



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

**PUBLIC HEARING
SYDNEY**

**FRIDAY, 17 NOVEMBER 2023
AT 10.00 AM**

DAY 23

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. TUIITE 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
MR O. JONES appears for Inspector of Custodial Services**

Any person who publishes any part of this transcript in any way and to any person contrary to a direction against publication commits an offence against section 31(2) of the Special Commissions of Inquiry Act 1983.

<THE HEARING RESUMED AT 10.01 AM

<HAMISH ANDREW SHEARER, ON FORMER OATH

5 **MR LLOYD:** I have no further questions for Mr Shearer.

MR SHELLER: Thank you, Commissioner.

<EXAMINATION BY MR SHELLER:

10

MR SHELLER: Mr Shearer, my name is James Sheller. I'm one of the legal representatives for Corrective Services. In the last 20 minutes or so, we've had a discussion, including with your legal representatives, about some of the questions or topic areas I might discuss with you. First, I was going to ask what
15 your understanding was at the time you took on the role of Director in terms of making any decisions or having any input concerning officers' ongoing employment, where they were working, relocation and so on.

20

MR SHEARER: So just to be clear, are you talking about the processes on referrals or what powers I had as a Director?

25

MR SHELLER: What powers you understood you had if there was a concern about the ongoing employment of a particular officer or a need for some sort of interim change to that officer's employment.

30

MR SHEARER: So, usually, suspensions, I would need to seek endorsement for. So I didn't have the authority to suspend an officer. I would normally get advice on that from either PSB or through those chains. I did have a mechanism to put staff on leave.

35

MR SHEARER: Again, that would only be a measure that would probably be used if you knew suspension was inevitable. So it was a gap-covering measure. What I did do, though, on a couple of occasions, was I had the ability to move staff to other Centres within my region. In fact, outside my region, but I didn't have to seek any negotiation with the other Directors if it was within my region, and I did that a few times where I moved officers away from the alleged victims, and I'm talking specifically around staffing issues, until such a time as an
40 investigation had been undertaken or - or some mediation had occurred between staff and it was - it was a safe place to return to the same work area.

45

MR SHELLER: Looking back now, if you had knowledge, say, in the middle of 2017 or a little bit after the middle of 2017 as to what was understood about Mr Astill's activities at Dillwynia, is that the sort of knowledge that you would have acted upon?

MR SHEARER: Without hesitation. He would have been out of that Centre that day.

5 **MR SHELLER:** One of the things that might have been available to you was to relocate Mr Astill from Dillwynia to a male inmate gaol in that complex area?

10 **MR SHEARER:** Yes, absolutely. Outer Metro and John Morony were both on the complex, so there would be no complaint from the officer to say that they were disadvantaged. So, yes, that was an option. In other cases, though, I've moved an officer from Emu Plains into MRRC in the city, or made arrangements to do that anyway. Even that was considered - that was considered appropriate by HR and the travel distances.

15 **MR SHELLER:** I take it you don't have any recollection of any requests being made to you from Ms Martin or anyone else concerning Mr Astill being redeployed?

MR SHEARER: No.

20 **MR SHELLER:** Then I'm wondering if the witness could have access to Volume 14, please. Mr Shearer, could you have a look at the document behind Tab 452. You've been asked about this already. This is a document which starts off - sorry, it's an email chain, and the last of the emails in this chain is from Mr Robinson to Mr Greaves. Do you have that?

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

30 **MR SHELLER:** Just going back to some evidence you gave yesterday, I think the effect of the evidence is that you were thrown in the deep end with this job, generally?

MR SHEARER: Yes, it was a - a lot to learn. That's correct.

35 **MR SHELLER:** These emails are approximately 12 months after you started at Corrective Services. Before I take you to some of the emails, is it fair to say that within that 12-month period, amongst the many things that you had to do, you had achieved some degree of understanding as to how discipline worked within Corrective Services?

40 **MR SHEARER:** Yes.

45 **MR SHELLER:** And you established that there were individuals, such as Mr Robertson and Mr Greaves, who appeared to be experienced in that area of overseeing discipline within Corrective Services?

MR SHEARER: That's correct.

MR SHELLER: And you also understood that Mick Hovey was someone that was very experienced within Corrective Services who had an involvement in investigating misconduct?

5 **MR SHEARER:** Yes, I do.

MR SHELLER: If I can just ask you to have a look at the bottom email behind Tab 452, the email from Mr Greaves.

10 **MR SHEARER:** Yes, I remember this.

MR SHELLER: You'll see that Mr Greaves has sent you, obviously, the email with his Inquiry.

15 **MR SHEARER:** Yes.

MR SHELLER: And it's apparent from Mr Greaves' email to you that there was significant concern on his part as to what was going on in relation to a matter at Dillwynia?

20

MR SHEARER: Yes.

MR SHELLER: It's not apparent from the email, but do you have any recollection now as to whether there was any indication to you at this time as to whether Mr Greaves had spoken to Mr Hovey?

25

MR SHEARER: No, I - I didn't know if that had occurred.

MR SHELLER: It's even - if one looks at the email at the bottom of the page, it's not even apparent whether Mr Greaves knew that there was some investigative work being undertaken by Mr Hovey, or one of his team, in relation to the subject matter?

30

MR SHEARER: Yes, I agree.

35

MR SHELLER: Then the middle email summarises what Mr Greaves found out from speaking to you?

MR SHEARER: Yes.

40

MR SHELLER: And, in turn, from you having spoken to the Governor?

MR SHEARER: That's correct.

45 **MR SHELLER:** And then some detail about the - what the Governor had done in relation to Mr Hovey?

MR SHEARER: Yes.

MR SHELLER: You'd accept, looking back with the benefit of hindsight, that this looks a bit like Chinese whispers?

5

MR SHEARER: It didn't look connected, no.

MR SHELLER: And that the obvious course available to Mr Greaves at the time was to make inquiry from Mr Hovey, given their similar roles in discipline, as to what was going on?

10

MR SHEARER: Yes.

MR SHELLER: I just want to then ask to see whether you can - sorry, I withdraw that. Could you just confirm the following matters in terms of what you knew or didn't know at the time of this exchange of emails. I take it you didn't know at the time that Mr Hovey had actually been involved - or his team had been involved in an investigation concerning the matter referred to by Mr Greaves?

15

MR SHEARER: No, I didn't know what that involvement was. No.

20

MR SHELLER: I take it that as at October 2017, you did not know that Mr Hovey had signed off on an intelligence report received from Dillwynia and had, in effect, closed the matter?

25

MR SHEARER: No, I didn't know that.

MR SHELLER: I take it you didn't know that it appears that - sorry, I withdraw that. I take it you didn't know that there was concern at Dillwynia concerning the person who's identified at the bottom of the email, Witness M, going back to Dillwynia? Sorry, you want to have a look at the pseudonym list.

30

MR SHEARER: No, I wasn't aware.

MR SHELLER: And I take it you didn't know that there was some concern within Dillwynia that Witness M was fearful of retribution at the hands of Mr Astill?

35

MR SHEARER: No.

40

MR SHELLER: Is it also the case, Mr Shearer, that at the time - sorry, I withdraw that. Is it also the case that you were never made aware that this matter concerning Witness M had not made it to Professional Standards?

MR SHEARER: No.

45

MR SHELLER: We've had some evidence from Mr Greaves, who described the fact that this matter was not ultimately considered by Professional Standards as catastrophic. Do you agree with that?

5 **MR SHEARER:** It's shocking that this occurred, yes.

MR SHELLER: And we had some evidence yesterday from Ms Wright, who occupied the position beforehand, that it represented a significant or fundamental failure in the system. Do you agree with that?

10

MR SHEARER: Yes, I do.

MR SHELLER: We've heard some evidence from you yesterday, Mr Shearer, concerning needs for change and changes that you've recognised of a systemic nature within Corrective Services over the last few years?

15

MR SHEARER: Yes.

MR SHELLER: Do you accept that from just this case study or example, that is, where part of the Investigative Branch or the disciplinary body within Corrective Services was aware of this complaint but that it was never acted upon, is a reminder of the need for personal responsibility on the part of officers?

20

MR SHEARER: Yes.

25

MR SHELLER: And your background, both in the New Zealand Army and the Federal Police, is a reminder that personal responsibility is a significant matter (indistinct)?

30

MR SHEARER: Yes, it is.

MR SHELLER: And any changes or consideration of Corrective Services going forward should still have as part of it review of the performance of officers holding positions the equivalent of, for example, Mr Hovey or Mr Greaves?

35

MR SHEARER: I think everyone who is a decision-maker in this should be - should be considered, yes.

40

MR SHELLER: Yes, those are my questions. Thank you, Mr Shearer.

COMMISSIONER: Does anyone else have any questions?

<EXAMINATION BY MR HORTON:

45

MR HORTON: Mr Shearer, my name is Horton. I represent Kevin Corcoran. You mentioned yesterday in your evidence that you undertook recruit training in 2022, but you'd begun with Corrections in 2016; is that correct?

MR SHEARER: Yes.

5 **COMMISSIONER:** Can you just get that microphone a little more directed towards you.

MR HORTON: Yes, certainly. Now, about 15 courses for new recruits run every year; is that correct?

10 **MR SHEARER:** I'm not sure of the number, but there has been a significant amount recently with the 800 new recruits.

MR HORTON: Yes. I want to suggest to you there were numerous courses run every year since 2016 to 2022; is that correct?

15 **MR SHEARER:** Yes, I have no reason to doubt that.

MR HORTON: And you're not suggesting there wasn't a course that you could have undertaken between 2016 and 2022 that was available?

20 **MR SHEARER:** There were lots of courses run, yes.

MR HORTON: Yes. And so it was your decision when you undertook the new recruit training course; is that correct?

25 **MR SHEARER:** I was invited by one of the Deputy Commissioners in 2022, asking me if I'd like to attend and to come out of my role for that period of the program.

30 **MR HORTON:** And Mr Corcoran suggested that you do that course at or about the time you commenced with Corrections in 2016; is that correct?

MR SHEARER: I can't remember the discussions in the recruiting process. I do recall I had some reservations that I knew nothing about Corrections, and I went back to him to say that I'm not the right person. When I met him after being recruited, I did - he did have a conversation with me around the recruit training, yes.

40 **MR HORTON:** Yes. And drew your attention to the availability of that course; is that correct?

MR SHEARER: It wasn't about the availability of the course; it was about when - I don't think there's any question around the roster of the programs or the - the calendar. The - the question was about when I could do it, as far as my capacity.

45 **MR HORTON:** In terms of your workload, do you mean?

MR SHEARER: Yes.

5 **MR HORTON:** I want to be clear, I'm suggesting to you that Mr Corcoran, at the outset of your time in Corrections, suggested that you do the new recruit course.

10 **MR SHEARER:** He mentioned it to me. He suggested I talk to the Academy and see when I could squeeze it in. I can't remember my conversations with Kevin after that, but there was no time for me to park my role. So - and I'm sure I briefed him back on that. I tried to look at some elements of it, and I engaged with the Academy to look at that. But, again, they were taking me offline from my job. So, no, I didn't - there was no clear window to do the program.

15 **MR HORTON:** Thank you. You mentioned that your relationship with - your working relationship with Mr Corcoran had some highs and lows yesterday, I think was the word you used.

MR SHEARER: Yes.

20 **MR HORTON:** I think you said ultimately was one over the years that had developed into having some professional respect for him; is that correct?

MR SHEARER: Probably in the last year or two, yes.

25 **MR HORTON:** And there was a period, as I understand it, when you were performance-managed by Mr Corcoran; is that correct?

MR SHEARER: He was responsible for my annual reports.

30 **MR HORTON:** My question is a little bit different. There was a time when he was performance-managing you, and I want to suggest to you it's in 2019.

35 **MR SHEARER:** I was made aware in 2019 by a representative in strategic HR that Mr Corcoran had put in a report about me. He said, "Have you read it?" That is, he knew me and he thought it was odd, the way the report was constructed. I said, "No, I hadn't seen it." So I contacted Kevin Corcoran and asked him for a copy of that. I asked him two or three times over the emails. He wouldn't reply until I cc'd the Commissioner into it. Once the Commissioner was involved and I realised that I had had no engagement with the performance review, Luke Grant, 40 the Deputy Commissioner who sat above Kevin at that time, then sat down and mediated with - with - with me. And my - my conversation with the Commissioner was, "I can't keep looking over my shoulder for a sniper on the hill."

45 **MR HORTON:** Mr Corcoran, in that period, drew to your attention some concerns he had with your performance; is that correct?

MR SHEARER: He made a comment to me that he had been speaking to officers who didn't think I was performing. When I asked him who those officers were, he wouldn't tell me. And his suggestion was, "I'll construct a" - what's the survey called? SurveyMonkey. "And I'll send it off to those officers with some questions." My concerns were that's not objective; it's only the officers that you are selecting, not those that work directly for me. So, yes, that conversation occurred, but it didn't proceed.

MR HORTON: I'll be more specific. I want to suggest to you two things. One is that he'd raised with you being an issue that you'd used a staff member to sort through emails and inappropriately delegate some of your responsibilities to that person.

MR SHEARER: He didn't mention that to me at that time.

MR HORTON: I think you mentioned yesterday that very thing in your evidence, if I'm not wrong.

MR SHEARER: That happened in 2016. It wasn't raised in that conversation.

MR HORTON: And that was - I accept the year. That was Mr Corcoran who raised that difficulty with you about the way in which you'd used that staff member; correct?

MR SHEARER: Yeah, he informed me not to - not to allow access. That's correct.

MR HORTON: Yes. And the second thing I want to suggest to you is this: that in 2019 or thereabouts, Mr Corcoran raised with you the issue that you needed to develop your own sense of knowledge rather than referring matters off to others in the organisation.

MR SHEARER: No, the question he said to me was something to the effect of, "You haven't - you haven't improved your technical knowledge sufficiently enough in that period."

MR HORTON: Yes. And you accept that was communicated to you by Mr Corcoran in or about 2019?

MR SHEARER: Via email, I think.

MR HORTON: And what did you do in response to him raising that issue with you?

MR SHEARER: I raised a concern with him to say that I had had no training in these matters. I mentioned to him that, "You have not given me any advice on these matters, and yet you're now presenting this as a fait accompli to me." Bear in

mind, the context of this was a year or two earlier he had sacked another Director for, again, some matters which I think were challenged and successful in the Industrial Relations Commission.

5 **MR HORTON:** But surely you do have some training in matters of senior executive management?

MR SHEARER: I do, but not in the technical and operational expertise.

10 **MR HORTON:** Well, you had been a lieutenant colonel in the Army, and that would involve precisely, I would have thought, that sort of expertise?

MR SHEARER: I could talk to you for a week about tactical operations in the military. We have totally different rules and regulations around the conduct of
15 operations in war. This is Corrective Services with legislation in New South Wales. Quite different.

MR HORTON: Well, you had been employed not only there but with the Australian Federal Police - the Australian Institute of Police Management as a
20 Director of International Programs; yes?

MR SHEARER: Non-sworn.

MR HORTON: Is that really a material distinction for present purposes?
25

MR SHEARER: Well, it is if you're talking about the - the legalese and the law in New South Wales as it applies.

MR HORTON: And you had responsibility for writing and running leadership and management programs in that capacity; yes?
30

MR SHEARER: That was my job, yes.

MR HORTON: And you held yourself out to be, in your job application and your CV, as being - having sophisticated leadership experience and capabilities?
35

MR SHEARER: Yes, I believe I do.

MR HORTON: Aren't they all things which ought to have equipped you to do the very thing which Mr Corcoran was saying to you in 2019 he was concerned about, that is, taking yourself responsibility for these technical matters and not referring off to others what should have been done yourself?
40

MR SHEARER: Can you clarify by what you mean by "referring off to others"?
45 You mean getting advice from others?

MR HORTON: No. Delegating to, rather than doing yourself.

MR SHEARER: Can you be specific what I delegated?

5 **MR HORTON:** Well, being specific about the concern Mr Corcoran raised with you, which I think you accept he raised with you.

MR SHEARER: I can't recall any conversation around delegation, so I'll be interested to - if you can be specific, please.

10 **MR HORTON:** On technical matters - to use your term, to use technical matters.

MR SHEARER: There were no examples given. It was a generalised comment.

15 **MR HORTON:** So you didn't know what technical matters Mr Corcoran was talking about when he raised them with you?

MR SHEARER: If he was talking about my experience as a custodial officer, my knowledge of the systems, then that's what I assumed he was referring to.

20 **MR HORTON:** Did you think at that stage you should do the recruit training as a matter of priority in 2019 given you saw a deficiency, as you seem to be saying, in your fundamental training?

25 **MR SHEARER:** I wanted to do it in 2016, and that was my understanding, that was going to be made available to me.

MR HORTON: Well, I want to suggest it was available to you and routinely and regularly run from 2016 and that you could have readily undertaken that course much earlier than 2022.

30 **MR SHEARER:** So are you suggesting I take myself offline for two months and run a course and - are you suggesting that was my decision? I don't approve my attendance on programs. That's done by those above me.

35 **MR HORTON:** I'm suggesting to you, if you thought that you were deficient in your fundamental training, that you ought to have given priority, either by doing or by telling your managers, that you thought you needed to do that training sooner rather than later.

40 **MR SHEARER:** Kevin Corcoran knew that I hadn't done that training. I requested it from the get-go. There was an understanding before I joined the organisation. That was not made available to me until the two Deputy Commissioners offered it in 2022.

45 **MR HORTON:** And no one stood in the way of you doing that training in 2016, 2017 or, for example, 2018?

MR SHEARER: Providing someone was allocated to back for my role, yes.

5 **MR HORTON:** Now, you mentioned an email yesterday in your evidence, September 2017. Do you recall the email about the referral process for complaints coming out of prisons?

MR SHEARER: Yes.

10 **MR HORTON:** An email you sent and one which arose, as I understand it, from a Custodial Corrections executive meeting; is that correct?

MR SHEARER: On 11 September.

15 **MR HORTON:** Yes. And you are a member of that executive meeting; is that right?

MR SHEARER: Yes, I am.

20 **MR HORTON:** And you were present at the meeting which decided the policy - we'll call it for the moment - which you reflect in your email the following day, I think?

MR SHEARER: Yes, I was at the meeting.

25 **MR HORTON:** And did you agree with the resolution that was made at that meeting, reflected in your email?

MR SHEARER: I didn't agree with it; I just accepted it.

30 **MR HORTON:** You disagree with it?

35 **MR SHEARER:** I can't recall if I disagreed at the time. The - the meeting was very much a fait accompli. Director Scholes from the north articulated his plan and said, "This is what we're doing in the north." Kevin said, "This is great. This is what we should do." And that was the decision that he made at the meeting.

MR HORTON: Right. And you didn't express dissent, as I understand your evidence to be now?

40 **MR SHEARER:** It was a difficult time for raising dissent with Kevin Corcoran.

MR HORTON: And then you communicate the policy - we'll call it for the minute - in the email to staff; correct?

45 **MR SHEARER:** That's the normal practice, yes.

MR HORTON: Now, the effect of this is that matters which might not have come to your attention under this change policy will now definitely come to your attention - is that right - if the policy is adhered to?

5 **MR SHEARER:** It created ambiguity, yes.

MR HORTON: No, not my question.

MR SHEARER: Reframe the question, please.

10

MR HORTON: The effect that this policy has changed was that matters, if it adhered to, would come to your attention which were complaints from the prison; is that right?

15 **MR SHEARER:** Yes. If they followed the law, yes.

MR HORTON: And under the old system or the preceding system, the matter would be drawn to Professional Standards' attention but not necessarily to yours?

20 **MR SHEARER:** There were other arrangements at the time. I can recall an email with Shari Martin in December '16 where she said to me, "Do you want referrals to go directly to you, like they did with Marilyn, or would you like them to be referred to PSB?" And my response to her was, "No, they should go to PSB, and give me an information copy."

25

MR HORTON: And to give you an information copy, did you say?

MR SHEARER: Yes.

30 **MR HORTON:** Yes. Because if it just went to PSB, it might be that no one outside the prison, other than PSB, ever knows that the matter is pending and been referred; is that correct?

MR SHEARER: I would expect I would be told by the Governor, yes.

35

MR HORTON: Right. This way, under the new policy - tell me if I'm being confusing, but under the policy reflecting your email of September, it would be certain that you would know and that you could then make a decision whether it was appropriate to handle it in a managerial setting or to refer it off to the PSB for investigation?

40

MR SHEARER: The direction directed that everything come through me, but I thought it was an error.

45 **MR HORTON:** Right. But not an error you communicated at the meeting at which it was decided?

MR SHEARER: I can't recall, but there were some very influential people at that meeting, and Kevin often defaulted to the direction - or the advice he got from the Director, North, which was Glen Scholes.

5 **MR HORTON:** I want to put this to you: influential people maybe, but you were a lieutenant colonel in the Australian Army. Did they scare you?

MR SHEARER: I was in the New Zealand Army, not the Australian Army.

10 **MR HORTON:** Yes. Well, Australian Federal Police, New Zealand Army. These are senior positions, with respect, sir. Did these people in the meeting scare you?

MR SHEARER: No, they didn't. But can I just qualify that? I raised a number of issues with Kevin Corcoran in my time in Corrections. One of those resulted in
15 that where I felt sick to the gut when he responded to me. He asked me - when I contacted him about staffing at about that time, he said - I - I rang - rang him and I said to him, "Kevin. And the Directors have been talking about no resourcing in the regions." I responded to him to say, "We really need some resourcing." His
20 response to me was - you know, I was telling him how busy I was. His - his response to me was, "Maybe this is not the right job for you. You have a young family."

MR HORTON: Yes. You mentioned that, I think, in your statement.

25 **MR SHEARER:** Okay. I just wanted to clarify. So this is the time that you're saying I wasn't - I wasn't raising issues. I was raising issues.

MR HORTON: No. My question was very specific. You -

30 **MR SHEARER:** About my courage, you said.

MR HORTON: You did not dissent in the meeting at which it was decided there would be a change in policy about referrals to which you gave expression and instruction in your email in 2017.

35

MR SHEARER: I didn't agree with that decision.

MR HORTON: I understand that.

40 **COMMISSIONER:** Can you tell me again why you didn't agree with the decision?

MR SHEARER: I - I guess the transparency of issues. I - I understand the - the importance of managing performance management issues, but I felt that a referral
45 process that was confused for these sorts of things - things go - get through, and they're not picked up or they're not reviewed appropriately or they're not considered sufficiently or you don't have the expertise to, you know, draw the

information you need to make the right decision. So my fear was always going to be, you know, that this potentially was going to make us vulnerable in our decision-making.

5 **COMMISSIONER:** When you say vulnerable in your decision-making, you mean the institution's decision-making?

MR SHEARER: Yes.

10 **COMMISSIONER:** So am I right in thinking you were of the mind that this sort of issue should go to a body charged expressly with dealing with these issues?

MR SHEARER: Yes.

15 **COMMISSIONER:** Is that what you're saying?

MR SHEARER: Yes. And I've worked in the AFP, but not as a - as a - as a sworn officer. But I worked around sworn officers all the time. I knew the importance of fear and transparent processes for investigations.

20 **COMMISSIONER:** And you thought, as a consequence, it should go to the correct body, but you should be kept in the information loop about what was happening?

25 **MR SHEARER:** Yes, sir.

COMMISSIONER: Without you being able to influence what should happen?

30 **MR SHEARER:** Yeah. Until it came back as a referral to me with some recommended course of action, then I believe my hands should have been off it.

COMMISSIONER: Yes.

35 **MR HORTON:** May I just pursue the topic further with you. Yesterday in your evidence you'd said one of the difficulties you had with this change was that you had no expertise in reviewing investigations. I want to suggest to you none of the changed policy would involve you reviewing investigations.

40 **MR SHEARER:** Can you reframe that? I'm just not quite linking what you say to that process.

MR HORTON: I'll come at it a little bit differently.

45 **MR SHEARER:** Thank you.

MR HORTON: The system was if there's a complaint made in a prison, it comes to you as the first port of call outside the prison and you decide whether it goes to PSB or whether it's something that ought - or can be handled managerially.

5 **MR SHEARER:** That was my understanding of the direction.

MR HORTON: So let me give you a hypothetical. Someone spoken abruptly or rudely to someone in a prison might be something that you, as a manager, think you could handle managerially rather than sending off to PSB, for example?

10

MR SHEARER: I - I don't even think it would be a hypothetical. I deal with those now, and they get sent to PSB now.

15 **MR HORTON:** Right. But there were 1600, as I understand it, backlog cases at or about this time which PSB was dealing with; correct?

MR SHEARER: I don't know what the backlog was.

20 **MR HORTON:** And I don't know, but hypothetically some of those might have been more important than others; correct?

MR SHEARER: Yes, absolutely.

25 **MR HORTON:** And a body like that, even a specialised body, is sometimes concerned with matters which are more trivial which sometimes distract resources and attention from matters which are important which need priority?

30 **MR SHEARER:** I'm sure PSB has a triage process that - that apprise the correct weighting and priority.

MR HORTON: Well, isn't this process in the changed policy partly that you might do some of that triage as a way of filtering before it gets to PSB so that PSB can have a prioritisation of focus on those matters which are most important which do deserve - do truly deserve that specialised knowledge and approach?

35

MR SHEARER: Not without resources and expertise, no.

MR HORTON: I'm sorry, not with the?

40 **MR SHEARER:** If I don't have expertise and resources, no, that's not appropriate.

45 **MR HORTON:** Well, aren't they just managerial resources - aren't they just senior executive managerial resources, that one says, "This is the sort of thing a senior manager," like you - and I'm telling you you are - "can handle managerially as I did as a lieutenant colonel, and there are other ones that are just not for me. Allegations of sexual assault are definitely matters for PSB. That needs to go now. That needs to be referred, and it needs to have some priority attached."

But what ought not happen is that those important matters get distracted by matters which are trivial which a manager can deal with in the ordinary course of managing.

5 **MR SHEARER:** Maybe they aren't trivial. It might be one piece of the jigsaw that might link with something else that people have got on a database. So, no, I didn't have the capacity to make those robust decisions.

10 **MR HORTON:** Yes. But a senior competent executive manager would, I'm suggesting to you.

COMMISSIONER: Well, I think you're at cross purposes. He's not denying his management capacity, but what he's saying is the system, as he understood it, proposed a mechanism which would not enable him to make a proper decision because the information about the relevant person may be held by PSB and not by him. Now, that makes perfect sense to me, I have to tell you.

MR HORTON: Well, I've put what I needed to put.

20 **COMMISSIONER:** Well, do what you need to do, but it makes perfect sense to me that you'll have a repository of all information that then makes a decision and maybe sends it back down for management discharge or goes elsewhere for other proceedings. That sounds to me like a logical management thing to do.

25 **MR HORTON:** Finally, Mr Shearer, did you say that you, in the meeting at which this policy is decided, which you attended, that you didn't have the guidance, training, knowledge, skills to manage this situation as the first responder of allegations of this kind?

30 **MR SHEARER:** Sorry, can you say that question again. Are you saying did I say those words at the meeting?

MR HORTON: Or words to those effect at the meeting. Did you communicate something to that effect at the meeting to say, "Please don't do this. I don't have the training, knowledge, skills to act effectively as a first responder in allegations of this kind"?

40 **MR SHEARER:** I can't recall the discussion at the meeting, other than the minutes that were produced.

MR HORTON: They're my questions, Commissioner.

COMMISSIONER: Yes. Anyone else?

45 **MS GHABRIAL:** Commissioner, if I may. Thank you.

<EXAMINATION BY MS GHABRIAL:

MS GHABRIAL: Mr Shearer, my name is Ms Ghabrial and I appear for a group of correctional officers. I just wanted to start off by asking you a question about the - what you understood the role of the Assistant Commissioner for Custodial Operations was, because obviously you worked under - or in that division or under the Assistant Commissioner who acted in that role or who worked in that role. What did you understand his role to be - or his primary role?

MR SHEARER: Well, to me, he was responsible for the - I guess the outputs that that division provides. So meeting and ensuring that all the KPIs are met, providing clear direction and guidance.

MS GHABRIAL: What's that - the -

MR SHEARER: KPI?

MS GHABRIAL: Yes, what's that?

MR SHEARER: Key performance indicators (crosstalk) -

MS GHABRIAL: Okay. Yes.

MR SHEARER: - how we're performing.

MS GHABRIAL: Yes.

MR SHEARER: So it was a range of things. But, essentially, everything that we did within Custodial Operations, he had oversight for.

MS GHABRIAL: And so did that include the performance of staff within the various Centres across New South Wales - the Correctional Centres?

MR SHEARER: Yes.

MS GHABRIAL: Okay. Mr Greaves - did you hear or watch his evidence at all when he gave his evidence on 13 November?

MR SHEARER: I - I saw snippets. I didn't see the whole thing, no.

MS GHABRIAL: Some of his evidence was as follows. One of the things that he said on 13 November on page 5 of the transcript, Commissioner:

45 "There is an inherent problem with misconduct matters, that the more they get reported, the more - the worse it makes that unit look. But it might actually reflect a healthy culture rather than there being serious problems in the way that it's being run."

In respect of that quote, the first part of that - the inherent problem with misconduct matters being that the more they get reported, the worse it could make that unit look - was that an impression that you got from Assistant Commissioner Corcoran in respect of the way that complaints - if there were many complaints
5 being made about correctional officers across New South Wales, did you get the impression that Mr Corcoran - or Assistant Commissioner Corcoran felt that that was reflecting poorly on him as the head of Custodial Operations? Did you get that impression?

10 **MR SHEARER:** No, I didn't.

MS GHABRIAL: Ms Davidson also had an exchange with Mr Greaves, and I'm going to read that out. She said that:

15 "You mentioned the more things get reported, the worse it makes that unit or that agency presumably look. Were you aware during your time of concerns being held about the increasing number of misconduct reports from leadership within Corrective Services?"

20 That was the question that was asked of Mr Greaves. Mr Greaves' response was:

"No question about that. There was, based on what I was told by two of the people who held the role of Director, that there was constant pressure, not just on them but on the Assistant Commissioner, to lower the number of
25 misconduct matters and the backlog that we had."

Were you one of the people who held the role of Director to whom Mr Greaves was referring?

30 **MR SHEARER:** I don't - no, I - I can't recall. So - there's two parts of that -

MS GHABRIAL: There is. I'll read it again.

35 **MR SHEARER:** - but I - I'll just respond to the one that I can remember, and it was around the backlog. I was aware of the backlog, and that was causing frustrations.

MS GHABRIAL: Were you put under constant pressure by anybody to lower the number of misconduct matters?

40 **MR SHEARER:** No, I wasn't.

MS GHABRIAL: Did you feel that you were under constant pressure to do so?

45 **MR SHEARER:** No, I never - I never compromised that. That - that was something, if it occurred, it should have been reported.

MS GHABRIAL: I know what your personal position is, obviously - it should have been reported - but did you feel that those above you were putting you under pressure for the misconduct matters to be reduced?

5 **MR SHEARER:** Not me under pressure. I knew that some Centres had some challenges, especially through benchmarking, and I guess they drew some attention to themselves. It was probably a point of frustration for the Governors or those running those Centres. In one case, I recall Long Bay being a significant area of concern that resulted in some significant change.

10

MS GHABRIAL: And can you expand on that? Are you able to?

MR SHEARER: I'm not sure if it was totally related to that, but the Director of that region was sacked.

15

MS GHABRIAL: And who was that?

MR SHEARER: Stuart Davie.

20 **MS GHABRIAL:** And was that the Director that you were referring to who had challenged Assistant Commissioner Corcoran in the Industrial Relations Commission?

