



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

**PUBLIC HEARING
SYDNEY**

**MONDAY, 20 NOVEMBER 2023
AT 10.00 AM**

DAY 24

APPEARANCES

MR D. LLOYD SC appears with **MS J. DAVIDSON** as Counsel Assisting
MR J. SHELLER SC appears with **MS C. MELIS** for Corrective Services NSW
MS J. GHABRIAL appears for a group of correctional officers
MR R. DEPPELER appears for a group of correctional officers
MR A. GUY appears for a group of correctional officers
MS L. DOUST appears for one correctional officer
MR C. WATSON appears for two correctional officers
MR A. WILSON appears for one correctional officer
MR I. LATHAM appears for one correctional officer
MR B. DEAN appears for a CSNSW member of staff
MR H. WHITE appears for one correctional officer
MR J. TUTE appears for a former CSNSW member of staff
MR E. JAMES appears for one correctional officer
MR K. HORTON KC appears with Ms Gausen 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
MS L. BARNES appears for a former CSNSW member of staff

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<THE HEARING RESUMED AT 9.59 AM

MR LLOYD: Commissioner, the next witness is Peter Severin, and I call him.

5 **<PETER SEVERIN, SWORN**

COMMISSIONER: I should indicate, so that there's no mystery, that I know Mr Severin. He is a member of the Sentencing Council of which I am the Chair. Mr Lloyd.

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<EXAMINATION BY MR LLOYD:

MR LLOYD: Thank you, Commissioner. Could you tell us your name?

15 **MR SEVERIN:** Peter (indistinct) Severin.

MR LLOYD: Your address, I think, is known to the Commission. Could you tell us, in terms of professional history, is it right that until the middle part of the year 2021, or at least as at that time, you were the Commissioner, Corrective Services New South Wales?

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MR SEVERIN: That's right.

MR LLOYD: Did you hold that position for about nine or so years?

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MR SEVERIN: I was appointed on the - I commenced in the role on 3 September 2012 and retired on 31 July 2021.

MR LLOYD: And going right back to the other end of your career in Corrective Services in various places, did it start in Germany?

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MR SEVERIN: It did, 1980. And I migrated to Australia, 1988. Worked for 15 years in Queensland Corrections, my last position being Deputy Director-General. Was appointed as Chief Executive of the South Australian Corrective Services or Correctional Services, which is the equivalent to Commissioner, and stayed there until I started this role here in New South Wales.

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MR LLOYD: The position in South Australia, just tell us a bit more about -

MR SEVERIN: It was the head of the department. So it was a standalone department. I was the head of that department for that period of just in excess of nine years.

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MR LLOYD: So that's roughly 2003 to 2012?

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MR SEVERIN: Correct.

MR LLOYD: And prior to that, you ended up as Deputy Director-General in Queensland?

5 **MR SEVERIN:** In Queensland, yes, after - I obviously had various appointments - various roles in Queensland.

MR LLOYD: And I take it, of those three states in Australia - Queensland, South Australia and New South Wales - the Corrective Services in New South Wales is the biggest in terms of -

10 **MR SEVERIN:** It is.

MR LLOYD: - numbers of correctional facilities?

15 **MR SEVERIN:** Correct.

MR LLOYD: And obviously staff. Could I ask you about this. When - on the very first day of this Inquiry, I said something, reading from one of the documents recording aspects of Corrective Services' business or core business, that the core

20 business of Corrective Services is managing the state's correctional centres to achieve safe, secure and humane custodial environments.

MR SEVERIN: Yes.

25 **MR LLOYD:** Do you agree with that?

MR SEVERIN: Yes, I do.

MR LLOYD: And another thing that I said - I want to see if you agree with this - that while the core business of Corrective Services includes ensuring inmates are securely detained, another part of that core business is to ensure that that

30 detention is done humanely?

MR SEVERIN: Absolutely, yes.

35 **MR LLOYD:** And life in gaol is not easy, and nor is it intended to be, but inmates are in entitled to be detained in an environment where they're not exposed to criminal offending by those in positions of authority?

40 **MR SEVERIN:** Yes.

MR LLOYD: And I will come to some examples to see if you can help us about the system of oversight of officers' conduct, but in order to achieve that kind of environment, that is, one where inmates are not exposed to criminal offending by

45 those officers in positions of authority, an essential feature, if you want to achieve that, is a good system of disciplinary oversight?

MR SEVERIN: Yes.

MR LLOYD: And throughout your period as the Commissioner, the numbers of officers would have changed?

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MR SEVERIN: They have, yes.

MR LLOYD: Significant numbers of officers at the various times throughout your time?

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MR SEVERIN: So there was obviously the normal turnover of retirements, but there was also significant increase in staff as a result of growth.

MR LLOYD: And obviously, with a staff that's - includes significant numbers, significant numbers of complaints?

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MR SEVERIN: Yes.

MR LLOYD: And the need for a robust system to thoroughly investigate those complaints?

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MR SEVERIN: That's right.

MR LLOYD: Could I ask you just to tell us what, in your role as Commissioner - I'll ask you some questions about your understanding and also involvement in that system of disciplinary oversight. We've heard - I withdraw that. Have you been following the evidence in the Commission?

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MR SEVERIN: I have.

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MR LLOYD: You will know that the Commission has heard evidence - and you will know this from your personal experience - that there's the interrelationship between a number of different bodies or branches within that system of disciplinary oversight?

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MR SEVERIN: Yes.

MR LLOYD: The Professional Standards Council, and relatedly the Professional Standards Branch, is one or two aspects of it?

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MR SEVERIN: That's correct.

MR LLOYD: And you would have heard Mr Hovey tell us some things about the interrelationship between Professional Standards Branch and the Investigations Branch?

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MR SEVERIN: Yes.

MR LLOYD: And also some evidence about the Corrections Intelligence Groups and the CSIU?

5 **MR SEVERIN:** Yes.

MR LLOYD: In terms of your position in the ordinary course as Commissioner, could you just tell us: what are the kinds of situations in which complaints about misconduct would be elevated so that you become aware of them?

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MR SEVERIN: There were various avenues, but the main avenue was that the Assistant Commissioner, Continuous Improvement - Governance and Continuous Improvement would regularly update me on matters that are currently under consideration or being investigated. Some matters obviously with investigation will be the result of incidents which I became aware of through the normal reporting. We're not talking about misconduct here, but escapes, et cetera. And I would then be appraised, depending on the seriousness of the allegation and the nature of the investigation, on a regular basis as to the status of the matter.

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20 **MR LLOYD:** One way in which you personally would become aware of allegations is if the Assistant Commissioner, who you've identified, determined that there was something that he knew about that you needed to know about?

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MR SEVERIN: The Assistant Commissioner, Governance and Continuous Improvement was the line manager of Professional Standards and Investigation. So naturally, through that responsibility, he reported matters to me as a matter of cause. That doesn't mean that other Assistant Commissioners wouldn't bring matters to my attention, which then obviously had to be channelled through the established processes to be dealt with.

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COMMISSIONER: Mr Severin, did you have any identified nature of issue that required to be reported to you? Were there rules around when you should find out or be told?

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MR SEVERIN: They were rules that were not necessarily kept very black and white, but there were rules - anything criminal that was not just the result of an incident like an assault, for example, but anything criminal relating to, for example, misconduct would automatically be reported to me, in either a formal way or informally through the regular communication I had with the Assistant Commissioner of Governance and Continuous Improvement.

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The status of investigations which were serious incidents - riots, escapes, et cetera - would automatically continuously be reported to me for either the Assistant Commissioner, Governance in the context of any investigation, but also because you don't wait for the investigations report to be completed. The Assistant Commissioner of the relevant branch where it happened would report to me on

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any matters that resulted in immediate action that was taken to prevent a recurrence.

5 **COMMISSIONER:** That was obviously your expectation. Was it written down anywhere that that's what you expected to happen?

10 **MR SEVERIN:** The general procedure was that I needed to be informed on matters, but that wasn't a - to the best of my recollection - and I haven't got the procedure in - in my mind, but - with the detail of it. There was no definition as to, "This has to be reported. This has to be reported. That doesn't need to be reported." It came down to - to professional judgment in many places.

15 **MR LLOYD:** I think you said that one, and only one, of the pathways for you of being informed of allegations against officers was by the Assistant Commissioner, Governance and Continuing Improvement notifying you?

20 **MR SEVERIN:** Yes. So that - there would have also been avenues where I might have received a letter directly from a person, either an inmate or anybody, making allegations, which I would have then referred through the chain to be dealt with.

25 **MR LLOYD:** I want to ask you about those other things, but if you were notified, for example, by the Assistant Commissioner, Governance and Continuous Improvement - and I think you said that wouldn't effectively stop other Assistant Commissioners notifying you?

30 **MR SEVERIN:** No, not necessarily. I met with every Assistant Commissioner. We - we had a very lean structure, and it was necessary to maintain those quite close interactions. And so if there was a significant issue that was subject to an investigation, I would have most probably also been regularly updated in relation to immediate actions that were taken in the workplace or in terms of systems processes. And I'm not just referring to matters of misconduct here, but in general, by the relevant - by an Assistant Commissioner, be it Custodial Corrections or Community Corrections.

35 **MR LLOYD:** If you were notified by one of the Assistant Commissioners, that - and it was in relation to a serious misconduct allegations, that would be on the basis that you are effectively being told there's currently an investigation underway?

40 **MR SEVERIN:** Generally if an Assistant Commissioner - other than the Assistant Commissioner, Governance and Continuous Improvement notified me, they would have already notified the Professional Standards and put the wheels into motion and then simply just updated me in relation to having done that in my weekly meeting.

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MR LLOYD: I think you gave an example, if, for example, a person - for example, an inmate wrote to you directly and you were, in effect, the person who was first receiving the notice of that complaint, then what would you do?

5 **MR SEVERIN:** I would refer it through the Assistant Commissioner, Governance to the investigation - to Professional Standards, in essence, and who would then initiate the relevant investigations with the IB. I would have always copied the - the line Assistant Commissioner into my action so that they - he or she were aware of what has actually happened and what I was doing.

10 **MR LLOYD:** In terms of that distinction between Investigations and Professional Standards, I think you said you would, in effect, through the Assistant Commissioner, notify - you said initially Investigations but then corrected it to Professional Standards. Can I just understand: the system was that Professional Standards should become aware of every allegation of serious misconduct by an officer?

15 **MR SEVERIN:** Effectively, the sequence - again, I can't speak for every instance here because that was not my decision, but it would have been - the PSB, the Professional Standards Branch, would be notified either before or at the same time as Investigations.

20 **MR LLOYD:** And sometimes Professional Standards, if they become aware, might determine that it's appropriate to send it over to Investigations for an investigation to be conducted?

25 **MR SEVERIN:** That's correct.

30 **MR LLOYD:** And then once an investigation is conducted, it comes back to Professional Standards?

MR SEVERIN: Yes.

35 **MR LLOYD:** But was it right that in your time as Commissioner, a critical feature of the system was that Professional Standards, one way or other, would become aware of every allegation of serious -

MR SEVERIN: That's - that's certainly my understanding, yes.

40 **MR LLOYD:** If the system was working?

MR SEVERIN: Yes, absolutely.

45 **MR LLOYD:** And when we're talking - I've said "serious misconduct". That's not just criminal - or allegations of criminal offending by officers?

MR SEVERIN: Correct.

MR LLOYD: That extends more broadly to any allegations of misconduct by officers?

5 **MR SEVERIN:** Yeah, depends on the - the seriousness of the - so if it was a - a matter that - and, again, I don't want to sort of diminish the importance. But if it was a matter that could be dealt with quite expeditiously and could be maybe resolved with a disciplinary process very quickly, I may have not become aware of it at the time when this all happened, but after the event I would have been
10 appraised that that there was disciplinary action taken in a certain way.

MR LLOYD: And when you say you becoming aware of it, that doesn't detract from the importance, if it's an allegation of misconduct by an officer, Professional Standards Branch always should be aware of it?

15 **MR SEVERIN:** Absolutely.

