to ask you some things about some evidence that I think you're aware of that Ms Martin gave that led to that meeting. Do you understand?

30

**MR SHEARER:** Yes.

**MR LLOYD:** Do you remember that sometime in the period before 22 November '17, Shari Martin telephoned you and said to you words to the effect, "I don't know what to do with this man"? Sorry, I withdraw that. "I don't know what to do about this man. We have put reports in on him, but nothing is happening. I need something done." Do you remember that?

35

40 **MR SHEARER:** I - I recall that evidence, yes.

**MR LLOYD:** You recall the evidence that she gave?

**MR SHEARER:** I recall her making that statement, yes.

45

**MR LLOYD:** Do you remember her saying that to you in a telephone conversation?

**MR SHEARER:** She did have a telephone call. She didn't say that.

5 **MR LLOYD:** Something must have happened to cause you to attend the meeting on 22 November, obviously; correct?

**MR SHEARER:** Yes.

10 **MR LLOYD:** What was that something in your recollection?

**MR SHEARER:** She rang me and asked me to come out and support her in - in a meeting with an officer.

15 **MR LLOYD:** And when you say "with an officer", she mentioned it was with Astill?

**MR SHEARER:** I didn't have that in my notes - in my diary when I recorded the phone call, but she may have. She was certainly talking about a position that he was in.

20 **MR LLOYD:** Did she tell you that she had received complaints about the officer, whether she named him or not, playing inmates against each other?

25 **MR SHEARER:** She said that, yes.

**MR LLOYD:** And did she tell you that the same officer was an intel officer and he'd been searching cells within the SMAP unit, inappropriately targeting inmates?

30 **MR SHEARER:** I - I didn't record those words. What I did record is that there were some inmates that were upset about a search in the SMAP area.

**MR LLOYD:** See, if you work on the basis that the conversation between you and Ms Martin happened sometime between the latter part of July '17 and obviously before 22 November '17 - I'll get your response. Do you agree that that's the timing?

35 **MR SHEARER:** I didn't link that conversation to those previous IRs, no.

**MR LLOYD:** That wasn't quite my question. In terms of the timing of this discussion, we'll start - it's obviously on or before 22 November?

**MR SHEARER:** It was immediately prior, a few days, I think.

40 **MR LLOYD:** But close to the time of that meeting?

45 **MR SHEARER:** Yes.

**MR LLOYD:** Not so very long after the 13 October email that I showed you before, referring to a discussion with her?

**MR SHEARER:** Yes - yes, that's correct.

5

**MR LLOYD:** And not very long after the email you received recording the allegations of sexual assault by an unnamed officer on Witness M?

**MR SHEARER:** In July, yes.

10

**MR LLOYD:** You tell us that by the time you looked at that email of (indistinct) October talking about that sexual assault, and by the time of your conversation with Shari Martin, you still did not know who that officer was who was the subject of the allegations?

15

**MR SHEARER:** No, I wasn't aware of his name.

**MR LLOYD:** When Shari Martin contacted you to come out and assist her to deal with the officer who she wanted help with, she mentioned that it was Wayne Astill, I want to suggest to you.

20

**MR SHEARER:** I don't recall that, but she may have.

**MR LLOYD:** At this time, did you not think to say, "By the way, who's that officer who was the subject of that sexual assault complaint that we know about and we discussed just last month?"

25

**MR SHEARER:** No, I didn't.

**MR LLOYD:** You didn't think to say, "It doesn't happen to be the same officer that's the subject of these problems you want me to come out and help you with? It's not the same person, is it?"

30

**MR SHEARER:** No, I didn't think that.

35

**MR LLOYD:** Did you think to say, "Are the complaints related?"

**MR SHEARER:** No, I - I - I took the call as if she wanted to emphasis placed on a meeting. And I - at the time, that's - I recall from that conversation, was thinking the officer was heavy handed and she wanted me to come in to reinforce the message to give him a kick in the backside.

40

**MR LLOYD:** Are you aware that the Commission has heard evidence that in the sequence of events that some of the conduct that is described in this document, that is, the bullying and intimidation of inmates, was directly linked to those inmates coming forward about Witness M? Do you know that now?

45

**MR SHEARER:** I'm assuming. I didn't at that time. And what I do acknowledge right now is that we had a monster called Astill who was offending women. So I have no doubt that that's what we're talking about.

5 **MR LLOYD:** In terms of your knowledge at the time, though, your knowledge by the time of the meeting on 22 November was that there was, on your recollection, an officer at Dillwynia who was alleged to have committed the crime, being the assault?

10 **MR SHEARER:** It had been reported to investigations, yes.