25 **MR SHEARER:** I've only heard that second-hand. But, yes, I understand he was - that that was a challenge in the IRC that was successful.

MS GHABRIAL: And so during your time under Assistant Commissioner Corcoran's command, if that's the correct way of putting it, did you feel safe working for him in that regard?

30

MR SHEARER: Can you -

MS GHABRIAL: Well -

35 **MR SHEARER:** - provide a definition of "safe" in your words?

MS GHABRIAL: Safe in terms of challenging him in respect of decisions that he was making.

40 **MR SHEARER:** Look, it wasn't a good working relationship. I'd sort of felt, after I'd raised some earlier complaints against Kevin, that it was just a matter of time before, you know, something else was going to stick. So, no, I was never really comfortable with it. My career was - was not going to be terminated early as a consequence of something, and whether that was by doing - not knowing or
45 whether it was a perception he had of me. But, no, I was - I think I came to this realisation some time ago, that my days in Corrections were going to be numbered.

MS GHABRIAL: And so obviously the answer to the question, in short, was you didn't feel safe and secure in your job to challenge any decisions or thought processes that were being engaged in by Assistant Commissioner Corcoran.

5 Would that be fair to say?

MR SHEARER: At the front - at the front-end, I was more - as - as my career developed and people knew me, and when I, you know, got a sympathy (indistinct) from people when I raised concerns, I felt more empowered that I had some control over these decisions as opposed to just being presented with them as a fait accompli. So when I raised issues around bullying, the Commissioner was - but everything sort of quietened down for a bit. When I raised issues around this performance process which I wasn't included in, again things settled down for a little while. I got additional resources.

10
15

MS GHABRIAL: From other people, though?

MR SHEARER: Well, Luke Grant sat over the second one and - and Peter Severin over the first one. And then things just seemed to settle down again. But I thought my days - I - I thought I was a marked man for sometime.

20

MS GHABRIAL: Did you get the impression when you were at that meeting on 11 September - I'll start by this - I'll withdraw that. Yesterday you gave some evidence about Assistant Commissioner Corcoran being more influenced by a particular Director. I don't think there's been any evidence to date about how many Directors were actually under his command for Custodial Operations, so I just wanted to clarify that first. So you were the Director for Metro - was it West?

25

MR SHEARER: West. Stuart Davie was Metro East, North was Glen Scholes and South was Ian Farquhar before he passed.

30

MS GHABRIAL: And then yesterday you gave some evidence that you felt that during the time that things were more challenging for you - and you've clarified it's been better over the last year to year and a half with now Commissioner Corcoran. But during the time that things were more challenging for you, you felt that he was listening more to one particular Director. You've mentioned Director, North, today in the meeting of 11 September. Was that to whom you were referring yesterday?

35
40

MR SHEARER: Yes.

MS GHABRIAL: And that was Mr North; is that correct? Mr Scholes - Glen Scholes?

45

MR SHEARER: Glen Scholes.

MS GHABRIAL: In terms of the evidence that was given by Mr Greaves, he gave some evidence not just in his statement to the Commission but also in his evidence that there was a widespread mistrust of the leadership team during the period that he was there, and he clarified that period was October 2014 through to
5 early July 2021. So that was a period, obviously, that you were there for some of that - for the tail end of that, from 2016 to that. And he clarified that part of that mistrust was of then Commissioner Severin and Assistant Commissioner Corcoran. And part of that evidence that he gave was that there were staff reporting to him that there was a lack of trust in the decisions that were being
10 made by Assistant Commissioner Corcoran's office. What was your impression over the time that you worked under him as Assistant Commissioner in that respect? Is that an accurate reflection?

MR SHEARER: It's - it's a big question. I'm just trying to sort of - sort of ham slice it to something specific I referred to. Look, I - I make no bones about it. The
15 process of benchmarking was traumatic. It was a - it was a big shake-up, and there was lots of - lots of challenges. I don't think anyone was really happy. There was just - we had to work through it and find a model that was most appropriate for - you know, as we transitioned the organisation forward.

20 So there were some difficult decisions and I, you know - and they often said that Kevin Corcoran and - and those that maybe advised him about - and I'm talking about the - the - the details of some of the models for benchmarking. And it was a tough sell. So I don't think any executive officer was probably popular at that
25 time. I mean, I - you know, I - I - when I visited the Centres when we rolled out benchmarking, it was tough. You know, I thought the model was appropriate, but I think it was - you know, was it easy on those that were losing jobs? Absolutely not. But it was a process, I think, that we needed to have, and there was, at that particular time, you know, some - some difficult conversations.

30 The - the thing around the trust is a big one. I - I don't know - I mean, I - despite my personal relationship with Kevin and my own personal circumstances, I often felt that the decisions seemed to be evidence-based or logical. Individual decisions, I can't comment on. But, you know, I - I didn't - I didn't go to the
35 meetings thinking, "Oh, it's rubbish." I came out of the meetings thinking, "Okay. It's the next iterative step in what we're doing and" - that's probably not answered your question. It's just quite a general question, and I'm trying to say what my feelings were. I - I didn't think that anyone in that executive team, despite how we got on with each other, was trying to do the wrong thing as far as progressing the
40 organisation. We were trying to do what was right.

MS GHABRIAL: What about that meeting, though, on 11 September 2019? Obviously, having heard what you've just said, generally there might not have
45 been issues with decisions, but it seems from your evidence today that you did take issue - or had an issue with the particular decision that was then transported across by email about having to directly report all misconduct and disciplinary matters through to you, essentially bypassing Professional Standards all together.

MR SHEARER: Yeah, that - that was '17, not '19. Yeah.

5 **MS GHABRIAL:** Sorry, '17. That was a decision that you quite clearly, in your evidence today, did not agree with.

10 **MR SHEARER:** No. Look, I think something like - if we're going to have a - if we're going to have a bulletproof backup - so if we make some decisions that aren't right, we need - we need a robust net to catch those decisions, and I just thought that maybe that was not using that net. And I just thought that if we get it wrong, we'll get it very wrong.

15 **MS GHABRIAL:** Can I suggest - well, this - let you know what Mr Greaves' impression of that type of process was. This is 13 November on page 4. He said:

20 "The idea of all referrals of allegation - all allegations and referrals being passed to the Commissioner's office - frankly, in the time I worked in PSB, there was not lot a trust in - by frontline staff in the Commissioner's office or, indeed, in the office of the Assistant Commissioner, Custodial Corrections. So if this is implemented and it becomes known to staff, I believe it will actively discourage staff from putting in reports."

25 Was that one of the concerns that you had at the time that you heard that was an idea of bypassing the Professional Standards Board all together?

MR SHEARER: Sorry, are you saying I link - I link that activity - that - that direction around the PSB to what, to a broad (indistinct) of what?

30 **MS GHABRIAL:** Were you concerned that a direction to give - or make all - or refer all misconduct and disciplinary matters directly to the Assistant Commissioner of Custodial Operations might actually actively discourage staff from putting in reports?

35 **MR LLOYD:** Commissioner, I'm concerned about that question, not least of all because I think it should be, in fairness to Mr Shearer, made clear whether what's being put is the 12 September 2017 direction. Because if that's right, that is not a referral to the Assistant Commissioner. And I think my sense is the witness is confused. If it's some other direction, that should be put.

40 **MS GHABRIAL:** I'll have a look at the terms of the actual direction. What it said in that email was:

45 "Team, the AC and Directors of Custodial Corrections are changing our approach with regard referrals direct to PSB for investigation."

That was the first sentence. And in light of the evidence that you gave today, that was not a decision that you agreed with, even though it actually says "the AC and

Directors of Custodial Corrections"; correct? So the AC that you were referring to was Mr Corcoran; is that correct?

MR SHEARER: Yes.

5

MS GHABRIAL: And the Directors was Glen Scholes, one of the people that actually - was that the person who actually recommended this approach?

MR SHEARER: Yeah. And that's in the minutes. And those words that I grouped there are sort of - they reflect the narrative from the - the direction from the minutes. So you can see direct correlation between the two.

MS GHABRIAL: Okay. And so where it said at the end, in the last paragraph:

15 "In future, any incidents of a disciplinary or performance nature that warrant elevation are in the first instance to be raised with me, and we will decide whether a performance or disciplinary investigative is most appropriate."

20 So just in light of that - and that's the email in September 2017 - when you said "in the first instance to be raised with me", were you passing on the message from the Assistant Commissioner that, essentially, "Don't go to Professional Standards, come to me first"?

MR SHEARER: Yes. So my email reflected the direction from the meeting. And I think you are saying did it cause -

MS GHABRIAL: Concern.

30 **MR SHEARER:** Concern. I remember - like, I sent it out to the - the regional - my regional leadership group, and - and most of them acknowledged it, but I do recall Sue Wilson, who was the Governor at John Morony at the time, coming back to me to say, "So this is - is this what it's really saying?" And I had to clarify and say, "Yes." So that may have raised some concerns with her.

35 **MS GHABRIAL:** So concerns with her at the time of the meeting. Did you have a concern that that approach might disincentivise or discourage staff from making complaints about other officers or filing complaints about other officers about misconduct?

40 **MR SHEARER:** At the time, I didn't make that link. I thought that the referrals would still occur, but yet they would come to me. But I did have concerns about the - the bulletproof nature of that process.

45 **MS GHABRIAL:** Okay. In terms of the transparency that you spoke about and the independence?

MR SHEARER: Or - or if things were missed or we did something wrong or we went down the path of performance management where we did that with one piece of the jigsaw and we didn't know what all these other bits were that might have been known by others, and that might have drawn a different picture.

5

MS GHABRIAL: And so just going to something that you spoke about earlier, looking to the future, do you think that it's a good idea that, firstly, whenever a report is submitted in respect of a disciplinary matter - in respect of misconduct - not just disciplinary but more serious misconduct by a correctional officer, do you see some benefit to the PSB receiving the referral first and the Assistant Commissioner or the Deputy Commissioner's office and the Commissioner's office being copied in to those allegations of serious misconduct at the same time to ensure that nothing is missed?

10

MR SHEARER: I think the process moving forward - there are no hands on anything. It goes straight to PSB. Information, yes, because they may need to do some interim arrangements to move staff or to take some before the machinery of the PSB spits out an answer. But, no, it should be a pure system with no one having ability to influence it until it's been reviewed.

20

MS GHABRIAL: And do you - this is a question I think I asked of Mr Greaves last week as well. Do you see there being a benefit to the PSB being removed from the umbrella or the employment of Corrective Services New South Wales and being placed in head office for the DCJ as being part of the broader Professional Standards units there - a speciality unit still, obviously, but being removed from Corrections completely and being a completely independent unit? Do you see that as being beneficial?

25

MR SHEARER: I think there needs to be an independence so it can't be influenced through a chain of command. It needs to be an independent, I guess, catchment for anything that occurs. And maybe from this - these failings, maybe also an opportunity for inmates to go directly to them. But, yeah, there should never ever be any - there shouldn't be resourcing issues to deal with these things. There shouldn't be opinions associated with these. It should be the information as it is presented - and hopefully it's presented with - with the correct detail - is presented to a body that has total independence, like - almost like ICAC, to be able to have total independence to do what they want. And then we go - then if it's appropriate, it's referred back to the chain of command to manage what is the recommended course of action.

40

MS GHABRIAL: So, essentially, nobody within Corrective Services can influence any decision made by that body, essentially?

MR SHEARER: Criminal matters. They - we can't police our own.

45

MS GHABRIAL: Can I just also just ask you this about some evidence that Mr Greaves also gave last week. It's pages 52 to 53 of the transcript on 13 November.

He gave the following evidence with specific emphasis and reference to Assistant Commissioner Corcoran during his time there, and he said this:

5 "The consistent message from staff was that Custodial Corrections was very much run on the principle of nepotism and favouritism, that when you were going for promotion, if you were in with the crowd, then you would be the selected applicant. And if you were out of favour, then you would be held back and it will not be a merit-based decision."

10 Now, that's just one part of some evidence that he gave. Just pausing there, do you agree that that was your impression of him during the time that you were there under him as Assistant Commissioner?

15 **MR SHEARER:** I think the term "nepotism" is quite strong. Look, at the end of the day, the AC, Custodial Operations, had a lot of influence about who was going to get what roles. And - and he was advised. We had - our senior HR representative would often work hand-in-glove on those matters. So - so I don't think there was a carte blanche opportunity to - to do those things. Maybe the narrative might have shaped it that way.

20 We still had selection panels. Whether they were - they were appropriately weighted, I don't know, but they normally had an independent representative on them. But, again, the - the convenor of the panel would obviously have the last say in some of these matters. So I - I can't talk too much about those more senior ranks that - that went to those processes. We do have Governors' selection process, which I thought were pretty robust. We do that for the ranks - you know, as we go down through the ranks as well to about Senior. I don't know what - what influence the final decision on a panel that I wasn't - I wasn't part of, but I think they had a number of eyes on them. It wasn't just a one - one-horse show.

30 **MS GHABRIAL:** The next part of his statement that followed from that was:

35 "Similarly, with misconduct matters, misconduct could be used to hold you back in your career by minor things being pursued, whereas serious matters would be waved away or made to disappear if you were part of the favoured few. That was the clear message that was coming to me from staff, and this was - their message was, well, the people who are making these bad decisions are protected by the chain going up to the top, being Kevin Corcoran."

40 Again, was that impression during the time that you worked under him as Assistant Commissioner - as - when he was Assistant Commissioner?

45 **MR SHEARER:** No. I think with misconduct matters, they - I mean, the outcomes - I - I don't know the processes that they went through, whether there was criminal charges that were unsuccessful or otherwise, whether a review of those. But I think the outcomes were if (indistinct) of a serious nature would have had - would have been more significantly influenced by the police reports or the

PSB or IB information. So, look, I've heard the narrative around nepotism as well, and I continue to hear it. I - I - I've got no evidence to suggest that the appointment of promotion and otherwise were influenced by nepotism, so I can't comment on that.

5

MS GHABRIAL: But just in terms of misconduct being made to disappear if you were part of the favourite few - just on that issue, were you concerned that by bypassing the PSB back in September 2017 that it could have that effect of complaints being fielded or filtered in terms of favouritism of staff?

10

MR SHEARER: I didn't think of that at the time.

MS GHABRIAL: You didn't think - is that, reflecting back, something that was a legitimate concern to have?

15

MR SHEARER: Your comments around - earlier on - and I didn't answer it properly, was around would misconduct impact your - yes, it would. Often - and - and there was quite a log - backlog sometimes of these matters through PSB, and it did cause frustration, especially with staff who might have made a talent pool, had an opportunity for promotion, but there was this flag to say, well, you couldn't move ahead on it because it was a PSB matter.

20

I - I can recall - I don't know if I mentioned this the other day, but I can recall a matter - we had a call from an officer. He was concerned. The matter was three years since - it was a misconduct matter, and it was - maybe in the context of this, you know, might be seen as more weighty. But he - his report was perceived to not have been - accurately reflect what he saw. It might have been around the use of force or something. And that had been sitting there for three years.

25

I spoke - I contacted PSB and I said, "Hey, what's - what's the story with this fellow?" They said to me, "Oh, well, you know, he was involved in a use of force. We don't believe that the report was correctly written." And I said, "All right. So - so where is this?" And they said, "Well, we - we're finalising it now." And I said, "So what's the outcome likely to be? Is there any - you know, we've got no new evidence." I said, "So have you got anything to make a decision that's going to be" - they said, "No, we don't."

30

35

I said, "So if I was to promote this person, would - would - would that be" - and she - her response to me was, "Well, it's likely that this is what's going to come out, a warning," which to me wasn't - wasn't enough to hold a guy's promotion back. So I - I endorsed that promotion for that officer to allow him to progress with his career. It just didn't seem clear.

40

MS GHABRIAL: But did you get the impression that part of the reason - looking back now, do you feel that part of the reason why that email - you were directed to send that email was so that Assistant Commissioner Corcoran could filter

45

whatever went to the PSB so as to protect people that might have been within his favour?

MR SHEARER: I didn't think that at all.

5

MS GHABRIAL: Okay. Nothing further. Thank you, Commissioner.

COMMISSIONER: Anyone else? Mr Shearer, when you were employed initially, I assume you went through some sort of selection process?

10

MR SHEARER: I was interviewed, yes, sir.

COMMISSIONER: You presumably answered an advertisement for the job?

15 **MR SHEARER:** Yeah, my - yeah, my - my wife gave me it and said ring this guy that was talking about mentoring and, you know, senior leaders and - so that seemed - it was in line with - with what I was - had previously done or was doing at the AIPM.

20 **COMMISSIONER:** So was the job you applied for the one that you actually were asked to undertake?

MR SHEARER: It was probably the same job. I - I recall ringing the number and speaking with Kevin and just saying, "Look" - and this - and it was a really
25 positive conversation, and he invited me to come in for an interview. And I said, "Look, okay. Well, no, it sounds great. Thank you very much." And - and then I thought about it and then the next day I rang him back, and I said, "Look, I'm - I'm sorry, I'm not the man for your job." I said, "I'm not a blue blood," meaning I haven't come through the system. "I don't know anything about
30 Corrections. I'm not - I'm not the person you want."

And - and then he - he said to me, "Well, we want people with change experience because we're going through this process." And so that sort of - I thought, "Okay. Well, maybe this" - and I was wanting to go back into an organisation again.
35 I enjoyed - I enjoyed working with - with staff. I - that was the thing I'd missed after leaving the military, actually being part of something and building a team. It was - really, for me, was a - was something that - I guess it was part of my make-up. I quite liked it.

40 **COMMISSIONER:** Well then, when you started in the job, who was your immediate superior? Who did you report to?

MR SHEARER: Kevin Corcoran.

45 **COMMISSIONER:** Did you sit down and talk to him about where your experience was lacking and what could be done to help you engage effectively in the job?

MR SHEARER: We - we - we met, and we - we talked about the Academy program again. And then - then I think it slowly transitioned to, "Well, okay. Well, maybe you talk to thing and see what models you can do to" - and I just - I just
5 didn't have the - I went to the Academy, contacted them. Marie was the - the officer, I think, I spoke to there, and she was really helpful and said, "These are all the key modules." And - and we were looking at when they were scheduled, and I just - I didn't have - at that - by that time, I - I realised just how much I did each day, and I didn't have the capacity to park that and disappear for weeks on end.

10 **COMMISSIONER:** You obviously would have needed to be able to consult someone to help you with some of the decisions you were required to make, given your lack of knowledge of Corrective Services. Who was the person you would talk to about those matters?

15 **MR SHEARER:** Well, Kevin Corcoran was my direct - I was - he was my direct report. There were three other Regional Directors and then there were the Governors and - and those in the Centres.

20 **COMMISSIONER:** And what was your pattern? Did you consult Mr Corcoran regularly about issues where you were unsure?

MR SHEARER: Yeah, we had fortnightly meetings, and generally I'd bring up everything that was going on. I tried to be transparent and open about, you know,
25 everything and - and to get advice on things. And other times I spoke with - like, I can remember my earlier times, you know, making an appointment with Doug Greaves and having a good chat and trying to understand the culture, and we sat and discussed it for some time. We had a pretty good relationship, Doug Greaves and I. I'd often talk to him about things as they were occurring, as a bit of
30 a sounding board.

So - so there were people - there were good people in the organisation I could go to. But, again, it was - I didn't have them immediately in my team. It would be a conversation about a matter with my team. I think the regions used to be
35 managed by an Assistant Commissioner with about eight staff and then I think it was the Hamburger Report which changed all of that and then they - they might have spoken about a role for mentoring. To - to me - I don't know what the old system was like, but I think the role and function that I'm currently doing - or was doing at the time was very similar to what was probably being done by the
40 Assistant Commissioners and a handful of staff.

COMMISSIONER: So are you saying to me that to do the job effectively, you didn't have enough resource?

45 **MR SHEARER:** I had no direct resources, other than a shared resource in Henry Deane office for EA support and - and HR support.

COMMISSIONER: Now, you know more about Correctives than me, obviously. But the impression I have is that there were every year - or have been every year a significant number of complaints about the activities of staff. You nod your head. Is that right?

5

MR SHEARER: Yeah. I may have referred to it yesterday about the culture that I see, yes.

COMMISSIONER: Well, am I right in thinking, to you, when you came into the service, you realised there were a significant number of complaints about staff each year?

10

MR SHEARER: Yes.

COMMISSIONER: Did that surprise you?

15

MR SHEARER: Well, from my experience - look, I wasn't directly - I wasn't in a chain of command for those things in the Federal Police. But in my time as a lieutenant colonel and - and other senior ranks, yeah, I - I knew the nature of complaints and issues, and they - they were of a lot - you know, small numbers in comparison. So it did surprise me.

20

COMMISSIONER: Sorry, the Army was small numbers in comparison with Correctives?

25

MR SHEARER: Yeah. I mean, I sometimes hear the Army being bagged out about being a - a monster. They - they were quite modern in - in - in addressing matters. There was a lot of black and white on issues. So things got pulled up. If there were serious matters, they got pulled up pretty quickly. But, no, I - I was shocked with what I was - what I've come to know was the culture of Corrections.

30

COMMISSIONER: How would you describe that culture when you came to know it?

MR SHEARER: Well, I mentioned yesterday - I won't go back there, but there were - I thought there was a bullying culture in the organisation. And that's not only down, but that's up as well. I - I know what the Governors and - and MoSs and those at the head of the Centres are dealing with now. They're incredibly busy, and often - often they are subjects of - of, you know, allegations through our work health and safety reporting system or otherwise that I don't think necessarily reflects it. But there are - sorry, I'm deviating off your question. You asked me about the culture and - of the staff. It was nothing to be proud of.

40

COMMISSIONER: I'm not quite sure you've answered my question. You say there was a bullying culture. How did that manifest itself?

45

MR SHEARER: Staff were - often at the Centres would be stood over to not report things. If there was an incident that occurred, it may well be that there was some agreed response from the witnesses that might have mitigated the risk to the - or the allegations against an officer that might have just walked into the cell and flogged an officer - flogged an inmate. So some of those sort of things were quite - yeah. I was shocked to hear that staff used to call staff "dogs". But to me, that's - to me, that's a narrative that criminals use, not staff. But yet we seemed to have adopted this narrative, like it's - it's okay to endorse that sort of criticism of someone.

5
10

Look, there's been - the Corrections Service - I'm just trying to sort of contain it so it sounds succinct. But, look, I do believe that there was - how do I describe this? I think the women that - in Corrective Services had to be particularly tough to survive. I would not want my daughter working for that environment for all those reasons that - that we talked about. There was often a misogynistic approach. The way that they might be, you know, spoken to, and that's acceptable. You know, young staff are influenced to - you know, they come in with - often come in very fresh and bright-eyed with new ideas, and - and that sort of, you know, "Shut up until you've done your time," sort of approach. So there was a sort of a - I guess a deference to an old model where you do your time and you keep your mouth shut. And then when it's your time to do it, then - and often by then, you - you know, you've been drinking the Gatorade, and you're saying the same things.

15

20

25

COMMISSIONER: Can you help me to understand why this culture would develop inside the prison system?

MR SHEARER: I think unless people have got courage to raise it - and the system is going to support those that raise those issues and stand by them - then they become victims by raising issues that need to be said.

30

COMMISSIONER: Have things got any better in your time in Correctives?

MR SHEARER: I - I think they have. I - look, I can - I can talk about the region in the north. You know, I think there's a fantastic management team up there.

35

Look, we don't always get it right, but I think we're open enough to recognise it and to move ahead, and sometimes cap in hand to go back and say we made a mistake and changes things. So I think that honesty is there, and I think the troops - the staff that sit below it appreciate honesty. They don't mind if you call them out on matters, and they know - or they might play the game and say, "I didn't do it," and then you say, "Well, you did do it." "Oh, you got me." And, look, I understand that's a bit of a game sometimes, but - you know, we're talking minor matters here, not significant ones.

40

45

But I think there is a - I think there's a real thirst for people wanting to change this place. And as I said to you, we've got brilliant people - I've seen some of the actions of staff that are just - I'm just thinking to myself, "That's really good." I remember an incident - do you mind if I regale an incident? I remember when I

was doing my Corrective Officer Program, I - I worked in a gaol as a - as, like, a correctional officer, even though I was a Director, you know, rank off and just - and we were at a gaol in the Hunter, and we had an inmate that was - he had some real mental health issues. He - and he was on a management plan, which
5 means he was always getting into trouble, but they were trying to sort of manage him. He had some real anger issues.

And I remember him coming to the window of the - of the officer station. I was in there with another officer - or a couple of officers. And he - and he said, "I've got
10 no money on my - my phone account. I want to talk to my family." And they said, "Well, we've checked your phone account. There's no - no money on it." "But I put money on it." And he was getting quite agitated. And - and we - the officer brought it up and said, "Well, this is your status. You know, you've got no
15 money." He was quite agitated. Anyway, it was just on lock-in. So they were about to do a change shift, and the officer I was with - and this guy was just - started to kick on in his cell. So we went to his cell, and you could just see this guy. He - he couldn't make sense. He thought he was wrong, this inmate. He felt that the system or someone hadn't done something. He was genuine in what he
20 believed.

And I stayed with this other officer, who sat down and talked to him, calmly, discussed some options and said, "I'll tell you what we'll do. I'll - I'll go and" - and he made a call to the - his - the night Senior to say, "Can we give this guy one of
25 our mobile phones, just while we're there, so he can talk to his mother," or whatever it was. And I thought to myself, this - I thought wow. This guy spent another, you know, half an hour or an hour after his shift finished. But he did that. The inmate felt he was answered. He felt, you know - and it just took it down. He wasn't violent that night. He didn't do the knock-ups. He didn't assault his cell
30 mate.

It was just - it was such a good outcome. And it wasn't that that was a procedure. That was a decision that was made to do the right thing by this guy that was under
35 him. So I see these things come out, and I think, you know, we've got really good people. And people just want - you know, they just want - they want to come to work and feel happy and feel like they've done - done some good.

COMMISSIONER: Does anyone have any questions arising from those matters?

40 **MR DEAN:** I just have one matter I need to raise with Mr Shearer.

<EXAMINATION BY MR DEAN:

MR DEAN: Mr Shearer, do you have Volume 14 and Volume 8?

45 **MR SHEARER:** I have 14 and 2.

MR DEAN: Volume 8 is where your statement is. If you have a look at Volume 14 and turn to Tab 450.

MR SHEARER: Yes, I'm there now.

5

MR DEAN: Do you remember you were taken to that email yesterday by Senior Counsel Assisting?

MR SHEARER: Yes, I can recall discussing - sorry, this is the one with the attachment - memorandum?

10

MR DEAN: And you see Tab 451?

MR SHEARER: Yes.

15

MR DEAN: And that was a memorandum, and Senior Counsel Assisting asked you the question:

"Do you remember reading this memorandum sometime around January of 2017?"

20

MR SHEARER: Yes.

MR DEAN: Do you remember that question?

25

MR SHEARER: Yes, I do.

MR DEAN: And you answered:

"Yes, I do."

30

MR SHEARER: That's correct.

MR DEAN: That was your sworn testimony yesterday?

35

MR SHEARER: Yes, it was.

MR DEAN: And that answer was correct?

MR SHEARER: Yes, it is.

40

MR DEAN: Can you have a look at Tab 97A of Volume 8. Does the witness have Volume 8A?

MR SHEARER: Yes, I do.

45

MR DEAN: If you turn to Tab 97A. It should be your statement.

MR SHEARER: Yes. I'm there now.

MR DEAN: Can you turn to the page that has paragraph 66.

5

MR SHEARER: Yes.

MR DEAN: Do you see the question to paragraph 66?

10 **MR SHEARER:** Yes, I do.

MR DEAN: I want you to assume that the email dated 6 January 2017 is the email at Tab 450.

15 **MR SHEARER:** Yes.

MR DEAN: In light of your sworn testimony yesterday, could you explain to the Commissioner your answer to the question in paragraph 66?

20 **MR SHEARER:** Okay. That's an error. I saw a couple of documents my legal team presented me. I was confused. I thought that was referring to an IR from 2016, not this. I did see this email from Greaves.

MR DEAN: Those are the questions, Commissioner.

25

MR LLOYD: I just have two matters.

COMMISSIONER: Sorry.

30 **<EXAMINATION BY MR WATSON:**

MR WATSON: Mr Shearer, during your time as lieutenant colonel in the New Zealand Armed Forces, were you involved in complaints by low ranked - I'll call soldiers, against officers?

35

MR SHEARER: I'm thinking back now sometime ago. I know that - I know there were allegations put in about senior officers. I can't recall the context.

MR WATSON: Say for bullying or mistreatment by officers of lower ranked soldiers?

40

MR SHEARER: I can only assume I did, but I can't recall specifics right now.

MR WATSON: Was there a process or a procedure in place for the dealings of those types of complaints?

45

MR SHEARER: So - so I don't know if those ones were - went straight to the senior leader team. I can't recall that, but I do know that any - any - any complaints would come to me. There would be quite a formal process and was like a courtroom arrangement where - and I had summary powers to - to address it.
5 There were some penalties which sat above me that required a more senior level or a court martial to - to enact, and they were things like prison sentences.

MR WATSON: Was there a procedure in place where the interests of the - I'll call it the complainant - the junior officer - the junior soldier, for example, were
10 ensured that there'd be no retribution for making a complaint?

MR SHEARER: I - I - I can't remember, to be honest. I know that they were represented in the process with a support person. And if those allegations were of a serious nature and they went to court martial, then there would normal be
15 counsel appointed both to defend and to prosecute the matter.

MR WATSON: And, of course, there's a different culture - a different environment between the armed forces and Corrections officers and inmates. There's a power difference, of course; is that right?
20

MR SHEARER: Between officers and inmates?

MR WATSON: Yes.

25 **MR SHEARER:** Yes.

MR WATSON: And when you joined the Corrective Services, did you undergo in your induction (indistinct) concerning the dealing with complaints at the coalface in gaol?
30

MR SHEARER: Yes. I can remember some discussions at a high level around complaints. I - I can't recall anything at the - at the centre base. I didn't - I didn't really understand. I - I guess from 2022 when I did the program, I understood there was a process. I knew of - I knew the process that was - done at the centres
35 was of - inmate misconduct was managed at a certain level, and it was resolved and there was a range of outcomes. I knew about those, but I'm not too sure that's answering your question or not.

MR WATSON: So you're not really sure whether there was a significant aspect of training concerning the complaint process to be put in train?
40

MR SHEARER: You mean for a young - for a graduate or young officer, you mean? So - so, look, there is - on the - on the basic course that I attended, there was processes about how you refer - how you (indistinct) incidents, how things
45 were supposed to be managed. So, yes, there was a process, and I think a lot of those culminated to the letter or document - or misconduct was forwarded to the Governor, I think, ultimately.

MR WATSON: But you've become - now you would certainly be acutely aware that there's a significant problem of inmates making complaints against Corrections officers and the way that they're dealt with. Do you agree?

5

MR SHEARER: Sorry, my - my comments here are around - yeah. Okay. So inmates making complaints - yeah. So - sorry. Can you reframe the question? I'm just thinking too far ahead, I think, to understand what you mean.

10 **MR WATSON:** You're aware now - the issues that have come up in this Inquiry -

MR SHEARER: Yes.

15 **MR WATSON:** - is that there's certainly some issues regarding inmates being able to make complaints against Corrections officers.

MR SHEARER: Yes.

20 **MR WATSON:** That there's - they're fearful to make those complaints because of the power difference, the relationship. Do you agree?

MR SHEARER: Often, yes.