MR LLOYD: And you may have heard some evidence of Mr Shearer, and I'll take you to some parts of it. Did you hear him give evidence?

20 **MR SEVERIN:** Yes, I have.

MR LLOYD: He talked about the importance of the pieces of the jigsaw or pieces of the puzzle. Do you remember him saying that?

25 **MR SEVERIN:** Yes.

MR LLOYD: And is one feature of that system with Professional Standards knowing about all allegations, that that would mean that there's one - or at least one repository of information where all allegations against a particular officer would be known by one person or one group?

30 **MR SEVERIN:** In the extreme, that could happen. Yes, I don't deny that. But I guess there were also a range of checks and balances in place that would minimise that from occurring, that only a single person was holding the information, unless
35 it is the very first person that becomes aware of this and just fails to report it.

MR LLOYD: But institutionally, the Professional Standards Branch would have a record of every allegation of serious misconduct?

40 **MR SEVERIN:** Yes.

MR LLOYD: If the system was working?

45 **MR SEVERIN:** Yes. If the system is working, et cetera.

MR LLOYD: Could I just get you to respond to some evidence that Mr Hovey gave about the Investigations Branch. He told us about resourcing issues with respect to intelligence analysts, in particular during calendar year 2018. Do you remember -

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MR SEVERIN: I heard that evidence.

MR LLOYD: Do you have a response?

10 **MR SEVERIN:** I do. So I was very concerned in - this is only listening to the evidence, so not any other information - about a statement indicating that criminal misconduct would have gone unnoticed because of resources. That has never been brought to my attention, quite frankly. Not that I can wind the clock back and this is in hindsight, but if that would have been information that would have
15 been - I would have been made aware of, with a \$2.1 billion budget, you could have found resources to actually make sure that never happens.

So that is - that being said, I was certainly aware that they were resource precious. I was aware - even though there was a position reduced or it was never a reduction
20 in budget or any of those type of measures, they would very much - because there was quite a bit of absenteeism, WorkCover and other things, as I understand it, that really impacted on the unit. We rectified that over time, certainly after 2018, by adding additional resources. I think that was mentioned as well, that - and I understand from evidence that I heard that these days, the group is much bigger,
25 which is good. And these matters - it's not - nobody can actually claim that there is an overload.

However, we had a range of pressures at the time that we had to deal with, and the Assistant Commissioner, Governance (indistinct) that, quite tireless, I might add,
30 and I certainly was appraised of that. And - and also I have to say I had some - had some expectations that matters would be dealt with quickly because there was a lot of criticism coming from the industrial union, from staff, from - even management about the length of time it took for certain matters to be finalised. And so I had an expectation that that was actually going to change. I monitored that on
35 a fortnightly basis, from memory.

MR LLOYD: Could I put to you in a - you heard Mr Hovey's evidence, so tell me if I'm mischaracterising it if I put one feature of it this way. He said that in terms of resourcing in Investigations, in effect, he was left in a position of having an
40 intelligence analyst who could not devote anything more than about 20 per cent of their time to actually processing the intelligence reports which were coming in through the Correctional Centres. Do you remember him saying -

MR SEVERIN: I heard him say that. I was not aware of that.
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MR LLOYD: You were never made aware of that problem?

MR SEVERIN: I was not made aware of that problem in that level of detail, that only 20 per cent can be used, that matters were left behind. I knew that in particular through the background checks that we had to do for new recruits - and, unfortunately, we weren't in a position to have those done through the normal processes with the people approach because we had a different threshold background check to the normal criminal history checks, and that could only be done by people (indistinct) certain (indistinct) security clearances. And, again, I won't go into much detail there, but there was a significant workload pressure on people in the Investigations Branch in addition to their work also looking after these - these clearances for new recruits.

MR LLOYD: Taking them away, in effect, Mr Hovey was saying, from doing the analysis of intelligence reports?

MR SEVERIN: Yes. As it turns out from what I've heard Mr Hovey was saying, my understanding at the time was that this was not simply the responsibility of the single person who otherwise was not relieved of their duties. My understanding was always that there were additional resources provided, but at least it still impacted on individuals who had to oversight that work and had to - because we're talking about quite onerous background checks.

COMMISSIONER: Mr Severin, you told us that you didn't know of the extent to which the resources weren't adequate for the job, and I think you accept that that enabled serious issues to sit and not be looked at for periods of time. What went wrong to allow that position to emerge?

MR SEVERIN: I would have to guess, but I - certainly looking at the evidence that was given, I would have expected that the Investigations Branch would have put this in context of not being able to look at criminal intelligence to the attention of their line management, who will have in turn no doubt brought it to my attention because that's purely - totally (indistinct).

COMMISSIONER: So who would you have expected, in the management structure below you, to be over all of the detail of this problem?

MR SEVERIN: I would have expected Mr Hovey to report back to his Assistant Commissioner, who may have been Mr Koulouris or later on Mr Scasserra, who would have then reported back -

COMMISSIONER: The Assistant Commissioner for -

MR SEVERIN: Governance and Continuous Improvement.

COMMISSIONER: And that was - do we know at the relevant time?

MR LLOYD: Mr Koulouris and Mr Scasserra; is that right?

MR SEVERIN: Yeah. Mr Koulouris was there until the middle of 2018 and then Mr Scasserra took over.

5 **COMMISSIONER:** And they should have been over the detail of what was going on?

10 **MR SEVERIN:** That was the line of communication, and I never received anything outside that line of communication indicating that we were missing serious matters going forward to proper investigation by New South Wales Police Force.

15 **MR LLOYD:** You must know, from what Mr Hovey said, is that while one or other of the intel analysts, to the extent they were performing that role, might have been reading intelligence reports coming in from Dillwynia, for example, that no action was being taken within that branch to deal with them. Do you remember him saying that?

20 **MR SEVERIN:** Yes, I heard him say that. My expectation, again, would have been - my understanding was that matters just took much, much longer to be finalised, not that they were simply not at all attended to.

25 **MR LLOYD:** Well, he said, for example, reports, including intelligence reports making allegations of criminal wrongdoing by Astill, weren't reported up to him by intel analysts.

MR SEVERIN: Intel - I - I have no knowledge of that. I can only rely on what he said.

30 **MR LLOYD:** Assuming that to be true, that's a serious failure in that branch, isn't it?

MR SEVERIN: Any - any failure to report on a misconduct is a failure, regardless of whatever that would have occurred.

35 **MR LLOYD:** And certainly you would also be aware of some evidence that the Commission has heard of some people within Dillwynia - some officers saying, in effect, "We keep sending up intelligence reports, but he's still here and" - that is, "Astill is still here, and nothing is happening." Do you remember that evidence?

40 **MR SEVERIN:** I remember it from the evidence. The - one thing that we also need to understand is the intelligence report is just one avenue for criminal matters to be made known. There are other avenues, of course. So it's not that that was the only way to report criminal - or alleged criminal misconduct. But I heard -

45 **MR LLOYD:** And you're probably aware of some evidence and a number of questions that I've asked various witnesses about those other options -

MR SEVERIN: Yes.

MR LLOYD: - most obviously, writing a letter to the head of Investigations.
That's one option?

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MR SEVERIN: I mean, the law even provides for - the person can write to me - sorry, to the Commissioner and the Minister without mail being censored or read. So it's under the relevant legislation.

10 **MR LLOYD:** Well, I'm glad you raised that. I wanted to ask you. Are you aware of the regulation which does provide for direct reporting to you?

MR SEVERIN: Of course.

15 **MR LLOYD:** And would you expect, where a Governor of a Correctional Centre has allegations of serious criminal wrongdoing by an officer, that a report to you should be done?

20 **MR SEVERIN:** I mean, ideally, obviously I - so what is important in Corrections, from my experience, is that we don't have a singular line of people bringing matters to the attention of others, that you do have multiple lines where that's possible. Because as we heard here, and certainly from my experience, it is important to - to have different ways of making things known to people. Because some of them are more robust than others, others are sort of less often used.
25 The - for me, it was essential that there were robust lines of making known that something was of concern to you or that you've been subject to certain behaviours that are even criminal, and one of the avenues was to write to the Commissioner.

30 **MR LLOYD:** If you have allegations of criminal wrongdoing by an officer within a Correctional Centre, might this represent an appropriate response: there'd be an intelligence report to the Investigations Branch making a record of that?

MR SEVERIN: Yes.

35 **MR LLOYD:** There'd be a report, either orally or in writing, to the Regional Director?

MR SEVERIN: Yep.

40 **MR LLOYD:** There'd also be a report to Professional Standards?

MR SEVERIN: That's right.

45 **MR LLOYD:** And there might also be a report directly, depending on the gravity of the allegation, to either an Assistant Commissioner or even as high as the position (indistinct)?

MR SEVERIN: Yes. Or the Minister.

MR LLOYD: Or going as high as the Minister. And I think what you're saying is that if those occur, then it's more likely that at least one of the people who
5 becomes aware - people or institutions who becomes aware is going to act on it?

MR SEVERIN: Yeah.

MR LLOYD: Is that right?
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MR SEVERIN: Absolutely.

MR LLOYD: As opposed to a singular failure by a person or agency if only one
15 person receives it?

MR SEVERIN: Absolutely.

MR LLOYD: And so if you're dealing with transparency and a proper system for
20 dealing with it, the last thing you want is a system where only one person or agency receives allegations of that gravity and therefore determines -

MR SEVERIN: Exactly. That's what I tried to say with my explanation.

MR LLOYD: Could I just take you to some examples of complaints to see if you
25 can just help us out practically how these kinds of things were addressed in your time. Could Mr Severin please have access to Volume 14. Could you turn please, Mr Severin, to Tab 437.

MR SEVERIN: Four?
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MR LLOYD: 437.

MR SEVERIN: Three seven. Yes.

MR LLOYD: Do you see, behind that Tab, is a submission to the Commissioner,
35 author Stephen Cosgrove, legal officer?

MR SEVERIN: Yes.

MR LLOYD: And on the second page, there's three names at the bottom. The last
40 one is yours?

MR SEVERIN: It is.

MR LLOYD: Now, I'm not expecting you to remember this. I'll just take you to -

MR SEVERIN: I'm just reading it so I refresh my memory.

MR LLOYD: I don't need to tax you with all the details in regard to the questions before I ask you. But do you see under Background, there's a reference here to an officer, Hyacinth Joseph, being charged with aggravated indecent assault and aggravated sexual assault?
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MR SEVERIN: Yes.

MR LLOYD: And you see the allegation is of an assault on a female inmate at Dillwynia?
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MR SEVERIN: Yes.

MR LLOYD: And the - just above Current Position/Comments, his court matter, Hyacinth Joseph's, is next before the Downing Centre District Court for trial commencing 7 July '14. Do you see that?
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MR SEVERIN: Yes.

MR LLOYD: And then over the page, the recommendation, the Commissioner note the above information. And the author is Director, Professional Standards Branch, who at the time was Patricia Fleming?
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MR SEVERIN: She was acting in the role, yes.
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MR LLOYD: And James Koulouris, Assistant Commissioner, Governance and Continuous Improvement?

MR SEVERIN: Yes.
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MR LLOYD: And so just dealing with this particular situation. This information, to your knowledge, is known at the time that this submission is received by you, by the Director, Professional Standards, the Assistant Commissioner and you?

MR SEVERIN: It would have been known by others as well because this officer was already subject to - he was suspended while he was (indistinct) criminal proceedings, and this was a result of his wife (indistinct) support signed by me to go into the court. So obviously I got a copy of that letter in front of me which Professional Standards would have drafted.
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MR LLOYD: And this - and so they're not the - I think what you're saying is the three people on this briefing aren't the only people who knew?

MR SEVERIN: No, there would have been others who would have known. This was simply the group that dealt with - sorry, the Professional Standards - Mr Cosgrove would have been the actual officer. His Director at the
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time signed it and sent it through the line to me. And this was dealing just with the issue of this letter that the wife of the accused at the time requested of me.

5 **MR LLOYD:** Just in terms of the knowledge about these serious allegations, this sounds like, so far anyway, the system that you described working well in that multi-people - more than one branch or part of the agency knows about it?