**MR LLOYD:** And that person, to your knowledge, was still there, working?

**MR SHEARER:** Yes.

15

**MR LLOYD:** Just going to their job, doing it as - on your understanding, as though things were perfectly normal; true?

**MR SHEARER:** Yes.

20

**MR LLOYD:** In a gaol you had responsibility for?

**MR SHEARER:** Yes.

25 **MR LLOYD:** That doesn't sound like a good arrangement. Do you agree?

**MR SHEARER:** It wasn't.

30 **MR LLOYD:** You here, when we look at the document, on 22 November were confronted with multiple allegations of misbehaviour by Astill in relation to a multitude of inmates; true?

**MR SHEARER:** You mean his report to me dated the 25th?

35 **MR LLOYD:** Well, I'm really - the things recorded in the document, but I'm really going back to the - earlier, being the meeting on the 22nd. Is that what was discussed at the meeting, multiple allegations -

40 **MR SHEARER:** No, it wasn't. I can recall the meeting. It was conducted in Shari's office. I was acting in the AC's role that week. So I came out - I knew I didn't have much - you know, she invited me out and said she wanted to talk to me, so I - I made it out there. I can recall meeting her in her office and sitting on a small round table to the right-hand side of her desk. She called in Astill, and she - she relayed those comments that I've recorded in my diary about him  
45 being - about some complaints from inmates who were in the SMAP and also that he is - he appears to be playing inmates across each other. At that stage,



I interpreted that to be a performance matter and that he wasn't showing the appropriate approach to managing female inmates.

5 **MR LLOYD:** So just moving forward, then, to the document -

**MR SHEARER:** Yes.

10 **MR LLOYD:** - I think you accepted you received that at least by that 3 January '18 email I showed you at the start on page 54.

**MR SHEARER:** from Tom Woods?

**MR LLOYD:** Yes.

15 **MR SHEARER:** Yes.

**MR LLOYD:** Have you ever seen a document like this, prepared - almost four pages - by a Senior Correctional Officer dealing with a range of things that had been put against him by inmates?

20 **MR SHEARER:** No.

**MR LLOYD:** It's an extraordinary document, isn't it?

25 **MR SHEARER:** Yeah, it was very detailed.

**MR LLOYD:** The fact that the senior officer would have to go into that level of detail might - defending himself against a range of complaints might of itself suggest the possibility of a problem with that officer. Do you agree?

30 **MR SHEARER:** Yes, I agree.

**MR LLOYD:** To adopt or steal from the Commissioner a question he put to the witness earlier, did you think what in heavens was going on in this place?

35 **MR SHEARER:** Yes.

**MR LLOYD:** This is in the context still - I take it the concerns that you had about Ms Martin still at least lingered by this time?

40 **MR SHEARER:** Yes. I thought they'd improved.

**MR LLOYD:** Can I just run through - it's a document full of detail, and I don't want to take you to every word. If there are parts that you want to draw attention to and I'm moving too quickly, please tell me. The first thing is the three topics: intimidating towards some inmates; inmates being in fear of reprisals; making off the cuff remarks. Do you see that?

**MR SHEARER:** Yes.

5 **MR LLOYD:** First, did you think, "What's going on with reprisals here? And what's going on with intimidation?" What are the reprisals about, just dealing with that?

10 **MR SHEARER:** I can recall being shocked when I read this and thinking to myself I wasn't expecting it. I thought the matter - and - and nothing to suggest that those three points weren't discussed. I recall the meeting with Shari Martin. She said that she will get him to write to her, and obviously this is the product of that. So when I read it and looked at the date of it, I remember thinking, "There's a lot in this."

15 **MR LLOYD:** In terms of that thought, could I just ask you about some things:

"I would like to make you aware of certain matters."

20 And then:

"In March this year, Witness O and T made false allegations against inmate Sheiles and I."

25 Do you see that?

**MR SHEARER:** Yes.

30 **MR LLOYD:** Starting with the reference made by Astill to false allegations made against him by Inmates O and T, what did you know were the allegations that he was denying?

**MR SHEARER:** I didn't know.

35 **MR LLOYD:** Did you think that they sounded serious?

**MR SHEARER:** I think any allegation against an officer is serious.

40 **MR LLOYD:** You didn't - I withdraw that. Serious enough for him to spend time answering them in writing?

**MR SHEARER:** Yes.

45 **MR LLOYD:** Did you satisfy yourself about whether those allegations (indistinct) to the appropriate person or body to be investigated?

**MR SHEARER:** Ask the question again?

**MR LLOYD:** Did you make any enquiries about whether the allegations that he was denying – calling them false – had been investigated by the appropriate person or body?