25 **MR WATSON:** Fear of intimidation for making those complaints; is that right?

MR SHEARER: That can certainly be a consequence, yes.

30 **MR WATSON:** That even when there are complaints that are made to Corrections officers and they're processed appropriately and they get passed what I'll call up the line, it's often the case that the person being complained about becomes privy to the complaint. Do you agree with that?

MR SHEARER: I'm aware in this case it occurred, yes.

35 **MR WATSON:** Do you see that as a fundamental fault in the complaint system?

40 **MR SHEARER:** I'm trying to understand how the complainant or the - sorry, I'm trying to get my terminology right here. So the - the complainant would put a statement in or make something. There would obviously be - there would have to be some natural justice to provide some officer report as well. Is that what - I'm not actually sure what you're saying.

45 **MR WATSON:** The system - even if there's a complaint made, it's processed by an officer who receives the complaint appropriately and it's passed up the line, there obviously is the risk of the person - the officer who's being complained against becoming privy to that information and being able to, one, for example, stop the complaint continuing up the line for appropriate action; correct?

MR SHEARER: If - if the complaint was around that officer and they were in the chain of command, quite likely - possibly, I should say. Yeah.

5 **MR WATSON:** Right. And then also it's the situation where no further action can be taken where you have a situation where the inmate becomes further frustrated and upset with the procedure that appears not to have been followed at all; correct?

10 **MR SHEARER:** Yes.

MR WATSON: They're my questions. Thank you.

COMMISSIONER: Mr Lloyd?

15

MR LLOYD: Thank you, Commissioner.

<EXAMINATION BY MR LLOYD:

20 **MR LLOYD:** Just two matters, Mr Shearer. First, when Mr Horton was asking you some questions, in particular about the basic officer training course - do you remember that?

MR SHEARER: Yes.

25

MR LLOYD: My sense of what you told the Commissioner in answer to Mr Horton's questions is that you felt that, in effect, there wasn't a practical opportunity for you to take time off to do that course even though there were multiple courses being run over many years. Is that fair?

30

MR SHEARER: I agree. And it was - it certainly wasn't being pushed by Kevin Corcoran.

35 **MR LLOYD:** No, no. But just in terms of your response, there were multiple courses that were being run?

MR SHEARER: Recruit courses, yes.

40 **MR LLOYD:** But what you were saying is that your impression in terms of your own professional obligations, doing your job, there wasn't a practical opportunity for you to take the time off to do one of the courses?

MR SHEARER: No, there wasn't.

45 **COMMISSIONER:** Mr Shearer, the sensible course would have been for you to do the first course first up, wouldn't it, before you started in the job?

MR SHEARER: Yes, sir.

MR LLOYD: And -

5 **MR SHEARER:** But can I just say that that happened for another officer - another Director that came into the job later. He - he went straight onto the program. He came in from the police directly.

10 **MR LLOYD:** I had two things arising. One, I think you've answered. It was never a mandatory requirement, I take it, for someone in your position to have done practical officer training before you started (indistinct)?

MR SHEARER: It wasn't a condition of the employment, no.

15 **MR LLOYD:** Next, you gave an answer to the Commissioner in answer to one of Mr Horton's questions to the - my note of it is to this effect: that you're sure you would have briefed him about that, which I understood you to be meaning that you had - your sense was you didn't have a practical opportunity to do the course, and what you were saying in your evidence was that you're sure you would have
20 briefed Kevin Corcoran about that. Do you know what I'm saying?

MR SHEARER: About not having an opportunity to do the course?

25 **MR LLOYD:** Correct. I just want to ask you whether that's what you meant in your answer.

MR SHEARER: Yes.

30 **MR LLOYD:** That is, you feel sure you would have reported back to Kevin Corcoran to the effect that you just didn't have the time or opportunity to do that course?

35 **MR SHEARER:** Yeah, I - I can remember him saying to me, "Well, just - just maybe talk to the Academy and do - do what you think you can and then" - that was - so he was aware that I couldn't do the full program. And then his advice was to, "Talk to the Academy. See what you can do," and then that just died on the vine. Yeah.

40 **MR LLOYD:** But the next and final thing I wanted to ask you to clarify is some things arising from the 11 September '17 meeting or the email the day that followed.

MR SHEARER: Yes.

45 **MR LLOYD:** As for the meeting, you told the Commissioner that this was a time where, in your sense of things, it was - my note of your evidence - a difficult time raising dissent. Do you remember saying something to that effect?

MR SHEARER: Yes.

5 **MR LLOYD:** You've told us some things about the difficulties. I think one example you gave is the time when you asked about resourcing and were told, "Maybe you're not suitable for the job."

MR SHEARER: It was about that time.

10 **MR LLOYD:** May I ask: did you have other particular things in mind that made it a difficult time to raise dissent?

15 **MR SHEARER:** Look, I can't - there's lots of things in my head, and I can't put them in that context at that time. So I - I won't say them, no.

MR LLOYD: Whatever the particular things, I think Mr Horton asked you a question, something to the effect, "Did the people in the meeting on the 11th scare you?" I have a different question: that whatever your feelings about the people in the meeting or the situation, is what you're telling us that you, at that meeting, didn't feel it was open to you to voice your dissent? Is that the sense of what you're saying?

25 **MR SHEARER:** Yeah, I don't think my voice in that meeting would have carried much weight. And I - I think it was the time that I, you know - you know, I wasn't particularly feeling, I guess, empowered in my role at that time.

MR LLOYD: As I understood what you were telling -

30 **COMMISSIONER:** Mr Lloyd, are you going to be much longer? I think the transcript is in trouble .

MR LLOYD: I'd say probably about another two or three minutes but if there's a problem with the transcript -

35 **COMMISSIONER:** Is it still being collected somewhere? It is being collected somewhere. We don't know where, but it's being collected so we'll keep going.

40 **MR LLOYD:** Thank you, Commissioner. So I can understand the rationale here, there was another Regional Director from the North, Mr Scholes?

MR SHEARER: Yes.

45 **MR LLOYD:** And is what you are saying is that your impression was that he had then Assistant Commissioner's ear?

MR SHEARER: Yeah, he did.

MR LLOYD: And the idea, as I think you told us, for this change in policy was initiated by him?

5 **MR SHEARER:** Yeah, that minutes of meeting is where in there, it clearly says, "This is what we are already doing in the north" and this is - and that was the model endorsed by Kevin.

10 **MR LLOYD:** And is part of the difficulty you are telling us that raising dissent would have involved you taking a contrary position to his?

MR SHEARER: Yeah, and - and I did do that at times. I guess, you know, I also acknowledge there were, you know, across the other three directors, there's probably 39 years of Corrective Services, and whether that was the appropriate model. But I - I - the thing that sort of stuck with me is that I - I've always understood those processes to be pure, and this deviated from that.

15 **MR LLOYD:** On that point, and finally, I just wanted to ask: You mentioned at least twice about the problems in your view about this new approach in the 12 September email, and agreed, at the meeting the day before, being that you might not have all of the pieces of the jigsaw. Do you remember saying that?

MR SHEARER: Yes.

25 **MR LLOYD:** I just want to - and you've been asked about a number of hypotheticals or potential scenarios - I just want to put something that we know from the evidence to see if this is what you have in mind in talking about that pieces of the jigsaw. There was an intelligence report that went outside of the gaol in November of '16 which recorded an allegation that Astill was in a sexual relationship with an inmate.

30

MR SHEARER: Yes.

MR LLOYD: I think you know that now?

35 **MR SHEARER:** I know that now. I didn't see it at the time.

MR LLOYD: There was another intelligence report that went in late July of '17, which named Astill as being the officer the subject of the Witness M allegations of sexual assault. If you don't know (indistinct).

40

MR SHEARER: I know - is this the Wellington matter, the officer, the inmate that went to Wellington?

45 **MR LLOYD:** That's the same.

MR SHEARER: So I saw that email, but I know the officer.

MR LLOYD: Take it from me there's an intelligence report -

MR SHEARER: Sorry.

5 **MR LLOYD:** - that went outside the gaol to Investigations which recorded those allegations by Witness M of being sexually assaulted.

MR SHEARER: Okay.

10 **MR LLOYD:** Take it from me that that report also contained an allegation, in effect, following on from the allegations in relation to Witness M, that Astill had also engaged in intimidating the inmates who brought the allegation forward. And there has been evidence from more than one person that those matters, obviously the sexual assault and the intimidation allegation, were extremely serious
15 allegations. A verbal response. You are nodding. Do you agree?

MR SHEARER: Just serious - no, I'm saying this is serious stuff.

20 **MR LLOYD:** Now, in terms of the pieces of the jigsaw, you told us yesterday that these matters that I've just put to you that were in those intelligence reports, those allegations were not known to you by the time you came to meet with Astill on 22 November and then participate in the mediation process in - going into January of the following year?

25 **MR SHEARER:** Yes, correct.

MR LLOYD: And you agreed yesterday - I withdraw that. You accepted yesterday that your decision-making in not referring off the things that came to your attention at that time, that is that all of the things discussed at the meeting and
30 in Astill's document, that you ought to have sent that off in an intelligence report or to Professional Standards?

MR SHEARER: Yes.

35 **MR LLOYD:** And you frankly admitted to the Commissioner yesterday that that was an error on your part; do you remember that?

MR SHEARER: Yes, that was.

40 **MR LLOYD:** In terms of the pieces - I withdraw that. And I said to you, in a sense, this was you exercising the precise role, or performing the precise role that you had been allocated as per that new direction; that is, you making the decision about what to do with allegations that came to your attention. Do you remember that?

45

MR SHEARER: Yes.

5 **MR LLOYD:** In terms of pieces of the jigsaw, is what you're really talking about in this scenario, that in order for this system to operate properly, there should be one person or body who would have access to each of those pieces of information at the time decisions are made about what to do with it and what proper course to be taken?

MR SHEARER: Absolutely.

10 **MR LLOYD:** And so if you had one person or body with access to each of those matters, serious allegations going back to November '16, following through to the sexual assault and the intimidation in the middle part of 2017, coupled with what came to your attention in November '17, then I think what you're saying is that's the proper way to handle allegations of serious misconduct?

15 **MR SHEARER:** Absolutely.

MR LLOYD: And that is not what happened here?

20 **MR SHEARER:** No.

MR LLOYD: And I think what you're telling us in part, but tell me if you agree, is that that is not what happened here when you go to the November '17 and mediation process, in part because of the very policy that came in making you the first person who was given the decision-making role about what to do about those
25 November '17 allegations.

MR SHEARER: Yes, I - that was - yes.

30 **MR LLOYD:** Those are my questions, Commissioner.

COMMISSIONER: Yes. Thank you, Mr Shearer. That concludes your evidence. You are excused, and we'll have the morning adjournment.

35 <**THE WITNESS WAS RELEASED**

<**THE HEARING ADJOURNED AT 11.40 AM**

<**THE HEARING RESUMED AT 11.52 AM**

40 **MR LLOYD:** The next witness, Commissioner, is Westley Giles, and I call him.

<**WESTLEY DENNIS GILES, AFFIRMED**

45 **COMMISSIONER:** Take a seat, please.

<**EXAMINATION BY MR LLOYD:**

MR LLOYD: Could you tell us your name?

MR GILES: Westley Dennis Giles.

5 **MR LLOYD:** And your address is known to the Commission. You made a statement to this Commission, and you did that, I think, on 2 November 2023?

MR GILES: I did.

10 **MR LLOYD:** It's behind Tab 66A in Volume 8, Commissioner. In that statement to the Commission, you were telling the truth?

MR GILES: I was.

15 **MR LLOYD:** And you also made a statement to the police for the purpose of the investigation and later prosecution of Astill?

MR GILES: I did.

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

MR GILES: I was.

MR LLOYD: I tender those together, Commissioner.

25

COMMISSIONER: They will both be Exhibit, together, 44.

<EXHIBIT 44 TENDERED AND MARKED

30 **MR LLOYD:** And the latter statement, that is, the police statement, Commissioner, is Tab 66 in Volume 8. Have you got Tab 66A in, I hope, the correct folder in front of you there, Mr Giles?

MR GILES: 66A? Yeah, I do.

35

MR LLOYD: In paragraph 5 of your statement to the Commission, behind Tab 66A, you tell us you commenced employment with Corrective Services in October '99?

40 **MR GILES:** I did.

MR LLOYD: You must have been very young when you started?

MR GILES: I was 19.

45

MR LLOYD: First job?

MR GILES: I had a couple of average jobs beforehand, yeah.

MR LLOYD: First proper job?

5 **MR GILES:** First proper job.

MR LLOYD: You worked in a few different places before starting at Dillwynia in 2005?

10 **MR GILES:** I commenced at Silverwater Correctional Centre as a probationary, and I spent about six or seven years there before I was promoted to Senior Correctional Officer at Dillwynia Correctional Centre.

MR LLOYD: Did the promotion come before you arrived or did you -
15

MR GILES: It did, yes.

MR LLOYD: So you came in as a Senior Correctional Officer?

20 **MR GILES:** Correct.

MR LLOYD: And then you've worked at Dillwynia, you say, on and off since 2005?

25 **MR GILES:** Yeah, that's correct. I've went out to different gaols for opportunity and promotional opportunity, but seemed to come back. Yeah.

MR LLOYD: Could I just ask you some things first about what you understood in the time you were at Dillwynia - and when I ask you these questions, if you can
30 focus your memory on the period between about the start of 2016 until about the end of 2018 - your knowledge at that time - about the system for inmates reporting incidents or allegations of misconduct by officers. You deal with that in paragraph 16, amongst other places, in your statement. Just re-read that to yourself,
paragraph 16.

35 **MR GILES:** Yes, that's right.

MR LLOYD: So if an inmate application form was completed, do we understand it correctly that if that occurred and you became aware of such a form being
40 completed, and the allegations made by the inmate were about an officer and were serious, that the process was to take that form to the Governor?

MR GILES: Correct.

45 **MR LLOYD:** And your understanding from that point is once the Governor became aware of the allegations made by the inmate, the Governor would be responsible for making sure that those allegations were referred out of the gaol?

MR GILES: Absolutely.

MR LLOYD: And came to the attention of the Professional Standards Branch?

5

MR GILES: Correct.

MR LLOYD: Did you have an understanding - again in the period I'm talking about, in terms of serious allegations about an officer leaving the gaol to be considered, did you have an understanding of the mechanics in terms of interrelationship between Professional Standards Branch and Investigations Branch?

10

MR GILES: I did. So my belief was that anything to do with misconduct would go straight to Investigations Branch, and PSB - it was sort of like an umbrella. That was my understanding.

15

MR LLOYD: And so - this is not a criticism - the Commission has heard some evidence about a process where some allegations of misconduct would go between the Professional Standards Branch and the Investigations Branch in various ways. Did you have any awareness about how that worked?

20

MR GILES: No, definitely not.

MR LLOYD: So is it fair to say a broad understanding on your part that if an allegation of serious misconduct was made, you would take it to the Governor and the Governor would make it known to people within, broadly, Professional Standards?

25

MR GILES: Correct.

30

MR LLOYD: And that those people within what you understood broadly was Professional Standards would then conduct their own investigation?

MR GILES: Full investigation.

35

MR LLOYD: And that would culminate in a result, as in, it'd be sustained and there'd be some outcome or dismissed, or that kind of thing?

MR GILES: Well, I didn't really know the - the end part in relation to - you know, you're not going to get told what happened and stuff like that. But my understanding purely was that any misconduct - any reports of misconduct would be investigated by PSB. The outcome might be known. You know, the officer might be suspended. The officer might be moved. And then obviously the word around the - the gaol - because Chinese whispers inside a Correctional Centre. But, yeah, that was my understanding.

40
45

MR LLOYD: In terms of other ways in which you might become aware of allegations or misconduct by officers - I think in paragraph 27, you were asked the question:

5 "Can you explain the process of an officer reporting an incident? Complete a report and send it through the chain of command, although it would depend upon the nature of the complaint."

MR GILES: Yep.

10

MR LLOYD: And:

"As a senior officer, if the complaint was about a fellow officer, you go straight to the Governor."

15

MR GILES: Correct.

MR LLOYD: Now, that's any - do we read that as any serious complaint about the conduct of another officer?

20

MR GILES: Absolutely.

MR LLOYD: That's a case of you becoming aware of that or seeing something yourself; again, you go straight to the Governor?

25

MR GILES: Reporting straight to the Governor, or the OIC. Some gaols - obviously, when I say "Governor", some gaols have got MOSs as - as their OIC. But in this case, at Dillwynia, the Governor was the officer in charge.

30 **MR LLOYD:** Either the Governor or, if there wasn't a Governor at the particular Correctional Centre, the most senior person there?

MR GILES: Absolutely.

35 **MR LLOYD:** Can I ask you: did you become aware over your time - and I'll take you back now - between '05 - a different period from the one I identified before - '05 and, say, the end of '18 of this process playing out, that is, complaints being taken to the Governor, to your understanding, being referred out and there being an outcome, that is, officer dismissed or removed?

40

MR GILES: Well, I'm not sure if I was ever involved in the end result. You wouldn't get a report back. The Commission has been told about, you know, the SIU function and stuff like that and not receive, like, a comment to say you put something in. You wouldn't - wouldn't necessarily get a feedback or response back from anything you've put up. That was my understanding.

45

MR LLOYD: In terms of your knowledge of the mechanics, as I understand what you're saying, that if you brought it to the Governor, you'd have an expectation that you've told us about, and you wouldn't ever hear any details about what happened after that?

5

MR GILES: That's correct.

MR LLOYD: You might see the practical outcome in the sense of an officer being dismissed?

10

MR GILES: With all due respect - so if I did that, then all of a sudden a week, two weeks, three weeks later that officer was on the roster of suspended, we could assume.

15 **MR LLOYD:** You might put two and two together?

MR GILES: Two and two - yeah, that's right.

20 **MR LLOYD:** Can I ask you some things about some aspects of the culture at Dillwynia. And, again, sorry to take you between periods, but if it helps, just around about '15 through '18 era.

MR GILES: I understand.

25 **MR LLOYD:** Paragraph 74, you tell us about your relationship with the Manager of Security for part of the period I'm asking you about, Leanne O'Toole?

MR GILES: Yes.

30 **MR LLOYD:** And you holidayed together, I think you say, on - I withdraw that. You met up on holidays on two occasions?

MR GILES: Correct. Yes, that's right.

35 **MR LLOYD:** You didn't go away together?

MR GILES: Definitely didn't go away together, no.

MR LLOYD: Just happened to be in the same place?

40

MR GILES: Our love of Bali is the same.

MR LLOYD: And 76, Michael Paddison, Neil Holman and Hari Hariharan were very close?

45

MR GILES: Yeah. Well, that was a question that was put to me when I done my statement, did anybody else get along well with the management at Dillwynia. That's right.

5 **MR LLOYD:** You say you got along with Shari Martin but had some run-ins?

MR GILES: We had a good working relationship, yes. However, I was the union delegate for a long time, and we had some robust - robust discussions, let's - you know, that's probably the easiest way to describe it.

10

MR LLOYD: Well, just to put some detail around the robust discussions, you do tell us in 78 that there was one occasion where she threatened to have you shot.

MR GILES: Yeah, that's true. Yeah.

15

MR LLOYD: Was that a low point in your relationship?

MR GILES: Yeah, I was - I can talk you through it. So I was the union delegate, and we had a rat problem, would you believe, at the gaol and - literally, the - the rats were this size, and they were running over the feet of staff and inmates. And I brought it to her attention - Leanne O'Toole and Cath Avery's attention, who was the Principal of Industries, and I asked for something to be done about it. That fell on deaf ears. And about a week or two later, I sent another email to the three of them and said words to the effect, if any of my members - I was the union delegate - get bitten by vermin, that I will try and attempt to sue them personally. To their credit, something was done that next day. She called me down to her office, and she said, "FYI, you ever threaten to take my house off me again, you might go out to the car park, you'll see a red dot on your chest. My husband is very good with a gun."

20

25

30

MR LLOYD: I take it from the fact that you say that you got along with her that your relationship had higher points than that one?

MR GILES: Yes. Yes. Like I said, did I take it that that was a threat that she was going to get her husband to shoot me?

35

MR LLOYD: Not seriously?

MR GILES: Not seriously. But, yeah, it's probably something you wouldn't say to a friend.

40

MR LLOYD: It doesn't sound like an entirely appropriate thing for the Governor of a gaol to be saying to a Senior Correctional Officer. Do you agree?

45 **MR GILES:** Fair - fair point.

MR LLOYD: Can I ask you this - have a look at 100. You were asked:

"Can you describe the culture of reporting?"

And you say:

5

"It is seen as a no-go. You're labelled as a dog."

Do you see that?

10 **MR GILES:** Yes.

MR LLOYD: Are you there describing things that you yourself had experienced first-hand?

15 **MR GILES:** Yeah, absolutely. Like you mentioned earlier, Mr Lloyd, I joined when I was a 19 year old. And the culture back then was that if you papered officers, you were a dog. It doesn't matter what it was for.

20 **MR LLOYD:** Even for the most serious allegations?

MR GILES: Well, it was never - it was never, "Report for that, don't report for that." But it was a general culture back in 1999, when I started, that if you put - put officers on paper, you were a dog.

25 **MR LLOYD:** Had that culture, in your view, changed by -

MR GILES: I think so. Absolutely.

30 **MR LLOYD:** Changed by 2015?

MR GILES: Yes, I think so. Absolutely.

MR LLOYD: What was the culture in terms of reporting then by, say, 2015?

35 **MR GILES:** It was encouraged by, obviously, the Commissioner down and - and expected. If you see misconduct, to report it. But it still had that sort of significant "dog" sort of term, I suppose, if you did.

40 **MR LLOYD:** At Dillwynia by 2015, there were a number of officers who were in romantic relationships?

MR GILES: That's - yes, that's right.

45 **MR LLOYD:** I think - was it by that time that you were one of them?

MR GILES: You'll get me in trouble. 2015 - yes, it was.

MR LLOYD: And a number of others as well?

MR GILES: Yes, that's right.

5 **MR LLOYD:** Obviously a number of officers who had personal relationships - were friends?

MR GILES: Yes.

10 **MR LLOYD:** And we have evidence - and you would know anyway - there were a large number of officers who had been at Dillwynia by 2015 for many, many years?

MR GILES: That's correct.

15

MR LLOYD: Who would have had -

MR GILES: Some - sorry to interrupt. Some that had just only worked there, yes.

20 **MR LLOYD:** And who had significant dealings and associations with each other at work?

MR GILES: Well, yes, but we spent a lot of time together. You spend night shifts, double shifts, Christmas Days, Easter. So, yes, people spent a lot of time together, which makes up your cliques, your - which, you know, might be your next question. But, yeah, you spend a lot of time, and you get friendly with and become good friends with other prison officers.

25

MR LLOYD: Could I get your response to this: that sounds like an environment where there would be the capacity for real difficulty for officers to be able to find a way to pass on complaints, reports or concerns of serious misconduct by other officers; is that right?

30

MR GILES: Because of the friendships, is that what -

35

MR LLOYD: Because of all the factors. The cliques, you described them?

MR GILES: Yep.

40 **MR LLOYD:** Friendships, relationships.

MR GILES: Yeah, I don't believe so, Mr Lloyd. If you witness misconduct - and obviously we're talking about this, you know, period - that it shouldn't matter who you're reporting and/or who you're reporting to. And in my opinion, if - if - if my next in line is my wife, for instance, well then, I'll go to the next person. And if - talking about chain of - chain of command. And if the next person's my friend

45

or I think that they won't do, then I go to the next person. So I disagree with your statement.

5 **MR LLOYD:** Are you telling us that you felt - again, '15 through '18 - that officers right throughout the hierarchy, from the ones who had just come out of the Academy right up to Principal Correctional Officers, that the environment there was that they were comfortable in making reports about serious misconduct by fellow officers?

10 **MR GILES:** Well, I can't speak for them, but they should have been.

MR LLOYD: What about to you?

15 **MR GILES:** Yes. And I did.

MR LLOYD: We'll come to - you tell us some things about reports that you, for example, took up to the Governor about Astill.

20 **MR GILES:** Correct.

MR LLOYD: Some other things about the culture. 123, general joke referring to shredding?

25 **MR GILES:** When I say "general", that's within Corrective Services. I worked at seven or eight institutions, and file 13 - yeah, file 13 is, you know, put it in the shredder. It definitely wasn't an Astill thing.

30 **MR LLOYD:** And I'm not criticising you for your use of the word "joke", but is what you're saying there that at multiple Correctional Centres, in your experience, commonly discussed by officers that documents would be shredded?

35 **MR GILES:** I mean - yes. There's a shredder there, in every gaol, in every, you know - so things were shredded, whether it's the - the front covers of the letters that we used to give the inmates. Now we photocopy and stuff like that, but stuff gets shredded every day. But, yes, that was a general joke in every Centre that I've worked at, file 13.

40 **MR LLOYD:** And is the nature of the file 13 joke that important documents would get shredded?

MR GILES: I never took it like that, no.

45 **MR LLOYD:** Could you just explain how at least you understood the joke as shredding documents?

MR GILES: Well, it's something that I've heard obviously in all the gaols that I've worked at. And, yes, it was mentioned at Dillwynia, which is one of the gaols

I worked at. Like I said, there is a shredder there, and we shred stuff. But when I say "a joke", that's what I took it as. You know, I've heard staff before say, "Do you want me to file 13 it?" to inmates. A - a joke, as such, a term to shred the paper.

5

MR LLOYD: I'm just trying to understand. If you have a duplicate piece of paper - for example, there's the original and you have a copy, and you no longer need the copy, and it contains some sensitive things, that's obviously one clear example of where you might shred the duplicate?

10

MR GILES: Yep. Correct.

MR LLOYD: That is, not necessary to retain it and containing sensitive information?

15

MR GILES: Yeah, that's right.

MR LLOYD: It doesn't sound like the sort of thing that would lead to a joke about file 13 and shredding, though, that kind of scenario?

20

MR GILES: Inmates have come up to me before, and - and they had their brief, for instance, and they didn't want it in a cell because it could cause them harm, and they said, "Can you get rid of it? Can you shred it?" Stuff like that, so - yeah.

25

MR LLOYD: So the joke, at least at that level, is about the destruction of, in that case anyway, the only copy of a document?

MR GILES: I - I wouldn't say that's - that's the term of the joke. Like I said, that's - you know, that's where I heard it, file 13, in every gaol I've worked at.

30

MR LLOYD: To your knowledge, did it apply to the destruction of documents which recorded complaints about officers?

MR GILES: Well, I can only speak for - for myself. I've never done that, no.

35

MR LLOYD: That wasn't quite my question. Your understanding of the joke, did it include people file 13ing documents which recorded complaints about officers?

MR GILES: No, it - no, it didn't.

40

MR LLOYD: Could I - in terms of culture, you understand, I think, Mr Giles - you said something a little while ago which indicated you've been following at least some of the evidence?

45

MR GILES: Absolutely.

MR LLOYD: And so you would know by now that there's been a significant number of inmates and other officers who have given evidence to the Commission?

5 **MR GILES:** Correct.

MR LLOYD: And I take it from you following at least some of that evidence that you know that some things have been said by those witnesses about you?

10 **MR GILES:** That's correct.

MR LLOYD: I at this stage - and I'll do it at some other stages in the course of your evidence - am going to put to you some things they said. And do you understand the purpose of doing that is so you can respond -

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

MR LLOYD: - with your version of events? Understand? Do you remember - have you read the transcript or did you otherwise watch the transcript of the Witness Julijana Miskov?

20 **MR GILES:** I - I did.

MR LLOYD: I want to ask you first: do you remember that person?

25 **MR GILES:** No, I do not.

MR LLOYD: She said that in May of 2016, she arrived fresh from the Academy and stayed at Dillwynia for about one month.

30 **MR GILES:** Okay.

MR LLOYD: And she said in her evidence that there was an occasion where she was sitting down trying to eat her lunch and that fairly close by, three officers, being Mishelle Robinson, Patricia Peek and you, were eating your lunch. Now, I take it those details are not going to be prompting any memory?

MR GILES: No, I don't remember being in that office.

40 **MR LLOYD:** She said that Astill, while she was trying to eat her lunch, came up and rubbed his crotch in her face and that that occurred in direct line of sight of you and the other two officers.

MR GILES: That did not happen whilst I was there.

45 **MR LLOYD:** Or at least what you're saying is, if it happened, you didn't see it?

MR GILES: I don't remember that meeting - that - being in the office with them five people, including my wife. That's right. Yeah, I don't remember. But I wasn't in that room when that occurred.

5 **MR LLOYD:** When you say you weren't in that room when that occurred, what you're really saying is you didn't see that happening?

MR GILES: Well, if I don't remember being there, I definitely didn't see it.

10 **COMMISSIONER:** Well, sorry, that's the problem I have, Mr Giles. You've said more than once you don't remember anything about it. Is that right?

MR GILES: Sir - Commissioner, if - if I was in that office and I've seen it, I would have reported that, 100 per cent.

15 **COMMISSIONER:** But you don't remember whether you were in the office or not.

20 **MR GILES:** I - yes, I - what I'm saying is, Commissioner, I don't remember being in that office with that - that - or them people. I don't remember that lady at all. I was very surprised when she said that, that I was there, because I do not remember a meeting in an office of very small size, Commissioner, that five people, including her and Mr Astill, were in that office.

25 **COMMISSIONER:** You shouldn't be embarrassed. I'm not at all surprised that you don't remember anything about it. But that doesn't help me really to understand what happened. Do you understand?

30 **MR GILES:** I think so, Commissioner.

MR LLOYD: And, Mr Giles, you need to understand - I'll put to you with particularity what Ms Miskov told us about the event. It was not a meeting. It was an occasion when she said she observed you, Patricia Peek, Mishelle Robinson and Astill sitting at a table having lunch while she was sitting in a different part of
35 the area having her own lunch. Do you understand? It wasn't a meeting.

MR GILES: Yeah, that's right. In the high needs area; is that correct, Mr Lloyd?

40 **MR LLOYD:** That's as I understand her evidence.

MR GILES: Yes. Yes.

MR LLOYD: And she says that Astill got up and performed the act that I've put to you, and you've said - well, you say that that did not happen.
45

MR GILES: I did not see that happen.

MR LLOYD: And she says -

5 **COMMISSIONER:** Well, sorry, just so I have it clear. You don't remember that you were there. So it's not a question of you didn't see it happen; you just don't remember anything. Isn't that right?

10 **MR GILES:** Commissioner, I was not in the high needs office with that lady, Ms Miskov, and Mr Astill and Mishelle Robinson and Trish Peek. The office - I wasn't there. That's what I'm saying.

COMMISSIONER: You say you weren't there, but you don't remember whether you were there. I'm completely lost, Mr Giles.

15 **MR GILES:** Commissioner, if I was in that office - the office - I'm not sure if you've been there. The office is about five metres long and three metres wide. With five people in there, I would remember - if I was that - in that office and that occurred, I would remember that, 100 per cent.

20 **COMMISSIONER:** How long ago was this supposed to be?

MR LLOYD: I'm sorry, I missed that.

25 **COMMISSIONER:** How long ago was this meeting or gathering supposed to have been?

MR LLOYD: May of - we don't have the date, but May of 2016.

COMMISSIONER: Seven years ago.

30 **MR GILES:** Seven years ago. It's quite a significant occurrence.

35 **MR LLOYD:** I understand what you're saying, Mr Giles, and I'm just going to see if I've got it right to see your response. Let's start with this. Part of what you're telling the Commissioner is that if you had been in a room and you had seen an officer rubbing his crotch in the face of a new recruit or, for that matter, any other person - if you had seen it, you would remember and you would have reported it?