10 **MR SEVERIN:** When the matter originally was reported, that - that's the normal process (indistinct) et cetera. Quite a number of people in the same line would have known of it. And - and once it became clear that it's a criminal matter, it would have been referred to New South Wales Police through the CSIU.

15 **MR LLOYD:** Could I ask you this - I'll show you the documents if you need to be assisted, but see if (indistinct) without them. What happened was that the investigation by Professional Standards into this officer was effectively suspended pending the criminal charges?

MR SEVERIN: Always is.

20 **MR LLOYD:** And that's perfectly proper?

MR SEVERIN: Yes.

25 **MR LLOYD:** You agree?

MR SEVERIN: Absolutely.

MR LLOYD: For fear of compromising the criminal -

30 **MR SEVERIN:** Compromising and then there could easily be double jeopardy issues raised, et cetera.

35 **MR LLOYD:** And Mr Joseph, in the end, announced that he was going to retire from the Corrective Services?

MR SEVERIN: Yes.

40 **MR LLOYD:** But with that decision, you wrote to him and said, "Obviously we accept your retirement, but if you ever re-apply to come back, the disciplinary process will be resumed before we consider or determine whether we will accept your application"?

MR SEVERIN: Correct.

45 **MR LLOYD:** And, again, that's a perfectly proper process?

MR SEVERIN: That was normal practice in situations like this.

MR LLOYD: Could you go in that same volume to Tab 444. Could you just have a look down the bottom of that page. You see an email from Michael Paddison to Kevin Corcoran, 26 May '16?

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MR SEVERIN: Mmm.

MR LLOYD: And if you just look - I don't need to take you to every part of this email, but there's 11 things on the second page in the numbered paragraphs containing allegations of serious problems - I'll just put it that way at the moment - at Dillwynia?

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MR SEVERIN: Mmm.

MR LLOYD: Do you see including, for example, number 9:

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"Inmates giving officers oral sex, giving girls cigarettes for head jobs."

MR SEVERIN: Mmm.

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MR LLOYD: And number 10:

"Two inmates claim to be pregnant by officers."

MR SEVERIN: Yes.

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MR LLOYD: Now, that email, if you go back to page 1, was sent by the then Principal Correctional Officer to the then Assistant Commissioner Corcoran.

MR SEVERIN: Yes.

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MR LLOYD: And at the request - you see the first line - of the then Regional Director.

MR SEVERIN: Yes.

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MR LLOYD: So far, is this looking like a proper process in line with what you (indistinct)?

MR SEVERIN: It does to me, yes.

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MR LLOYD: Do you remember being told about these allegations?

MR SEVERIN: I don't remember. That's not to say I wasn't told, because it's more than likely that I was made aware given the gravity of these allegations. But, again, it would have been just in relation to the fact that an investigation is

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commenced and that, depending on the outcome of that, I would have been appraised of the results.

5 **MR LLOYD:** Just have a look, if you would, at 446. Do you see here Confidential Briefing to Commissioner?

MR SEVERIN: Yep.

10 **MR LLOYD:** And that's by Mr Hovey on page 2 of Mr Koulouris?

MR SEVERIN: Yes.

15 **MR LLOYD:** Now, if you go back to page 1, underneath Background, do you see - just above Interview:

"The matter was unable to progress and consequently a briefing was prepared for the Commissioner's consideration. Upon reading the briefing, the Commissioner was able to provide a further potential witness who it's believe may have pertinent details to assist the investigation."

20 Do you see that?

25 **MR SEVERIN:** I have read that, and it was shown to me by my legal representatives. I, in all honesty, have absolutely no recollection. It's not usual, but obviously I would have heard something or would have known someone who would have - who I would have identified as being a possible witness in relation to the allegations that were here and hence I requested that that person was going to be interviewed.

30 **MR LLOYD:** This is telling us, first, that there was a briefing prepared for your consideration recounting those serious allegations in the email, in all likelihood? That's one thing it's telling us?

35 **MR SEVERIN:** I cannot recall the - sorry, I did have some - I do have some recollection that there was some activity reported - and we've seen (indistinct) here - in relation to some matters at Dillwynia that were concerning around this time, and obviously this brief confirms that. I also recall that I got briefs that nothing - this even does that, saying that there's no evidence to progress this any further and the matter is therefore closed and -

40 **MR LLOYD:** Well, let me just assist you. This culminates, if this assists your recollection, in an investigation being done and the conclusion being that all the avenues have been explored -

45 **MR SEVERIN:** That's correct.

MR LLOYD: - and the allegations couldn't be sustained. Is that what you're remembering?

5 **MR SEVERIN:** According to this, it went to the CSIU, who then identified that there was nothing that they could actually do further to further the matter. Referred it back to IB. They ran some lines of inquiry and then ultimately decided that the matter could not be progressed any further. That would have been referred back to Professional Standards, who - this comes from Hovey, but I saw a similar brief from Professional Standards, someone (indistinct) with the same issue, which
10 I also received, obviously, according to this letter. I don't deny receiving it. I just can't recollect. But which said essentially the same.

COMMISSIONER: Mr Lloyd, is it the case that they concluded that every
15 allegation couldn't be supported?

MR LLOYD: I was going to go to the document. Perhaps we'll go there to answer your question.

20 **COMMISSIONER:** Yes.

MR LLOYD: Mr Severin, just turn to 451.

MR SEVERIN: Yeah. It's the second one, I think.

25 **MR LLOYD:** You see there's a memorandum there from the then Director of PSB to the then Director of -

MR SEVERIN: Is this - is this the one I just referred to -

30 **MR LLOYD:** Yes.

MR SEVERIN: - the second one that (indistinct).

35 **MR LLOYD:** And in order to deal with the Commissioner's question about whether the result was a finding that all of the allegations couldn't be substantiated, if you just look at this memorandum.

MR SEVERIN: Yes.

40 **MR LLOYD:** It records in five bullet points some of the allegations? Do you see that?

MR SEVERIN: Sorry, where are we talking?

45 **MR LLOYD:** Tab 451, the memorandum.

MR SEVERIN: I've got that in front of me, but where in the memorandum?

MR LLOYD: Yes:

5 "On 27 May 2016, AC Kevin Corcoran sent to PSB a summary of allegations made by..."

MR SEVERIN: That's the one which we looked at earlier, yeah.

10 **MR LLOYD:** And then it records in five bullet points some of the allegations?

MR SEVERIN: Yes.

MR LLOYD: And then the next paragraph after that:

15 "First allegation was pursued immediately."

Do you see that?

20 **MR SEVERIN:** Mmm.

MR LLOYD: And then:

25 "Separate inquiries by the Investigations Branch did not confirm the other allegations made..."

MR SEVERIN: I see that.

MR LLOYD:

30 "...and instead those inquiries cast doubt on her credibility."

Do you see that?

35 **MR SEVERIN:** Yes.

MR LLOYD: And then, in particular, some things in the second bullet point:

40 "...was unable to identify which inmates were pregnant after a photoboard was shown or which inmates had engaged in sexual activity or even which inmates had told her about those things."

And then that records what you've already told us after being briefed, that you identified another possible informant witness?

45 **MR SEVERIN:** Mmm.

MR LLOYD: And you told us that you didn't have a recollection of how that came to pass?

5 **MR SEVERIN:** I mean, it would be on a file quite clearly who the person was, et cetera. It's just that I can't recall.

10 **COMMISSIONER:** Mr Severin, I now understand this document. You were in a position where you had multiple allegations of varying levels of seriousness about Dillwynia. And I appreciate that at this point, it's said there's not material that enables the matter to progress further. But plainly the allegations, in general terms, were real.

MR SEVERIN: Yes.

15 **COMMISSIONER:** And plainly the multiplicity of allegations like this would suggest that there may be a problem even if you couldn't, at that point, substantiate them with admissible evidence. Did it occur to you that this was telling you there might be a real problem in this gaol?

20 **MR SEVERIN:** Yes, it - it - it did, in the context of me even suggesting to interview another person. You know, that's not something I would have - you know, would have always done it if I had somebody in mind. But clearly the allegations that we saw in the first document were quite serious and were referred to police. The issue for me was very much one of (indistinct) in terms of a - either
25 a disciplinary process, a criminal investigation. I wasn't told that there's no further action - could not be substantiated. So it was really more about them discussing - and, again, it's not something that I can directly tie to this particular incident, but what I, in all likelihood, would have done is discuss this with the relevant Assistant Commissioner for Custodial Corrections to say, "We need to
30 keep an eye on matters through the managerial line, through not just the normal - the normal supervision of what happens."

COMMISSIONER: We actually don't know, but a logical thing to have done would have been for the investigators to go and talk to the prison officers about what might be happening in the gaol, wouldn't it?
35

MR SEVERIN: My understanding was that people did talk to prison officers, without having the details in front of me. I would have expected that the investigation would have also involved talking to staff at the - at the facility.
40

COMMISSIONER: Well, if they had spoken to some of the staff that we've spoken to -

45 **MR SEVERIN:** But I don't -

COMMISSIONER: - the matter would not have stopped there, would it?

MR SEVERIN: Obviously not.

COMMISSIONER: No. Do we have any written record of the investigators speaking to other staff?

5

MR LLOYD: Commissioner, there was a prior investigation - there was a police investigation done where - but I can't stand here right now and answer your question about what written record there is about that police investigation, other than the police determined that there were no allegations -

10

COMMISSIONER: That's a different question. That's the police determining whether or not there's evidence upon which they can bring a prosecution. We're now talking about the effective management of this gaol.

15

MR LLOYD: I understand.

COMMISSIONER: Quite different issues.

20

MR LLOYD: But the Investigations Branch then conducted its own investigation. I can't -

COMMISSIONER: And we don't know what they did. Okay.

25

MR LLOYD: One of the things that those points 1 to 11 in the Tab 444 email suggests was that there was a significant problem with drugs coming into Dillwynia. That was, for example, if you just look at points 2 and 3 and 5. Are you aware of whether that particular allegation was pursued by the IB or anyone?

30

MR SEVERIN: I'm not aware in this particular instance what was done in relation to the introduction of drugs as contraband. But, generally, yes, we certainly experienced a significant increase in the - in the introduction of illicit substances into our prisons around about - from 2015 onwards and - to the point where the drugs were used (indistinct) focus placed on preventing that from happening. I mean, that's a completely different - different issue. But the - the answer is, yes, I was aware in general terms that we had an issue in every facility, really, with the introduction of illicit substances.

35

40

MR LLOYD: So this email is recording at least the possibility of a significant issue with contraband in the form of drugs being brought into Dillwynia, but you're telling us that was, to your knowledge, a widespread problem throughout correctional -

45

MR SEVERIN: I would suggest that - and, again, I don't have any statistics to back that up with, but I would suggest that the other facilities were in similar - in similar situation of having - being vulnerable to the introduction of illicit substances. The focus very much then went on to prevent that from happening through a whole range of technologies that we introduced, a whole range of - of

other measures, body scanners and obviously drug detection and continuous focus on reporting and also making people aware. There have been prosecutions as a result of staff in particular bringing drugs in, but of course visitors bringing drugs into visits. And, again, it's an ongoing issue for any correctional jurisdictions that I'm aware of, internationally and in Australia.

COMMISSIONER: Mr Severin, again, you may have heard the evidence - I've forgotten who it was, but Mr Lloyd can tell us - of how prison officers are not subject to the same strict inspection or scanning when they come into the gaol. And, plainly, prison officers - we have it here - are a source of these issues. I have a suspicion that one of the reasons for the distinction will be a union problem, but -

MR SEVERIN: (Indistinct).

COMMISSIONER: Right. Can you just tell us about it? Because it does sound pretty amazing that they're not subject to the same restrictions.

MR SEVERIN: Yes. And I agree with that. So the objective was always to screen anybody, including the Commissioner, entering the prison for reasons that have to do with consistency, professionalism and ensuring that it's (indistinct). We encountered some significant resistance from the staff and the unions at the time, and we had to make a decision to either not use the technology at all or at least use it for those that we could screen. I'm not sure if that's (indistinct) not screening for everybody, but best practice would be to screen anybody coming into a correctional facility.