5 **MR SHEARER:** No.

**MR LLOYD:** Why?

10 **MR SHEARER:** Because matters had been presented to the Governor. I had no knowledge. There was a couple of things in this letter which rung true to me that I recognised from incidents I knew were happening at Dillwynia. Do you want me to mention those to you?

15 **MR LLOYD:** Certainly.

**MR SHEARER:** There's the dogs – the greyhounds as pets – dogs. So I could resonate with that comment, and it seemed plausible. And the other one was around an incident where an inmate gained access to a camera in the education unit. She took a photo of herself there and photocopied it and put it in a letter to  
20 send home, and I think that was where it was identified. So those two things appeared to connect with some knowledge I had of Dillwynia.

**MR LLOYD:** I'll come to those. Just dealing with this: you're at the moment  
25 dealing with the denial of allegations, but you didn't know what the allegations were or whether they'd ever been referred to the appropriate person to be investigated.

**MR SHEARER:** I didn't know that, no.

30 **MR LLOYD:** Do you now know that, in fact, this appears to be a reference to allegations that had been made about what was said to be inappropriate conduct by Astill toward an inmate, Trudy Sheiles?

35 **MR SHEARER:** I don't know which inmates were offended and what the nature is, but I don't have any question to doubt that. I think there's a lot of references in here which relate to those offences.

40 **MR LLOYD:** Don't you think you should have, at a minimum, when you saw that reference, denying false allegations, found out whether they'd been put into an intelligence report and been properly investigated?

**MR SHEARER:** Yes, that was an error. I should have referred this to PSB.

45 **MR LLOYD:** This whole document?

**MR SHEARER:** Yes.

**MR LLOYD:** And in particular, you should have found out whether the allegations that he was denying had been investigated by Investigations. Do you agree?

5 **MR SHEARER:** Yes.

**MR LLOYD:** Have a look about three-quarters of the way down. I think this is one of the things you've mentioned about the photo - the camera and the photo. About eight lines from the bottom, "Witness J who stated the following"?

10

**MR SHEARER:** Yes.

**MR LLOYD:** That, without getting bogged down with the detail, was an allegation Astill was denying, the allegation being that an inmate had got hold of a camera and had taken some nude photos of herself?

15

**MR SHEARER:** Yes.

**MR LLOYD:** But what he was saying is that that had not occurred?

20

**MR SHEARER:** Yes.

**MR LLOYD:** As in, the inmate wasn't nude in the photographs?

25 **MR SHEARER:** Yes.

**MR LLOYD:** And I think you said you had some knowledge of this, and what he was saying rang true with what you knew about it?

30 **MR SHEARER:** It's - yeah, it - it reminded me of an incident that I was aware of.

**MR LLOYD:** Going over the page, Fear of Reprisals. Do you see that?

35 **MR SHEARER:** Yes.

**MR LLOYD:** And:

40 "Can only assume from your statement regarding searches carried out by Officer Brown that inmates complained to Chief Barry on the day and relayed her interpretation of the events to you."

Do you see that?

45 **MR SHEARER:** Yes.

**MR LLOYD:** What did you do to find out about what the reprisals in terms of those searches were and what the circumstances or context was?

**MR SHEARER:** I didn't.

5

**MR LLOYD:** And was that a failure as well?

**MR SHEARER:** Yes.

10 **MR LLOYD:** I don't want to keep coming back to the individual things. I think, Mr Shearer, you've conceded that this entire document had to be referred out.

**MR SHEARER:** I acknowledge that this should not have - this should have gone to PSB when I read it on 3 January.

15

**MR LLOYD:** And I'll just draw this to your attention, the fourth matter:

"I have been made aware that two inmates housed in M Right..."

20 Do you see that passage?

**MR SHEARER:** Sorry, which page?

**MR LLOYD:** It's same page, paragraph -

25

**MR SHEARER:** Yes, I've got that now. Yes.

**MR LLOYD:** Now, again without getting bogged down, there are allegations here, in effect, that have been denied that Astill was engaged in seeking retribution against one of the inmates; true?

30

**MR SHEARER:** Yes.

**MR LLOYD:** Again, I think you've accepted, requiring investigation?

35

**MR SHEARER:** Yes.

**MR LLOYD:** And the fifth one, about point 7 on the page:

40

"During the same time..."