MR GILES: 100 per cent.

40 **MR LLOYD:** And that's, as I understand it - but tell me if I've got it right - part of your conviction that you did not see this occur?

MR GILES: That's correct.

45 **MR LLOYD:** My question to you, though, is what you're really saying is not going as far as denying the possibility that this occurred; rather, what you're saying is if it occurred, you didn't see it. Have I got it right?

5 **MR GILES:** Well, just making sure what you're trying to put to me, Mr Lloyd. If I was in that office and I seen it, I would have reported it. However, I don't – I wasn't in that office because - even when you say I wouldn't see it, the office is three by two. I would have seen it, and I'm sure - I heard the evidence. The evidence was she got up and had pushed him and then we laughed. So I would have seen it and/or heard the commotion afterwards if I was in that meeting. That's what I'm trying to say.

10 **MR LLOYD:** Mr Giles, the evidence, to be precise, is that she heard or sensed that some of the people laughed. Just some.

MR GILES: Yeah.

15 **MR LLOYD:** That is, there is no direct allegation made by Ms Miskov that you laughed. Do you understand?

MR GILES: I understand that, yeah.

20 **MR LLOYD:** It's entirely possible, isn't it, that what happened here is that you were sitting down eating your lunch and this happened, but you didn't see it. That's obviously a possibility, isn't it?

25 **MR GILES:** No, it's not possible, because I don't remember the lady. I do not remember the lady.

COMMISSIONER: Well, are you saying you never met her?

30 **MR GILES:** Commissioner, when the lady got up and I seen the name, I thought that she was something to do with Corrective Services. And I've been there for a long time on and off. And, you know, I get to meet a lot of the new recruits and teach the new recruits and show them around and stuff like that, even in my - in my - doing the job of the FM in the area. Part of my job was to show them around. So I would have known the lady.

35 **COMMISSIONER:** Well, you're not suggesting she wasn't there for a month, are you?

40 **MR GILES:** No, no, no. Of course I'm not. There would be a record -

COMMISSIONER: Well then, it's plain, if you met her, you don't remember it. That's the clear position. And I'm not surprised. Seven years ago, for a short period of time, she was there.

45 **MR GILES:** It's definitely not - it's definitely, you know, that I might have seen her, but I don't remember her, yes.

COMMISSIONER: You don't remember her at all, do you?

MR GILES: No. No, I don't.

5 **MR LLOYD:** And her evidence was that it was Mr Astill who showed her around.

MR GILES: I didn't say I would show her around. I've showed other people around.

10

MR LLOYD: Mr Giles, I'm not criticising what you just said, that part of your job was you would show new recruits around.

MR GILES: That's right, yes.

15

MR LLOYD: I'm just telling you that her evidence to this Commission was that it was Mr Astill.

MR GILES: Okay.

20

MR LLOYD: Can I ask you about some other things. You'll need to access that list in the orange envelope. Witness C - and you probably know who that is -

MR GILES: Yes. Yes.

25

MR LLOYD: - in any event, that she said some things in her evidence that I wish to put to you. For those at the bar table, this is paragraph 11 in the statement behind Tab 8A. You won't need this document for the question, though, Mr Giles. She said that if she made a complaint about something outside you, that was seen as officer shopping that was frowned upon?

30

MR GILES: That's incorrect.

MR LLOYD: And she said she had an experience of telling you about something - and I'm not able to supply you with the details. Do you understand? And then raising the same matter with another manager and being punished by you by visits being cancelled and cell searches being ramped up.

35

MR GILES: That - that's incorrect. I had no authority to cancel visits.

40

MR LLOYD: Whether or not you had the authority, you deny that happening?

MR GILES: Absolutely.

45 **MR LLOYD:** She also told us - and, again, for those at the bar table, particularly your barrister, it's paragraph 13 of the same document - that some officers would be verbally abusive toward her and other inmates on a daily basis, calling them

"whores", "dogs", "sluts", "fucking cunts" and "mutts". What do you say about that?

5 **MR GILES:** Did you say some staff, Mr Lloyd?

MR LLOYD: Yes.

MR GILES: I've never heard staff speak to inmates like that.

10 **MR LLOYD:** No staff on any occasion using any of those words?

MR GILES: Going into units, did you - going in and calling them - them names directly?

15 **MR LLOYD:** Just being verbally abusive on a daily basis is what she told us.

MR GILES: No, that's incorrect.

20 **MR LLOYD:** She said that some officers, including you, would read the mail and then leak information to inmates that you and the other officers knew that the inmate whose mail was being read were not friendly with.

MR GILES: That's incorrect. The mail was read by the night shift.

25 **MR LLOYD:** She said - and, again, this is paragraph 14 - that on at least one occasion, she heard you say:

"Don't fucking help those crims. They are pieces of shit."

30 And that you would call any officer who interacted with the inmates "a dog"?

MR GILES: That's incorrect.

35 **MR LLOYD:** She also said that officers - and I'll get your response to this - it may have included you - didn't treat Officer Glenn Clark well. First, do you remember Glenn Clark?

MR GILES: Yes, I do.

40 **MR LLOYD:** And what would you respond if the allegation was that you didn't treat him well?

MR GILES: That's incorrect.

45 **MR LLOYD:** Do you remember the chaplain, Susie Johnson?

MR GILES: Yes, I do.

5 **MR LLOYD:** Another of the things that Witness C told us was that you said openly during lunchtime to someone who you were talking to about Ms Johnson that, "She just gets in the way." Do you remember ever saying something like that?

MR GILES: Never. Susie is a - was a lovely lady.

10 **MR LLOYD:** And is what you're telling us, you had a high opinion of her?

MR GILES: Absolutely.

15 **MR LLOYD:** Another thing - and this is paragraph 15 - Witness C told us is that she heard you talking to an officer Gaffney. Do you remember that person?

MR GILES: He's my best mate, yes.

20 **MR LLOYD:** Talking to Officer Gaffney about another officer who was being nice to the inmates and that she heard you say about the officer who was being nice to the inmates, "Fuck him off to a shitty post."

MR GILES: That's incorrect.

25 **MR LLOYD:** If I ask you some things from your Commission statement, going back to paragraph 9, just about location of officers and information that you tell us about in relation to Mr Astill, starting with paragraph 9.

MR GILES: Yep.

30 **MR LLOYD:** You and Astill at the same times were acting up as Chief Correctional Officers?

MR GILES: Yeah, that's correct.

35 **MR LLOYD:** And you said you were mainly acting up as high needs Chief and A watch Chief on the day shift?

MR GILES: Yeah, that's correct.

40 **MR LLOYD:** Can you just remind me - we have evidence about this - the day shift runs from when?

MR GILES: It was 6 am to 2 pm. And the high needs Chief was 8 - 8 to 4, sorry.

45 **MR LLOYD:** 8 am to 4 pm?

MR GILES: That's correct.

MR LLOYD: Does that mean the usual thing for you in again this period, say, end of '15 through end of '18, was you either to finish work at 2 or 4?

5 **MR GILES:** Yeah, that's correct.

MR LLOYD: And Astill was the D watch Chief, which was 11 am to 7 pm?

10 **MR GILES:** It was. And it changed when daylight savings and stuff like that, yeah.

MR LLOYD: And you worked in the same office, that is, you had independent or different offices but in the same building?

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

MR LLOYD: And that was The Hub?

20 **MR GILES:** That's right.

MR LLOYD: And I think you tell us about 14 metres between your two offices?

MR GILES: Approximately, yes.

25 **MR LLOYD:** Having regard to the fact that you've been following the evidence, you probably know this, that there is evidence that a good deal of Astill's offending in The Hub occurred later in the afternoon or in the early evening. Do you know that?

30 **MR GILES:** From what's been said at the Commission, yes.

MR LLOYD: There would be times when you were in your offices in The Hub at the same time, to the extent the shifts overlapped?

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

MR LLOYD: At those times, we can easily do the comparison here between the ordinary shift he's working and the shift you were working would only be those hours when you were working together?

40 **MR GILES:** That's right.

MR LLOYD: And only a subset of those hours when you were actually in your offices?

45 **MR GILES:** Exactly, yes.

MR LLOYD: Because you wouldn't be in your offices every minute of every shift?

5 **MR GILES:** You've got a fair few duties as the A watch Chief. So, yeah, that is right.

MR LLOYD: Can I ask you, then, to go to 13.

10 **MR GILES:** Yep.

MR LLOYD: You know there is some evidence before this Commission that people - some people at least had the perception that you and Astill were friends?

15 **MR GILES:** I do, yeah.

MR LLOYD: And you have a very firm position about whether that's right. Could you tell us that?

20 **MR GILES:** Absolutely. Wayne Astill and I were not friends. The only correlation that I can make out of that, we come out of the same course at the Academy in 1999. That was it.

25 **MR LLOYD:** And you tell us a particular reason why you didn't think much of him at the end of paragraph 13?

MR GILES: Well, a couple of reasons, obviously. But, yeah, he - I had a couple of run-ins with him, and also that he bullied my wife seven or eight years prior.

30 **MR LLOYD:** And I think elsewhere you say that in terms of the perception of people that you - or some people that you and he were friends, one thing that at least you've been told in more recent times is that he would say to people that you were friends?

35 **MR GILES:** Yeah, it appears that he attempted to manipulate the inmates to let them know that we were friends.

40 **MR LLOYD:** On your understanding, as part of intimidation of them to say, "Well, if you want to make complaints, then the person of equivalent rank looking after high needs and I are mates." Is that your understanding of it at least?

MR GILES: The way I see it is if he manipulated the inmates to say that we were mates, they wouldn't feel comfortable coming to me to report.

45 **MR LLOYD:** You would not be a viable person to go to with complaints, if that were true?

MR GILES: That's - that's my perception, yes.

MR LLOYD: Could you have a look at 69. You tell us there that Astill had his favourites, and you nominate in that paragraph one particular inmate. You might need to look at the list.

5

MR GILES: Yes.

MR LLOYD: And then another inmate in paragraph 70?

10 **MR GILES:** Yes.

MR LLOYD: And then 71:

15 "The above inmates were the main two I remember being in his office or in the vicinity of it regularly."

MR GILES: That's correct.

MR LLOYD: And then in 72:

20

"Given we worked in the same area, aware Astill always had inmates in his office."

25 And then you tell us that it was a matter of routine for there to be a proper purpose for a Chief Correctional Officer to have inmates in their offices to deal with various things; is that right?

MR GILES: There was a lot of times that you would call in inmates to your office. That's right.

30

MR LLOYD: Now, in terms of this thing about which you say you had some knowledge of inmates being in his office with a degree of regularity, did you hear things that made you worried about whether that was above board and for proper reasons?

35

MR GILES: As in, are you talking about rumours or -

MR LLOYD: Rumours.

40 **MR GILES:** Well, there was rumours, but the chronological order of them rumours, I'm not sure. But obviously you'll get into later there was a lot of small incidents where people reported things that people seeing things. So there was rumours, as such. But in relation to these two, when you say "hear something" - did I see something or hear something in that office, no, I didn't. But,
45 yes, there was rumours in the gaol, not so much about -

MR LLOYD: N and GG.

MR GILES: Not very much N, but GG, yes.

MR LLOYD: And I think you tell us some others; for example, Witness C?

5

MR GILES: Yes. Yes.

MR LLOYD: Now, I'll move from rumours to things that you might have thought just based upon what you observed, starting with inmates being in or around his office. Didn't you ever think, "Gee, there seems to be a lot of inmates around that office a lot of the time. There might be something unusual going on"?

10

MR GILES: No, I - no, I didn't. Like I said, the - the two in particular that I'm talking about, one was always in there cleaning and then she would come into my office and say, "Gilesy, you want me to clean your office? You want me to vacuum?" I'm like, "No, no. No, you're all right. I've got my - you know, I've got my sweeper." And when I did go into the building, obviously I go through the front door and then turn left to my office and move that way. I'd always see N - N for Nellie - not in his office, just on the corner of the door, speaking to Officer Astill.

15
20

MR LLOYD: And in fairness to you, Mr Giles, I think you might have been scanning that list for the name of the inmate who said, "G'day, Gilesy," or something to that effect. That name is not there. I'll see if you agree. Is that person Trudy Sheiles?

25

MR GILES: No. No. No.

MR LLOYD: I see. Who was that?

30

MR GILES: No, that's N.

MR LLOYD: That's Witness N.

35

MR GILES: Witness N, yeah.

MR LLOYD: Did you see or observe Trudy Sheiles being in and around Astill's office -

40

MR GILES: In The Hub?

MR LLOYD: - in The Hub?

MR GILES: No.

45

MR LLOYD: In a different place, in, I think, Block I?

MR GILES: High needs, is -

MR LLOYD: Yes.

5 **MR GILES:** I believe so, yes.

MR LLOYD: In -

10 **MR GILES:** Sorry, Mr Lloyd. In The Hub, I wouldn't have known what SMAPs were going there because the execs used to have lunch between 12 and 1 o'clock back then. It's changed now. It's obviously only 20 minutes. But all the execs used to go down and have lunch together and then Astill would leave, you know, about 20 minutes prior whilst the SMAPs were out.

15 **MR LLOYD:** And did you think that that was for an improper reason?

MR GILES: No, I didn't.

20 **MR LLOYD:** Sorry to take you between locations, but moving over to the high needs administration block.

MR GILES: Yep.

25 **MR LLOYD:** There's some evidence that the Commission has heard to the effect that he would have officers go and retrieve women from - after they'd been locked down from high needs to bring them over to his office in the administration block in high needs.

30 **MR GILES:** I believe that's the case.

MR LLOYD: Now, I take it from what you're saying, because of the times that you finish work, if that generally happened after the high needs inmates or SMAP inmates were locked down - if that's something that was occurring, you would probably wouldn't have noticed it?

35

MR GILES: That's right. Because obviously I'm in a different building probably, you know, 100 metres away.

40 **MR LLOYD:** And if you take it from me that generally that's happening at times after 3 o'clock in the afternoon, then there would be plenty of times you wouldn't have been on the premises, right?

MR GILES: That's right. Normally finish about 10 to 2 for the A watch shift.

45 **MR LLOYD:** Okay. Have a look at paragraph 38:

"I had suspicions that he was too friendly with some of the inmates but never suspected anything of a sexual nature."

MR GILES: That's correct.

5

MR LLOYD:

"As an officer, it's very serious to submit a report, so you have to have some evidence and something concrete to support it."

10

Do you see that?

MR GILES: Absolutely.

15 **MR LLOYD:** First, the suspicions about being too friendly with some of the inmates, who are you talking about?

MR GILES: GG.

20 **MR LLOYD:** And N?

MR GILES: And N.

MR LLOYD: Is that it?

25

MR GILES: Yes.

COMMISSIONER: How did the "being too friendly" exhibit itself? What did you observe?

30

MR GILES: Well, nothing, Commissioner, as in, in the direct line of sight, but just those inmates were always around the office. Also, in relation to GG, it was - you know, a lot of people sat in this Commission and said they didn't hear rumours. No, it was - it was on the radio. In relation to GG, a lot of the time, she weren't at muster. And staff - which is an automatic thing we do, "Anyone knowing the whereabouts of Inmate GG?" And people would say on the radio, "Check the Chief's office." So it was widely known that she spent a lot of the time in that office. Even as far as then the response would come over sometimes, "She's just left," or, "She was on the phone to the consulate." That was known by everybody in the Centre.

40

COMMISSIONER: Well, when you say "too friendly", what did that alert in your mind?

45 **MR GILES:** Like - like I said, Commissioner, definitely nothing in a sexual nature. But it was obvious that he had the ones that he would treat differently, I suppose.

COMMISSIONER: What issues did that give rise to in your mind?

5 **MR GILES:** To be honest, I don't know. But we're taught to be - you know, treat everybody the same and give them what they're entitled to. That's what I was taught when - when I went through the Academy. Yeah. And don't sort of favour one over the other, because it causes drama in a gaol - in a gaol setting. That creates massive drama with inmates.

10 **MR LLOYD:** It sounds like what you're saying is, at least your understanding was, that people thought the relationship was too close.

MR GILES: I think that's a fair - fair point.

15 **MR LLOYD:** A relationship between a Chief Correctional Officer acting up and an inmate that's too close is an inappropriate relationship?

MR GILES: Well, it could be seen as inappropriate, yes, absolutely.

20 **MR LLOYD:** How did you see it? As inappropriate?

MR GILES: No, if I - if I thought it was inappropriate, I would have reported it.

25 **MR LLOYD:** But a relationship that was too close, do you agree, is one that's inappropriate?

MR GILES: Closer than normal and to other inmates.

30 **MR LLOYD:** And if it's close - I'm not - understand, Mr Giles, I'm not saying that you thought they were in a sexual relationship or having sex. But a relationship between a Chief Correctional Officer and an inmate, that is, closer than normal, that is, deviating from the normal relationships with other inmates -

35 **MR GILES:** Yep.

MR LLOYD: - is one that is too close?

40 **MR GILES:** It could be seen as that. In saying that, there are definitely times where officers have different rapport with different inmates, and that's how the - that's how you gather intel, and that's how you get information. Inmates sometimes will come up and give sort of information on the run that, "Oh, this is happening. This is happening." So I get where you're - where you're going with that, but it was just different towards - than he was to other inmates.

45 **MR LLOYD:** That kind of relationship, as in, one that is different and closer than with other inmates, that threatens the good order of the Correctional Centre, doesn't it, because it can give rise to jealousies between the inmates?

MR GILES: Yes, you're right.

MR LLOYD: And one of -

5

MR GILES: If it's seen like that, yes. Yes.

MR LLOYD: And here, where you've got open discussion about, "Oh, where's witness - or Inmate GG?" "Oh, she's obviously with the Chief," ie, Astill?

10

MR GILES: Yep.

MR LLOYD: It's exactly the sort of thing that might lead to problems in managing the Centre?

15

MR GILES: 100 per cent agree.

MR LLOYD: And that's why I take it you say that there would be a concern about a relationship that might be perceived as too close between a Chief and an inmate?

20

MR GILES: Well, probably any officer, I suppose. Yes.

MR LLOYD: Could I ask you this: Did you ever think when these things were happening in relation to GG having this kind of relationship with Astill, putting aside any suggestion of thinking it was sexual, that that is something that ought to have been reported to the Governor?

25

MR GILES: In hindsight, yes. In hindsight, definitely. I mean, I've heard everything that's come through the Commission. In relation to that inmate, NN, the door was - when I come through, the door was always open. So I didn't hear anything; I didn't see anything. But in hindsight, yes.

30

MR LLOYD: Was Astill in his office with GG with the door closed, in your experience?

35

MR GILES: Not that I ever seen or suspected.

MR LLOYD: What about that kind of event being the subject, in your mind, properly of an investigation by the people outside the gaol, broadly within Professional Standards? Did you think at the time that that might be warranted?

40

MR GILES: Not at the time, no, I didn't.

MR LLOYD: Do you think now that you really ought to have done that?

45

MR GILES: It's a hard question because I know what's come. However, in hindsight, I wish I did. You know, it might have stopped.

5 **MR LLOYD:** Perhaps I'll follow it up by this. In the second part of 83, you tell us:

"As an officer, it's very serious to submit a report against another officer about something serious like that."

10 Now, in fairness, that's, I think, a reference back to the sexual nature?

MR GILES: Yes.

15 **MR LLOYD:**

"So you need to have some evidence and something concrete to support it."

20 **MR GILES:** That's my belief, yes. You've got to see something, hear something or at least get told by someone, "This is what's occurring."

MR LLOYD: And so in terms of intelligence, that is, something that was short of concrete information that you'd heard or seen, was this kind of thing not in that category, that is, intelligence that should be reported up to either Governor or an intel officer?

25 **MR GILES:** Like I said, in - in hindsight, that last question. Had I have done a report, it would have been the fact that this inmate and this inmate appear to be in the office more than anyone else or more than normal. But in hindsight, yes.

30 **MR LLOYD:** Could I ask you some things about - again about Witness C that she told us, that she was repeatedly called over the PA to go and see Astill, and she would say to you sometimes, "Do I have to go?" and try and ask not to go, but you told her that she had to go and see him as he was the manager.

35 **MR GILES:** I refute that she told me that, simply that if I was A watch Chief, I would have been in different - different area. So she would have been telling somebody else. Because if she was getting called by Astill, we're talking about - are we talking about The Hub or are we talking about up in high needs? Because The Hub - I would have had - I would not have been in The Hub, not
40 taking her, because Astill wouldn't have been my superior. We were both the same rank.

MR LLOYD: Can I take you through - you mentioned before your expectation. I'll take you to some of the detail about various complaints.

45 **MR GILES:** Yes.

MR LLOYD: And I now take you to some things from the evidence that we have heard in this Commission. First, in March of 2016 - could Mr Giles have access to Exhibit 39?

5 **MR GILES:** Thank you.

MR LLOYD: Turn, in that Volume, please, to page 7.

MR GILES: 70?

10

MR LLOYD: Seven. See, this is not your document; it's a document bearing the date 6 March '16, subject, "Rumours from Astill," to the General Manager. Do you see that?

15 **MR GILES:** I do.

MR LLOYD: And then there's some things recorded about 14 February 2016, another Senior Correctional Officer, Nomikos, came, saying, "Are you having an inappropriate relationship with Witness C?" Do you see that?

20

MR GILES: Yes.

MR LLOYD: And then if you go down the page to about the 10th or 11th line, Mr Astill in this document records:

25

"Last week, I was voicing my dissatisfaction about the situation with SCOs Giles and Riddle."

Do you see that?

30

MR GILES: I do.

MR LLOYD: And the things, just to put them to you, that he records before that line in the document is, in effect, about his inappropriate relationship with Witness C.

35

MR GILES: Yes.

MR LLOYD: Do you remember having a discussion with Astill around this time, that is, the week before 6 March 2016, about the rumours and allegations about the inappropriate relationship with C?

40

MR GILES: No.

45 **MR LLOYD:** And you don't remember, I take it, saying to him, "I've heard three things: a can of Coke, a phone call and going into the house alone"?

MR GILES: No, I - no, I did not say that.

5 **MR LLOYD:** Did you know about those allegations against Astill with respect to Witness C, that is, sharing a can of Coke, something about a phone call and going into the accommodation unit alone?

MR GILES: In relation to Witness C, the only rumour that everybody heard in the gaol was about the Coke - Coke can.

10 **MR LLOYD:** Sharing the can of Coke?

MR GILES: Sharing - yeah, everybody knew about that.

15 **COMMISSIONER:** Sorry, I missed the answer. You were asked whether you had said the words that are recorded -

MR GILES: No, I did not, Commissioner.

20 **COMMISSIONER:** - in this document.

MR GILES: No, I did not. I didn't speak to Wayne Astill about anything in relation to his -

25 **COMMISSIONER:** You totally deny it, do you?

MR GILES: Totally deny it.

30 **COMMISSIONER:** You were asked earlier about bad language used by prison officers.

MR GILES: Yes, Commissioner.

35 **COMMISSIONER:** You know I've got evidence that that was the case, from multiple people?

MR GILES: Yes, I understand that, Commissioner.

40 **COMMISSIONER:** Are you still prepared to tell me that you've never heard an officer swear at an inmate?

45 **MR GILES:** I didn't - no, I didn't say I've never heard an officer - I'm a swearer, Commissioner. I'm not going to sit here and say I don't swear. What I said is I haven't heard staff go in and berate and call inmates "cunts", "whores", "sluts" - and what was the other one, Mr Lloyd?

MR LLOYD: Molls.

MR GILES: Molls. I've never heard that, Commissioner. Swearing -

COMMISSIONER: You see, you know I've got people telling me this. You just deny it, do you?

5

MR GILES: Yes, I do. Yes.

COMMISSIONER: Okay.

10 **MR LLOYD:** Can I ask you about something else that Witness C said. She said this is sometime in the calendar year 2016, that there was an occasion when, during muster, an officer Brown - first, do you remember him?

MR GILES: I do, yes.

15

MR LLOYD: Was he a friend of yours?

MR GILES: No, I wouldn't call him a friend.

20 **MR LLOYD:** That during muster - one thing Witness C told us - Officer Brown sexually assaulted her.

MR GILES: I heard that evidence, yes.

25 **MR LLOYD:** And she said that she went to you and told you about the sexual assault and that your response was, "Oh, you're not that special," and that you brushed her off and were laughing about it.

MR GILES: That's incorrect.

30

COMMISSIONER: You mean it wasn't said or -

MR GILES: She did not say that to me, Commissioner. Because had she said it to me, I would have give her an application, registered it and sent it straight to the
35 Governor. Because, you know, it's - it's misconduct, and it's not up to me to investigate it. She did not say that to me.

MR LLOYD: Can I ask you - and appreciate this, Mr Giles. I'm asking you about these things in an order which is chronological. Just go to 36 in your Commission
40 statement.

MR GILES: Yes.

MR LLOYD: You're there talking about one of the two incidents that I think
45 you've identified in your statement you can remember by way of complaints coming to your attention about Astill.

MR GILES: Yes, I do.

MR LLOYD: And this is in relation to Witness P. Have you looked -

5 **MR GILES:** Yes, I just did. Yes. Yep.

MR LLOYD: Coming to you, saying about Astill:

10 "This cunt is wrong. He's fucking wrong. Astill's fucking wrong."
You remember this happening?

MR GILES: Absolutely.

15 **MR LLOYD:** You tell us that you stopped her and asked if she wanted to make a complaint?

MR GILES: Yes.

20 **MR LLOYD:** And that's consistent, I think, with what you told the Commissioner is your usual practice?

MR GILES: Correct.

25 **MR LLOYD:** And she said, "Yes." So you tell us you immediately called Shari Martin and told her that she needed to come down to high needs to speak to Witness P?

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

MR LLOYD: And Governor Martin then came down, and you put Witness P in an office with her in high needs?

35 **MR GILES:** With her and Mr Hariharan.

MR LLOYD: Sury Hariharan came along?

MR GILES: He was the Acting MOS, from memory.

40 **MR LLOYD:** And 15 to 20 minutes later, Witness P came out and to your - you saw her, and she looked upset?

MR GILES: That's correct.

45 **MR LLOYD:** You took her back to the SMAP, asked her if she was okay and she said, "Yes"?

MR GILES: That's correct.

MR LLOYD: And the direction you got from Shari Martin then was that Astill was not to work in this area "until I say so"?

5

MR GILES: Correction, Mr Lloyd. She said that to Mr Hariharan, who obviously was the Acting MoS, who looks after the rosters.

MR LLOYD: Did you find out what it was all about?

10

MR GILES: No, I didn't.

MR LLOYD: Did you ask?

15

MR GILES: I can't recall if I asked or not, but she's made a complaint to the Governor and the MoS. So, yeah, I don't recall if I asked what it was about.

MR LLOYD: And we've heard from other people, and you make some reference to it, there being obviously a hierarchy?

20

MR GILES: Yeah, chain of command. Yeah.

MR LLOYD: Was your view that having brought a distressed inmate directly to the most senior and second-most senior person in the Centre, that that was sufficient to deal with the issue?

25

MR GILES: I thought it was, yes.

MR LLOYD: And that if there was anything that was of substance in terms of what she was saying, that that would be reported out to the Professional Standards people, broadly?

30

MR GILES: Absolutely.

35

MR LLOYD: And -

COMMISSIONER: Were you curious as to what had happened?

MR GILES: I've got a pretty good rapport with Witness P, and still do. I think it was obvious by then that he was treating her, again, differently. He didn't like her. And I did the appropriate - what I thought it was the appropriate thing when she was so distressed and saying, "This cunt's wrong." I thought, well, I'll take it to the most senior person in - in the gaol.

40

45

COMMISSIONER: I understand what you did and why you did it, but were you curious as to what had actually happened?

MR GILES: I think, Commissioner, that we were both of that Acting Chief rank. I didn't want it to look like that I was trying to stitch him up or set him up or anything like that.

5 **COMMISSIONER:** No, I'm asking you a question - were you curious about what had happened?

MR GILES: Well - well, I was, of course.

10 **COMMISSIONER:** But you didn't ask at all?

MR GILES: I - I can't recall if I asked her what - what happened, Commissioner.

COMMISSIONER: You don't recall?

15

MR GILES: I don't recall that.

COMMISSIONER: Okay.

20 **MR GILES:** I possibly - I possibly could have asked her what was - was the problem.

MR LLOYD: I need to get your response to this, Mr Giles. Witness P gave some evidence about what would certainly appear to be this incident. Are you aware of what she said?

25

MR GILES: Yeah. Yes.

MR LLOYD: She told us - and for those at the bar table it's paragraph 29 in her statement at 12A - she remembered going to see you and asking to see the General Manager about Astill. She couldn't remember exactly what you said but the gist of it was, "I can see what he's doing but I can't do anything." Do you accept that she said - that you said that to her after she came to you?

30

35 **MR GILES:** I may have, yes.

MR LLOYD: If those words were said by you, "I can see what he's doing", are you able to tell us what was in your mind?

40 **MR GILES:** Like I said, there was a distinct - you could tell that Astill didn't like Witness P. Now, I'm not sure if that was because of what she did or what she was charged for, or what she was found guilty of, but you could tell that he was - he - he treated her differently, absolutely.

45 **MR LLOYD:** As in badly?

MR GILES: Badly, yes. Yes.

MR LLOYD: Much worse, for example, than the way he was treating GG and N?

MR GILES: 100 per cent.

5

MR LLOYD: And so, again, that's exactly the sort of problem that can give rise to disorder in the Correctional Centre; true?

MR GILES: The SMAP Unit is a very hard unit to manage, so yes, that - in the SMAP unit if someone's getting mistreated, absolutely.

10

MR LLOYD: As well as being a separate problem that it might just be grossly unfair to an inmate who is being badly treated by a senior officer?

MR GILES: Absolutely, and that's why I got the Governor and the MoS up to deal with it ASAP.

15

MR LLOYD: Could I ask you this? I will come back to this in due course, Mr Giles, but were you in the room for the evidence given by the previous witness, Mr Shearer?

20

MR GILES: Today? Yes.

MR LLOYD: Did you hear him saying at various times that part of what's necessary for Corrective Services to change culturally for the better - these are my words in summary of his evidence, not his - is that individual officers need to have the courage to raise their concerns, and there needs to be a system which supports them raising concerns. Do you remember him saying something like that?

25

MR GILES: Yes, I do remember that.

30

MR LLOYD: Do you agree with that?

MR GILES: 100 per cent.

35

MR LLOYD: You've described so far in your evidence a system of dealing with complaints of misconduct by officers where, if they come to your attention in one form or another, you would take them to the Governor and expect the Governor would deal with them properly?

40

MR GILES: That's the expectation, yes.

MR LLOYD: In terms of Mr Shearer's point about there being a need for individual officers to have the courage to raise their own concerns, do you agree with me that at some point, even if you are following the system to the letter, that is taking up the things that have come to your attention to those in higher up in the gaol than you, and you see notwithstanding you're doing that, that nothing appears

45

to be happening, do you think that at, again the time '15 through '18, that your position was such that there comes a time when you need to actually do something yourself more than you have already done?

5 **MR GILES:** Again, in hindsight, yes. But the expectation is the Governor would report any reports of misconduct. And, like, coming back to that, the last question, in relation to you don't hear back, you the expectation is misconduct is investigated. But, in hindsight, with what I'd done over the time and just nothing, nothing, nothing, yeah, I agree with you. I agree with Mr Shearer, absolutely.