COMMISSIONER: Well, especially when you know that prison officers have been the people bringing it in.

MR SEVERIN: Yes. And prison officers - and, again, I - I'm considering very clearly that the vast majority of prison officers have never done anything wrong -

COMMISSIONER: I'm sure.

MR SEVERIN: - and would be completely fine to - to be subject to any kind of screening.

COMMISSIONER: Yes. Yes.

MR SEVERIN: And I'm not even sure if the motivation that the union has - or through - obviously the members have was to - to prevent people from being detected. I think it's simply we don't want to be subject to the same interrogation that strangers to this prison are subject to because we can be trusted. That's my interpretation, but I don't think I'm too far from the truth.

MR LLOYD: Can I ask you to - Mr Severin will need folder 15 to answer the next question.

MR SEVERIN: 550?

5

MR LLOYD: No. You'll be given a folder.

MR SEVERIN: Oh, sorry.

10 **MR LLOYD:** Turn, please, to Tab 489.

MR SEVERIN: Yes.

15 **MR LLOYD:** Again, I don't want to take you through every detail, but you see here it's a reporting document, reporting officer, Leah Nicholson, Matters to Be Referred to Professional Conduct Management Committee. Do you see that?

MR SEVERIN: Mmm.

20 **MR LLOYD:** And do you remember who Leah Nicholson was?

MR SEVERIN: Yes.

MR LLOYD: What was her position again?

25

MR SEVERIN: She had various positions while I was there. She was a general manager of, from memory, the Silverwater Women's Prison at some stage. She - sorry, I - I shouldn't sort of try to - to - she's known to me, and she was a senior manager.

30

MR LLOYD: Just in terms of looking at this, you've got here a report under Outline of Incident about allegations pertaining to a particular officer involving an alleged inappropriate association with a particular inmate. Do you see that?

35 **MR SEVERIN:** Mmm.

MR LLOYD: And without going through all the details of it, we know from the document that here there's been notice of the allegations within the gaol, that is, by MoS O'Toole. See that? Right up the top.

40

MR SEVERIN: Yes, yes, yes.

MR LLOYD: And a decision to refer to the Professional Conduct Management Committee. Do you see that?

45

MR SEVERIN: Yes.

MR LLOYD: And if you then go to the Tab before that, 488. Do you see there's a letter, 14 March -

MR SEVERIN: Sorry, 488?

5

MR LLOYD: 488.

MR SEVERIN: Yep.

10 **MR LLOYD:** Just take it this comes after the material I've just shown you, albeit it's in the Tab before. This is a letter, 14 March '14, to Michael Hovey?

MR SEVERIN: Yes.

15 **MR LLOYD:** Appointment to Conduct Investigation?

MR SEVERIN: Mmm.

MR LLOYD: And do you see, over the page, the author is you?

20

MR SEVERIN: Yes. The - the signatory is me; the author was Professional Standards.

25 **MR LLOYD:** Is that - I think you've got close to answering my next question, which is the way in which this is working, to your understanding, is referral made to Professional Standards; correct?

MR SEVERIN: Yes.

30 **MR LLOYD:** Professional Standards examining the circumstances and making a decision about where it should go next. Someone from Professional Standards preparing the letter that we see at this Tab.

MR SEVERIN: Yes.

35

MR LLOYD: The determination, obviously enough, is the appointment of Mr Hovey to conduct an investigation?

MR SEVERIN: Yes, that's the original (indistinct).

40

MR LLOYD: Someone puts in front of you this letter for you to sign off on.

45 **MR SEVERIN:** That was the process in 2014. That process changed later on. And so in this case, you're right, this went to Professional Standards. We then assessed it and then drafted this letter to formally - got Mr Hovey to investigate it. This was streamlined later on where these referrals went directly from

Professional Standards Committee to the Investigations Branch, rather than coming through the Commissioner and being delayed as a result.

5 **MR LLOYD:** There was a time where you no longer were required to sign the letter -

MR SEVERIN: That's correct.

10 **MR LLOYD:** - referring it over?

MR SEVERIN: That's correct.

15 **MR LLOYD:** But aside from that change, again, are we looking here at a system that's working properly in the sense of an allegation of inappropriate conduct -

MR SEVERIN: Yes, yes, yes.

20 **MR LLOYD:** - referred up to Professional Standards; a determination to send it over to the Investigations Branch for them to perform an investigation; and then ultimately an investigation - I'll see if you remember - done, culminating in a decision to issue a letter of warning by - prepared by one of the Assistant Commissioners?

25 **MR SEVERIN:** Yep.

MR LLOYD: Without going to your opinion about whether the precise outcome was correct in terms of process, that is the system working well?

30 **MR SEVERIN:** It was.

MR LLOYD: Could I ask for Mr Severin now to have Volume 16. I want to show you one more example to get your (indistinct). Look at Tab 492.

35 **MR SEVERIN:** Four nine?

MR LLOYD: Two.

MR SEVERIN: Here we are, 494 - yes.

40 **MR LLOYD:** You see here we've got a submission to Assistant Commissioner?

MR SEVERIN: Mmm.

45 **MR LLOYD:** And if you look at the next page, that's Patricia Fleming but with James Koulouris and Kevin Corcoran's name on it?

MR SEVERIN: Yes.

MR LLOYD: And do you see, again without going to all the details, that under Background:

5 "The Professional Standards Committee reviewed an allegation that an officer had indecently assaulted an inmate."

Do you see that?

10 **MR SEVERIN:** Yes.

MR LLOYD: And over on the second page, first bullet point:

15 "The officer has been formally charged."

And:

20 "Given the nature of the offence and whilst the allegations remain unresolved, inappropriate for the officer to work at Dillwynia where he might come into contact with female inmates."

MR SEVERIN: Correct.

25 **MR LLOYD:** At that point, again because of the fact that it's being explored by the criminal justice system, appropriate to not conduct a separate disciplinary investigation?

MR SEVERIN: Yes.

30 **MR LLOYD:** But to ensure that the officer is not working at Dillwynia or, in fact, anywhere else -

MR SEVERIN: Yes.

35 **MR LLOYD:** - until the criminal justice system has done its work?

MR SEVERIN: Yes.

40 **MR LLOYD:** And do you remember this, even though that document I just showed you is to the two ACs, this issue coming to your attention?

45 **MR SEVERIN:** I can't recall. That's not to say that I wasn't appraised. The Assistant Commissioner in charge of the relevant division was the disciplining authority. So Professional Standards or Investigations or the Assistant Commissioner, Governance, Continuous Improvement didn't have any disciplinary authority. The only - the only exception, obviously, is if something happens within that division that the AC had the disciplinary authority. So they prepared, through

the Professional Standards Branch, all the paperwork relevant, in this case, to Kevin Corcoran, the Assistant Commissioner, to then take action in the context of suspending someone or ultimately disciplining someone, et cetera. And in the case of Custodial Corrections, my recollection is (indistinct) it was delegated to
5 Director level, as I recall it, because of volume - volume issues.

MR LLOYD: Just have a look, in relation to this one, at 494. You see there's a briefing note to Minister?

10 **MR SEVERIN:** Yep.

MR LLOYD: And over the second page, it's not signed but your name is on it, along with Mr Koulouris?

15 **MR SEVERIN:** It would have been signed by me.

MR LLOYD: And this is giving the Minister an update about the situation with that particular officer?

20 **MR SEVERIN:** Yes.

MR LLOYD: And in terms of allegations of criminal wrongdoing by officers of this kind, obviously that's of such gravity, it would be appropriate not only for you to know but in this instance for the Minister to be informed?
25

MR SEVERIN: I would have regularly informed the Minister on matters like this through ministerial briefing notes. And not just this Minister of the day, but any Minister that I worked for.

30 **MR LLOYD:** That is, if there are allegations, even at the point that they've not been established by a finding or a verdict, that the Minister should know if they're allegations of criminal wrongdoing -

MR SEVERIN: That's right. Correct.

35

MR LLOYD: - by officers committed on the premises at a Correctional Centre?

MR SEVERIN: Yes.

40 **MR LLOYD:** Can you close that up, and could Mr Severin go back - I just want to ask you some things about something that is in Volume 14. Mr Severin, go to 452. Do you see down - about three-quarters of the way down the page, email, Doug Greaves - do you remember him?

45 **MR SEVERIN:** Yes.

MR LLOYD: To Hamish Shearer. I take it you remember him?

MR SEVERIN: Yes, of course.

5 **MR LLOYD:** A copy to Peter Robinson, who I've asked you about before. Local Investigation Into Serious Misconduct. Do you see that?

MR SEVERIN: Yes.

10 **MR LLOYD:** And it records that the PSB has uncovered information suggesting that an officer has been accused of making sexual advances towards a particular inmate?

MR SEVERIN: Yes.

15 **MR LLOYD:** And taken at face value, the allegation involved serious misconduct?

MR SEVERIN: Mmm.

20 **MR LLOYD:** And obviously that's right?

MR SEVERIN: Yes.

25 **MR LLOYD:** In fact, it involves, if proved, a criminal offence?

MR SEVERIN: Yes.

30 **MR LLOYD:** It should have been reported to Professional Standards Committee. Do you agree with that?

MR SEVERIN: I agree, yes.

35 **MR LLOYD:** And which would have considered initiating an investigation by the CSNSW Investigations Branch.

MR SEVERIN: Yes.

MR LLOYD: Do you remember that?

40 **MR SEVERIN:** Yes.

MR LLOYD: And instead, it's recorded that Michael Paddison has been tasked to undertake an investigation. Do you see that?

45 **MR SEVERIN:** Is that in the email from Greaves to Robinson in the middle of the first page?

MR LLOYD: No, just - I'm still reading from the email at the bottom:

"Instead, MoS Paddison has been tasked to undertake an investigation."

5 Do you see that in the third dash, almost at the bottom of the page?

MR SEVERIN: Yes, I can see that now. Yes.

10 **MR LLOYD:** And a question as to why the allegation against the officer was not referred to the PSC or the PSB?

MR SEVERIN: Yes, I know - I obviously listened to it in evidence as well.

15 **MR LLOYD:** A pretty good question?

MR SEVERIN: It's a very good question, yes.

20 **MR LLOYD:** Do you see the one - and, Mr Severin, I'll make it clear. I'm not suggesting that you're on any of this email chain or any other ones. Do you understand?

MR SEVERIN: I -

25 **MR LLOYD:** But I'll ask you this question now: do you remember being made aware of this?

MR SEVERIN: I don't. And, again, I have to qualify that by saying I wouldn't have been made aware through a written briefing note or anything like that -

30 **MR LLOYD:** Did you say wouldn't have been -

35 **MR SEVERIN:** - particularly not if a matter has been decided to just be dealt with by MoS during an - or I think a principal officer, leading to an investigation, even though it should have not happened that way.

40 **MR LLOYD:** But just have a look. I'll ask you some questions about what you just said in a minute, but I'll draw to your attention some things first. The email above records Doug Greaves to Peter Robinson talking about Hamish - take it from me the evidence reveals that's Hamish Shearer - made contact after making inquiries with Shari Martin. Do you see that?

MR SEVERIN: Yes. Yeah, I read that. Yeah.

45 **MR LLOYD:** And, evidently, Shari Martin said it wasn't an investigation as such and that she would liaise with Mick Hovey about it. Just understand that's the evidence.

MR SEVERIN: Yes. Again, it's not consistent with the established protocols.

MR LLOYD: Well, that's going to be my question, but I want to show you 453
first. Have a look at the email in around about the middle of the page, Peter
5 Robinson to James Koulouris and Michael Hovey, and sending on the email that
I've asked you about with the details. Do you see that?

MR SEVERIN: Yep.

10 **MR LLOYD:**

"FYI. Interesting if it is accurate information."

Do you see that?

15

MR SEVERIN: Mmm.

MR LLOYD: So at that point, you have knowledge of what are the contents of
that email by Mr Hovey and Mr Koulouris, the then Assistant Commissioner,
20 Governance and Continuous Improvement. Do you see that?

MR SEVERIN: Sorry, you're saying that I had knowledge?