**MR SHEARER:** Yes.

**MR LLOYD:** There's more information there about Witness V?

45

**MR SHEARER:** Yes.

**MR LLOYD:** Do you see that? And then over the page in relation to Witness GG. Do you see that?

**MR SHEARER:** Yes, I do.

5

**MR LLOYD:** The next paragraph under that is the dogs incident that you made reference to?

**MR SHEARER:** Yes.

10

**MR LLOYD:** Can I just ask you, Mr Shearer: when you saw his account about this, saying, in effect, there was an incident where he had gone in to M Right and had said, "Smells like dog," you took that at face value to be a legitimate and truthful answer by him, that is, he could smell the greyhounds that you knew were kept by the prisoners?

15

**MR SHEARER:** I'd seen the girls - or the ladies walking around the dogs, and it was sort of a dog (indistinct) program, and I knew that they were around about the accommodation blocks, yes.

20

**MR LLOYD:** Did it occur to you that this explanation in here, that he goes into M Right, talks about it smelling like dogs, in the context of a document dealing with reprisals and intimidation, that this denial or explanation might be (indistinct) was likely to be absolute rubbish?

25

**MR SHEARER:** I know that now. At the time, I didn't think that.

**MR LLOYD:** And that the reference to dogs was quite likely to be intimidatory language because people had - that is, inmates had made reports about him?

30

**MR SHEARER:** I know that now. At the time, I didn't link the two.

**MR LLOYD:** The final matter is about the middle of that page down. That is in denying an incident involving an inmate who was said - that is, the third line:

35

"Go on, tell her what he did to you. He put his hand on my face and told me I had beautiful eyes."

Do you see that?

40

**MR SHEARER:** Yes.

**MR LLOYD:** Now that's plainly inappropriate conduct, if true?

45

**MR SHEARER:** Yes, it is.

**MR LLOYD:** And another reason why the only place for this was to be referred out to be investigated?

**MR SHEARER:** Yes.

5

**MR LLOYD:** What happened following that document prepared by Astill was not a referral to the Investigations or to the Professional Standards but, rather, was some mediations being arranged?

10 **MR SHEARER:** Yes.

**MR LLOYD:** Ms Martin said that the idea of having mediations involving these three inmates and Astill was all your idea and you put it upon her to do that. What do you say about that?

15

**MR SHEARER:** That's incorrect.

**MR LLOYD:** How did the idea of having mediations to try and resolve these matters come about?

20

**MR SHEARER:** I've no idea.

**MR LLOYD:** You don't remember who came up with, or promoted the idea first?

25

**MR SHEARER:** The only conversation I about this was with Shari Martin on the 22nd. I've had no correspondence or communication her since then. When I read that email it appeared to me that the review of this matter had now transitioned to mediation with the inmates. I didn't endorse that at the time. I didn't - they weren't my words to (indistinct) and the practice of reviewing was not about -

30

**MR LLOYD:** I think you've accepted that the idea of conducting a so-called mediation to get to the bottom of these matters, of which you're aware, was an inappropriate strategy?

35

**MR SHEARER:** Yes, it was.

**MR LLOYD:** Putting the officer in the same room as the women who were making the complaints, is not really a mediation in any proper sense of the word?

40

**MR SHEARER:** No.

**MR LLOYD:** If you look at page 54, you've already been there once, but for a different purpose, down the bottom:

45

"Tom, I believe Wayne has also said this to you."

Take it from me, that's the document that came:

"Shari, while I previously spoke to Wayne regarding some allegations around his interaction with an inmate..."

5

Do you see that?

**MR SHEARER:** Yes.

10 **MR LLOYD:** And Thomas Woods replies to you:

"I was hoping to undertake the mediation this week."

Do you see that?

15

**MR SHEARER:** Yes.

**MR LLOYD:** And then you:

20 "I was hoping to pop out on Friday for a catch-up."

Do you see that?

**MR SHEARER:** Yes.

25

**MR LLOYD:** Is that right (indistinct), you knew in advance of the mediations that they were to occur?

**MR SHEARER:** Yes.

30

**MR LLOYD:** Do you remember being told what happened?

**MR SHEARER:** I saw the report in February.

35 **MR LLOYD:** Page 57 in that bundle. Have you read this document recently?

**MR SHEARER:** Yes, I have.

40 **MR LLOYD:** I won't take you to all the parts of it then, but do you agree that what was being reported here was not a satisfactory resolution of the matters that had been addressed either in the meeting on 22 November or in Astill's document?

45 **MR SHEARER:** At the time, acknowledging Tom was a clean set of eyes, that he had these - that he would have identified if there were any issues, I relied on his - his report, knowing, acknowledging that misconduct, the mediation process was not the right forum. It shouldn't have been dealt with (indistinct).