10 **MR LLOYD:** And there must come a point where even if you're doing everything in your discharge of your obligations at your level, you're doing it over and over again, but your sense is that there is impropriety by another officer that is not being addressed, there must come a point, in your view at the time, you became
15 duty bound to do something more. Is that right?

MR GILES: Duty bound?

20 **MR LLOYD:** Yes.

MR GILES: On my own behalf, I think - I think I did everything that I could as an acting chief, reporting anything that was either delivered to me or that I knew about, or any allegation or anything like that, to the Governor. And I assumed that it was getting dealt with.

25 **MR LLOYD:** I should ask you a fairer and clearer question about duty bound. What you are telling us there is that putting things like up the hierarchy to either the most immediate person above you or in some cases bypassing and going to the most senior person there in the Centre, that accorded with what you understood to be the requirements imposed on you by either protocols or perhaps even the
30 legislation?

MR GILES: Policy, yes.

35 **MR LLOYD:** The sense in which I mean duty bound is the kind of duty that you have as an Acting Chief Correctional Officer but senior in a large number of officers in the hierarchy within a gaol?

40 **MR GILES:** Yes, agree.

MR LLOYD: At some point if there is what appears to be misconduct occurring within a gaol which is going unaddressed, even when you were following those elements of the duty that might be found in policies or even in legislation, did you think that it became incumbent upon you in service within Corrective Services to
45 do something more?

MR WATSON: I object. In fairness, there has to be some clarity, what my friend means by "do something". If the witness says that he is doing everything he can do, (indistinct) how is he supposed to answer that question about doing something?

5

MR LLOYD: I give my friend an undertaking to ask a follow-up question when I've got an answer to the general question, Commissioner, if that is convenient. I'm putting this at a level of generality at the moment of doing something more than following what you understood to be the practice of protocol, et cetera. Understand?

10

MR GILES: Yes.

MR LLOYD: Do you agree that just at that level of generality that at some point there comes a time when it might be necessary if there is misconduct within a gaol by an officer for you to do something in addition to merely following the policies?

15

MR GILES: Yes.

MR LLOYD: Listening to your barrister take quite a fair objection, the next question is this: that something, what does it look like? Do you have a reporting line at all to anyone outside the gaol in your role as an Acting Chief Correctional Officer?

20

MR GILES: No. No, I don't.

25

MR LLOYD: Did you know who the Director for Regional West was?

MR GILES: Absolutely. If you're - if you're acting chief or you're an SAS and or you're a functional manager and you don't know who the director is, you probably shouldn't have the job. Yes, I did.

30

MR LLOYD: So you knew that person by name?

MR GILES: Yeah, I had a lot of dealings with Mr Shearer at the time, yes.

35

MR LLOYD: In terms of doing that something and putting some detail around that, one of those things would be to raise it directly with him or the person in that role; is that right?

40

MR GILES: Yes, and had I thought nothing was getting done, I would have done that 100 per cent.

MR LLOYD: What about - you've told the Commissioner about a degree of generality in your understanding about the Professional Standards Group, did you know anyone from that group who you could directly contact?

45

MR GILES: Do you mean personally or?

MR LLOYD: Yes.

5 **MR GILES:** No, I didn't.

MR LLOYD: You didn't know the names or contact details?

10 **MR GILES:** Yeah I knew Mick, I knew Mick Hovey's name as the boss of Investigation Branch, but that was it, just by name.

15 **MR LLOYD:** In terms of the something else aside from reporting up the line within the gaol, was one of the things that if there's serious misconduct, to your understanding, going unremedied within the gaol, was one of the options to try and get in touch directly with him?

20 **MR GILES:** Had I thought it was going nowhere or it wasn't being looked at, I would have done more than just contact Mick Hovey. You know, I would have - I mean, you've got other reporting, you can go higher than the Director.

MR LLOYD: I was working through it, Mr Giles.

MR GILES: Yeah, sorry.

25 **MR LLOYD:** Just staying with Mr Hovey – going directly to Mr Hovey, that was one option?

MR GILES: Yes. Absolutely an option, yes.

30 **MR LLOYD:** Another option is above the Director a range of Assistant Commissioners?

35 **MR GILES:** Yes, I - because only six weeks or eight weeks ago, maybe a bit longer, I emailed the Commissioner about a different - so there's plenty of reporting lines above the Governor or Director.

MR LLOYD: And if your concerns are serious enough, then you've got a range of people you've already identified?

40 **MR GILES:** Yeah.

MR LLOYD: The Director, Assistant Commissioners, the person from Investigations, Mr Hovey?

45 **MR GILES:** That's right.

MR LLOYD: And if it's serious enough -

MR GILES: The police.

MR LLOYD: The police.

5

MR GILES: The secretary, yeah, there's a lot of reporting lines if you thought that nothing was happening.

MR LLOYD: At the moment I'm asking you in a sense, hypothetically -

10

MR GILES: Yeah.

MR LLOYD: - if there is serious misconduct to your knowledge or belief going unremedied in the gaol, there's all those range of options available to you?

15

MR GILES: Totally agree with you.

COMMISSIONER: Mr Giles, you probably know that I've had evidence that Dillwynia was not a very happy place?

20

MR GILES: I have heard that, Commissioner, yes.

COMMISSIONER: Do you share that view?

MR GILES: Well, funnily enough, no, I don't, but I understand. I mean, I've got promoted, I've gone back, I've gone elsewhere, I've come back. I really enjoy working at Dillwynia, I always have. But hearing the evidence I can understand why some people have that view, yes.

25

COMMISSIONER: Well, do you mean you accept that for them it wasn't a very happy place?

30

MR GILES: Absolutely, Commissioner.

COMMISSIONER: And when you say you can understand why they had that view, why do you say that? What do you understand which would confirm that view?

35

MR GILES: The way management - and when I say "management", from the Manager of Security up to the Governor, spoke to some people; the way they treated some people. Some are like, you know, Ms Barry, you know like Leanne O'Toole treated her terribly.

40

COMMISSIONER: Did she swear at her?

45

MR GILES: Yes.

COMMISSIONER: In very foul language?

5 **MR GILES:** Yes. Yes. There's not too many - and I'm generalising - there's not too many prison officers who can say they don't swear. I haven't - I haven't met one yet.

COMMISSIONER: All right. And so they swear at each other, do they?

10 **MR GILES:** Absolutely.

COMMISSIONER: But never at prisoners?

15 **MR GILES:** I didn't say they don't swear at prisoners, Commissioner. I've never heard them go in and say "you cunts whores, sluts", that's (indistinct). Is there swearing at inmates? Absolutely. Do we get sworn at? Absolutely.

COMMISSIONER: Did the Governor swear?

20 **MR GILES:** Yes.

COMMISSIONER: At officers?

MR GILES: Yes.

25 **COMMISSIONER:** At inmates?

MR GILES: Yes.

30 **COMMISSIONER:** In foul language?

MR GILES: Yes.

COMMISSIONER: I think we'll have lunch.

35 **<THE HEARING ADJOURNED AT 1.04 PM**

<THE HEARING RESUMED AT 2.02 PM

40 **MR LLOYD:** Thank you, Commissioner. Mr Giles, can I take you forward in time to the latter part of March 2017. Now, you've told us in your statement - I'll show you the paragraphs, but I'm sure you remember - about an occasion when, toward the end of March 2017, Witness O came and saw you?

45 **MR GILES:** That's correct.

MR LLOYD: And just tell us what you remember about what she said?

MR GILES: Well, in relation to the applications - is that what you're talking about?

MR LLOYD: Yes.

5

MR GILES: So I remember Mr Peek, who was the SCO, the OIC of high needs - my recollection, that he rang me and said that we've got inmates here that want to make a complaint about another officer. So I believe I said to him, "Give me the applications and I'll come up there and I'll register them." I did speak - I did say in my witness statement to the Commission that I don't remember if I interviewed the inmates. However, hearing Mr Peek's evidence - and I have no reason to doubt him, that he said that we did individually subsequently interview the inmates. They wanted to make allegations against Mr Astill.

10
15 **MR LLOYD:** I just want to understand the state of your memory, though, about whether you have an actual recollection of sitting down with Witnesses O and T. Do you actually remember it?

MR GILES: No, I don't. However, like I said, Mr Peek said we did, and I have no reason to doubt him.

20
MR LLOYD: You're telling us that you're not disputing what it is that he said, and you understand that to be that you were there?

25 **MR GILES:** Absolutely.

MR LLOYD: And that - I think I asked you before the Commissioner came on to the bench to turn up, in Volume 8, Tab 65 -

30 **MR GILES:** Yes.

MR LLOYD: - that part of the annexures which is the inmate application form for Witness O.

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

MR LLOYD: You've got that in front of you?

MR GILES: Yes, I do.

40 **MR LLOYD:** Do you see that's a document created which states that it's written on behalf of Witness O by Senior Correctional Officer Peek?

MR GILES: Yes, I do.

45 **MR LLOYD:** And do you see it records:

"I believe that something inappropriate happened yesterday between inmate..."

And that's Trudy Sheiles:

5

"...and Chief Astill. I believe I have witnessed this on previous occasions also."

MR GILES: I do.

10

MR LLOYD: And you see those words don't record the specifics or the particulars of what it is that was the something inappropriate?

MR GILES: That's correct.

15

MR LLOYD: Whatever it was, I think you tell us that it was of sufficient seriousness to warrant, in your view, immediately giving the application form and the one also filled out by T to the Governor?

20

MR GILES: Absolutely.

MR LLOYD: Could I put this to you, something Witness O told us in her evidence about what was disclosed in the meeting that she says she attended with you and Senior Correctional Officer Peek.

25

MR GILES: Yep.

MR LLOYD: She says that she had seen Astill and Trudy Sheiles in the office and had seen Astill touching Ms Sheiles on the bottom. Now, you've told us you don't have a memory of being at the meeting?

30

MR GILES: No, I don't. No.

MR LLOYD: Do you dispute that that was what was disclosed?

35

MR GILES: Well, it's hard to dispute that that was disclosed. However, I think if she disclosed that, that would have - it would have been more information on - on that application.

40

MR LLOYD: Well, except if you look at the words on the application, it doesn't disclose any detail other than her view that it was inappropriate conduct.

MR WATSON: Well, I object. I think in fairness, if my friend can also take the witness to the bottom of the form where it says, "I would like to speak to the Governor about this" rather than just the other part of the document.

45

COMMISSIONER: Well, I'm not sure I understand the objection, but you can deal with it, Mr Lloyd.

5 **MR LLOYD:** I will deal with it. Mr Giles, your barrister wants me to draw to your attention the words down the bottom.

MR GILES: Yes.

10 **MR LLOYD:** I think your position, though, in relation to whatever it is that was disclosed on this form was that it warranted going to the Governor?

MR GILES: That's correct.

15 **MR LLOYD:** And I was up to the point about asking you - there's no actual identification in terms of particulars about what it was that she observed?

MR GILES: Correct.

20 **MR LLOYD:** And I've asked you about what Witness O says that she disclosed at the meeting, that is, it included that she saw Astill touching Ms Sheiles on the bottom. And the question is: are you in a position to say that that's wrong, that she did not disclose that?

25 **MR GILES:** Well, no, I'm not. Because I said I didn't know if we did. But I take on Mr Peek's evidence which suggests that we did speak. But I can't recall her saying that she'd seen Mr Astill touch her on the bottom.

30 **MR LLOYD:** Do you remember anything - I know you don't remember the meeting, but do you remember obtaining any particulars other than the sense that she had that it was inappropriate?

35 **MR GILES:** No - no - no recollection of that. However, they wanted to make allegations, and they wanted to see the Governor, and hence why I told Mr - I directed Mr Peek to give her an application. I registered it - this is my name on the back - and I've sent it straight to the Governor.

MR LLOYD: And you know that it actually got to the Governor?

40 **MR GILES:** I know that now.

MR LLOYD: From other documents you've seen, you know that what you directed, or thought should happen, was effective in the sense that this inmate application form made its way to the Governor?

45 **MR GILES:** Yes, but further than that - and I told my - my legal team that I was told in the new legal proceedings against Astill, my applications that I registered

went missing, and now - now they're here. So, Like I said, I'm aware now that they got to the Governor.

5 **MR LLOYD:** I won't take you to the documents, but you might be aware now that we've got documents which record things that happened after these inmate applications were handed to the Governor.

MR GILES: Yeah, that's right.

10 **MR LLOYD:** But you had no involvement in that part of the exercise?

MR GILES: No. My duty is to take it to the Governor, and the rest obviously for them to deal with.

15 **MR LLOYD:** And whatever the particulars, if you were aware of them, they were sufficient - of sufficient seriousness, along with what your counsel has drawn to your attention, the fact that Witness O wanted to speak to the Governor - those circumstances are such that, in your view, it should immediately go to the Governor?

20 **MR GILES:** 100 per cent.

MR LLOYD: And you expected that whatever it was - were the particulars of the allegations would be properly dealt with?

25 **MR GILES:** Absolutely.

MR LLOYD: Including, if it was the case that there was an allegation of seeing Astill touching an inmate on the bottom, that would probably go out to the Professional Standards Group.

30 **MR GILES:** Well, it probably should have straightaway, sent to PSB.

MR LLOYD: If not the police?

35 **MR GILES:** Absolutely.

MR LLOYD: Do you remember ever finding out what came of the information that you had from these two inmates, O and T?

40 **MR GILES:** No, I don't. I'm not sure of the chronological order. However, I spoke to Shari Martin on two occasions, asking her, you know, what's going on. Two different occasions, and both times she said, "It's with Mick Hovey."

45 **MR LLOYD:** That's paragraphs 46, 47 and 48 in your Commission statement?

MR GILES: I believe so, yes.

MR LLOYD: And I will take you to that and ask you some questions, and in due course, you don't need to go there now. But there's two times you spoke to her because you were worried about what, if anything, was happening about
5 complaints against Astill you were aware of being made and you weren't sure of the outcome?

MR GILES: Correct.

10 **MR LLOYD:** Can I ask you this about something that - another thing that Witness O told us in her evidence. For those at the bar table, it's paragraph 29, Tab 17A in Volume 5. She said - I withdraw that. Witness O says that what happened after the meeting between her and you and Senior Correctional Officer Peek was that a few days or perhaps a week or so later, she was confronted by Astill -

15

MR GILES: Right.

MR LLOYD: - about the fact that she had made a complaint.

20 **MR GILES:** Yes.

MR LLOYD: And she said that after being confronted by Astill, she was freaked out and terrified and found you in what she described as the yard, told you that Astill had called her into his office and said - and that she then said to you, "You
25 said he would never know, you promised not to tell him" and your response was, "I don't know. As I told you, I took the complaint to the Governor." Now, do you remember that happening?

30 **MR GILES:** Yep.

MR LLOYD: That is, it came to your attention that sometime after receiving whatever it was that Witness O was saying by way of complaint, that Astill had found out?

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

MR LLOYD: What did you think about that?

40 **MR GILES:** Surprised. But in relation to the confidentiality that she said, "You wouldn't tell anybody", I mean, you know, I've got to tell, I'm taking her to the Governor. There's no confidentiality when somebody has made a complaint. It's got to go - you know, a serious complaint goes to the next chain of command which, in relation to this, would have been inappropriate behaviour to the Governor. So the Governor knows. So there's no confidentiality as such. I'm not
45 going to go and tell Wayne Astill. I'm not going to go and tell inmates on the compound. But I had to tell the Governor, obviously.

MR LLOYD: And, in fairness to you, Mr Giles, the document records that that was her wish too. That was Witness O's wish, to go to the Governor.

5 **MR GILES:** Correct. That's right.

MR LLOYD: The problem that came to your attention, though, was that after it had gone to the Governor, someone had gone and told Astill about the fact of the complaint?

10 **MR GILES:** Yes.

MR LLOYD: And that was, I think you've said, when you said "surprised", that was a problem that should not have happened.

15 **MR GILES:** Absolutely not.

MR LLOYD: You didn't tell Astill?

20 **MR GILES:** 100 per cent not.

MR LLOYD: And again, in fairness, there's some documents you may or may not be aware of where the sequence appears to be he was asked to provide his response to at least some of the allegations. Are you aware of that?

25 **MR GILES:** I'm aware of that now.

MR LLOYD: And do you have a view about whether that was the appropriate thing, that is, within the gaol -

30 **MR GILES:** Disgraceful. Disgraceful.

MR LLOYD: I didn't finish my question.

35 **MR GILES:** Sorry.

MR LLOYD: No, that's all right. Your response is what happened there in terms of asking him for his response within the gaol, was disgraceful.

40 **MR GILES:** Absolutely.

MR LLOYD: Because that should have been done outside by the proper authorities?

45 **MR GILES:** Yes.

MR LLOYD: Could I ask you about something else moving forward in time, probably to a period around the end of calendar year 2017 or thereabouts. Do you remember an inmate Sarah Ward?

5 **MR GILES:** Yes.

MR LLOYD: She said in her evidence - this is Volume 5, Tab 11A, paragraph 21 - that she was upset on a particular occasion and was running around the complex and found you and said, "Astill's been in my room. Please help me." Do
10 you remember something like this happening?

MR GILES: Sarah Ward said that?

MR LLOYD: Yes. I think that's the effect of the evidence, from - I withdraw that.
15 Do you remember Witness V?

MR GILES: Yes.

MR LLOYD: Do you remember Witness V coming and telling you that she and
20 Sarah Ward had had some sort of argument, and the effect of it was that she had had an argument with Sarah Ward after Astill had been in Witness B's room?

MR GILES: Is - yes, I believe so.

25 **MR LLOYD:** And what Witness V was telling us was after disclosing that to you, your response was, "Sorry, I can't get involved in that."

MR GILES: No.

30 **MR LLOYD:** Don't remember that?

MR GILES: No.

MR LLOYD: In terms of Astill's reputation and your experience with him, many
35 people have told us that he was a bully and intimidated inmates and other officers. Is that your experience?

MR GILES: Yes.

40 **MR LLOYD:** Are you sure it wasn't the case that with a complaint just of this nature, that he'd been in an inmate's room and, in effect, bullying the inmate, that you wouldn't have responded that way?

45 **MR GILES:** No, I don't believe I - I would have engaged and find out - you know, found out what had happened and took it to the appropriate channels if - if they went on with what, you know, their allegations were.

MR LLOYD: And -

MR GILES: He was a bully and he was intimidating to people. I've got no doubt about that. I mean, we had our dramas, but he didn't intimidate me, so -

5

MR LLOYD: You didn't feel that there was any concern on your part about taking allegations of misconduct against him up, where appropriate?

MR GILES: Absolutely not.

10

MR LLOYD: Could I move you forward in time and ask you what you can remember about an inmate Liz Cox.

MR GILES: Yes.

15

MR LLOYD: You remember her?

MR GILES: Yes, I do. Yeah.

20

MR LLOYD: Was she the inmate who you regarded as being reliable?

MR GILES: Yeah, I've always had a good rapport with Inmate Cox.

25

MR LLOYD: She gave some evidence about an occasion, probably in or around April/May 2018, where she came to Shari Martin's office, and you also were present.

MR GILES: Yeah, I heard that evidence. Yes.

30

MR LLOYD: And I'll just take you through some of the things she says happened to get your response. She said that the first thing that happened in this meeting was that she was informed that Astill had made an allegation that Ms Cox had tried to bribe him in relation to some dirty urine results. Do you remember that happening?

35

MR GILES: Yep. Yep.

40

MR LLOYD: And what happened after that issue was raised at the meeting, Ms Cox told us, was that she said she was suspicious that Astill had falsified the urine results because she knew that her urine samples ought to be clean.

MR GILES: That's right. She did say that. Yep. In them sort of words, yes.

45

MR LLOYD: She then told us in her evidence that after that topic was discussed, she then moved on to level a range of other allegations against Astill in terms of a range of matters of misconduct towards inmates -

MR GILES: Correct.

MR LLOYD: - just broadly. I'll take you to the detail. Do you remember at the meeting it moving on to that kind of thing?

5

MR GILES: Yes.

MR LLOYD: She said - she didn't name any inmates other than herself, but she said she had seen Astill bringing tobacco into the Centre, and she said that he was having people collect debts for him. Now, just pausing there, do you remember that?

10

MR GILES: No, she didn't say that.

15 **MR LLOYD:** Are you sure?

MR GILES: Positive.

MR LLOYD: She said to us in her evidence that she went on to say:

20

"He was getting payment, including by inmates performing sexual favours."

MR GILES: She didn't say that at the meeting whilst I was there.

25 **MR LLOYD:** And he wasn't - she also told us that she said at this meeting:

"He wasn't only bringing in drugs; he was bringing in jewellery, bringing in anything that was censored, clothes, make-up and..."

30 In her description:

"...things that make women feel like women."

MR GILES: No, she didn't say that whilst I was there.

35

MR LLOYD: She told us that at the meeting she went on to say he had a hit list of women, that several young girls, talking 18 to 20s - mid-20s, who were coming to her and asking for help.

40 **MR GILES:** No. She didn't - didn't say that.

MR LLOYD: And that she said that he was sexually harassing a number of inmates, as in, being sexually inappropriate with inmates between 18 and their mid-20s.

45

MR GILES: Definitely not.

COMMISSIONER: Mr Giles -

MR GILES: Yes, sir.

5 **COMMISSIONER:** - everything that Mr Lloyd has put to you that Ms Cox said happens to be true, doesn't it?

MR GILES: No, that's incorrect, Commissioner. That's incorrect.

10 **COMMISSIONER:** What? What's not true? The content of what he says Ms Cox said is true?

MR GILES: Sorry -

15 **COMMISSIONER:** All those events that she related were happening in the gaol.

MR GILES: We understand that now.

20 **COMMISSIONER:** Yes. All true.

MR GILES: Yes, sir. Yes.

MR LLOYD: And I just continue to put what she told us in her account, that she had four foolscap pages of notes which she handed over during the meeting.

25 **MR GILES:** Correct.

MR LLOYD: And she said that the foolscap pages contained details of the kinds of things she was saying at the meeting.

30 **MR GILES:** She said that but didn't say about any - any sexual inappropriate behaviour by Astill. She said other things, which I'm sure you'll come to.

MR LLOYD: Did you read the notes?

35 **MR GILES:** No.

MR LLOYD: I'll come to it, but I think - do you accept that you were asked to make a photocopy of them at some point?

40 **MR GILES:** Yes, that's right.

MR LLOYD: You left the room to do that?

45 **MR GILES:** I did.

MR LLOYD: You made a copy, gave her the original, that is, Ms Cox?

MR GILES: Correct.

5 **MR LLOYD:** And gave the copy to Ms Martin?

MR GILES: That's right.

10 **MR LLOYD:** And I'm not suggesting you should have, but you didn't retain a copy for yourself?

MR GILES: Definitely not.

MR LLOYD: And at no time did you read the contents?

15 **MR GILES:** No.

COMMISSIONER: So you took them away and photocopied them and never looked at the content at all. Is that what you're saying?

20 **MR GILES:** Yes, Commissioner. Yes.

MR LLOYD: And -

25 **COMMISSIONER:** You must have been curious about what was in them, weren't you?

MR GILES: Commissioner, from the stuff that Ms Cox did say in relation to he was treating people differently, he had his favourites, that the urine thing, he's intimidating people - it was a range of things. But whilst I was there, she did not mention any sexual activity going on in the gaol.

COMMISSIONER: But you must have been curious as to what she'd put in her notes, weren't you?

35 **MR GILES:** Well, she told - she told the meeting - Ms Martin - I was there - that all the stuff she'd written down in her notes. So -

COMMISSIONER: And you have been curious as to what was in the notes, weren't you?

40 **MR GILES:** I assumed that all the stuff that she was telling us was in the notes.

COMMISSIONER: You must have been curious to know what was in there, weren't you?

45 **MR GILES:** That's a - yeah. Yes. Yes.

COMMISSIONER: And you say you took them away to a photocopy machine, and you never looked at a word?

MR GILES: Definitely not.

5

COMMISSIONER: You must be a rather extraordinary person.

MR GILES: Sir, I was with the Governor. She asked me to go and photocopy it. Again, assumptions that this is going bang, straight to PSB. I'm an Acting Chief Correctional Officer - Senior Correctional, Acting Chief. You know, there's - to be honest, I'm not sure why I was there. It should have been the MoS or a Principal. I'm an Acting Chief Correctional Officer at the time. I was asked to photocopy and give it straight to the Governor, and that's exactly what I did. She already told us what was in her notes as such. She just detailed it. Ms Martin said, "Photocopy it and bring it back to me." And the photocopier is from here to the back wall away, if not less.

MR LLOYD: See, just putting to one side anything that Ms Cox told us that she said about sexual contact - harassment between Astill and the inmates 18 to mid-20s, Ms Cox did say that he was bringing contraband into the Centre.

20

MR GILES: She did not say whilst I was there contraband into the Centre.

MR LLOYD: Tobacco?

25

MR GILES: No. Contraband, no.

MR LLOYD: What did she say?

MR GILES: She didn't talk about contraband. She talked about going into units, treating people differently, tampering with urines - I still didn't understand how he was doing that because it comes from a lab - but - year 11 - tampering with urines, the allegation that he tried to bribe her or something like that, it was four or five things, but there was nothing about inappropriate behaviour in relation to a sexual act.

35

MR LLOYD: Are you sure, Mr Giles, that your recollection of this meeting is good in terms of being able to remember all of the things Ms Cox said at it?

MR GILES: Yes.

40

MR LLOYD: When was the first time you were called upon to turn your mind by way of remembering what happened at this meeting?

MR GILES: Probably when the Commission started.

45

MR LLOYD: See, Ms Cox gave her evidence - I can tell you the date - on 20 October. I take it you followed that evidence?

5 **MR GILES:** I followed the Commission, yes.

MR LLOYD: Was that the first time you were aware that she was saying these things that happened at the meeting?

10 **MR GILES:** Yes. Yes.

MR LLOYD: And is that shortly that that occasion or - I withdraw that. Was that the first occasion that you had to turn your mind back to see what you could remember about this meeting?

15 **MR GILES:** Yes.

MR LLOYD: How long did the meeting go for?

20 **MR GILES:** That meeting? Approximately 10 minutes, 15 minutes, if that.

MR LLOYD: Do you remember how you came to be asked to be there?

25 **MR GILES:** No, I don't. As I said, I was an Acting Chief. There was a Principal in front of me, MoS in front of me and obviously then the Governor.

MR LLOYD: Do you remember when it was?

MR GILES: When? No.

30 **MR LLOYD:** Do you remember what the pages looked like, what form were they in?

MR GILES: No, I don't.

35 **MR LLOYD:** Do you remember where the photocopier was?

MR GILES: Yes.

40 **MR LLOYD:** Where?

MR GILES: Down the back. It's now the IOT office. You've got Governor's - Governor's office and probably - I'm going to say a hallway, probably 12 metres long, and to the left.

45 **MR LLOYD:** Do you remember how the meeting ended? What was the last thing that happened in your presence?

MR GILES: Shari said that she will investigate or something like that.

MR LLOYD: Well, do you remember that?

5 **MR GILES:** Not verbatim, but that's what -

MR LLOYD: Or at all, do you remember?

10 **MR GILES:** Absolutely.

MR LLOYD: Do you remember Ms Martin saying something like, "Even if I didn't believe you, I would have to err on the side of caution"?

15 **MR GILES:** I'm not sure if the Commission has made me aware of that, or I remember her saying that.

MR LLOYD: Do you remember any discussion about Ms Cox's belief that at least one of the incidents would be recorded on CCTV?

20 **MR GILES:** I believe she did say something about CCTV. Again, I don't know if I'm remembering that from the Commission or from the conversation.

MR LLOYD: It's important, Mr Giles, for you to just tell us what you can actually remember. You know she mentioned that in her evidence?

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

MR LLOYD: You have a memory one way or the other, just thinking about what you can recall, about whether that happened?

30 **MR GILES:** I'm not going to sit here and lie. If I had to say, do I remember her saying CCTV? No.

35 **MR LLOYD:** See, it's entirely possible, I want to suggest to you, you are mistaken in your recollection she didn't mention the additional things, that is, contraband, sexual harassment or contact and sexual favours, that is, payment by inmates through sex in regard to tobacco and the like?

40 **MR GILES:** Mr Lloyd, if she would have said that whilst I was there, I would have said something to Shari to that effect - Ms Martin, Shari - that the police must be called. Not a "Let's send it off to PSB" or anything like that. Like I said at the start of the Commission. Did I have a good working relationship with Shari Martin? Absolutely. I've had good working relationship with a lot of Governors. But I would have - as a union delegate also, I would have said to her, "The police need to be called." And if she didn't, I would have made it a union issue locally.
45 I've had many union issues and shut the gaol down and had strikes. That's what

I would have done. She didn't say anything about sexual inappropriateness in that meeting that I was at.

5 **MR LLOYD:** But wouldn't you have just been satisfied, for example, if Ms Martin said, "I'm going to send this up to Investigations in the form of an intelligence report"?

MR GILES: If she said those things, no, I don't think so.

10 **MR LLOYD:** You wouldn't have been satisfied with that?

MR GILES: If she's saying that people have been sexually assaulted, the police should have been called, if she said that in that meeting, which she didn't say whilst I was there.

15 **MR LLOYD:** Is what you're saying - just take the assumption or just pretend for a minute that those things about - that I asked you about, sexual harassment or contact between Astill and inmates, bringing in tobacco in return for sex - those things have been raised in your presence, are you saying that one way or the other, 20 it was part of your duty to ensure that the police were notified? I just pause there. I think I probably should take an objection.

COMMISSIONER: Yes, I require you to answer.

25 **MR GILES:** If I was there and she said that, yes.

MR LLOYD: That is, for starters, the police?

MR GILES: Exactly.

30 **MR LLOYD:** What about some of the other people I mentioned in your evidence - or you actually mention them. The Commissioner?

35 **MR GILES:** If I was in that meeting and she said that and Ms Martin didn't want to do nothing about it, I would have - I would have contacted the police myself and I would have sent an email to Mr Hovey, the Deputy Commissioner, Commissioner - whoever - the Director. I've done it before, not about complaints. I've emailed higher than the Governor. So I would have no problem doing that.

40 **MR LLOYD:** But in terms of - that answer included if Ms Martin was going to do nothing about it. My question is slightly different. If - even if Ms Martin was saying, "I'll send up an intelligence report to Investigations," I thought you were agreeing with me that if that was what she was going to do, your obligation didn't end with her taking that step?

45 **MR GILES:** Agreed.

MR LLOYD: And that you would have been - on the assumption of that additional information, you would have had a personal obligation to do the things you mentioned, starting with the police?

5 **MR GILES:** Yes.

MR LLOYD: And I think going on to the Commissioner?

MR GILES: Absolutely.

10

MR LLOYD: And Mr Hovey?

MR GILES: Yes.

15 **MR LLOYD:** And if on that scenario, again pretending that that's what Ms Cox did disclose, it already included that additional information, that would have been a serious failure on your part? Commissioner -

MR WATSON: Section 23.

20

COMMISSIONER: Yes, I require you to answer.

MR GILES: Yes.

25 **MR LLOYD:** Could I move on, then, and I'll take you back to something you mentioned a short while ago in paragraphs 47, 48 and 49 of your Commission statement. You can close up that folder, but your Commission statement is in the same Volume, actually, so (indistinct) A.

30 **MR GILES:** Gotcha.

MR LLOYD: Paragraph 47.

MR GILES: Yes.

35

MR LLOYD: You may or may not read to read 47 through to 49 to yourself before I ask you some questions.

MR GILES: Yes.

40

MR LLOYD: These are the two occasions you mentioned a short while ago where you went to Shari Martin?

MR GILES: Correct.

45

MR LLOYD: Just dealing with the second time in 49.