MR LLOYD: No, no, no. No. Peter Robinson's email to Mr Koulouris and
25 Mr Hovey.

MR SEVERIN: Yes. Yes.

MR LLOYD: At that point, that's indicating -
30

MR SEVERIN: That's correct.

MR LLOYD: - Professional Standards, along with the Assistant Commissioner,
then, Governance and Continuous Improvement, and the head of the
35 Investigations Branch are aware -

MR SEVERIN: Yes.

MR LLOYD: - of what is recorded in that email?
40

MR SEVERIN: Yes.

MR LLOYD: I thought what you told us before the system would require is an
Assistant Commissioner who had information of that kind to report it up to you?
45

MR SEVERIN: It certainly - the gravity of this - and, again, I can only sort of
judge that on the content of the email - would have suggested that he put it at least

in our weekly catch-up to say, "We're currently running a line of inquiry at Dillwynia in relation to this." And he may have done that, so I'm not suggesting that he hasn't. It's just I can't recollect. I knew there were issues at Dillwynia and - as we talked a lot before, but I never received a - an email or written briefing note in relation to this.

5
MR LLOYD: Do you remember being told in one of those weekly briefings by Assistant Commissioner Koulouris about the fact that there were these allegations?

10
MR SEVERIN: I don't remember that.

MR LLOYD: In terms of your system or your own usual practice at the time, I've taken you to those three examples of where there have been allegations of inappropriate conduct or sexual assault by officers. You remember I took you through those?

15
MR SEVERIN: Yes.

20
MR LLOYD: I take it your usual practice at the time if you became aware of allegations of this kind of sexual assault by an officer on an inmate at Dillwynia is that you would have taken action yourself?

25
MR SEVERIN: Not in an investigatory context. I would have never involved myself in investigations or in even Professional Standards Committee type matters, but I certainly was briefed on matters that were serious nature. And in some instances, that briefing then also went to the Minister depending on the circumstances. So the - the system was designed to be as far removed from the Commissioner as possible. That was a result of the Hamburger Review in 2012 and where my predecessor kept it all together. And there was a clear objective through the Hamburger Review to separate the whole issue of Professional Standards investigations from the Commissioner's office.

30
35
40
And the Director-General at the time had some ideas, and we did a review and a report in early 2013 suggesting the structure that essentially is there now, but a singular structure for investigations and of Professional Standards, with a person in charge. That didn't - wasn't able to be implemented for a whole range of reasons, so we ended up with the system we have now. But it was clearly designed originally to remove the Commissioner from immediate decision-making in relation to matters that were subject to investigation.

45
MR LLOYD: Whatever the formal processes though, if you became aware of allegations of this kind it would have been absolutely necessary for you to make sure, in discharging your role, for you to become aware of what the result was?

MR SEVERIN: That's right.

MR LLOYD: As in -

MR SEVERIN: That's -

5 **MR LLOYD:** - if there's an investigation by Investigations Branch, what was the result of that investigation?

MR SEVERIN: Correct.

10 **MR LLOYD:** And if there was a review or investigation by Professional Standards Branch what was the outcome or result of that?

15 **MR SEVERIN:** Yes, it would be the same. So if there is a matter that's - we had a couple of examples earlier, of inmates that ended up, or sorry of briefing notes that ended up with me, we identified that, despite the evidence that was provided by complainants, there was no case to be established, neither criminal nor disciplinary-wise. That was brought to my attention.

20 **MR LLOYD:** And is it right, then, if you were told, and I appreciate you told us you don't have a memory one way or the other - is that your evidence?

25 **MR SEVERIN:** If I would be told - sorry, I can't recall the detail of this - but if I would have been told, it would have been purely with the intention to - appreciate - sorry, appraise me of the issues, and I would have also been - required an update on outcomes.

MR LLOYD: And -

30 **COMMISSIONER:** Does that suggest it wasn't made known to you?

MR SEVERIN: Sorry?

COMMISSIONER: Does that suggest it wasn't made known to you?

35 **MR SEVERIN:** It wasn't -

COMMISSIONER: This allegation wasn't made known?

40 **MR SEVERIN:** That wasn't necessarily suggested but I -

COMMISSIONER: If you -

45 **MR SEVERIN:** - I normally have done if required - if I would have been made aware of this in the format that it's presented here, I would have asked for a report, once the matter is finalised on what actually happened.

COMMISSIONER: And we don't have such a document?

MR SEVERIN: No, I don't have a recollection of that. If there is a record it would be -

5 **COMMISSIONER:** I don't think there is.

MR LLOYD: You take it from me that not only is there no such record of the outcome of the investigation by Investigations, in fact, Witness M has told us that no one even spoke to her.

10

MR SEVERIN: Then that's clearly a failure of the system.

COMMISSIONER: And it follows from that, that you weren't told properly?

15 **MR SEVERIN:** If I had have known that there were serious allegations I would have obviously wanted to satisfy myself that appropriate action was taken.

COMMISSIONER: Yes.

20 **MR SEVERIN:** And I can only take it back to the - yeah, I'm sorry, this was in 2017, the other one was 2016. So I have no recollection of this but I would have expected if this would have been known, made known to me, that I would have also been informed on any outcome of - of a procedure - sorry, proceedings by police.

25

COMMISSIONER: And you would have expected, I assume, that to be documented?

MR SEVERIN: Yes.

30

COMMISSIONER: And it's not?

MR SEVERIN: No.

35 **COMMISSIONER:** Doesn't that lead to the conclusion probably you weren't told?

MR SEVERIN: No, I -

40 **COMMISSIONER:** Either that or someone has failed to report back to you and sign off on it and then -

MR SEVERIN: I just - and I'm not suggesting that I wasn't made aware of matters that were subject to investigation. Our protocols of every Professional Standards Committee meetings, minutes of those meetings, that should be evident
45 what the decision was at the time in relation to these allegations.

MR LLOYD: Take it from me, there's no minute recording any discussion -

MR SEVERIN: Then I can only conclude that I wasn't made aware of this at all.

5 **MR LLOYD:** Can I ask you this question: if you were told on the things that I've asked to you assume about no investigation being done by Investigations, no consideration by the Professional Standards Committee, no investigation by Professional Standards Branch, that would be a very serious failure on your part ?

10 **MR SEVERIN:** Yes.

MR LLOYD: Is that correct?

MR SEVERIN: Yes, based on what is written here.

15 **MR LLOYD:** And in terms of the Commissioner's questions about what that means about the likelihood of whether you were told, can I just ask you separately this: Your practice, I thought at the time if you were told of something like that, that is about allegations of criminal assault by an officer on an inmate at one of the
20 Correctional Centres is you would have briefed the Minister?

MR SEVERIN: In all likelihood yes.

25 **MR LLOYD:** And take it from me there's no evidence there's no evidence of any brief to the Minister. If you take those things, coming back to the Commissioner's question, what does that suggest to you about the likelihood of whether you were in fact told about this -

30 **MR SEVERIN:** Based on what I know now and what we've just - you've just put to me the likelihood is that I wasn't told.

MR LLOYD: And that would be, if that was the situation -

35 **MR SEVERIN:** That would be a failure.

MR LLOYD: A very serious failure. Could I ask you, just remembering, I'm sure this won't escape your memory, but remembering the date of these emails is around the middle part of October 2017. Keeping that in mind, could Mr Severin please have access to Volume 8, Tab 84.

40 **MR SEVERIN:** Yes.

MR LLOYD: You can go to the annexures behind that tab and find for me K.

45 **MR SEVERIN:** K?

MR LLOYD: K. If you look at the bottom of the first page, you see an email Hamish Shearer 12 September '17. Then you've got to go to the second page of that annexure to find the detail.

5 **MR SEVERIN:** Yes.

MR LLOYD: That's to people who you probably recognise but take it from me the evidence is with either the Governors or people responsible for the six correctional centres for which he had oversight at that time?

10

MR SEVERIN: Yes.

MR LLOYD: And the analysis team, subject Referrals to the PSC. Just read - or re-read that to yourself and tell me when you've done it.

15

MR SEVERIN: Yes, I've read that.

MR LLOYD: I take it you've read it for the purpose of preparing for these questions?

20

MR SEVERIN: Yes.

MR LLOYD: Do you see it records there a change of approach in regard to referrals direct to PSB for investigation? Do you see that?

25

MR SEVERIN: Yes.

MR LLOYD: Decision Taken - and you see:

30

"...to enable Directors to better manage disciplinary and performance issues within the districts and to provide greater transparency of key issues..."

Do you see that?

35

MR SEVERIN: Yep.

MR LLOYD:

"...and not overburden the resources of the PSB."

40

Do you see that?

MR SEVERIN: Yes.

45

MR LLOYD: And:

"In future, any incidents of a disciplinary or performance nature that warrant elevation in the first instance to be raised with me..."

That's Mr Shearer:

5

"...and we will decide whether performance or disciplinary investigation is most appropriate."

10 Do you see that? That directive, Mr Shearer told us, emerged from a meeting which occurred the day before; you are obviously aware of that?

MR SEVERIN: Yes.

15 **MR LLOYD:** And what Mr Shearer said is that it was an initiation of a regional manager for the north, Mr Scholes?

MR SEVERIN: Yes.

20 **MR LLOYD:** With which then Assistant Commissioner Kevin Corcoran agreed?

MR SEVERIN: Yes.

25 **MR LLOYD:** And what Mr Shearer was doing in the email, on his evidence, was implementing that new strategy determined at that meeting?

MR SEVERIN: Yes.

30 **MR LLOYD:** I will ask you some things about the details about it, but just generally, could I ask you this: Were you aware of this?

35 **MR SEVERIN:** No. I became aware after the event through the Assistant Commissioner Governance and Continuous Improvement and I, to the best of my recollection, was never included in it because it was clearly a complete breach with the singular way of dealing with complaints, wherever they come from, through the Professional Standards Committee.

MR LLOYD: Now, when you say it was - my words - inconsistent with with the whole way it was dealt with -

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

MR LLOYD: - that's you saying that - I've asked you about the system for dealing with these things and this would be entirely consistent with that?

45 **MR SEVERIN:** Yes.

MR LLOYD: And when it says "increasing transparency", you would appreciate that this idea would be likely to have the opposite effect?

5 **MR SEVERIN:** It would have, yes. I mean, I can understand the motivation which is obviously based on workload and other things, but it is completely inconsistent with proper process and the procedures as they were at the time.

MR LLOYD: But this new system recorded here would represent a complete failure of corporate governance -
10

MR SEVERIN: Yes.

MR LLOYD: - in a really important area of Corrective Services?

15 **MR SEVERIN:** Yes.

MR LLOYD: And it would actually have the effect, wouldn't it, if implemented, of concentrating decision-making in the hands, at least initially outside the gaol, in the hands of one person?
20

MR SEVERIN: Yes.

MR LLOYD: And as opposed to the system you have identified where multiple people know about serious things?
25

MR SEVERIN: Absolutely.

MR LLOYD: When you say that this was not implemented, you must be aware by now that that would, on the evidence of Mr Shearer, come as news to him?
30

MR SEVERIN: Yes, I heard that. But I also recall very clearly that the then AC of Governance Continuous Improvement, who became aware of this, saw me about it and subsequently spoke with the Assistant Commissioner Custodial Corrections about it, about the fact that we would not implement a process like that. And I can't recall if I personally spoke to Mr Corcoran about it at the time. I may well have. I would have also received minutes of meetings, custody section regularly forwarded those to me where I would have picked it up no doubt - I can't recall, but anyway. My understanding from this is we did not change the process that was set down in procedure and policy.
40

MR LLOYD: When you say "we did not change", this is a communication to six Governors -

MR SEVERIN: Yes.
45

MR LLOYD: - or senior people within those various Centres.

MR SEVERIN: Absolutely.

MR LLOYD: It's coming from the Regional Director of the Metro West.

5 **MR SEVERIN:** Yes, I don't know who else received it but it clearly was not endorsed.

10 **MR LLOYD:** When you say - don't worry about the endorsement. This is an email which both Mr Shearer and those recipients would be entitled to proceed on the basis that this is the new policy; correct?