**MR LLOYD:** Can I ask you this: by the time the mediation, say take the position as at 3 January '18 -

**MR SHEARER:** Sorry?

5

**MR LLOYD:** take the position as at 3 January '18 when you were in the email correspondence with Thomas Woods about going out to see him, by that time you had been given no information about the allegation of sexual assault on Witness M by, on your evidence, the officer who you didn't know the identity of, no information that that had been -

10

**MR SHEARER:** No, I still hadn't (indistinct) it.

**MR LLOYD:** - addressed or resolved?

15

**MR SHEARER:** No.

**MR LLOYD:** Allegations which had come to your attention denied by Astill in this document - multiple inmates, multiple events, many of which were serious matters?

20

**MR SHEARER:** Yes.

**MR LLOYD:** Relatively uncommon to have a combination of things like this going on in the one gaol, that is an unresolved allegation of sexual assault along with these serious matters against a senior officer, would you agree with me?

25

**MR SHEARER:** Yes.

**MR LLOYD:** These matters plainly in discharge of your reporting obligations in the performance your role, required you to make a report to those more senior than you; do you agree?

30

**MR SHEARER:** Yes, it should have been referred.

35

**MR LLOYD:** Did you?

**MR SHEARER:** No, I didn't.

**MR LLOYD:** When you say "it should have been referred", you agree with me it should have been sent to the Investigations Branch or Professional Standards?

40

**MR SHEARER:** Yes.

**MR LLOYD:** Or police?

45

**MR SHEARER:** Through Investigations Branch, yes.

**MR LLOYD:** And you should have been checking to see what had happened with the Witness M investigation; do you agree?

5 **MR SHEARER:** Yes.

**MR LLOYD:** My question in terms of the discharge of your functions, is these kinds of matters, both the 22 November meeting and the Astill document and the unresolved sexual assault complaint, are matters that you were required to also  
10 make a verbal report, that is tell those above you in the chain?

**MR SHEARER:** In the referral process I wouldn't normally notify until I got some advice from PSB or Investigations Branch. But on the basis of this, yes, I should have raised it.  
15

**MR LLOYD:** Do you remember whether you did raise it?

**MR SHEARER:** I don't believe I did.

20 **MR LLOYD:** Why not?

**MR SHEARER:** I didn't know what had occurred from the report mentioning it to Shari to 25 November to this point. She was on leave. I had no way of calling her on leave. I'd received this on 3 January, just before the mediation was  
25 supposed to occur. I sort of was in a quandary and I felt that Thomas Woods, who I had heard good things about, was an independent officer and a straight shooter, would receive these comments. He would consider them in the context of the mediation and would have flagged to me if there anomalies that needed referral. I wasn't aware if Shari had made any referrals in the preceding month or five  
30 weeks.

**MR LLOYD:** Certainly, to your knowledge, there had not been a referral of these matters out to the Investigations or Professional Standards Branch?

35 **MR SHEARER:** True, but I was aware of none.

**MR LLOYD:** Can I ask you to turn your mind back to that 12 September '17 email which you told us you sent at the direction of then Assistant Commissioner Corcoran -  
40

**MR SHEARER:** Yes. Yes.

**MR LLOYD:** - and changing the reporting process. See if you can respond to this proposition. On one view of that new approach identified in that email, these  
45 matters coming to your attention, as the first person outside the gaol to receive a report for things of this kind - and that is the 22 November, 25 November

allegations - that that might be regarded as consistent with that new approach, might it?

5 **MR SHEARER:** As a performance management process, yes.

**MR LLOYD:** Coming to you in the first instance to work out is it disciplinary, is it performance management and what to do next?

10 **MR SHEARER:** Yes.

**MR LLOYD:** And I think what you told us before, if that was really happening, that kind of new process playing out in this way, you still didn't know what to do by November 2017, were to be better than your skills in knowing what to do with this kind of situation in September 2017 when you sent the email, were they?

15 **MR SHEARER:** I had no expertise in reviewing investigations, no.

**MR LLOYD:** Absolutely no guidance, training, knowledge, skills that you've been trained about to manage this situation as effectively the first responder to allegations of this kind?

20 **MR SHEARER:** No, I hadn't.

**MR LLOYD:** And would you agree by this time, November '17 through January '18, it would be fair to say that you had no real idea of what the system was for dealing with complaints of this kind?

25 **MR SHEARER:** I agree.

**MR LLOYD:** What do you think that that says in terms of - I've mentioned corporate governance before, corporate governance of Corrective Services at this time, November '17 to January '18, that you as the Regional Director with oversight for six Centres would have no idea about how to deal with allegations of this kind in a way which accorded with any identified policy or procedure?