MR GILES: Yep.

MR LLOYD: "If there had been more and more rumours," do you see that?

5 **MR GILES:** That's right.

MR LLOYD: Now, I take it that by this time, this includes the Witness O and T, late March -

10 **MR GILES:** I believe so.

MR LLOYD: And the Witness P events, you've described that earlier.

15 **MR GILES:** Yes.

MR LLOYD: And I take it when the reference to rumours here, it would include your knowledge about the Witness C matters?

20 **MR GILES:** That's right.

MR LLOYD: Did it include other things?

25 **MR GILES:** (Indistinct) the jewellery in - in relation to the visits that everyone knew about, a ring that some say he brought in, some say he didn't, blah, blah, blah.

MR LLOYD: Another aspect of the Witness C issue?

30 **MR GILES:** Correct.

MR LLOYD: What other rumours did you have in mind at the time that you confronted Shari Martin on the second occasion?

35 **MR GILES:** I can't sit there and recall exact rumours. It was just floating around the gaol that something wasn't right. Like I said, the - the GG thing, always in the office, a culmination of rumours and stuff that I had dealt with personally that we've already gone through, and it was like something's not right.

40 **MR LLOYD:** Do you remember when this second time was, approximately?

MR GILES: I'm going to say eight weeks after the first - eight weeks after -

MR LLOYD: After the first time you -

45 **MR GILES:** The first time I approached Shari.

MR LLOYD: Do you remember when the first time was?

MR GILES: No, I don't.

5 **MR LLOYD:** Is it right at least by the second time that the position you'd reached is whilst, in your view, you'd been reporting the things that had come to your attention properly - that's through the chain, including to the Governor, as you've told us?

10 **MR GILES:** Correct.

MR LLOYD: And while - and you didn't have enough information about the GG situation?

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

MR LLOYD: Nonetheless, you got to a point where you reached the view that the situation within the gaol with him continuing to be there and nothing apparently being done to him in response was unsatisfactory?

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

MR LLOYD: And your response to that state - that unsatisfactory state within the gaol was to effectively confront the Governor -

25 **MR GILES:** Absolutely.

MR LLOYD: - about what's happening?

30 **MR GILES:** Yes.

MR LLOYD: Did you think at this point that it was incumbent upon you to also make inquiries of the kinds of people who we've discussed already?

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

MR LLOYD: Do you think you should have?

MR GILES: Hindsight? Hindsight, yes.

40 **MR LLOYD:** I'll put some other things to you, Mr Giles, to get your response.

COMMISSIONER: When you say "hindsight", what do you mean?

45 **MR GILES:** Just what I know happened, Commissioner, in relation to the evidence and what he was charged with, what he was convicted of. But I went to Ms Martin and asked her what's going on, and the response I got was it was with Mick Hovey. Now, Mick Hovey - it was known that he was the boss of PSB,

Investigations. When you get told that by the Governor, you expect that's the true indication of exactly where it's at.

5 **COMMISSIONER:** So it's not really hindsight; it's the fact that you now have, you say, more knowledge?

MR GILES: Yes. Yes.

10 **COMMISSIONER:** But going back in time with the knowledge you had then, do you think you should have reacted differently?

MR GILES: I believe I done - I believe I done the right thing by approaching the Governor, Commissioner.

15 **COMMISSIONER:** Okay. Yes.

MR LLOYD: Just reminding you of - just before lunch, I asked you some things including about Mr Shearer's evidence.

20 **MR GILES:** Yes.

MR LLOYD: And don't take this as me accusing you of lacking courage, Mr Giles, but I asked you about an organisation like Corrective Services -

25 **MR GILES:** Yes.

MR LLOYD: - depending, for its proper operation, in part on the courage of individual officers to raise problems.

30 **MR GILES:** Yes.

MR LLOYD: And I think you agreed with me?

35 **MR GILES:** I do.

MR LLOYD: And in fairness - and Mr Shearer said - having a system which supported officers raising problems?

40 **MR GILES:** Absolutely.

MR LLOYD: And I think you've told us more than once that there was no problem in terms of your understanding of your own ability to report things up within the gaol about Astill?

45 **MR GILES:** Absolutely.

MR LLOYD: Even though he was intimidating, you weren't intimidated?

MR GILES: No, I wasn't.

5 **MR LLOYD:** At the point that you raised the issues that you raised with Shari Martin on the second occasion, I think you've told us already, you obviously had reached the state where, in your opinion, things within the gaol in relation to Astill were unsatisfactory?

10 **MR GILES:** Absolutely.

MR LLOYD: You had someone at your equivalent rank both acting up?

MR GILES: Yes.

15 **MR LLOYD:** A position of real seniority?

MR GILES: Correct.

20 **MR LLOYD:** Often the most senior person on the premises, for example?

MR GILES: On the D watch, yes.

25 **MR LLOYD:** And at the point that you went to Ms Martin a second time, a concern that he was not fit for that public office. Is that fair?

MR GILES: Yes.

30 **MR LLOYD:** And on your state of knowledge, no understanding of what, if anything, was actually being done about it by the people whose job it was outside the gaol to do it?

MR GILES: Yes, that's right.

35 **MR LLOYD:** At that point, do you agree with me that for the purposes of Corrective Services acting properly, it really was incumbent upon you in your office to do something, starting with either contacting Mr Hovey or an Assistant Commissioner or the Commissioner to find out what on earth was going on with this man?

40 **MR GILES:** No, I don't. I believe I done the right thing by approaching the Governor.

MR LLOYD: But you - sorry, you go.

45 **MR GILES:** And she'd give me - and I took it in good faith, because I never had the dealings with her where she lied to me before about misconduct, about someone doing the wrong thing, and she'd tell me it's with Mick Hovey. I've heard

that, you know, before about other things, with Mick Hovey or it's with PSB. I - I took that in good faith, it was with Mick Hovey and an investigation was getting done.

5 **MR LLOYD:** But even if it was with Mick Hovey, you must have had suspicions that even at that level, something was going wrong in the sense he was still there and you had concerns about him?

MR GILES: There was definitely some concerns, yes.

10

MR LLOYD: And where it appears, from what you can see, that something appears to be going wrong, at someone at your level at least, it's incumbent, isn't it, to make inquiries and find out what is actually going on? Don't you agree with me?

15

MR GILES: You say it like that, yes.

MR LLOYD: Could I ask you some things moving right forward in time to the middle part of this year. Do you remember on or around 8 or 9 June of 2023, some people from the Department coming out to Dillwynia - Michelle Young, Lucy Connolly and Belinda Gurney -

20

MR GILES: Yes, I do.

25 **MR LLOYD:** - to speak to some officers?

MR GILES: Yes, I do.

MR LLOYD: And did they speak to you?

30

MR GILES: Yes.

MR LLOYD: And I just want to ask you to give you a fair opportunity to respond to some things that it is said came out of their attendance. One thing that was recorded as coming out of their attendance at the gaol was that it was highly probable that you were aware of Astill's offending and failed to intervene or report the conduct. Now, I think you've given us your response to that kind of allegation in your evidence, but just tell us what you say about that.

35

40 **MR GILES:** I highly refute that.

MR LLOYD: The basis upon which that was put, it seems, was that you were aware of the conduct due to your associations with Centre management.

45 **MR GILES:** Sorry, can you repeat that?

MR LLOYD: Your awareness of Astill's offending was said to arise, at least in part, due to your contact or associations with Centre management.

5 **MR GILES:** I don't understand the comment.

MR LLOYD: I'll take that as your response, that you don't understand that and you reject it?

10 **MR GILES:** Yes.

MR LLOYD: And it says that association was confirmed by you, who advised you were extremely close to Governor Martin and Ms O'Toole, in both a personal and professional capacity. Just breaking that down, entirely possible that you said you were close professionally with Ms O'Toole?

15 **MR GILES:** We had a good working relationship with Ms O'Toole and Ms Martin, but definitely not personally.

20 **MR LLOYD:** Definitely not personally?

MR GILES: Definitely not personally.

MR LLOYD: Another thing which is recorded is that you were closely associated with Astill as they shared an office. Now, you've told us that's true in a sense that you shared The Hub, but you actually occupied different office spaces within that 14 metres apart.

25 **MR GILES:** That's right.

30 **MR LLOYD:** That you said that Astill had used you when engaging in the offending as a manipulation tool by referencing you in conversation such that inmates believed that you and he were friends or close.

35 **MR GILES:** I said that at the Commission, yes, that I believe he manipulated the inmates to suggest we were friends.

MR LLOYD: Another thing that's recorded is an allegation that you had, during the period of Astill's offending, used a nickname for him in conversation with other officers, the nickname being "Balls Deep".

40 **MR GILES:** Wrong.

MR LLOYD: You reject that?

45 **MR GILES:** I reject that.

MR LLOYD: And it was said that there was a conversation or conversations with Officers Holman and Paddison in which you three joked about not wanting to attend a specific housing area, that is, the J Block, due to Wayne being "balls deep". What's your response to that?

5

MR GILES: That's incorrect.

MR LLOYD: False?

10 **MR GILES:** False.

MR LLOYD: Can I ask you next for your response to this. Do you have any recollection of Elizabeth Cox ever coming to you and telling you that Astill had sexually assaulted another inmate?

15

MR GILES: No, I don't.

MR LLOYD: I'll give you the inmate's name. Hopefully it appears on that list.

20 **MR GILES:** Yep.

MR LLOYD: It is the one at the very bottom. Don't say the name, but -

MR GILES: MM, is that - yeah.

25

MR LLOYD: Could I have access to make sure this is correct. Thank you. KK?

MR GILES: No.

30 **MR LLOYD:** That did not happen?

MR GILES: No, it did not.

MR LLOYD: Can I ask you about something else to get your response. Can you remember Witness O - have a look at that list - coming to you - and I'm not talking about March of 2017 now.

35

MR GILES: The application? Yep.

40 **MR LLOYD:** Coming to you and saying she'd been sexually assaulted by Astill, and you, in response, taking her to Astill so as to require her to repeat the allegation to him.

MR GILES: No, that did not happen.

45

MR LLOYD: That's not true?

MR GILES: Not true.

MR LLOYD: Could I ask you about something else to get your response to this. Do you remember an officer Ronald Brumwell?

5

MR GILES: Yes.

MR LLOYD: He said in a statement to the police that he was having a conversation with Astill - now, to be fair, this is after the statement he made, that is, Mr Brumwell, is after the arrest. Do you understand?

10

MR GILES: Yep.

MR LLOYD: A conversation that he said he had was one that occurred before.

15

MR GILES: Okay.

MR LLOYD: He said that one aspect of the conversation that he had with Astill involved Astill saying, "I nearly didn't get away with it," in response to a question, "How did you get away with it?" And Astill said, "Gilesy came in on us," and that he explained that he came in to - that you came into an area of the gaol where Astill and Witness O were engaged in sexual activity. Do you remember this happening?

20

MR GILES: Do I remember the conversation or do I remember -

25

MR LLOYD: You're not a - I'll make it absolutely clear.

MR GILES: No. No.

30

MR LLOYD: You're not saying you were a participant?

MR GILES: No.

MR LLOYD: This is something that Astill has recorded as saying happened?

35

MR GILES: No.

MR LLOYD: You can't remember any occasion where you either came in on Astill involved in sexual activity or were aware that you were in the vicinity of that occurring?

40

MR GILES: Definitely not. The Hub - there was a door at the front, which was accessed by both of us. I'd walk in. My office was to the left, seven-ish metres. There was a kitchenette area in the middle, and his office was to the right, approximately seven metres. At no time did I hear anything going on or walk in on anything. No way.

45

MR LLOYD: Or see - you're telling us you - or seeing anything?

MR GILES: No way.

5

MR LLOYD: Can I ask you about this: do you remember having, in more recent times, a conversation with Elizabeth Cox out at Dillwynia?

MR GILES: Yes.

10

MR LLOYD: And Ms Cox, in her evidence, said that she asked you if you remembered the occasion when she saw you and Ms Martin about Astill?

MR GILES: That's right.

15

MR LLOYD: One of the things that happened?

MR GILES: Yes.

20

MR LLOYD: And she says - or told us that she did not think that - I withdraw that. She said that you said that she didn't think that Ms Martin would brush it under the carpet, but you couldn't run on a hunch?

25

MR GILES: I remember saying words to them effect, that I wouldn't believe - or I didn't believe Ms Martin would put it under the carpet.

MR LLOYD: But what about that you couldn't run on a hunch?

30

MR GILES: No, I - I don't understand that comment. I couldn't go on a hunch.

MR LLOYD: She also said that you told her that you couldn't go above her, that is, Ms Martin.

35

MR GILES: No, I didn't say that.

MR LLOYD: Are you sure?

40

MR GILES: Positive, yeah. I was - I was actually saying to her - she said, "Do you remember the conversation?" "Yes, yes, yes." I was actually sort of supporting her by saying, "I can't believe that nothing happened from this."

MR LLOYD: Just finally, go to your Commission statement -

45

MR GILES: Yep.

MR LLOYD: - at 132.

MR GILES: Yep.

MR LLOYD: Just re-read that to yourself.

5 **MR GILES:** Yep. I remember this.

MR LLOYD: Just tell us about what was happening here.

10 **MR GILES:** So I was actually Acting Manager of Security. I'd been acting up for a fair while, and this all just come out. I think Mr Astill was arrested. And an inmate had been charged. It doesn't matter who was it or what it was, but it was very minor. It was wearing thongs or something like that, if I can remember. So I pulled it out - I was going to dismiss the charge. The inmate had gone through
15 enough with - you know, she'd been called in by the police, blah, blah, blah, given evidence. So I was going to dismiss the charge, which I had the authority as FM security (indistinct) the charge. And where I was sitting was right opposite admin rosters, probably three or four staff within a metre of - my - my office.

20 And I said, "Come in, mate. Shut the door." And she goes, "Oh, do you mind if I leave it open?" I said, "Yeah. Yeah, no problem." Told her about she's been charged. Told her, "Listen, you've been through enough. It's a very minor charge. I'm just giving you, you know, a warning." And I was going to give a reprimand and a caution and just squash the charge. She appreciated it, signed the paperwork, stuff like that. And then as she - I said, "You're right to go, mate." And she
25 said - and I said, "Oh, actually, just - what was that about, you know, when I asked you to shut the door?" And she goes, "Oh, with all due respect, Mr Giles, you're Wayne - Mr Astill's mate." And, yeah, it didn't sit right with me, obviously. Yeah.

30 **MR LLOYD:** That seems - recounting that particular incident seems to make you upset.

MR GILES: Yeah, it does.

35 **MR LLOYD:** I take it that it took a toll on you finding out that one aspect of what had been going on at your gaol - when I say "your gaol", Dillwynia - was that Astill had been falsely using an association with you to try and aid or facilitate his offending?

40 **MR GILES:** Yes.

MR LLOYD: I should - if you need time -

MR GILES: All good.

45 **MR LLOYD:** I should ask you one other thing. Is there an occasion after the arrest where you made a post on Facebook about Astill?

MR GILES: Yes.

MR LLOYD: What is it that you were saying?

5 **MR GILES:** If I can remember, it was when he was found guilty. Then I said - I think I said something like along the lines of, "The dog got what he deserved." And I got counselled by PSB for saying that.

10 **MR LLOYD:** Well, I wanted to come to that. "The dog got what he deserved." And was there anything about a reference to -

MR GILES: "Where are all his supporters now?"

15 **MR LLOYD:** - other people who'd supported him?

MR GILES: Yes.

20 **MR LLOYD:** Were there people who - was that a reference to people supporting him through the criminal process?

MR GILES: No, it wasn't. There was a mate of his who was in my class also that was very vocal on Facebook about him, that the girls made it up, males shouldn't work in female Centres and stuff like that. So it was - it was more about him and his partner.

25 **MR LLOYD:** It wasn't a reference to him having supporters at the time of the offending?

30 **MR GILES:** No. No.

MR LLOYD: And you mentioned counselling. So you made a post on a Facebook page after his arrest.

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

MR LLOYD: The effect of the post is using some colourful language, effectively saying, "Where are all you people who were speaking up in favour of him now he's been found guilty?"

40 **MR GILES:** Yes.

MR LLOYD: And you got counselled?

45 **MR GILES:** Yes.

MR LLOYD: What was the counselling?

MR GILES: Ms Cartwright called me in and said, "I've got to deal with something." I said - and I was acting. And I said, "What have I done," you know, and she's like, "You've written something on Facebook." I'm like, "What?" And then she's like, "This." I'm like, "It's" - you know, he's been convicted of heinous crimes. I said, "There's people that have gone to court. They're clapping, they're on TV and all that." And I said, "I just say the dog deserved what he got or where is his supporters now?" I said, "I'm getting counselled." I said, "Okay. All right." I copped it on the chin.

10 **MR LLOYD:** Twice in that answer, Mr Giles, you gave a sort of eye-rolling thing in terms of Saffron Cartwright's response. Let me just understand. Are you seeking to convey by that that your understanding was that she was conveying a message to you that she didn't necessarily believe or subscribe to, or have I misread it?

15 **MR GILES:** Yeah, no. Yeah. Yes. Absolutely. But I weren't - I weren't taking it out on her. Obviously I was upset. I thought - I thought I could say that. I've been trying to go for promotion. I've been on a talent pool for three or four - five years almost at that SAS rank, and it seemed like every time I was close, something would come up. Every time I was close, something would come up. And
20 this - I thought this is another thing that's just going to make me look bad, and I thought - I was just expressing the fact that hearing what he's been allegedly doing - and - and it's been brought up in this Commission. A lot of it was in The Hub where I was at times, where I worked, and - yeah, it - it affected me. So -

25 **MR LLOYD:** Do you know where the complaint came from? What was the source?

MR GILES: Wouldn't have a clue. They don't tell you that. I did ask - I think I asked Ms Cartwright that, and she was very good. They don't tell you that.

30 **MR LLOYD:** Was your understanding from the counselling that the problem was that posting comments adverse to Astill in a public forum - was that a problem or -

MR GILES: I'm not sure. I did think - I was looking back and thinking, "Hang on, PSB sat on their hands, it appears, for years. Yet I - I make a comment on Facebook and I'm getting chopped into?" I was like, "Wow, what's - what's going on here," you know. Yeah.

MR LLOYD: I take it you thought it was pretty curious at best?

40 **MR GILES:** Yeah.

MR LLOYD: Those are my questions.

45 **COMMISSIONER:** I've asked others this question. Obviously things went very wrong?

MR GILES: Absolutely.

COMMISSIONER: Why?

5 **MR GILES:** I'm not sure, Commissioner. Listening to all the evidence in the Commission, it appears some stuff was sent up; some - some stuff wasn't. The stuff that was - he should have been suspended. He should have been moved as a bare minimum.

10 **COMMISSIONER:** At what point should he have been moved?

MR GILES: Inappropriate - the allegations of - or the multiple allegations and/or suspicion that he was doing the wrong thing to females, they should have taken him out of the Centre. Even if it was lies - we all know it wasn't lies - he should
15 have been removed. John Morony and all but two gaols on the complex, are 150 metres away. He should have been removed, then there could have been a full investigation. Obviously they would have found out it's all correct, and he would have been done. But some of the things he done to some of the girls, it's -

20 **COMMISSIONER:** Well, where did the failure occur, then, in your view?

MR GILES: In my -

COMMISSIONER: At what point was the failure?
25

MR GILES: Well, the failure was with the Governor and Investigation Branch. Listening to the - to the - to the Commission - that's all I can do, because there was so many people that reported - some that didn't, but so many reports were sent to the Governor, including mine.

30 **COMMISSIONER:** So what should be changed to make the situation better in future?

MR GILES: They keep talking about this SIU function. And I've been an acting
35 SAS for three or four years apart and Acting Chief for two years. Not once have I ever got training on that. But even so - like, I know about it now, but there should be - people are saying they don't get references back to them to say it got there. Like, some people have said they sent it, some said they didn't. The - the - the computer says they didn't receive it, the computer says - there
40 should be a trail. If I send one tomorrow, it should go - in my opinion, it should go to the Governor, it should go to the Director and straight to PSB. And there's no way in the world that three of them can sweep it under the carpet, in my opinion.

45 **COMMISSIONER:** Is it appropriate that a complaint by an inmate about an officer should go to the Governor and nowhere else?

MR GILES: And nowhere else did you say - no. No. Because in this case - well, if - if I'm the Governor and my best mate's the - you know, been written about him or her, I can - "oh, we'll deal with it locally." If it's sent to the Governor, Director and PSB, there is no way someone can say, "I didn't know about it." And I
5 think - I think it's as simple as that, because - the inmates have got their connections of - of - I know in this Commission has heard that they're unaware what they can do and all that. Inmates, in my opinion, are fully aware that they can speak to the Ombudsman on the phone, which is not - and I know there's
10 been - people say they get monitored. It doesn't get monitored. The Official Visitor now comes out quite regularly, and they're given an office space and stuff like that. But, yes, there probably should be a function for an inmate on their tablet that they can go "bang" and go straight to the Governor. If it's misconduct, Governor, Director and PSB.

15 **COMMISSIONER:** The concern amongst inmates, fundamentally, is that in making a complaint, be it to the Ombudsman, be it to the visitor, be it to one of you, that the officer about whom the complaint is made will find out and there will be retribution. Do you that understand?

20 **MR GILES:** I do understand that, Commissioner.

COMMISSIONER: That's a real fear, isn't it?

MR GILES: Absolutely. And people have said that there's a power imbalance, and there is. There's no doubt about that. But, yeah, maybe - maybe when it comes
25 to the inmates, it needs to go outside the Department and no control by the Commissioner - not you, sir, the Commissioner of Corrective Services and his or her staff, someone that can triage those complaints and take it to the relevant AC, Director, not Governor.

30 **COMMISSIONER:** And we've also had expressed to us the view that married couples or couples in an intimate relationship should not be in the same gaol. What do you say to that?

35 **MR GILES:** Commissioner, I can only speak on - on behalf of my relationship. We don't work together. We did when we were friends. We don't now that we're husband and wife. Probably more that she don't want to work with me because I - I treat her no differently. In fact, I probably treat her harder than anybody else. But what I think should happen - I mean, it's very hard in country locations. People get
40 together and then they're working there. They can't change gaols, otherwise there's, you know, financial implications. But in my belief, if I'm working high needs, my wife shouldn't be working in high needs. If I'm one of the Chiefs - in this case, functional managers, then I should be the functional manager of an Area 1 side where she's on Area 2 side. So then it stops what the Commissioner sort of
45 has said all along, that they probably shouldn't be working together and -

COMMISSIONER: Well, the easy thing is just to make sure you, when you can, work in different gaols, isn't it?

5 **MR GILES:** Well, that's an option, but I'm saying at the country locations - I don't know how -

COMMISSIONER: I understand the country issue, but it's not a problem in the city, it is?

10 **MR GILES:** Not so much, no.

COMMISSIONER: The other thing that's been suggested to us is that officers stay in the one gaol for too long. What do you say about that?

15 **MR GILES:** I think if - I don't agree that people should have to move. They should be given the opportunity to move. And the only reason I say that is if you're - if you love where you work - gaols are a very hard place to work, Commissioner. And I've worked at a few. And there's not too many I love working at. Dillwynia is one of them, or Dillwynia is the only one. I've been to six or seven
20 others, and there's not a lot of job satisfaction. So if you're made to move, I think a lot of people - I'll say this. If you moved half of Dillwynia tomorrow, I don't think you would have a workforce.

25 **COMMISSIONER:** Well, I'm not sure anyone is suggesting you move half a gaol at the one time.

MR GILES: I'm just - yeah, I'm just trying to -

30 **COMMISSIONER:** That might be a bit extreme.

MR GILES: Extreme, yeah. But they should be given the opportunity on complex where they can, like a Long Bay complex, like a John Morony - you know, out at Berkshire Park where we're at. They should be given the opportunity to go
35 elsewhere for a little while to open their eyes a little bit maybe also.

COMMISSIONER: Well, you realise many professions which offer services throughout the state require their employees to move from time to time. You know that?

40 **MR GILES:** Yes. I do, sir, yes.

COMMISSIONER: Why should it be different for gaols?

45 **MR GILES:** I probably can't argue with you. But - yeah. I can't argue with you.

COMMISSIONER: All right. Now, finally, we've heard evidence about a song that the inmates made up about Mr Astill. Did you ever hear that song sung in the gaol?

5 **MR GILES:** Commissioner, that was very surprising. I heard the term "Poppy". Ms Dolly was very vocal. Ms Dolly is very vocal about anything that she's passionate about. And in this case, it was right. I'd never heard the song.

COMMISSIONER: Well, others have. How would it be that you didn't?

10

MR GILES: I'm not sure. I actually thought it was - when it was first said, I thought, "Hang on, what's going on there?" But, no, I'd never heard the song. Heard "Poppy", absolutely. Never heard the song.

15 **COMMISSIONER:** You're not saying that because it would embarrass you if you told me that you had heard it?

MR GILES: No, Commissioner.

20 **COMMISSIONER:** Very well.

MR LLOYD: Those are my questions.

COMMISSIONER: Anyone got any questions?

25

MR WATSON: Thank you.

COMMISSIONER: You can go first.

30 **MS MELIS:** (Indistinct), Commissioner.

<EXAMINATION BY MS MELIS:

35 **MS MELIS:** Mr Giles, my name is Christine Melis. I'm one of the representatives of Corrective Services. Just following on directly from the Commissioner's questions with respect to officers who are in a relationship and working in the same Centre. You've been a union delegate; is that correct?

40 **MR GILES:** Yeah, that's true.

MS MELIS: Over what period were you a union delegate?

45 **MR GILES:** Virtually, the time that I've been at Dillwynia minus any time that I've acted in a position for longer than a week or two. So what I'm saying is if I'm on a temporary appointment, I stand down as union delegate. And that's been probably four, five years in total. So I would say eight or nine years I was union delegate at Dillwynia.

MS MELIS: All right. Given that experience and background as a union delegate, what would you anticipate the attitude of the union to be if officers who were in a relationship were unable to work at the same Centre?

5

MR GILES: Well, I think - well, I think people would lie about it.

MS MELIS: Sorry, can you just clarify that?

10 **MR GILES:** I think people wouldn't be forthcoming with information that they're in a relationship to avoid being moved. That's my personal opinion. And for anybody that's known to be in a relationship right now when they, for instance, move them tomorrow, I think there would be many a people very, very upset.

15 **MS MELIS:** And does your answer change at all, and if so how, if officers were made to rotate through different Centres? What do you anticipate the attitude of the union to be there?

20 **MR GILES:** Like I said, this is just my opinion. This is not the opinion of the PSA or the POVB, but I think there would be great - I don't think that'd go down good.

25 **COMMISSIONER:** Can you see the advantages in both those things, though, happening in terms of the management of a prison complex?

30 **MR GILES:** Commissioner, I - I don't see the correlation of one bad person and his partner that makes all the people that have got partnerships in Corrective Services - and I know you're not saying that. I know the Commission is not saying that, but this is one bad egg. And there's - and reporting lines, as I said before. If someone needs to report something, for instance, if my wife were to report something, she's not going to report to me, she will report to the next in line.

35 **COMMISSIONER:** Yes. But the evidence might support the proposition that someone's wife won't report at all although she may know something bad is happening. Do you understand?

MR GILES: Yeah, I do understand that.

40 **COMMISSIONER:** Well, that's a very bad situation if it occurs, isn't it?

MR GILES: Yes. And that's where I think Corrective Services New South Wales need to do more training in - in - in encouraging people to -

45 **COMMISSIONER:** It's not a question of training, sir; it's a question of the relationship affecting the integrity of their management, isn't it? I mean, you can tell people all you like to behave yourself.

MR GILES: Yeah.

COMMISSIONER: But if you leave open the opportunity for them to misbehave, you've accepted a risk, haven't you?

5

MR GILES: Yes, Commissioner.

COMMISSIONER: And the same - I mean, you must have heard the evidence from Ms Wright, I think it was, about people get -

10

MR GILES: By who, sorry, Commissioner?

COMMISSIONER: Was it Ms Wright?

15 **MR GILES:** Oh, Ms - Marilyn Wright? Yes.

COMMISSIONER: Yes, Marilyn Wright, about how people who are too long in the one place get lazy. They get -

20 **MR GILES:** Complacent.

COMMISSIONER: They get complacent.

MR GILES: Absolutely.

25

COMMISSIONER: Well, you would agree with that.

MR GILES: I think - yes, I do. Yes.

30 **COMMISSIONER:** And surely the answer to that is, yes, to require people to move from time to time.

MR GILES: That could be, yes.

35 **COMMISSIONER:** I mean, it's not a question for the union liking it or not liking it; it's a question now of having good management of the gaol, isn't it?

MR GILES: I agree. And I - I was just answered the question, my opinion. Yeah, it's definitely not for the unions to agree or disagree.

40

COMMISSIONER: No, it's to work out how to properly run the gaol -

MR GILES: Absolutely.

45 **COMMISSIONER:** - which we would hope the union would support; correct?

MR GILES: Correct.

MS MELIS: Just finally, Mr Giles, still on that topic, do you have any other ideas how these sorts of conflicts might be managed structurally within the
5 gaol - conflicts - as in, officers in an intimate relationship working together at the same Centre. Do you have any other ideas of how conflicts might be avoided within a - any other structural ideas?

MR GILES: Yes, I do. So every six to 12 months, they do a rotation, in every
10 gaol. So that's to avoid complacency. For instance, if I'm working in high needs, every 12 months we do a rotation. And I think the policy is 20 per cent staff need to be rotated. That may be - you know, some of the stuff that's come out here, maybe that might be up to 50 per cent, maybe, instead of 20. Because let's face it, 20 per cent is not a whole lot of staff. And you put a preference in in relation to
15 where you'd like to work, and the management, including the Governor and most of the time the union, sit down and work out where people are going to work for the next 12 months. Maybe they need to incorporate, you know, something there, that you put down the conflicts, as in, you know, have you got a partner, have you got a husband, wife, boyfriend, girlfriend that works here and ensure they don't
20 work in the same area.

MS MELIS: You're talking about like a declaration of conflict?

MR GILES: Absolutely. I think that would work and make it clear that, you
25 know, for instance, if I'm working high needs, then my partner won't be working in that area. It's funny, like, they do try to do that within the Corrective Services, to a point. But then operationally, if I'm - if I'm on a night shift and I'm the boss, for instance, and I'm sending out an inmate to hospital and it's a two-man escort, you know, one minute we say they can't work together and then husband and wife
30 will say, "I'll go." You've got inmate bleeding, you've got - an inmate has been bashed, stabbed, whatever. Husband and wife, just go. I've got to get the inmate to hospital. So it's sort of let you when we - when we have to, but when we've got an option, we won't. But I think that declaration on the - on the rotation form would be a start.

MS MELIS: Those are the matters.

COMMISSIONER: Yes. Anyone else?

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

40

<EXAMINATION BY MS GHABRIAL:

MS GHABRIAL: Mr Giles, my name is Ms Ghabrial and, as you're probably
45 aware, I act for a group of correctional officers. I just had a couple of very short questions. Firstly, in relation to the register - when you filled out the register in relation to those two inmate applications. I don't think there's been any evidence to date as to actually where the register lived in the complex. Was there one for the

whole complex in the old gaol - the old Dillwynia, or were there many and - can you explain that?

5 **MR GILES:** So - so now, obviously, it's on - on the computer so everybody has got access. Back then -

MS GHABRIAL: But I'm talking about the book that you filled.

10 **MR GILES:** Yeah. Back then, the inmate application register was in the area. So, for instance, high needs would have one, medium needs would have one and low needs would have one. And it was kept in the manager's office.