MR SEVERIN: Yeah, no, the email is very clear. But in doing this, it's not sanctioned by official Corrective Services New South Wales policy.

15 **MR LLOYD:** When you say that, it was sanctioned by the result of the meeting the day before -

MR SEVERIN: Yes. Yes.

20 **MR LLOYD:** - which -

MR SEVERIN: Which is not a governance body that - that would be in a position to actually determine the significant change to disciplinary - to how disciplinary matters would be handled.

25 **MR LLOYD:** How was the fact that this was rescinded communicated first to Mr Shearer and then later to the Governors?

MR SEVERIN: I'm not aware of that.

30 **MR LLOYD:** Are you aware that it ever was?

MR SEVERIN: Because I'm quite sure it wasn't implemented, somehow the message would have been - gone back to at least the Assistant Commissioner who, no doubt, would have communicated it to the Directors.

MR LLOYD: Mr Severin, I just want to explore with you what you mean when you say "not implemented". You have an email from a Director to these various Governors. This is the implementation of it at a practical level, isn't it?

40 **MR SEVERIN:** Yes.

MR LLOYD: It's telling them what to do.

45 **MR SEVERIN:** In the absence of a - (indistinct) but in the absence of a formal sanction, that's right. That's what he's trying to -

MR LLOYD: And in the absence of any formal revocation or rescission, telling Mr Shearer and these people, would be required to work on the basis that this was the new system?

5 **MR SEVERIN:** That's the way it reads, and clearly they would have taken it as
a direction from their Director. Where I was sitting at the time it was brought to
my attention, I confirmed that it didn't - wasn't sanctioned as a policy change. The
policy was never formally changed, and I had every expectation that it would have
10 other parts of Custodial Corrections at the time as well.

MR LLOYD: Did you give a direction to then Assistant Commissioner Corcoran
to make sure that people who had been told of the change knew about the fact that
15 it was not supported and, in fact, should have been rescinded?

MR SEVERIN: I can't recall if I gave a direction, but I certainly recall being
spoken to about this by the other Assistant Commissioner and asking him to take it
up with Assistant Commissioner Corcoran.

20 **COMMISSIONER:** Mr Severin, in the proper course of management, there
should have been a further email telling people this wasn't going to happen.

MR SEVERIN: I would have expected that, and obviously that didn't happen.

25 **COMMISSIONER:** No.

MR LLOYD: Did you think, when you were told that this decision had been
made by this group - which I think you say doesn't actually have the
decision-making authority?
30

MR SEVERIN: Not about things like this, absolutely.

MR LLOYD: Tell me if this is an overstatement: to, in the stroke of a pen
directing an email of this kind to go out, effectively sideline a very significant part
35 of a well established system for dealing with serious complaints. Is that an
overstatement or is that fair?

MR SEVERIN: No, it's not an overstatement at all. I mean, it sidelined me, to
some extent, in my role as Commissioner.
40

MR LLOYD: And sidelined a whole system, along with, subject to the
independent decision-making of the Regional Directors, maybe all the people from
Investigations and the Professional Standards Branch as well?

45 **MR SEVERIN:** Yes.

MR LLOYD: And did you think when you were told that this had happened, "What on earth is going on in this decision-making?"

5 **MR SEVERIN:** I certainly, as I mentioned earlier, understand there was - the motivation was to manage workload, but this is not a proper way of doing that. Triaging at that level through a singular person is not a proper way of triaging workload.

10 **MR LLOYD:** In terms of - as opposed to the kind of corporate governance problems that I've asked you about, did you know whether Mr Shearer, as an individual, had received any training or guidance or had any relevant skills to put him into that position of effectively triaging?

15 **MR SEVERIN:** Again, I can also refer to the evidence I heard on the stream. I know about the issue in relation to the basic officer training. I have to say there would have been every opportunity for Mr Shearer to participate in that training. There was no impediment to do so. It would have been clear that he wouldn't have had to do that in parallel to doing his job. Somebody else would have been acting up during him doing the training. It is unusual that Directors, even if they are
20 sideway entries to the base grade officer training, but it's not also wrong.

Mr Shearer would have no doubt - and I'm not across the detail as to what type of induction he received, but he would have no doubt - he certainly made aware and provided with details about processes relevant to his role. And so I personally am
25 not convinced that the absence of that training resulted in some of the decisions that were subsequently made. I am also saying there would have been no impediment on him doing the training. Other - like, there were other Directors that came from police, and they did the training. They asked the Assistant Commissioner to do so. They were allowed to do so.

30 **COMMISSIONER:** Mr Severin, really, surely it shouldn't have been a question of him asking. It should have been assumed that someone coming into that job in that role, the first step would be to give them basic training, wouldn't it?

35 **MR SEVERIN:** To get - to get some training in relation to his role, yes.

COMMISSIONER: Yes.

40 **MR SEVERIN:** It is highly unusual, in my experience - that's not to say it's wrong, because people can do it - for senior members of staff executives to do base grade officer training and it is certainly not something I have any problem with. I never objected to it -

45 **COMMISSIONER:** But, furthermore, you would want it to happen, wouldn't you?

MR SEVERIN: You want your staff to be trained.

COMMISSIONER: That's right. I mean, you wouldn't bring anyone in at this level that Mr Shearer came in without saying, "Okay. You've got to do the basics, as well as being able to perform as a manager."

5

MR SEVERIN: Yeah, absolutely.

COMMISSIONER: And the person to whom he reported surely was the person responsible for ensuring that that happened, wasn't it?

10

MR SEVERIN: The - the other issue is, of course, there is an annual performance review, and it has a training component in it. That would have been the opportunity, if something wasn't provided, for Mr Shearer to say, "I really need this" -

15

COMMISSIONER: No, Mr Severin. You and I are around the wrong way here. What I'm putting to you is that it wasn't a question for Mr Shearer to ask for it.

MR SEVERIN: Obligation there.

20

COMMISSIONER: Your organisation had an obligation, surely, when bringing people into senior management roles to make sure they were equipped at least with the basic knowledge.

25

MR SEVERIN: I agree with that, needs reform, albeit through some other form of - I'm not suggesting that he didn't get any of that.

COMMISSIONER: No.

30

MR SEVERIN: I'm not across the detail, but you wouldn't employ somebody regardless of their background, even if they come from another correctional jurisdiction, without providing some introduction into the role.

35

COMMISSIONER: Now, who was responsible for ensuring that Mr Shearer undertook that basic training?

MR SEVERIN: It would have been Assistant Commissioner Corcoran at the time. Together, obviously, with the human resources of the Academy -

40

COMMISSIONER: Sure.

MR SEVERIN: - who can provide that training.

45

MR LLOYD: Can I just - you probably know this, but I need - in light of some things you've said, I need to put to you what Mr Shearer told us about his level of training and skills in the area of dealing with complaints of misconduct by officers as at September to the end of 2017. He said that he had been given no guidance,

training, knowledge, and he had no skills in being able to manage complaints about misconduct by officers at that time. Now, in light of what you've just told the Commissioner, do you dispute the accuracy of what he said?

5 **MR SEVERIN:** I can't dispute it because I don't have any evidence to dispute it with. But I would have been - I would be very surprised if you simply get somebody to exercise a delegated power under the law without actually acquainting that person as to what the process is. So - and, again, I can only guess, but some induction into how disciplinary processes would have operated at the
10 time, through either Professional Standards to sit down and work through that or, indeed, another Director or - not necessarily the Assistant Commissioner, but somebody who actually has experience with that and is qualified to provide -

COMMISSIONER: Mr Severin, you appreciate that's your guess. I've got Mr Shearer's evidence. I can't really say the guess is going to be as good as the
15 evidence, can I?

MR SEVERIN: No, I can't dispute the evidence because I don't have anything to dispute it.
20

COMMISSIONER: No. No.

MR LLOYD: He also told us that he didn't even know by the end of calendar year 2017 - or to use his words, had no real idea of what the system was. That is, even
25 before the change in 12 September, the system more generally that you've described, he said he didn't really know what that was either.

MR SEVERIN: Yeah, I can only take his evidence. I - yep.

30 **MR LLOYD:** That sounds like a serious corporate failure, that someone in his position -

MR SEVERIN: If his evidence is true -

35 **COMMISSIONER:** Yes.

MR SEVERIN: - I - I agree. If it's not, then obviously matters are quite different.

40 **MR LLOYD:** You've told the Commissioner that the person who had most immediate oversight about training matters of this kind for someone like Mr Shearer was then Assistant Commissioner Corcoran. You probably know that Mr Shearer also told us that he made a complaint about bullying by then Assistant Commissioner Corcoran and that that complaint is - went up to you.

45 **MR SEVERIN:** Yes.

MR LLOYD: Do you remember that?

MR SEVERIN: Yes.

MR LLOYD: Do you remember what happened about his complaint?

5

MR SEVERIN: Yes. So the complaint was made to the then Executive Director of our People Branch - or in those days, we still referred to it as Human Resources - and Mr Michael Baldi, and he came to see me about the matter. And it was determined - and also had a conversation with Mr Corcoran - to instigate a mediation between Mr Corcoran and Mr Shearer and Luke Grant, who was then Deputy Commissioner - sorry, he might have still been Assistant Commissioner, but he only had a title change; he was always my deputy - was accepted by both of those senior executives as the right person to take on the - or to conduct the mediation. That went ahead, and I was appraised afterwards that both parties had agreed on a certain way forward.

I would have also, from memory, had a personal discussion with Mr Shearer about some of his issues, and that may well be in the presence of Mr Baldi. I can't (indistinct) recall. But, yes, I was aware, and the action was to engage in this mediation process, which afterwards both parties reported to me, as did Mr Grant, that they had agreed to a certain pathway forward.

20

MR LLOYD: Did you think there was substance to his allegations, Mr Shearer's?

MR SEVERIN: No, I - I mean, obviously he felt aggrieved. He felt bullied, and that's a very subjective - I didn't have any evidence - any hard evidence to say that Mr Corcoran's behaviour was intentionally trying to bully Mr Shearer. It was certainly a difference of opinion. There was some operational issues. There - Mr Shearer claimed at the time that comments were made by Mr Corcoran which - I can only take that at face value, that he made need to think about his career in the role - or maybe the role wasn't for him. They are comments that are problematic. But, for me, it was important to make sure that we, if at all possible, came up with a way forward for both Mr Shearer, so that he could feel comfortable in his role, and Mr Corcoran so he didn't feel that he was someone that was accused of being a bully and - by one of his senior executives.

30

35

MR LLOYD: Could I just ask you this: you're aware of what Mr Shearer said about the process that he was engaged in at Dillwynia in the latter part of calendar year 2017 in dealing with complaints by a number of inmates about Astill?

40

MR SEVERIN: Was that this mediation?

MR LLOYD: Yes.

MR SEVERIN: Yeah, I - I only heard that. I wasn't -

45

MR LLOYD: Let me put some things to you.

MR SEVERIN: I wasn't - I wasn't appraised at the time.

COMMISSIONER: Mr Lloyd, we might do that after the morning adjournment.

5

<THE HEARING ADJOURNED AT 11.31 AM

<THE HEARING RESUMED AT 11.42 AM

10 **MR LLOYD:** Mr Severin, I'd just started to ask you some questions about the
mediation process towards the end of 2017. Mr Shearer, when he gave his
evidence, accepted that using the mediation process to deal with those allegations
about Astill that came to his attention was a failure, he admitted, by him. Just in
terms of your response, and just putting aside the personal failure by Mr Shearer
15 that he frankly accepted, do you agree that to deal with the allegations which had
been made against Astill by November 2017 that the use of mediation, that is,
Astill sitting down with the women who were making the complaints, was
inappropriate?

20 **MR SEVERIN:** Totally inappropriate.

MR LLOYD: And the nature of the allegations that were being made at that
point, tell me - I will take you to the details of Mr Astill's document if you need
me to in order to answer this question, but multiple women, allegations, including
25 intimidation and bullying, are allegations where there weren't even particulars
recorded that had been made about his relationship with a particular inmate, Trudy
Sheiles. Those matters were serious?