35 **MR SHEARER:** I agree.

**MR LLOYD:** What does it say about it, though?

40 **MR SHEARER:** Ad hoc at best.

**MR LLOYD:** That would be a very generous way to describe it, do you agree with me, ad hoc?

45 **MR SHEARER:** It's worse than ad hoc.

**MR LLOYD:** People in senior executive roles not knowing anything about a core aspect of Corrective Services' business; that is how to exercise oversight and discipline over the conduct of officers. That's what it's reflecting, do you agree?

5 **MR SHEARER:** Yes.

**MR LLOYD:** To your knowledge, other directors in your position, if this was rolled out, I think you told us more broadly, do you know whether they were in any better position than you about being trained about how to deal with this kind of system?  
10

**MR SHEARER:** I think the other three Custodial Directors had about 30 years' experience or more, two of them within the Australian system and one from the New Zealand system.  
15

**MR LLOYD:** I think you've stayed in different roles in Corrective Services after this time; agree?

20 **MR SHEARER:** Yes.

**MR LLOYD:** You've got a lot more experience now than you had back then?

**MR SHEARER:** Yes.

25 **MR LLOYD:** What do you think now, with the experience you've gained since the period November '17 to January '18, what do you think, looking back, was Corrective Services, right from the top, the people who were more senior than you, was it being run properly in this area of handling complaints about misconduct by officers?  
30

**MR SHEARER:** No, it wasn't.

**MR LLOYD:** In terms of, you told us almost at the start of your evidence that you formed the view shortly after starting your role that there were some officers within Corrective Services who you formed - my words, not yours - a dim view of?  
35

**MR SHEARER:** Yes.

40 **MR LLOYD:** They were people, as I understood your answer, more senior than you and also operating in some of the Centres?

**MR SHEARER:** Yes.

45 **MR LLOYD:** But many, many good officers as well?

**MR SHEARER:** Terrific people, yeah.

**MR LLOYD:** Some terrific people?

**MR SHEARER:** Most of them.

5

**MR LLOYD:** The majority? But is your experience now - if you don't feel you can comment - based upon your time in the Army and with Federal Police and now many years in Corrective Services, is your view that there was a problem with the management right from the top at Corrective Services at this time, November '17, January '18?

10

**MR SHEARER:** There was a bullying culture in this organisation. It's been there for a long time, but it's getting better. That's still there. I think that's one of the things that's encouraged me to stay, is to try and make a difference.

15

**MR LLOYD:** Mr Shearer, I can see from the way you responded to that question, that it evokes an emotion; true? If you need to take time, please take it.

**MR SHEARER:** Yes.

20

**MR LLOYD:** See, you being in two organisations or institutions where - you can tell me, you know much better than I would - there's a great degree of discipline amongst the management, that is the New Zealand Army, the Australian Federal Police; is that right?

25

**MR SHEARER:** Yes.

**MR LLOYD:** Would you regard those two institutions in your experience as being properly run - governed from the top?

30

**MR SHEARER:** Yes. And they're a decade from us.

**MR LLOYD:** And that's not your experience with Corrective Services. Do you agree with that?

35

**MR SHEARER:** I've used the metaphor before when I describe the environment that I worked in. People often ask me about my experience. I took the (indistinct) in Afghanistan at the start, and that was difficult. But you knew who the bad guys were. In this organisation, sometimes you don't.

40

**MR LLOYD:** See, the situation you're describing to us in your evidence is part of your experience involves dealing with the environments, including the one you just described, of personal danger to you and the men around you, men and women around you?

45

**MR SHEARER:** Yes.

**MR LLOYD:** Situations of the utmost stress, not to put too fine a point on it, but life and death?

**MR SHEARER:** That's correct.

5

**MR LLOYD:** There must be some very difficult personalities in both of those organisations? Strong willed people?

**MR SHEARER:** Absolutely.

10

**MR LLOYD:** You've dealt with them all?

**MR SHEARER:** Yes.

15

**MR LLOYD:** You've been overseas on deployments?

**MR SHEARER:** Multiple times.

20

**MR LLOYD:** And yet when you go to Corrective Services, you're here with a highly emotional response to the way you're treated in this organisation and describing it as being bullied.

25

**MR SHEARER:** I'm not -I'm not putting myself out there as the example. I think there's many, many others that have been hurt and continue to live in that fear.