MS GHABRIAL: In the manager's office?

15 **MR GILES:** Correct.

MS GHABRIAL: So if the manager wasn't in the office where it was kept, was it secured anywhere or -

20 **MR GILES:** No.

MS GHABRIAL: It wasn't. Okay. And so was there an opportunity, then, for other officers, including someone like Astill, to actually access the book unbeknown to others?

25 **MR GILES:** Yes. And that would be the same right now because everybody has got access to the computer. So, yes.

30 **MS GHABRIAL:** Do you think that it would be useful in relation to the system now - or there's no point talking about the old system. But with the register being on the computer, if there is the possibility that the officer that an inmate is complaining about could access that on the computer, do you think that it would be useful for that officer to be blocked out from certain entries or there to be an ability for that officer to be blocked out from seeing that entry?

35 **MR GILES:** I understand your question. I will bring it back to, though, when I registered those applications, I didn't put Astill's name on it. I didn't put Astill's name in the application. I put "allegations". So nothing - if he would have went in there the next day or the day after, he would have - and opened it up, "allegations".
40 His name wasn't there specifically for that. So we don't normally - there's not always complaints about officers, obviously, so it's quite rare. But we would just put a very brief description of what the go is and then it will go straight up to the Governor.

45 **MS GHABRIAL:** And then that number in the register book would go on the inmate application as the number so they correlate?

MR GILES: Correlate. So it's been registered and where it's gone to.

5 **MS GHABRIAL:** Okay. The other thing I just wanted to ask you was you gave some evidence when the Commissioner was asking you some questions about why things went wrong, and your response included two parts: the first was that, "It appeared that some of the reports were being sent up and some of them weren't"; and then the second part was that, "There were so many reports sent to the Governor, including mine." I just wanted to take you to paragraph 138 of your statement to the Commission.

10

MR GILES: Yep.

15 **MS GHABRIAL:** In that statement, at paragraph 138, after Astill had been arrested, you had a conversation with Governor Schreiber, who told you that when he turned up to Governor Martin's office, it was a joke and that everything was a mess and that there was stuff about Astill in the safe and that some of it - half of it had gone to PSB, but half of it had not been. Do you recall whether or not Governor Schreiber at that stage had indicated to you what was actually left in the safe when he arrived and saw what was in there?

20

MR GILES: No, it was actually - it was after he was arrested. Mr Schreiber, lovely bloke, been very good to me. And I think I sort of said, you know, "How the heck did he get away with this for so long?" And he went into it and he said, "When I first turned up, the - Ms Martin's desk was a mess, a joke." And I said, "These reports?" And he said, "Her safe was full of reports, half of which were sent up to PSB and half wasn't."

25

MS GHABRIAL: Reports about Mr Astill?

30

MR GILES: Correct.

MS GHABRIAL: Did Governor Schreiber tell you anything about what he did with the reports that were in there when he arrived?

35

MR GILES: He did not.

MS GHABRIAL: He didn't. Okay.

40 **MR GILES:** He reiterated the same thing about - I've got there about 10 or 12 weeks ago, I was given an opportunity at Geoffrey Pearce, Senior Assistant Superintendent, and he told me again then that half of - half of which were sent up to PSB and half wasn't. And my thing was, well, on the half that was, why wasn't he suspended?

45

MS GHABRIAL: And you don't have any information from anybody as to what might have happened to the half that were still there?

MR GILES: No.

MS GHABRIAL: Okay.

5 **MR GILES:** And Mr Schreiber, like I said, been very good to me. He's the only - he's the only person that's rang me - I'm currently suspended. He's the only person that rang me since I've been suspended to check if I'm okay.

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

COMMISSIONER: Anyone else have any questions?

MR WATSON: Thank you, Commissioner.

15 <**EXAMINATION BY MR WATSON:**

MR WATSON: Mr Giles, as you know, my name is Watson. Can I just take you to your Commission statement, paragraph 110.

20 **MR GILES:** Yep.

MR WATSON: And you see this:

25 "Ron Brumwell told me that Astill was doing stuff with Witness O and apparently I was close to catching them. I never went into the office and certainly never walked in on them. I had no idea. Brumwell said this to me after Astill was arrested."

30 Now, that was to do with you supposedly walking into an office where Witness O was performing oral sex on Astill?

MR GILES: I believe so, yes.

35 **MR WATSON:** Right. And are you aware that Brumwell gave evidence in Mr Astill's trial - and this is at page 604, your Honour - Commissioner - on 10 August last year, and he was asked at line 45 - and this is examination-in-chief. First question from the Crown Prosecutor was this:

40 "I'd asked you, was there anything else said about an occasion where he..."
Being Mr Astill:

"...was performing oral sex based on what Mr Astill said to you?"

45 Answer:

"Well, he said he nearly got caught once."

Question:

5 "Did he elaborate on that?"

Answer:

10 "Yes. He said Officer Giles nearly caught us because the area was called the Chief's Hub, or that's the description we used to use. Chief is a rank officer at the time. I think that's gone now. But he said we were in the Chief's hub, and Mr Astill - sorry, Mr Giles almost caught us one day when he came in. So I - we quickly got dressed when we heard the - you know, someone coming in, the door rapping or whatever. And then, from memory, I think he said - he used the excuse that he was telling her off - telling O off when Giles actually got into the building and then told her to go."

Now, does that accord with what Brumwell told you?

20 **MR GILES:** That's - to the words of those effect, yes. He - he was saying that when he was in America, Astill had a few beers, and he said I was the closest of catching him in the act.

25 **MR WATSON:** Right. And you say at paragraph 111 in your statement to the Commission:

"I heard Counsel Assisting saying in his opening to the Inquiry that I walked in on Astill and Witness O having sex. I never did."

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

MR WATSON: Is that the truth?

MR GILES: That's the truth.

35 **MR WATSON:** You say:

"I was completely taken aback by that assertion."

40 **MR GILES:** Absolutely.

MR WATSON: The evidence given in Astill's trial, do you say that's the truth too?

45 **MR GILES:** Yes.

MR WATSON: You know that Witness C made a string of allegations against you -

MR GILES: Yes.

5 **MR WATSON:** - being - acting inappropriately with her in the way that you - bullying her and that sort of thing.

MR GILES: Yes.

10 **MR WATSON:** What did you think of Witness C?

MR GILES: She come from Mulawa, and she thought she was sort of infamous, special, high profile. She would say that her herself, high profile.

15 **MR WATSON:** When she first came to Dillwynia, did you deal with her in the induction process?

20 **MR GILES:** I - I can't recall whether I dealt with her. Obviously I was the OIC. She gave evidence that she suggested I walked down and I walked her up and I give her this whole tour, which doesn't - doesn't sit true because we don't that with inmates, and we've had high profile inmates at Dillwynia. We still do. And we don't give them the royal treatment. It's not, "You're special," or, "You're high profile." But I believe that she was very - what's the word? Scared to come to Dillwynia, as such. She had apprehension.

25 **MR WATSON:** Right. Well, did you treat her in any different way of any other inmate?

MR GILES: No.

30 **MR WATSON:** She had some profile in the media?

COMMISSIONER: Well, look, I'm not sure it's profitable to continue down this line.

35 **MR WATSON:** I'll move on. You were criticised by Elizabeth Cox?

MR GILES: Yes.

40 **MR WATSON:** And I think what you've said in answers to Counsel Assisting was that there was nothing - no complaint that she had to make was with any topic of any sexual aspect.

MR GILES: That's correct.

45 **MR WATSON:** Is that right? Then I think later on, you said that you were surprised or you couldn't believe that nothing was done by the Governor about

what Elizabeth Cox had to actually complain about - the complaints that you actually heard, that nothing had been done.

MR GILES: That's correct.

5

MR WATSON: Is that correct?

MR GILES: Yes.

10 **MR WATSON:** Is that a fair summary, in a nutshell?

MR GILES: Very fair.

15 **MR WATSON:** This is no criticism of Counsel Assisting, but what he suggested to you fundamentally was that you had a responsibility to go beyond your duties of forwarding on complaints, and I think your answers were, in effect, in hindsight, now knowing what you've heard through the Commission, after Astill's trial, for example, and all the information coming out, that that's something that you would have done; is that right?

20

MR GILES: That's - that's correct.

MR WATSON: Going back, at the time, the actual date that these incidents occurred, did you think you had that ability?

25

MR GILES: No, I didn't. Well, I might have thought I had the ability, but there was no need. It was with the Governor, and I assumed that exactly what should have happened was happening.

30 **MR WATSON:** Were Corrective officers ever trained by lines of complaint on levels of seriousness and how to deal with them?

MR GILES: No, the training that I received in '99 was that we're mandatory reporters, and we must report any form of misconduct to the Governor.

35

MR WATSON: Were you witness to any frivolous complaints made to the Governor?

MR GILES: No, I wasn't.

40

MR WATSON: Well, did you ever observe Shari Martin's reaction to complaints from lower Corrections officers who didn't go through the chain of complaints?

MR GILES: No, I don't believe I was.

45

MR WATSON: Your - just about your relation with Astill, did he ever intimidate you?

MR GILES: No, we had our barneys - sorry, we had our differences, but never intimidated me, no.

5 **MR WATSON:** So are you saying there was never a position where you didn't feel that if you observed any misconduct carried out by Astill, that you couldn't report him?

MR GILES: Absolutely not.

10

MR WATSON: You weren't in fear of him?

MR GILES: Definitely not.

15 **MR WATSON:** Was it a situation that you've given some history relating to some background circumstances about your wife.

MR GILES: Correct.

20 **MR WATSON:** And other observations of him. And is it correct to say that you didn't have a friendship with him?

MR GILES: Definitely not.

25 **MR WATSON:** The - there were some allegations that you say to, for example, Witness C that you run the show at Dillwynia. Is that true or not?

MR GILES: That's false.

30 **MR WATSON:** Right. Could it have been -

MR GILES: At the time, I - sorry. At the time, I ran high needs, which is just a Senior Correctional Officer.

35 **MR WATSON:** Did you ever say anything like, "This is Giles' gaol"?

MR GILES: That's ridiculous. No, I didn't.

40 **MR WATSON:** Did you ever talk about inmates' personal matters in front of other inmates?

MR GILES: No, I did not.

45 **MR WATSON:** You know about the term "papering"?

MR GILES: Yes.

MR WATSON: That refers to the reporting of officers or possible misconduct?

MR GILES: That's correct.

5 **MR WATSON:** That you were supposedly - you told people that that just wasn't on?

MR GILES: That's incorrect.

10 **MR WATSON:** Right. Is it the case that you've actually written reports on occasion?

MR GILES: I've reported misconduct by an officer as recent as 18 months ago.

15 **MR WATSON:** Again, Witness C saying that you offered inmates buy-ups in return for bashing other inmates?

MR GILES: That's incorrect.

20 **MR WATSON:** The complaint of - by Witness C regarding Mr Brown touching her and that you saying to Witness C, "You're not that special." What do you say about that?

25 **MR GILES:** That's incorrect. If she would have made any allegation of that, I would have taken that inmate to the clinic and I would have given her an application, the same way I did in - in previous times.

MR WATSON: The account given by Witness C not wanting to go and see Mr Astill after being called down. What do you have to say about that?

30

MR GILES: That just did not happen. We were the same rank. If he was high needs Chief, I would have been A watch Chief. And it's a totally different area. I wouldn't have been tasked by Astill to do something like that. That - that's a First Class job or a Senior of the area, not a Chief in another area.

35

MR WATSON: Did Witness C ever make a complaint to you?

MR GILES: Never.

40 **MR WATSON:** Did you ever - this is concerning Witness O. Did you ever yell at Witness O whilst taking her complaint?

MR GILES: No, I wouldn't have - if she's reporting misconduct, I wouldn't have yelled at her for that. I mean -

45

MR WATSON: Excuse me, Commissioner. Did you think - and this is with the benefit of hindsight. Did you think that the Governor had too much power or control in handling complaints?

5 **MR GILES:** Of course in hindsight, yes.

MR WATSON: You've been asked a range of questions about what you think might be an answer to a fairly serious problem at the institution; you agree?

10 **MR GILES:** Yes.

MR WATSON: Do you support an independent body, separate to Corrective Services, that could deal with these types of issues?

15 **MR GILES:** Well, it couldn't hurt. Corrective Services staff didn't do their job properly, so maybe it needs to go to an independent.

MR WATSON: To be independent from the management?

20 **MR GILES:** From the Commissioner down - exactly.

MS DAVIDSON: Concerning Witness P and - that you were supposed to have said - I think you agreed - "I could see what he's doing, but I can't do anything."

25 **MR GILES:** Yes.

MR WATSON: Do you remember saying that? Is this correct: that you spoke to Shari Martin and - is it Mr Hariharan?

30 **MR GILES:** Hariharan. That's right.

MR WATSON: Hariharan. And that a complaint had been made. And is this right: that there was nothing - no sexual aspect to that complaint; is that right?

35 **MR GILES:** I believe that it was just that he was bullying her and treating her - yeah, treating her terribly.

MR WATSON: Concerning Witness V, where you are supposed to have said to her, "Sorry, mate. I can't get involved in that," to Witness V and K.

40 **MR GILES:** Yeah.

MR WATSON: And is it right that you directed them to Mr Woods because he was the night Senior?

45

MR GILES: No. Sorry. I was the night Senior or in the Night senior's office and Mr Woods was roughly where the Commissioner is. And I said, "Take - take that complaint directly to Mr Woods."

5 **MR WATSON:** And, of course, that was a complaint about Mr Astill?

MR GILES: Apparently Astill going into their room and - yeah, that's right.

10 **MR WATSON:** You were asked some questions about the language used by Corrections officers between each other and also inmates.

MR GILES: Yes.

15 **MR WATSON:** And specifically I made a note of what I'll call the serious bad language.

MR GILES: Yes.

20 **MR WATSON:** And I'll take you through them: "whores", "cunts", "sluts" and "molls".

MR GILES: Yes.

25 **MR WATSON:** And I think you said that you never heard any Corrections officer direct that type of language to inmates?

MR GILES: Correct.

30 **MR WATSON:** I think you said in response to a question from the Commissioner that you certainly swore?

MR GILES: Absolutely.

35 **MR WATSON:** All right. Well, I'll be frank with you. Did you use the words like "fuck"?

MR GILES: Yes.

40 **MR WATSON:** Right. And was that to Corrections officers?

MR GILES: Absolutely.

MR WATSON: And to inmates?

45 **MR GILES:** At times.

MR WATSON: All right. Well, what's an example of how you used the word "fuck"? Was it something like, "What the fuck's going on?"

5 **MR GILES:** That - when you're going into a situation where there's somebody slashing up - a female slashing up, blood everywhere, a fight between two inmates, inmates throwing stuff at myself or my staff - a wide range of things that can happen in a gaol, you know, to the extreme of walking into a female that was deceased. So, yes, absolutely swore. Absolutely I swear.

10 **MR WATSON:** All right. So do you agree that there's a different level of what I'll call obscenity to the types of words that have been used, as opposed to the -

MR GILES: Yes.

15 **COMMISSIONER:** Well, I put to him "foul language", and he accepted that.

MR WATSON: Yes. I -

20 **COMMISSIONER:** So that's a bit beyond where you've gone.

MR WATSON: I'm just trying to get some definition.

25 **COMMISSIONER:** I know. And that's why I used the word "foul". It was in contrast to where you've gone.

MR WATSON: I think - so you're giving some definition. You heard what the Commissioner just said.

30 **MR GILES:** Yes.

MR WATSON: And - anyway, I'll move on from that. That's what you say. Concerning the aspects of reporting - and I think what seems to occur is that you've given - as a Corrections officer, you get given reports or accounts which amount to rumours, allegations, and I think you've used the word "hearsay",
35 accounts of things happening. I think earlier in your evidence, you said that you had a process in place where there would have to be some type of evidence to substantiate the rumours and innuendo and allegations.

40 **MR GILES:** Yeah, that's correct.

MR WATSON: Is that right?

MR GILES: That's right.

45 **MR WATSON:** Did anybody ever, say, from PSB or any sort of investigation arm of Corrective Services, give any particular guidance or training to Corrections

officers about how to put together a brief of evidence to substantiate or otherwise a complaint?

MR GILES: No.

5

MR WATSON: No training about that at all?

MR GILES: No.

10 **MR WATSON:** Was there any offer from any type of intelligence branch that's connected to Corrective Services to come in and say, "Look, we've got information about an allegation. We're going to conduct a discreet Inquiry with an operation, for example, to get any information that could amount to intelligence to substantiate or otherwise - or discredit an allegation"?

15

MR GILES: No.

MR WATSON: With regards to - can I just ask you: if an inmate made an allegation of sexual assault, either by another inmate or by a Correctives officer - and that occurs; correct?

20

MR GILES: Yes. Correct.

MR WATSON: You would be aware that in the instance of an allegation of sexual assault, that two things would be very important: to get an account of the complaint immediately from the complainant; correct?

25

MR GILES: That's right. That's right.

30 **MR WATSON:** And also you would understand that the obtaining of, say, forensic evidence -

MR GILES: Medically - medically assessed.

35 **MR WATSON:** There's time of the essence importance in obtaining that evidence.

MR GILES: Absolutely.

40 **MR WATSON:** Is that right?

MR GILES: Correct.

MR WATSON: Is that a consideration taken into account by Corrective Services when there's a complaint or an allegation of sexual assault?

45

MR GILES: That's the process.

MR WATSON: What's the process?

5 **MR GILES:** If I'm the night Senior or the officer in charge - and I'm talking about a C and B watch, which is afternoon and night shift - and an inmate states that she's been sexually assaulted by another inmate, which has happened - this is fact. We remove them from the unit. We take them down to the clinic. They'll say that she needs to go to hospital. I would draw up a section 23 - sorry, 24, and get her out to - in this case, in the PM, Hawkesbury Hospital.

10

MR WATSON: Do the police become involved immediately?

MR GILES: The minute - the minute she gets back, police will be called.

15 **MR WATSON:** Right. And you've heard of a sexual assault investigation kit?

MR GILES: Yes.

20 **MR WATSON:** You understand that that is a process whereby a doctor or medically trained staff familiar with this process would search for things like DNA?

MR GILES: Correct. That would only happen at the hospital, not at the local clinic at Dillwynia.

25

COMMISSIONER: Mr Giles, you said that the police would be called only when the inmate returned from the hospital?

MR GILES: That would be my - that's what I would do.

30

COMMISSIONER: Why shouldn't the police be told before, that is, as she's going to the hospital?

35 **MR GILES:** Well, I'm just saying what I'll do, Commissioner. You're probably right.

COMMISSIONER: I don't know what the protocol says, but -

40 **MR GILES:** No.

COMMISSIONER: - you will run the risk that the complainant will start to tell and people might ask what the story is, which the police wouldn't want to see happening.

45 **MR GILES:** Yes. At Dillwynia in particular, Commissioner, we've got a police interview room. The way I would do it, if it happened this afternoon, I would get her to the hospital. On - on - on her return, the police will be called and they'll

interview her. Keep her in the clinic or something like that until the police have taken a statement from her.

5 **COMMISSIONER:** Yes. Well, what I'm putting to you is that it does seem to be slightly out of sequence.

MR GILES: Are you - yeah. Are you saying I ring the police first and then take her to hospital or -

10 **COMMISSIONER:** At the same time.

MR GILES: At the same time. Yep. Yep. Definitely. 100 per cent.

15 **MR WATSON:** You understand what the Commissioner is saying is that police need to be notified immediately with that type of allegation?

MR GILES: Yes, I do. Yes.

20 **MR WATSON:** And then -

MR GILES: And I take that on board. Yeah.

25 **MR WATSON:** And then are you saying that the process is that there's a recognition that the complainant should be forensically assessed as soon as possible?

MR GILES: Absolutely.

30 **MR WATSON:** And there's no - none of this reporting up and down to the Governor and -

MR GILES: There's no grey area.

35 **MR WATSON:** Right.

40 **MR GILES:** The inmate states that she's been sexually assaulted and it's happened, they're taken to the - they're taken to the clinic and then taken on escort. Doesn't matter what time it is. There's none of this, "Oh, we'll do it in the morning." We've got officers on. We're always taking inmates to hospital, daily. So there would be no problem.

45 **MR WATSON:** Is it your understanding or otherwise that Corrections officers that meet that type of allegation recognise that they have no discretion in saying, "Look, I don't believe that inmate. She's unreliable," or whatever, that is this the case: that any complaint such as that would be dealt with at face value and treated with the process that you've described, the police being notified and the appropriate analysis taking place?

MR GILES: That's my belief. I would near on bet my life that that's what the staff would do if that happened today.

5 **MR WATSON:** All right. Now, just getting back to allegations against you -

MR GILES: Yes.

MR WATSON: - concerning the Corrections Officer Miskov.

10

MR GILES: Yes.

MR WATSON: And I know that you sort of went round and round in circles, with respect, when you were asked about this. But is this what, in effect, you're saying: That you never saw Mr Astill put his crotch in the face of either Officer Miskov or any other officer?

15

MR GILES: That's correct.

20 **MR WATSON:** Is that right?

MR GILES: And if I did, I would have reported that.

MR WATSON: I know you've said that a number of times, that if you saw it, you would report it.

25

MR GILES: Correct.

MR WATSON: But, in effect, is what you're saying is that you never saw anything like that. Is that what your evidence is?

30

MR GILES: That's correct.

MR WATSON: Excuse me. Were you ever spoken to by Astill regarding the rumours concerning him?

35

MR GILES: No.

MR WATSON: Excuse me, Commissioner. Just with regards to your input out at Dillwynia, is this right: that you initiated more CCTV cameras being installed?

40

MR GILES: That's correct.

MR WATSON: When did that happen?

45

MR GILES: Probably six months after he was arrested.

MR WATSON: Right. What did that involve? How many cameras?

MR GILES: So I - I - I obviously - I was the FM security - acting FM security, and I identified all the areas where the offending was - allegedly had taken place.
5 And Dillwynia obviously was set up as a different gaol to what it is now. And I made contact with Justice Infrastructure in relation to extra cameras. And it was sort of - day after day, it was, "We need cameras here - in my opinion, we need cameras here. In my - in my opinion, we need cameras here." And it got to a point
10 where - I forget his name, and it would be on emails - called me and said, "Wes, we know you're only acting, but it's sort of - it's like almost you're taking the piss. You're asking all these cameras." And I said, "Well, there's a lot of areas at Dillwynia that's not under CCTV."

MR WATSON: All right. Well, I take it that a lot of the areas that have come into
15 question have become obvious after Mr Astill's trial?

MR GILES: Correct.

MR WATSON: Is that right?
20

MR GILES: That's right.

MR WATSON: Onto a different topic, the thongs episode with Witness E.

MR GILES: Yes. The charge, is it?
25

MR WATSON: Was that an allegation made against you of you showing some type of favouritism to an inmate? Is that how you read it?

MR GILES: No, I read it as she was of the belief that I was his mate.
30

MR WATSON: Right. So a completely different issue. And what struck a chord with you is that when she asked not to have the door shut?

MR GILES: Correct. Yes.
35

MR WATSON: And I think Counsel Assisting suggested to you that that may well be a flow-on from Astill trying to purport to inmates that you and he were mates so they wouldn't come to you and complain about him?
40

MR GILES: That's my understanding.

MR WATSON: That's your theory?

MR GILES: Correct.
45

MR WATSON: Excuse me, Commissioner.

MR LLOYD: Commissioner, just during the break, may I just raise this. We have Fiona Rafter here. She's unavailable after today in our timeframe for this hearing. So really for Mr Watson, through you, Commissioner, I'm raising how much longer this is going to go for because we try and get her in and out -

MR WATSON: I've finished now. I've completed my questions. Thank you.

COMMISSIONER: All right. Anyone else going to put up their hand? It seems not. I just have one question - or two questions.

MR GILES: Yes, sir.

COMMISSIONER: We've had evidence - you're probably aware of - that there was a perception that there was the Governor's boys in the prison. Was that a true reflection of the perception that the gaol - that was alive in the gaol? (Crosstalk)?

MR GILES: The only correlation, Commissioner, I can put that is that there was definitely the likes of Mr Hariharan, myself - even though I had plenty of robust conversations with Ms Martin - Mr Holman and Mr Paddison, there's no doubt that we got along better and had a better working relationship than some of the females. And I said earlier about Ms Barry, the way she was treated by in particular Ms O'Toole. But there's nobody - when I talk about myself, there's nobody in that gaol that was told to fuck off out of her office, you're not going to fucking do that, blah, blah, blah. There's no person that copped that more than I did at that gaol. But I can see where people thought that we had a good working relationship, absolutely.

COMMISSIONER: Well, the complement to that was supposed to be Leanne's boys.

MR GILES: Yeah. Yeah. Like I said, got along well with Leanne, but -

COMMISSIONER: I think you were identified as one of her boys.

MR GILES: Sorry, sir?

COMMISSIONER: I think you've been identified as one of her boys; is that right?

MR GILES: I'm not sure if it's Shari's boys or O'Toole's boys. I think it's - I've heard in the Commission Shari's boys.

COMMISSIONER: You would have thought maybe you were identified as a Shari boy, were you?

MR GILES: Yes. It's a little bit Home and Away-ish, sir, but I - I never got - I didn't get any special treatment. I didn't get promoted. She didn't promote me. I don't know what I gained out of being part of Shari's boys.

5 **COMMISSIONER:** Okay. And where did you see Mr Astill sitting?

MR GILES: Well, it's funny, I never realised how - not close, how people were saying I was close with Shari. It was always Leanne O'Toole. Leanne - I thought
10 Leanne O'Toole and him were so close. I never seen - or I never - you know, I never seen evidence of Shari being very close with Wayne Astill.

COMMISSIONER: All right. Well, thank you for your evidence. That concludes what we need from you today -

15 **MR GILES:** Thank you, Commissioner.

COMMISSIONER: - and you're excused.

MR GILES: Thank you.

20

<THE WITNESS WAS RELEASED

MS DAVIDSON: This is Fiona Rafter, and I call her. Commissioner, I do note
25 the time but also Ms Rafter's unavailability next week. Is there any possibility of sitting till 4.15 today?

COMMISSIONER: We can go to 4.15. Yes.

MS DAVIDSON: I'm grateful.

30

MR JONES: Commissioner - Commissioner, my names is Jones, initial O. I seek
leave to appear for the -

COMMISSIONER: You have leave.

35

<FIONA ESTELLE RAFTER, AFFIRMED

<EXAMINATION BY MS DAVIDSON:

40 **MS DAVIDSON:** Ms Rafter, can you tell the Commission your full name?

MS RAFTER: Fiona Estelle Rafter.

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

45

MS RAFTER: That's correct.

MS DAVIDSON: And did you provide a statement to the Commission dated 14 November 2023?

MS RAFTER: I did.

5

MS DAVIDSON: And are the contents of that statement true?

MS RAFTER: Yes.

10 **MS DAVIDSON:** Commissioner, I tender that statement. It appears in Volume 26 and 26A.

COMMISSIONER: It will be Exhibit 45.

15 **<EXHIBIT 45 TENDERED AND MARKED.**

MS DAVIDSON: Ms Rafter, you're the current Inspector of Custodial Services, but prior to that, I understand you had reasonable background within custodial services or custodial - or Corrective Services in Queensland. Between 2001 and
20 2009, you've indicated that you performed a number of roles within the Queensland Department. Then - and could I direct you to paragraph 5 of your statement.

MS RAFTER: Yes.

25

MS DAVIDSON: You indicate at 5, subparagraph (d), that from 2009 to 2013, you performed roles within the Queensland Department of Community Safety. Did they include roles in relation to the Corrective Services part of that Department?

30

MS RAFTER: Yeah - yes. The role that I had was - had responsibility for some aspects of Corrective Services as well as ambulance, fire, emergency.

MS DAVIDSON: All right. And then between 2013 and 2016, you moved out of
35 having responsibility for any Corrective Services agency in Queensland; is that correct?

MS RAFTER: That's right.

40 **MS DAVIDSON:** And then moved into the role in New South Wales in 2016; is that correct?

MS RAFTER: That is.

45 **MS DAVIDSON:** Can I direct your attention to paragraph 20 of your statement. You refer in - or you've indicated there the changes in staffing in your office that have occurred over the time of your tenure in the role, that is, as I understand it,

you've moved from four full-time equivalent staff to now 14 full-time equivalent staff.

MS RAFTER: That's right.

5

MS DAVIDSON: In paragraph 20, you're indicating that you're seeking further funding in relation to additional resources, firstly, to complete outstanding inspection reports?

10 **MS RAFTER:** Correct.

MS DAVIDSON: Is it right that there is some sort of backlog of inspection reports from your perspective?

15 **MS RAFTER:** There's - we're in the process of completing reports at the moment because we've had a very busy inspection schedule over the last 18 months.

MS DAVIDSON: And is that as a result of things being difficult to inspect during COVID?

20

MS RAFTER: COVID did not help. Yes, there was a period of time where we were not - were not conducting inspections.

25 **MS DAVIDSON:** You also refer to seeking additional - or seeking funding for additional resources to undertake several thematic reviews. Are you able to indicate what those thematic reviews that you're seeking additional funding to undertake are?

30 **MS RAFTER:** There's two - there's two announced reviews at the moment. One is very close to finalisation and tabling, which is a review of the response of Corrective Services to COVID-19. And I'm also currently working on a review of classification placement in New South Wales. I intend to announce a review into segregation practices in New South Wales and a review of training.

35 **MS DAVIDSON:** A review of training, that is, training for Corrective Services officers?

MS RAFTER: That's - that's right.

40 **MS DAVIDSON:** And do you require more resources in order to be able to conduct those two reviews that you intend to announce?

MS RAFTER: Yes, I do.

45 **MS DAVIDSON:** And are they effectively - is their conduct depending on obtaining funding - additional funding for your office?

MS RAFTER: In segregation - the segregation one I can do, but it will just mean that it will take longer - longer to finalise some of the other work.

5 **MS DAVIDSON:** And the review in relation to training, do you require confirmation of additional resources in order to be able to conduct that review?

MS RAFTER: Yes, I do.

10 **MS DAVIDSON:** You also refer to seeking additional resources to support the OV coordinator. Can you explain what you mean by that or what that request is?

MS RAFTER: The OV - the OV coordinator is the primary contact point in my office for supporting all of the Official Visitors for doing their recruitment, for - for managing the reporting process, for authorising the pay. So we actually
15 run the payroll for the Official Visitor program, for organising the conference for the Official Visitors that we organise, which is - it was a yearly conference, but because of COVID, it hasn't been held for sometime. So it's a very - it's a very busy role, and during COVID it had also responsibility for the phone line - for
20 managing the phone line that we set up in the prisons so that they could contact - contact the office.

MS DAVIDSON: So is it the case that you're seeking additional administrative support for the person performing that role?

25 **MS RAFTER:** Yes.

MS DAVIDSON: Is that what the nature of your request is?

MS RAFTER: Yes, that's right.
30

MS DAVIDSON: Paragraph 22 -

MS RAFTER: Yes.

35 **MS DAVIDSON:** - you indicate that:

"The Inspector may receive individual complaints in the course of carrying out the functions of the office, but when that occurs, my role is limited to referring those complaints to other appropriate bodies."

40 That is, you understand there to be a statutory limitation on your role, that you're not, as inspector, able to conduct any form of complaints resolution; is that correct?

45 **MS RAFTER:** That's correct. Or complaints investigation.

MS DAVIDSON: And is that also true insofar as Official Visitors might refer matters to you, that you don't have any complaints resolution role, but rather, in effect, what you're limited to is referring complaints on to other bodies?