MR SEVERIN: They were.

30

MR LLOYD: And demanded a report to either or both of the Investigations
Branch and the Professional Standards Branch?

MR SEVERIN: Or if it's just simply his behaviour in relation to being aggressive
35 or using language that is unbecoming, there are managerial lines of intervention, of
course, as well but without necessarily going through disciplinary. So by all
accounts, his behaviour was totally unacceptable. And it was not - in my view,
listening to the evidence and reading the exhibits, it was not appropriately dealt
with.

40

MR LLOYD: And in terms of a managerial line, the kind of things that we're
dealing with here at that time, that's not an appropriate managerial line for local
action; this required reporting out?

45 **MR SEVERIN:** Not - not the - the allegations against Mr Astill. Absolutely not.
But obviously a general manager is quite a senior person of staff. If there is
a person in their - in their prison who is observed as behaving in a way that is not

necessarily the most professional way, then there are managerial interventions as well. However, once we start looking at allegations of criminal misconduct or even serious allegations of misconduct, that needs to be referred.

5 **MR LLOYD:** Including repeated bullying and intimidation of inmates?

MR SEVERIN: Yes. Yes.

MR LLOYD: That's a referral?

10

MR SEVERIN: Absolutely.

MR LLOYD: See, just in terms of the relationship between those events, that is, the way Mr Shearer, in terms of his involvement, handled those allegations through November '17 through to January '18, he - I've already raised this with you - said that he was not trained, and he didn't know how to deal with things of that kind and was not aware of how the complaint system worked. Do you remember I put that to you?

15
20 **MR SEVERIN:** In the conversation I had with him, from - from my recollection, he did talk about the fact that he feels that he is not properly equipped, in the context of knowledge, to do certain tasks of his role and that he would require some remedial training or introduction into - into certain aspects of his role. He also, obviously, felt that he was particularly targeted in a way of being supervised doing his role by his Assistant Commissioner. That was his subjective impression at the time, which gave rise to me then, obviously in consultation with the executive director of human resources, suggesting a mediation approach, which then Assistant Commissioner - or later Deputy Commissioner Grant facilitated.

25
30 **MR LLOYD:** But the first part of it may be part subjective and part objective, that is, saying that he needed more training?

MR SEVERIN: Again, while I can't recall the details of what training he asked for, yes, I certainly recall the fact that training was an issue and that I encouraged him to avail himself of the training opportunities and to raise it with his Assistant Commissioner as part of - not simply as part of performance review but as a general approach to getting more support.

35
40 **MR LLOYD:** Can I just put this to you: Mr Shearer, in relation to the mediation process and the failure to report those allegations toward the end of '17, start of '18 to the Professional Standards Branch, said that his admitted failure of decision-making at that time was, in part, because of the very policy that had come into being on 12 September 2017 making him the person responsible for making decisions of this kind. He said -

45

MR SEVERIN: Is that the email -

MR LLOYD: Yes, the 12 September - I won't call it a policy but direction that I asked you about. He said that, in part, his failure of decision-making occurred because of that new directive.

5 **MR SEVERIN:** Yeah, I mean, obviously I can only take his word for it, but
he - he wasn't at the time exercising the delegation that he - he was given through
this - this decision-making in Custodial Corrections. He was intervening in the
process that was already underway, so it wasn't for him to decide if disciplinary
10 up, according to the evidence that I heard, engaging in this mediation at the
request of the General Manager, Ms Martin at the time, and - but he did state in his
evidence, as - as we all know, that he felt quite uncomfortable doing that.

MR LLOYD: But - sorry, Mr Severin, I need to ask you about that answer in
15 terms of what he was doing. What the direction on 12 September charged him
with doing is that:

"Any incidents of a disciplinary or performance nature that warrant elevation
are in the first instance to be raised with me, and I will decide..."

20 Or it says "we", but he's the author:

"...decide whether a performance or disciplinary investigation is most
appropriate."

25 That was the direction.

MR SEVERIN: That was the direction. I just - and if - indeed, this was a matter
that ultimately - the aspect of it that he was involved with the mediation, but
30 ultimately would have required him to use his delegation, that he was
supposed - supposed delegation, then he is right, and he could have felt that that
was beyond his capabilities at the time.

MR LLOYD: But he - knowing or understanding that that was the approach, it
35 was a matter for him to be the filter about what happened next with allegations of
this kind; correct?

MR SEVERIN: Yes. Yes.

40 **MR LLOYD:** He admitted that his decision-making in exercising that function,
that is, the filter, failed because he failed to refer it out to make it a disciplinary
matter.

MR SEVERIN: Okay. If that's what he did, then you're right, yes.
45

MR LLOYD: And so going back, then, to what you told us about the corporate governance problems with the new direction coming into play on 11 September - you remember I asked you about that?

5 **MR SEVERIN:** Yes.

MR LLOYD: Could I just ask you whether this is an overstatement: in terms of corporate governance, that decision and then the communication on 12 September, I think you agree, sidelining an entire established process, is that a gross failure of corporate governance?
10

MR SEVERIN: It certainly - the consequence of it would have been result anything a gross failure because, as you pointed out before, it would have literally got a single person to make quite significant decisions about how matters should be dealt with.
15

MR LLOYD: We'll come to consequences in one minute, but just as it stood at the date that that became implemented on 12 September. Let it be assumed it was rescinded the next day. As at 12 December, the fact of the way that decision came about and the fact that its communication - as at 12 September, that was a gross failure of corporate governance, wasn't it?
20

MR SEVERIN: Yes.

25 **MR LLOYD:** And the next question is, if you accept Mr Shearer that in part that new policy played a role in his failures to properly deal with serious complaints about Astill, then that gross failure in corporate governance had a gross outcome in the sense of a failure by the system to deal with serious allegations against Astill?
30

MR SEVERIN: It could have resulted in absolute failure - yeah, complete failure.

MR LLOYD: And at a time when Mr Shearer, on his evidence, did not know about other allegations which were known by Investigations of serious wrongdoing by Astill?
35

MR SEVERIN: Yes.

40 **MR LLOYD:** And where there's multiple criminal offences committed by Astill after January '18 against inmates at this facility?

MR SEVERIN: Yeah, no, I agree.

45 **MR LLOYD:** Sounds like a catastrophic failure, starting with the gross corporate governance failure in September. Do you agree?

MR SEVERIN: Yes.

MR LLOYD: Was there - you said you became aware of this decision-making with respect to this new policy around the time?

5 **MR SEVERIN:** Yeah, I became aware, as I mentioned, through the Assistant Commissioner, Governance, Continuous Improvement, which was Mr Koulouris at the time, and I asked him to - or instructed him to immediately take this up with the Assistant Commissioner, Custodial Corrections to ensure that that's not carried out.

10

MR LLOYD: To fix it up?

MR SEVERIN: Yep. And basically go back to what already is approved, which is the policy and the procedures. You know, don't change them unilaterally because there was no authority to do so.

15

MR LLOYD: Did you counsel or otherwise take any action in relation to the role of any of the people in that decision being made on 11 September?

20 **MR SEVERIN:** I don't think I did. I - but I can't recollect the detail of what conversations I might have had in a counselling context. I certainly made my - my views known very clearly and obviously ensured that the - the decision by the executive group of custodial wasn't implemented.

25 **MR LLOYD:** So you don't remember whether you, for example, counselled the Assistant Commissioner or the Regional Director for the north?

MR SEVERIN: No, I can't - I don't remember that.

30 **MR LLOYD:** About the -

MR SEVERIN: In a formal - I certainly didn't counsel him in a formal sense, like, with recordkeeping and so on. And I don't think - sorry, I can't recall in which way I engaged. I certainly recall that this matter was followed through, and we would have had discussion or conversations about it to ensure it doesn't get implemented.

35

MR LLOYD: Was this the only corporate governance failure that you were aware of in which the then Assistant Commissioner Corcoran was involved?

40 **MR SEVERIN:** Certainly the only one that I can recall because it's in front of me. There was - generally, Assistant Commissioner Corcoran followed the procedures and policies very well. And he did so, of course, of his own background, coming from the military himself and having been in Corrections for a long time. So there was never a concern that I held about him being grossly negligent in the context of corporate governance.

45

MR LLOYD: Other than this example?

MR SEVERIN: Other than - than this, which was obviously not just him; there was a group of people. But he was in charge, yes.

5 **MR LLOYD:** Could I ask you some questions to get your response to some of the
evidence the Commission has heard about aspects of culture within Corrective
Services during the time that you were Commissioner. An officer at Dillwynia,
Mr Riddle, said to us that when he first started in the job, which was 21 years ago,
it was literally pushed down your throat that you don't paper another officer. Have
10 you heard of this as a cultural phenomenon within Corrective Services, about not
papering -

MR SEVERIN: Certainly experience and been part of dealing with prison officer
culture for many, many decades. There's lots of research been done into prison
15 officer culture, not just in Australia but everywhere. So it is not unique in - in the
context of being very special, but it is certainly a very close, inward-looking
culture and one that protects their own more than - in many cases, taking account
of the fact that they're public servants and here to serve the community.
So - I apologise, this is simplifying it somewhat. So the correction officer culture
20 has been in the forefront of consideration for reform initiatives that certainly I was
involved with. And did we achieve all the things that we wanted to achieve? No,
we didn't, but we achieved quite a bit. And I - I understand that continues to
happen. So that just coming from my thoughts.

25 **MR LLOYD:** Do you think that there was a culture which - in which many
officers felt inhibited or restrained from making reports against other officers of
misconduct during the period in which you were Commissioner?

MR SEVERIN: I would say that that would have been the case, yes.
30

MR LLOYD: What did you do during the period that you were Commissioner to
try and address that?

MR SEVERIN: So what I obviously could do was create systems and processes
35 that - like, the avenues for staff to - to make or to play off one another safe, to
have multiple avenues and to do so both in the formal sense but also informally.
So using peer support networks, creating the - the - the support team,
strengthening the mentoring arrangements that were in place for junior staff
through senior staff, creating a forum for women in particular - a women's
40 leadership group, were all measures that were - while they were specifically
focused just on giving correctional officers more confidence in complaining, but
they certainly had very strong focus on creating an environment that was safe for
people to work and that was able to deal with those who did not obey the
protocol - sorry, the standards, the ethical principles and the rules.
45

There was some formal work that was done where I introduced a system where
everybody had to renew their understanding of the code of ethics online. Was it

once a year, once every second year. That was the latter part. So there were a whole range of - there were staff surveys done, not just the PMES, the broad government public sector survey. And the analysis of that - there were questions in there about being bullied, being harassed, not being able to - to pass matters on
5 confidentially, et cetera. We took very careful account of that as an executive group and then initiated action. And we were able to disaggregate that to the workplace, so not to the individual but to a workplace that's larger than 10 people. So we were able to target individual workplaces, be it in Community Corrections or Custodial Corrections, to put the particular emphasis on.

10 So we had the ethical standards training through Professional Standards Group - sorry, I'm just thinking of some of the issues that we did. And we also in particular focused on the leadership group. So one of the initiatives that took a little longer than it should have, but for obvious reasons, was a total rotation of
15 senior managers, which was completed in 2020. So all Governors and Managers of Security rotated through the system to ensure, of course, multi-skilling, getting a more diverse understanding of - of the environment, but also stop over familiarisation and the potential for people to - to do the wrong thing. So they were clearly some of the objectives. It took longer because individuals were
20 personally affected, had to move, et cetera, et cetera. So what I hoped was going to be done in six months took about 12 months, was led by the - all the Assistant Commissioners and was implemented.

MR LLOYD: You must have heard the evidence of a number of officers of
25 Dillwynia who described a total lack of trust in management dealing properly with complaints about other officers. Are you aware of that?

MR SEVERIN: I heard the evidence. Again, I wouldn't ever go as far as saying
30 total mistrust, but there was certainly a large group of people who didn't trust management. Absolutely.

MR LLOYD: No, no. You misunderstand. Some officers said that they had a total
lack of trust -

35 **MR SEVERIN:** Oh, sorry. Yes.

MR LLOYD: But not every officer.