**MR LLOYD:** The bullying you described, does it include you being bullied?

30

**MR SHEARER:** I - I raised a complaint to the Commissioner about bullying in this organisation.

**MR LLOYD:** When?

35

**MR SHEARER:** In 2017 or '18. I'd - I'd originally raised some concerns with the Chief Director of HR, Michael Baldi.

**MR LLOYD:** What happened to your complaint?

40

**MR SHEARER:** I - I discussed with Michael Baldi how we could alert this matter to the Commissioner so that names were involved and everyone got a fair go to right the ship. It got to the point where - I think I recount about six officers, senior - Governors and the like were really mentally unwell, and I raised it through Michael Baldi who sat and spoke with the Commissioner, and he told me he'd do something about it.

45

**MR LLOYD:** The Commissioner at that time?

**MR SHEARER:** Peter Severin.

**MR LLOYD:** And did anything get done?

5 **MR SHEARER:** I don't know. I didn't - I don't know.

**MR LLOYD:** When you say you don't know -

10 **MR SHEARER:** There was no directive that I'm aware of. We put out a directive - there's some clear direction now around one team and staff support, and I think those agencies have got better. I think some of our mutual wellbeing support, the staff has got a lot better and we've got some terrific peer support officers. So we have - we have transitioned. I can only imagine that there were some - there were some changes (indistinct).

15

**MR LLOYD:** Those are my questions, Commissioner.

20 **COMMISSIONER:** Mr Shearer, in many organisations, when something goes wrong, the executives ask themselves why. Now, something went wrong inside this organisation. Have you asked yourself why?

**MR SHEARER:** Yes.

25 **COMMISSIONER:** What's your answer?

**MR SHEARER:** Because we have bullies in this organisation, and they were allowed to continue in this organisation.

30 **COMMISSIONER:** Well then, you'd better explain that to me. Who are you talking about and in what way?

**MR SHEARER:** I'm not too sure how I can not form - what's the request I should make about the indemnity?

35 **MR LLOYD:** Section 23. I take an objection on behalf of the witness.

**COMMISSIONER:** Well, I require the answer.

40 **MR SHEARER:** There are officers throughout this organisation - this will be the end of me, but one of them is Kevin Corcoran, the Commissioner.

**COMMISSIONER:** You'd better go on and explain to me what you're saying.

45 **MR SHEARER:** Kevin Corcoran was the subject of the bullying that I raised with Peter Severin. He's been the subject of other issues with other officers. I've experienced bullying from Kevin Corcoran as well.

**COMMISSIONER:** How does that, though, lead you to the conclusion that that's what caused failure inside the organisation?

5 **MR SHEARER:** Because people are scared to report things. I think there is this culture you spoke about earlier on about, you know, not being out - you know, if you put head above the parapet, you get it knocked off. So I think the culture about reporting things or doing things, you become a victim.

10 **COMMISSIONER:** So, are you saying that that affects the organisation through the chain of command? People don't speak up?

15 **MR SHEARER:** We have come a long way. So I - I can't - these are about the environment we spoke about at the time of Astill's offending. I think we have made a huge transition. We have got some terrific senior officers. But I think the culture that existed at the time that required me to relay this information to him was just - it was just really difficult. You know, I'd never - never experienced mental health concerns before. I've been through some tricky things where people around you are (indistinct), but I never experienced that sort of deep gut sickness that I had in some of my engagements in this organisation.

20 **COMMISSIONER:** I'm still trying -

25 **MR SHEARER:** If I can't do something about it, what is it going to mean for people further down the chain? They're just going to feel, "Well, nothing gets done."

**COMMISSIONER:** Are you saying to me that things have improved since Astill was arrested and charged?

30 **MR SHEARER:** I know the practices in any of - any of the gaols that I work at now, and indeed Governors I work with, there is no hesitation to refer things to PSB. There was never any actions - whether you think it's - whether you think it's vexatious claims or not, they all go to PSB now. Everything goes up. And if in doubt, they go up anyway. So there's a really - I think a really transparent process in reporting these matters.

40 You know, I think we've got very good officers running the female gaols. We - we have our most vulnerable. Obviously they were the subject of this Inquiry. I think we've come along. We've got systems in places. And - and as I said, most of the people are fantastic. They really are good people. I think sometimes when we get together, the culture is not good, but I think we've - I think we've recognised that we've got a ways to go, but we are doing some - making some strong transitional steps.

45 **COMMISSIONER:** In what way do you identify the culture as not being good?



**MR SHEARER:** Well, individuals are great people. And then sometimes when clusters of officers get together, they can be quite nasty. And some of those behaviours around putting people on show or threatening them, they still continue to exist.