5 **MS RAFTER:** That's correct.

MS DAVIDSON: Paragraph 31, you indicate that the volume of complaints - and this is complaints being received, I take it - by Official Visitors relating to Dillwynia has increased significantly in recent years. You've given the figures,
10 which are the only ones you have, which are from 2018.

MS RAFTER: Yes.

MS DAVIDSON: Do you have any idea as to why that might be?
15

MS RAFTER: I believe that there's - there's a couple of reasons for that. And that I think that during - during - during the period of 2018 and 2019, the Official Visitor who was there was - I would describe it as operating under the old model, which is the model that Corrective Services trained - trained the Official Visitors
20 before they became the responsibility of the inspector's office. And so I don't - I don't think that they were used as they could have been during that period. 2020 is possibly - some COVID - COVID could be contributing to some low numbers there. But I think it's - I think it comes down to probably - and I have - I'm aware of some of the comments of some of the witnesses, that they
25 didn't have a lot of confidence in the system back then. So I think that's - probably explains partly that.

MS DAVIDSON: And do you understand from the current Official Visitor or her predecessors that they have worked to overcome what you've referred to as the old
30 model of perception in relation to the old model being held by inmates?

MS RAFTER: They have worked very hard, and I think that is reflected in the - in the number of complaints there because they were actually being used as a complaint resolution process there. That's my interpretation.
35

MS DAVIDSON: Paragraph 33, you refer to five matters that were referred to you out of Dillwynia -

MS RAFTER: Yes.
40

MS DAVIDSON: - that relate to allegations of sexual assault. Are they - are you able to indicate whether they're allegations of sexual assault by officers on inmates or by inmates on inmates?

45 **MS RAFTER:** They're officers on inmates.

MS DAVIDSON: And do they all post-date Astill's arrest in February 2019?

MS RAFTER: They do.

5 **MS DAVIDSON:** You indicate in paragraph 37 that ideally high-risk centres, such as remand and reception centres or centres that are performing poorly, would be inspected, that is, by you, more frequently. Is that something that's able to happen at the moment?

10 **MS RAFTER:** It's not. Not with the current resourcing.

MS DAVIDSON: Similarly, at paragraph 46, you indicate that ideally there should be sufficient resources to conduct both individual centre inspections and prepare thematic reports. Should the Commissioner understand that there are not presently sufficient resources to both conduct individual centre inspections and prepare thematic reports, at least to the extent that you would like to be able to? I understand you have prepared some thematic reports in the course of your time as inspector.

20 **MS RAFTER:** That's right. And it's - a thematic report is now being conducted in addition to the individual centre inspections. It just affects the time limits.

MS DAVIDSON: Right. You've given some evidence in relation to your 2022 inspection of Dillwynia.

25 **MS RAFTER:** Yes.

MS DAVIDSON: You refer to that at paragraph 76. You indicate that it hasn't yet been tabled in Parliament. Do you have any idea of when that is likely to happen?

30 **MS RAFTER:** Very soon.

MS DAVIDSON: A matter of days, weeks? Do you have any more precision you can give in relation to that?

35 **MS RAFTER:** I would say that it will happen within a fortnight.

40 **MS DAVIDSON:** Paragraph 81, you refer to your - well, Corrective Services New South Wales' response to the inspector's recommendations. Is there any statutory responsibility imposed on Corrective Services in relation to responding to your recommendations?

MS RAFTER: I have a - I have a - an obligation under my Act to do the reporting and monitoring.

45 **MS DAVIDSON:** Yes.

MS RAFTER: No, there's not. So it's - it's by negotiation that they - that we do a six monthly - six monthly report.

5 **MS DAVIDSON:** Right. And you in your reports to Parliament - sorry, I should say your annual reports -

MS RAFTER: That's right.

10 **MS DAVIDSON:** - very carefully go through all of the recommendations that you've - or that may be made by your office and provide an assessment in relation to those. But in terms of whether things have been achieved or not achieved, that relates to recommendations, as I understand it, from paragraph 81 that are supported, or supported in principle, by Corrective Services. But there's no obligation on Corrective Services to accept a recommendation that you make, is there?
15

MS RAFTER: No, there's not.

20 **MS DAVIDSON:** And so, in fact, in terms of your assessment of the rating or the ratings that you give for the recommendations, ultimately Corrective Services has a discretion or not as to whether they bring a recommendation within the realm of that supported, or supported in principle, territory that you're then assessing for the purposes of your annual reports; is that right?

25 **MS RAFTER:** That's - that's right. When the - when the report is tabled, they will do a - I'll request a formal response. They'll tell me exactly what their stance is on whether they accept the recommendation or not. And then during (indistinct) for the purpose of monitoring and reporting, I then ask them to advise me whether they've achieved the recommendation.
30

MS DAVIDSON: All right. So is it the case that you're performing an independent, effectively, assessment of whether something has been achieved or not, or are you really reliant on the information that Corrective Services is giving you about that?
35

40 **MS RAFTER:** No. What I do is that that they provide - they provide the information generally, claiming - claiming that they've achieved the recommendations. And then I require some form of evidence as to whether they have achieved the recommendation. And that might be - that might be a policy or that might be a photograph of something. It depends on the type of recommendation.

MS DAVIDSON: All right. So can I just take you to an example just to try to understand how this works.
45

MS RAFTER: Sure.

MS DAVIDSON: In FER-14, if you turn - if you use the page numbers at the bottom, it's page 538.

MS RAFTER: Yes.

5

MS DAVIDSON: So this is a recommendation from your Women on Remand report, which is an example of one of your thematic reports; is that right?

MS RAFTER: Yes.

10

MS DAVIDSON: Have you got that page, 538?

MS RAFTER: Not in this. This is up to 339.

15 **MS DAVIDSON:** Sorry. Could the witness have Volume 26A as well. Page 538.

MS RAFTER: Thank you very much.

MS DAVIDSON: 538.

20

MS RAFTER: 538. Yes.

MS DAVIDSON: If you turn to the previous page, 537, do you see at the top there's a reference to Women on Remand heading?

25

MS RAFTER: Yes, I do.

MS DAVIDSON: If you go back to 538.

30 **MS RAFTER:** Yes.

MS DAVIDSON: The fourth line in the table there is:

35 "Inspector recommends that Corrective Services New South Wales staff working with women complete training in working with female inmates, trauma-informed care and practice, and working with inmates with mental health issues."

MS RAFTER: Yes.

40

MS DAVIDSON: Now, I understand that the colour there is meant to indicate orange beside that recommendation?

MS RAFTER: That's correct.

45

MS DAVIDSON: You may not be able to answer this, but do you recall what evidence satisfied you that that had been partially achieved, that recommendation?

MS RAFTER: There was - there was evidence provided of the number of people who had undertaken particular training courses.

5 **MS DAVIDSON:** Right. And do you recall what those training courses were?

MS RAFTER: Well, there's a - there's a trauma-informed training course, and there is actually a training - a training course about working with -

10 **MS DAVIDSON:** Working with women.

MS RAFTER: - women, that they - that they have implemented now.

MS DAVIDSON: Right.

15

MS RAFTER: It's a - it's a question - the reason it doesn't get a green is that I'm not convinced that everyone has completed the training.

MS DAVIDSON: Right. Turning to the Official Visitor program.

20

MS RAFTER: Yes.

MS DAVIDSON: Paragraph 96, you deal with what you understand to be overall effect of the framework within which Official Visitors are functioning, including, as you've already given evidence, that Official Visitors don't form part of any
25
investigative process. Item C, you've indicated by bringing it to the attention of the Governor of the facility, but you've also indicated in paragraph 98 that there are instances in which Official Visitors are able to bring things directly to you where it might not be appropriate for matters to be brought to the attention of the
30
Governor of the facility. Are you able to explain what kind of things you have said to Official Visitors are in that category, that is, the not appropriate to be raised with the Governor of the facility?

MS RAFTER: The - the types of matters where it's not appropriate to raise it with the - the Governor is where - if they don't feel the Governor is going to act, that
35
would be one.

MS DAVIDSON: That is, if the Official Visitor doesn't or if the inmate doesn't?

40 **MS RAFTER:** The Official Visitor.

MS DAVIDSON: Right.

MS RAFTER: If - and then for any serious matters, my - the training that we give the Official Visitors is that they should bring them to me. So it could be reprisal, retribution. There could be allegations of assault - sexual assault against prisoners.
45

MS DAVIDSON: And would any allegation of sexual assault be in a category that you would train Official Visitors to bring directly to you?

MS RAFTER: Yes.

5

MS DAVIDSON: That is, not to raise it with the Governor of the facility?

MS RAFTER: It would depend. It could be possible that they could - it's possible that they could raise it with the Governor, and the Governor then should
10 be - should act upon it. But my preference is that they always advise me as well.

MS DAVIDSON: And have you communicated that preference in terms of always wanting to be advised as well -

15 **MS RAFTER:** Yes, in the -

MS DAVIDSON: - of matters of sexual assault?

MS RAFTER: Yes, in the training.
20

MS DAVIDSON: You indicate at paragraph 99 that where it's not possible for a complaint to be resolved locally by the end of the reporting period, an Official Visitor can bring the complaint to the attention of the Commissioner.

25 **MS RAFTER:** Yes.

MS DAVIDSON: Is that something that occurs?

MS RAFTER: It does. That would usually - it does, and it would usually be
30 where there's an ongoing issue, the Official Visitor is not getting a resolution at the centre level and believes it should be escalated.

COMMISSIONER: How often is the Official Visitor visiting a prison?

35 **MS RAFTER:** Visiting Dillwynia?

COMMISSIONER: We'll say Dillwynia, yes. How often?

MS RAFTER: Weekly, Commissioner.
40

COMMISSIONER: For a day?

MS RAFTER: The Official - the Official Visitor is - for a day. They're
45 generally - what they've told me is they generally are there for between four and six hours.

COMMISSIONER: And in that time, they talk to inmates?

MS RAFTER: That's right.

5 **COMMISSIONER:** Generally walking around and talking to an inmate who may come up to them and want to talk?

MS RAFTER: So what they do - as you've heard, there's two areas at Dillwynia. There's area - the original -

10 **COMMISSIONER:** Yes.

MS RAFTER: - Area 2 and Area 1.

15 **COMMISSIONER:** Yes.

MS RAFTER: So they go to both sides. They - they run as virtually distinct.

COMMISSIONER: But they walk around and chat to people? Is that the idea?

20 **MS RAFTER:** They've got - they've got two office - two office locations that are available to them in Area 2 that they use for - for some of the units and then they also walk around as well. So they do a bit of both. And then over in Area 1, they've got a particular office where they speak to - which is used to speak to some of the units. And then for other units, they actually go in and speak to - in to speak
25 to the women in those particular areas. That's what they've told me. I've spoken to them.

COMMISSIONER: I assume you couldn't expect them with their limited contact in that way to come to understand how effective the management of the gaol is and how the culture is working. Would that be right?
30

MS RAFTER: So I - I think that they have a pretty good understanding of culture.

35 **COMMISSIONER:** Well, have you followed the evidence in this hearing?

MS RAFTER: Yes.

40 **COMMISSIONER:** The culture was failing in this gaol, wasn't it?

MS RAFTER: Yes.

COMMISSIONER: Yes. Did that come to the attention of the visitor or the
45 inspector?

MS RAFTER: That the culture was failing? As - in 2017 when I did the first inspection, I wasn't happy with the culture of that prison, and I thought they had a very punitive culture, and there were recommendations made at that time.

5 **COMMISSIONER:** So that's what you did in 2017. Did anything change?

MS RAFTER: The - some of the aspects that I was concerned about in 2017 changed, but not significantly enough by 2022.

10 **COMMISSIONER:** And did your visitor keep reporting to you about what was happening in the gaol?

MS RAFTER: There's been a number of Official Visitors over that time.

15 **COMMISSIONER:** I suspected that might be the case.

MS RAFTER: Yes. So the - so the one that is there at the moment who visits on a weekly basis, she commenced in September of last year. So -

20 **COMMISSIONER:** And this gives rise to other problems of continuity and understanding and learning about that particular prison, doesn't it?

MS RAFTER: Yes.

25 **COMMISSIONER:** I mean - don't misunderstand me. I can fully appreciate that for small matters, the visitor has a capacity to influence what's happening.

MS RAFTER: Yeah.

30 **COMMISSIONER:** But when you get a catastrophic failure, it's a different question all together, isn't it?

MS RAFTER: Yes. It is. And - and I - I think the figures - the figures show that during that - during that early period - during the time that the witnesses have spoken about, they weren't - they were not confident to use the Official Visitor.

COMMISSIONER: No.

40 **MS RAFTER:** I - I feel - I'm feeling confident now that the last two Official Visitors that I've had in there, that there is a level of confidence and trust now to use the Official Visitors. But I - I've seen a noticeable shift since Astill was convicted of the type of - the type of matter that they are prepared to bring to the Official Visitor.

45 **COMMISSIONER:** I mean, it's not necessarily the fault of the Official Visitor, but you know that one of the great concerns is that in going to the visitor, it will be known that they're going and making a complaint and that the visitor, maybe

through you, will speak to the Governor and the inmate will then have to confront the prison officer about whom they've complained. The whole thing breaks down because of a concern about the protection of the information. There's not much the Official Visitor can do about that, I suppose.

5

MS RAFTER: The fear of retribution and reprisal is real.

COMMISSIONER: And that all points us to having a facility outside of the prison all together, doesn't it, where reports should go?

10

MS RAFTER: Yes. Yes.

COMMISSIONER: Yes. Yes.

15 **MS DAVIDSON:** Paragraph 100 is related to the questions the Commissioner has been asking you.

MS RAFTER: Yes.

20 **MS DAVIDSON:** You've referred to the circumscribed role of the Official Visitor and external entities forming part of the complaints framework. In your view, given your expertise, what is the most suitable external agency to which inmates should be making complaints about staff misconduct?

25 **MS RAFTER:** My - my preference is - my preference is ICAC.

MS DAVIDSON: ICAC.

MS RAFTER: But ICAC doesn't have jurisdiction for all the types of -

30

COMMISSIONER: No.

MS DAVIDSON: No. Only in relation corrupt conduct -

35 **MS RAFTER:** That's - that's right.

MS DAVIDSON: - as defined in the ICAC Act.

40 **MS RAFTER:** That's right. So ICAC and the Ombudsman can certainly do investigation work. But for serious misconduct of the type that we're talking about, I think - I think ICAC.

MS DAVIDSON: At paragraph -

45 **COMMISSIONER:** In relation to ICAC, and indeed the federal body, there is an inspector - you probably know all this. There's an inspector that deals with complaints about the ICAC. Do you understand that?

MS RAFTER: Oh, yes. Yes.

5 **COMMISSIONER:** Yes. And the same with the federal body. I know you need more resources, but is there a capacity to think that your office might be an appropriate repository for complaints, at least at the first instance?

10 **MS RAFTER:** At first instance, yes. If we had to have any - to have any responsibility to investigate them is another matter because we just - we are not resourced for that.

COMMISSIONER: I know.

15 **MS RAFTER:** But certainly as a repository of initial complaints, we could do that because we - we're taking those complaints now.

20 **COMMISSIONER:** Yes. Sure. But I accept that you need more resources. But wherever another body - or wherever complaints are taken to outside of the current system will need resources?

MS RAFTER: We do. But, yes, it would be appropriate for those - for that to be formalised, that they could - they could report back to me and then I would effectively triage it to where it needed to go -

25 **COMMISSIONER:** Yes. Yes. Yes.

MS RAFTER: - which is - which is, in practice, what we - I do at the moment.

30 **COMMISSIONER:** For those that you -

MS RAFTER: For those that come to my attention.

COMMISSIONER: Yes.

35 **MS DAVIDSON:** Paragraph 113, you refer to a statutory review of your Act that was conducted in 2021 and some recommendations in relation to legislative amendment.

40 **MS RAFTER:** Yes.

MS DAVIDSON: Is it your understanding that those legislative amendments have been progressed - sorry, those recommendations for legislative amendment have been progressed at all?

45 **MS RAFTER:** The one that's been progressed - the one that's been progressed is the increase in the term of appointment from two years to four years. So that's not mentioned in paragraph 113 (crosstalk) in the review.

MS DAVIDSON: But there are other recommendations in the statutory review?

5 **MS RAFTER:** These - these recommendations have not progressed at this point. There was a draft bill prepared, but the last Parliament ended before the bill came before the House.

10 **MS DAVIDSON:** Paragraph 117, you refer to a biannual report being prepared by the Official Visitor.

MS RAFTER: That's right.

15 **MS DAVIDSON:** Commissioner, I tender a bundle that's been circulated to the parties but can be shown to the witness that is additional documents that has been produced by the inspector.

MS RAFTER: Thank you.

20 **COMMISSIONER:** Do I add it to Exhibit 45?

MS DAVIDSON: Yes, I would suggest doing that, Commissioner.

COMMISSIONER: I'll do that.

25 **MS DAVIDSON:** Is the first document you see in that bundle, Ms Rafter, an example of that half-yearly report being prepared by an Official Visitor?

MS RAFTER: That's right.

30 **MS DAVIDSON:** You refer to the processes by which inmates are made aware of Official Visitors and your observations of those processes during inspections, including that at formal reception there should be information provided to inmates about the Official Visitor, and you understand this doesn't always occur. Is that an observation you've made, in relation to it not always occurring, at Dillwynia?

35 **MS RAFTER:** Yes. In - in the - during the 2017 inspection, it was clear that there was no induction process happening.

40 **MS DAVIDSON:** No induction process of any kind?

MS RAFTER: No, not that we could - not that we could find. That was an issue - that's been an issue that we've found in a number of Correctional Centres. And in 2022, it - in the most recent inspection, it was weak. And the Official Visitor has told me that it's still very weak.

45 **MS DAVIDSON:** It was weak?

MS RAFTER: Weak.

5 **MS DAVIDSON:** So should we understand from that that to the extent that you indicate things such as information about the complaints process that should be provided during induction are also not being provided at Dillwynia as a result of weaknesses in the induction process occurring at all?

10 **MS RAFTER:** Weaknesses in the induction process, and I would - I would also say the impact of COVID-19 and a lot of lockdowns at the Centre where services - services, programs and basic things like induction are impacted.

15 **MS DAVIDSON:** Can I turn to the question of your referral to Corrective Services New South Wales. Commissioner, I should indicate, despite your indulgence in sitting on, there are still probably about 10 more minutes of questions with this witness. I realise that may not be possible to accommodate -

COMMISSIONER: Well, we better keep going. No, we'll keep going. Do the best we can.

20 **MS DAVIDSON:** Thank you, Commissioner. You refer at paragraph 150 -

MS RAFTER: Yes.

25 **MS DAVIDSON:** - to complaints, including sexual harassment of an inmate, that you will refer to Corrective Services New South Wales. Does that include - that is, your practice as described there, would that include referring allegations of sexual assault to Corrective Services New South Wales?

30 **MS RAFTER:** To Professional Standards.

MS DAVIDSON: Right. And that was my next question. Do you report directly to what is now PSI within Corrective Services?

35 **MS RAFTER:** Yes.

MS DAVIDSON: And what is the process for you accessing or providing information to them?

40 **MS RAFTER:** It will - it will depend on the matter. But sometimes I - sometimes I ring them, and sometimes I email them.

45 **MS DAVIDSON:** Right. You indicate that there are - at paragraph 158, that there are circumstances in which a complaint contains a serious allegation, and your obligations under section 11 of the ICAC are triggered, that you will sometimes forward the complaint even if the complainant themselves is not willing to give their name, for example. Is that the - well, is the practice that you follow there a practice that you follow in relation to sexual assault allegations?

MS RAFTER: Yes.

5 **MS DAVIDSON:** And that is because you regard them with sufficient seriousness that even if the complainant herself is not willing to come forward that they should be made known to Corrective Services as well as to ICAC?

10 **MS RAFTER:** That's right. Particularly if I have the officer's - if I've got the officer's name but the - but the - the person who's making the allegation is not comfortable being known, I will forward it and then - and then attempt to obtain consent.

15 **MS DAVIDSON:** Paragraph 168, you refer to how improvements might be made of inmates' knowledge about complaints mechanisms.

MS RAFTER: I'm sorry, which paragraph?

MS DAVIDSON: Sorry, 168.

20 **MS RAFTER:** 168. Thank you.

MS DAVIDSON: That includes ensuring that all Correctional Centres, at paragraph (c), are making sure this is done on admission rather than assuming it's occurred at another Centre.

25 **MS RAFTER:** Yes.

MS DAVIDSON: Is that assumption about things having occurred at another Centre something that you in your inspections at Dillwynia have seen occurring?

30 **MS RAFTER:** Dillwynia and - and a lot of Centres.

MS DAVIDSON: And more generally?

35 **MS RAFTER:** Because - because the women - the women are moved between Centres quite frequently. And the men. And so sometimes there's an assumption made they will have done the induction - will have had a proper induction into the correctional system or that particular Centre at Silverwater, because Silverwater is where all of the metropolitan region people who come into custody - women who
40 come into custody go through Silverwater.

MS DAVIDSON: That is, the assumption that it's done at Silverwater is one that you see more generally?

45 **MS RAFTER:** Yes.

MS DAVIDSON: In asking all of these questions, I should, in fairness to you, indicate in paragraph 162 -

MS RAFTER: Yes.

5

MS DAVIDSON: - you've indicated five factors that, in your experience, may impact the ability of inmates to make a complaint and then you're considering each of them and offering some suggestions, and it's really those that I'm now seeking briefly to explore with you.

10

MS RAFTER: Thank you.

MS DAVIDSON: You, at paragraph 173(c), suggest that inmates must be provided phone access during out-of-cell hours to enable private and confidential phone calls. Do you understand that to be something that is not happening at the moment since the introduction of the tablets?

15

MS RAFTER: It's - it's not necessarily the introduction of the tablets. It's - it's because of the lockdowns and the - and - that is happening in the staff absenteeism and the inability to have enough staff to unlock the - unlock the prison during the day. That's - it's - it's a - it's probably largely related to - to COVID and the impacts of COVID that are still being felt through the system.

20

MS DAVIDSON: That is, impacts in relation to staff shortages -

25

MS RAFTER: Yes.

MS DAVIDSON: - that have flowed out of COVID; is that right?

30

MS RAFTER: Yes, staff shortages.

MS DAVIDSON: You refer at paragraph 176(b) to increasing the frequency of visits by Official Visitors. Do you understand at Dillwynia there would be particular issues in respect of inmates not having enough time to access the Official Visitor, that is, the Official Visitors - are the Official Visitors reporting to you that despite weekly visits, they feel that they're not getting around sufficiently or not getting access to enough inmates?

35

MS RAFTER: The Official Visitor at Dillwynia has - has actually come to me and said that she would be prepared to visit twice a week at this point because there is such a demand for people to see her.

40

MS DAVIDSON: Right. But you don't have the staffing resources to facilitate that at the moment; is that correct?

45

MS RAFTER: Oh, I will probably approve that.

MS DAVIDSON: You've indicated at paragraph 176(d) that tablets have been issued, but there are limitations. And in many locations, they're issued or available once inmates are in their cells at the end of the day. Do you understand that to cause inmates problems with business hours in respect of being able to access external agencies?
5

MS RAFTER: Yes. So tablets - tablets work really well for contacting family, contacting children, because of the - you know, school finishes at 3 o'clock, so they - they're very good for that. But there are limitations around - around business hours for contacting lawyers, contacting - contacting the Ombudsman, et cetera.
10

MS DAVIDSON: Do you understand that the Ombudsman's telephone contact service, in fact, finishes at 4 o'clock in the afternoon?

MS RAFTER: I - I did know that they have - you know, they have limited hours.
15

MS DAVIDSON: Which presents a problem in terms of an inmate if the muster or the lock-in is not occurring precisely on time?

MS RAFTER: That's right.
20

MS DAVIDSON: Paragraph -

MS RAFTER: In - in-cell charging could address some of those issues during - during lockdown periods, because that would enable people to have the tablets during the day.
25

MS DAVIDSON: Functional. (Crosstalk) -

MS RAFTER: But there's still the - there's still the privacy issues.
30

MS DAVIDSON: Paragraph 181, you indicate that you think that all Correctional Centres should have an auditable system to record internal requests and complaints. Do you understand the tablets to provide that functionality or do you regard that as not sufficiently auditable?
35

MS RAFTER: I'm not sure that they're quite that advanced with that system just yet. When we were at Dillwynia last year during the inspection, they were still doing hard paper - hard paper requests, and they were being just put into big plastic tubs that were not secured.
40

MS DAVIDSON: That is, inmate applications were being put into big plastic tubs but not being secured?

MS RAFTER: Yes. But maybe - maybe they've put a new - a new application on the - on the tablets. And there are limitations.
45

5 **MS DAVIDSON:** Paragraph 182, you refer to additional training should be provided to Corrective Services staff to ensure those staff interact with inmates in a respectful way, and that would assist in mitigating the fear held by inmates they won't be taken seriously in relation to their complaints. This Inquiry has heard a deal of evidence of the way that inmates are referred to by officers, including the use of swear words and foul language. Is that consistent with what your Official Visitors hear from inmates at Dillwynia in respect of how they're referred to by officers?

10 **MS RAFTER:** I've not heard those particular complaints coming via the Official Visitors. They don't remember. But during inspection, there was - it was raised by - by one person about the use of some of the language that I've heard the witnesses give evidence.

15 **MS DAVIDSON:** And in proposing that additional training should be provided to staff to ensure they interact with inmates in a respectful way, do you understand Corrective Services staff interacting with inmates in a disrespectful way to be a broad issue within Corrective Services at present?

20 **MS RAFTER:** Yes, I do.

MS DAVIDSON: And that includes both male and female inmates, does it?

25 **MS RAFTER:** That's right.

COMMISSIONER: You accept, I suppose, that the gaol will be on its best behaviour when the inspector comes?

30 **MS RAFTER:** They generally are. And there are still -

COMMISSIONER: It's the same when judges do a visit, I can assure you. Exactly the same.

35 **MS RAFTER:** There are still some - some language that they don't even realise is disrespectful, such as the -

COMMISSIONER: Yes, I understand.

40 **MS RAFTER:** I won't go into it.

45 **MS DAVIDSON:** You refer at paragraph 187 to steps that you suggest should be taken in relation to fear of reprisal, including providing information to inmates in relation to the question of reprisals and protection from reprisals. Do you understand inmates to be given any information at the moment about protection from reprisal?

MS RAFTER: No, I don't believe that there is. But I'm confident that the women are starting to come forward with those allegations.

5 **MS DAVIDSON:** That is, starting to come forward more to Official Visitors?

MS RAFTER: Yes.

MS DAVIDSON: Is that right?

10 **MS RAFTER:** And to me.

MS DAVIDSON: Via the Official Visitor or come to you (crosstalk) -

15 **MS RAFTER:** Sometimes people write letters as well.

20 **MS DAVIDSON:** I see. You indicate at paragraph 192 that in light of the matters explored by the Special Commission, you consider further training could be recommended for all staff, including those in executive and management positions, in a number of different areas, including behaviour that constitutes sexual harassment and sexual assault. Do you understand, based on your experience, other than what you've heard through this Inquiry, there to be a difficulty within Corrective Services of officers identifying behaviour that constitutes sexual harassment and sexual assault?

25 **MS RAFTER:** At other Centres, I have come across - more so - more so staff to staff.

MS DAVIDSON: That is, deficiencies in that understanding?

30 **MS RAFTER:** Mmm.

MS DAVIDSON: And at Dillwynia, have you identified deficiencies in that understanding to be an issue amongst the staff?

35 **MS RAFTER:** It wasn't something in particular that I picked up on inspection at Dillwynia. It's - it's been something that I've picked up more so in - to be honest, in some of the men's prisons. And it's about the way that staff sexually harass other staff and - and - and sexually assault them.

40 **MS DAVIDSON:** I have just one more question, Commissioner. At paragraph 193, you've referred to Professional Standards staff needing to develop effective triaging processes to ensure serious complaints are addressed without delay. Are you aware of steps that are being taken within Corrective Services in relation to the merger of Professional Standards Branch and Investigations Branch and how
45 the structure of that is to work?

MS RAFTER: Sorry, I don't actually have a complete briefing on exactly how they're going to make it - going to make that work.

5 **MS DAVIDSON:** Is that a process that they've sought to - that is, that Corrective Services have sought to involve you in -

MS RAFTER: No.

10 **MS DAVIDSON:** - to seek your input?

MS RAFTER: No.

15 **MS DAVIDSON:** And, finally, in respect of what you indicate there at paragraph (d):

"Considering independent oversight of the investigation of serious misconduct through expansion of the existing jurisdiction of the ICAC, or giving this jurisdiction to another independent body..."

20 Are you aware, based on any of your interstate experience, or contacts that I understand you have with other inspectors interstate, of there being any equivalent arrangement of that kind in place at the moment in any other jurisdiction in Australia?

25 **MS RAFTER:** So, in Queensland, the threshold for reporting to the CCC is lower than the threshold that is applicable for the reporting to ICAC. So I'm suggesting there could be some consideration of - of changing - changing that - that reporting threshold rather than have alternatively as having another body, when ICAC already has responsibility for many of the matters, of the oversight of them,
30 management of those matters.

MS DAVIDSON: Those are my questions, Commissioner.

35 **COMMISSIONER:** Mr Sheller, how long will you be?

MR SHELLER: Five minutes or so.

40 **COMMISSIONER:** That's too long. What do you need to ask? If this opens up the subject, there's a long way to go in discussions between your people and the rest of us in this room about this topic.

MR SHELLER: Yes.

45 **COMMISSIONER:** What do you need to ask?

MR SHELLER: I just wanted to ask the witness for her view on one about an interaction between her organisation and Professional Standards within Corrective Services.

5 **COMMISSIONER:** All right.

<EXAMINATION BY MR SHELLER:

10 **MR SHELLER:** Ms Rafter, James Sheller, Corrective Services. You ask about oversight. Do you see any benefit for your organisation, for example, having a role sitting on Professional Standards, a Correctional Standards Committee within Corrective Services?

15 **MS RAFTER:** It's an internal - it's an internal committee. So I would probably be reluctant to do that, to maintain my complete independence.

20 **COMMISSIONER:** I'm not sure I would be recommending that, Mr Sheller. I think the Inspector needs to sustain her independent role. If you bring her inside the organisation, you've got a problem.

25 **MR SHELLER:** What I was going to suggest, even if it is some sort of ex officio style role, you have an understanding of how a Professional Standards Committee works, do you see any interaction along those lines as having any benefit, particularly in circumstances where, to date, based on your evidence, all roads tend to go back to Professional Standards when you are involved in hearing a complaint. Do you see any role for some sort of intersection between your organisation and Professional Standards within Corrective Services?

30 **MS RAFTER:** That would - that would be really re-enlivening the former Inspector-General role, and I don't - I don't think that's the right way, the right way forward, in my view, Mr Sheller.

MR SHELLER: Thank you.

35 **COMMISSIONER:** Nobody else? Thank you, Ms Rafter. That concludes your evidence. There's a lot of material that we have to make our way through and, at the end of the day, I have got to make some recommendations. We may have to contact you again but at the moment you are excused.

40 **MS RAFTER:** I'd welcome that. Thank you, Commissioner.

COMMISSIONER: And we will adjourn until 10 o'clock on Monday.

45 **<THE WITNESS WAS RELEASED**

<THE HEARING ADJOURNED AT 4.33 PM TO MONDAY, 20 NOVEMBER 2023 AT 10.00 AM