5

**COMMISSIONER:** You mean the way that inmates are being treated across the culture?

**MR SHEARER:** I - I - I think - my personal view - and I don't manage (indistinct) female inmates at one of my Centres in - in the north. But there is - I just see some really good decisions. I see some really seriously unhealthy inmates come through, and I see this empathy and duty of care and love which just - blows me away. So I think there is a real - with the - with the right - I think we've made a great transition. We're not there yet, but we never ever will be - like any big organisation, we're going to get the odd rotten egg that's going to sit there. I think we've got some really good people here (indistinct) that are really driving - assisting the direction of this organisation.

You've got a - you've got a - you've got three terrific Deputy Commissioners. Luke Grant, who's just a wonderful man and nothing but a big heart for everyone. You've got Leon Taylor who's engaging and a really good guy. We've got Anne-Marie Martin who's, you know, another terrific person, humble. We've got good people in this organisation. And then I think, you know, that Kevin is well advised now, and maybe he has the support he didn't have before. Maybe some of those decisions - I can't speak for him, but maybe he wasn't involved or he didn't have the right advice. I certainly know that a lot of the decisions that were made in my time as a Custodial Director in those early days were influenced by one particular Director, and I think that probably was the advice that Kevin was receiving.

30

**COMMISSIONER:** Now, again, in many organisations, where there's a failure, the organisation investigates for itself why an incident report is created. Has that, to your knowledge, been attempted inside Corrective Services in relation to the Astill issue?

35

**MR SHEARER:** I'm not - I'm unsure of the question, sir. Can you -

**COMMISSIONER:** When you get a failure in an organisation, the organisation often, and indeed should, investigate for itself what went wrong, try and understand and learn. Now, I'm not saying it should have here, but do you know whether it has happened here at all?

40

**MR SHEARER:** I can only talk about the actions that I'm aware of. I can't - I don't know specifically about Astill's case, but what I do know is that we have a really robust process now that I think cuts - cuts to the chase.

45

**COMMISSIONER:** Well, that's the process of investigating a problem, but what I was interested to know was whether anyone has thought about why did it go wrong inside the organisation.

5 **MR SHEARER:** I think we're a 240 year old organisation, and it's just been doing things a certain way for a certain time - a long time, and we have been resistant to change. And I think the organisation has been able to get away with things. But now in the age - with the attention that we get through media and other things, I just think we've come - the organisation has come - it's been  
10 dragged into the 21st century, and I think, you know, we've made some great inroads here. We're not there yet.

**MR LLOYD:** One thing I wanted to bring up in one of your answers to the Commissioner, Mr Shearer, was you said before telling the Commissioner some of  
15 the observations you made about Commissioner Corcoran that, "This will probably be the end of me." Do you remember saying that?

**MR SHEARER:** Yes.

20 **MR LLOYD:** Is that reflective of a view you have that airing criticisms in this public forum of the kind you've raised are likely to result in adverse implications or something happening to you that's adverse to your interests?

**MR SHEARER:** I don't know. I just - just this process has made me reflect on  
25 the - the sort of lives - beating your head sometimes to try and get things done or trying to make change or - and I have lots of scars from the early years in this organisation where I trusted and tried to be open and transparent and bringing those leadership practices that I thought were, you know, needed. Now, I - I just think this organisation doesn't - you don't survive if you (indistinct) the  
30 terminology is going to be. I'm not - I'm certainly not a whistleblower because I - I own some of this. But I have exposed things that people don't want to hear. But it's the right thing to do.

**MR LLOYD:** See, Mr Shearer, you've dealt in answering a number of my  
35 questions and the Commissioner's questions with problems arising from officers not being prepared to pass on complaints that are adverse to the interests of other officers. Do you remember that?

**MR SHEARER:** Yes.

40 **MR LLOYD:** In a sense, what you're telling us here is a fear of you making complaint about another officer - being fearful that will lead to an adverse outcome for you?

45 **MR SHEARER:** I don't know if I'm fearful anymore. I'm just accepting.

**MR LLOYD:** Or concerned?

**MR SHEARER:** Yep. Got to pay the bills (indistinct). Yes.

5 **MR LLOYD:** Those are my questions, Commissioner.

**COMMISSIONER:** We won't finish today, will we? How many people have questions?

10 **MR SELLER:** I've got a few.

**UNIDENTIFIED COUNSEL:** I have a few questions.

**COMMISSIONER:** I think, Mr Lloyd, we might adjourn. You're available tomorrow, are you?

15 **MR SHEARER:** Yes, sir.

**COMMISSIONER:** Yes. I think we should adjourn until 10 in the morning.

20 **<THE HEARING ADJOURNED AT 3.56 PM TO FRIDAY, 17 NOVEMBER 2023 AT 10.00 AM**