40 **MR SEVERIN:** Yep.

MR LLOYD: Some officers said they thought that it was -

MR SEVERIN: And I agree with that.

45 **MR LLOYD:** Do you agree, then, if there's a reasonably significant number of officers who felt that way, that is, they didn't trust management to deal with

serious allegations of misconduct by other officers, that's a failure of culture at the Centre?

MR SEVERIN: It is.

5

MR LLOYD: Can you explain how it is that there was a failure of culture of this kind at this particular Centre?

MR SEVERIN: So there were certainly some leadership challenges with Governor Martin at the time, and eventually they were finalised by - by her leaving. And my objective at the time was to not simply put processes in place but to have a very strong focus on a sustainable change through good, new and strong leadership. So putting Emma Smith in there as the Governor, I think, was a very good decision. And she certainly, with the commissioning of Area 1, did a lot of very, very good things while I was still there and no doubt continued to do so afterwards. And I think she's been promoted now. But, for me, the only way of having a sustained change is through having good, strong leadership in situ. As far as - and combined, of course, with processes and procedures and - and avenues to do things and training, et cetera.

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15
20

MR LLOYD: And oversight by those more senior of -

MR SEVERIN: That's right.

MR LLOYD: - the leadership at different Centres?

25

MR SEVERIN: Correct.

MR LLOYD: Do you think that you failed, you personally, in terms of the oversight of this particular Centre -

30

MR SEVERIN: At the time -

MR LLOYD: - and, in particular, the oversight of management there?

35

MR SEVERIN: At the time I did.

MR LLOYD: I think you had concerns about Shari Martin's performance; correct?

40

MR SEVERIN: Yes, I - I certainly had observed her as being quite obstructionist in meetings that I attended, her very much having the opinion that she was - had been around for a long time and knew a lot better than most of us knew. And that was evident certainly to me personally in those exchanges. I never observed her when I visited Dillwynia being in any way inappropriate in the way she dealt with staff or inmates when we walked through the prison. So it's not for me to say she sort of extended to all my experiences. And then, of course, I had feedback from

45

Assistant Commissioner Corcoran at the time about matters that were difficult and exchanges between Mr Shearer and her that were brought to my attention by Mr Corcoran.

5 **MR LLOYD:** In terms of your own experience with her, it wouldn't be unheard of for a Governor to be on their best behaviour while the Commissioner is coming out?

MR SEVERIN: Correct.

10

MR LLOYD: And so that's not the extent of oversight by you of a Governor -

MR SEVERIN: No, no. I wasn't -

15 **MR LLOYD:** And I'm not suggesting you were -

MR SEVERIN: My visits were not intended to oversight her performance.

20 **MR LLOYD:** What would better oversight by you of her performance at Dillwynia have looked like?

25 **MR SEVERIN:** I mean, first of all, I think performance management in a - in a sense that is inclusive of really sitting - sitting down with the professionals and going through some very tangible examples of - of their behaviours were observed that weren't appropriate - and I'm not talking about disciplinary-style issues; I'm talking about just managerial decision-making, et cetera - is a good way of providing direct feedback right through to formal performance management and ultimately removal from the position.

30 **MR LLOYD:** One feature of the operations at Dillwynia that we've heard evidence about is there were there a number of married couples or couples who were in intimate relationships. Were you aware of that?

MR SEVERIN: I now am, yes.

35

MR LLOYD: You now -

MR SEVERIN: I - again, I don't deny the fact that we have operations where you have couples working together.

40

MR LLOYD: In a hierarchical organisation, that obviously can lead, at least potentially, to problems?

45 **MR SEVERIN:** If you - it can, yes, but there are mechanisms in place, obviously, to proactively address that. So ultimately you can separate people by moving one of the partners to another facility or to another workplace. You can separate within the facility and do a whole range of things, as long as it is open and transparent

and gets disclosed, of course, that there is a relationship and that the parties are aware of the behavioural expectations that that exactly results in.

5 **MR LLOYD:** And obviously movement of an officer away from a particular correctional centre because they're in an intimate relationship might create problems if you, say, take a regional -

MR SEVERIN: Absolutely.

10 **MR LLOYD:** So that's one potential issue that needs to be managed?

MR SEVERIN: Yes.

15 **MR LLOYD:** Another thing we've heard some evidence about is there might be some views held by the union about that. Is that, on your understanding -

MR SEVERIN: Yes.

20 **MR LLOYD:** - another thing that would need to be managed?

MR SEVERIN: Yes.

25 **MR LLOYD:** But aside from the managing problems of those two, and no doubt there are others, do you think that if those issues can be managed, the ideal scenario for people performing roles as public officials of this kind is that they would not be working in the same place as their intimate partner?

30 **MR SEVERIN:** Like you said, there are workplaces where it's almost impossible to separate the persons. But what you do then is internally ensure they're not compromised in fulfilling their roles professionally through the existence of a relationship with an officer. And certainly you don't, particularly if one party is more senior than the other, let them work together in the way that obviously happened.

35 **COMMISSIONER:** There's obviously a potential for a conflict between the two, depending upon their levels, within the institution. And so much was evident here with Mr Astill.

40 **MR SEVERIN:** Yes. Absolutely. I totally agree with that. There is potential for misuse of your - of your power, and there is potential of your personal relationship negatively affecting the way you actually work. Yes.

45 **MR LLOYD:** And another issue that may or may not be related to that is we've heard evidence of extremely long uninterrupted periods of service by officers at Dillwynia. Routinely, officers there for more than 10 years. Some only ever worked at the Centre. Are you aware of that evidence?

MR SEVERIN: I am.

5 **MR LLOYD:** What can you tell us about whether it would be good corporate governance to have some kind of either principle or guideline, or even something more concrete, limiting years of service at a particular Centre?

10 **MR SEVERIN:** I think, ideally, you would have a rotation policy, similar to the ones you see in other services like police. There might be some differences, particularly when it comes to specialist roles. However, under the Government Sector Employment Act, that is not as simple - not as simple to be implemented. So police, obviously, have a different piece of legislation that governs that, but you can't do that. You can't just move public servants on a regular basis or on a (indistinct) basis without having to go through quite an involved process.

15 So the - and it's not the only prison where you have people working for extended periods of time, almost their whole career. And the attempts that I'm aware of that were made at the time, together with our HR partners, the people - the vision partners, were to encourage voluntary movement. But then again, you don't - through voluntary movement, you don't get the ones you may want to
20 actually move or encourage to move.

And the - the advantage that New South Wales had during my time was that we did close a lot of facilities down and got people - they had to move because facilities - some were opened up down, were closed down again, new facilities
25 were built, transfer opportunities existed, so there was a quite dynamic way of staff being distributed throughout the state as a result of that. But it wasn't because of a legislative framework; it was simply because of where the workplace was - you know, where the job opportunities were and promotional opportunities.

30 **MR LLOYD:** I'll get you to comment on this proposition coming from me with absolutely no experience or training in managing the kinds of things that you're an expert in managing. When considering people for promotion or rising up through the ranks, is it a factor to be taken into account, the reach of their experience throughout correctional Centres?

35 **MR SEVERIN:** Not as a mandatory requirement. But, of course, if you have a very rich CV, that actually is a testimony of the fact that you have diversified your experience through moving between facilities or inside of prisons into other areas where custodial officers are employed. I would strongly suggest that's an
40 advantage.

MR LLOYD: Even that wouldn't deal with the problem I think you raised, that people who didn't want to move up - you're not going to force them to move through encouragement of that kind anyway?
45

MR SEVERIN: There was no mechanism to actually, against their will, force a person who did everything right to change workplaces.

MR LLOYD: A final -

5 **COMMISSIONER:** Mr Severin, you said there are legislative issues - or
legislation issues around capacity to move officers. Of course, there are many
services, as you acknowledged, that are provided by the state where it's an
obligation to be able to move from one location to another. That includes for some
judges, you probably realise, at some levels in the system. Given that - I think it's
10 clear, that good management would ensure that people don't become - or don't stay
for too long in the same space - and we've had evidence about how that shouldn't
happen - it would be possible, of course, for government to initiate legislation that
the Parliament might consider to ensure a better management of the Corrective
Services arrangements. Would that not be right?

15 **MR SEVERIN:** Yes, I agree. And that would be the most robust way of
achieving this. We tried with the Government Sector Employment Act to make
it - not mandatory, but to make it sort of a condition of employment -

20 **COMMISSIONER:** Yes.

MR SEVERIN: - and we were - failed at every juncture when it came to the
Government Sector Employment Act in the context of not enforceable. So we
even appointed a person to a region, from memory, rather than a prison, and - but
the fact that they were in that prison - and I'm talking about not people being there
25 20 years, but during my time - gave them some rights in maintaining that
workplace under the GSE, which no doubt is well intended, but it's not suitable for
the custodial environment (indistinct).

30 **COMMISSIONER:** Yes.

MR LLOYD: A final topic from me, Mr Severin -

35 **COMMISSIONER:** I'm sorry, Mr Severin. I lost it too. The transcription has
missed the last part of that sentence - your last sentence. Can you give it to me
again?

MR SEVERIN: Sorry, the last part?

40 **COMMISSIONER:** Gave some rights in maintaining - there were 20 years - you
see, I'm sorry - now I've lost it too. Just a minute. You said - you were talking
about people not being there 20 years -

MR SEVERIN: Yes.

45 **COMMISSIONER:** - but during your time, gave some rights in maintaining
workplace under the something or other, and the rest of the sentence was lost.

5 **MR SEVERIN:** So what I - what I was alluding to was that during my time, we'd endeavoured for newly employed staff to have an arrangement where they were, in one instance, only appointed to a particular area or whatever number of prisons, or to have a mandatory requirement for movement. And we weren't successful with that under the Government Sector Employment Act because once you are at a workplace - and this is my understanding, but no doubt people will provide proper advice. If you - once you are assigned to a workplace, you have a strong case to argue that you should stay in that workplace unless there are obviously other circumstances. So -

10 **COMMISSIONER:** How do we get on with teachers, police, judges, fire officers and so on? How -

15 **MR SEVERIN:** I can't comment on judges. I can comment on police, and that's in the legislation, the requirement for -

COMMISSIONER: In the legislation. So that's what needs to change?

20 **MR SEVERIN:** Yes. It should be a condition of employment -

COMMISSIONER: Yes.

25 **MR SEVERIN:** - to be required to change your workplace on a regular basis, whatever - two years, three years, whatever.

MR LLOYD: A final topic from me. Moving forward to the time that you became aware of the first very serious allegation of sexual assault by Astill on - that was on an inmate, Trudy Sheiles. That was toward the end of 2018, I think (indistinct).

30 **MR SEVERIN:** Yes.

35 **MR LLOYD:** You almost immediately became aware that the police wanted to investigate, and you - tell me if I've got it wrong, but you made it your personal business to ensure that they received Corrective Services' full cooperation in their covert operation?

MR SEVERIN: Yes.

40 **MR LLOYD:** And then later on, with the investigation as it broadened, including after Astill's arrest; is that right?

MR SEVERIN: Yes, that's correct.

45 **MR LLOYD:** Now, throughout your time as Commissioner ending in around the middle part of July 2021, to your knowledge, the criminal justice system had not yet dealt with the charges that were levelled against Astill; correct? You need to give a verbal response. Yes. And for that reason, it was completely inappropriate

for any disciplinary or other investigation to be done in relation to Astill's offending –

MR SEVERIN: Yes.

5

MR LLOYD: - for the reasons you told us before. Take it from me that in the second half of 2022, the jury returned verdicts. You probably know this anyway, following –

10 **MR SEVERIN:** I just followed the news at the time, yeah.

MR LLOYD: Disclosing criminal offending over around three years, 30-plus offences proven, 13 or more women the subject of the offending, multiple – separately, multiple intelligence reports that had been sent up out of the gaol, not
15 acted on, and multiple other examples of reports which, it would appear, weren't acted on within the gaol. Accepting all of those things from me for the purpose of the question. Once the jury returned the verdicts, do you think that it was necessary, having regard to those matters that I've just put to you about the scale, length, gravity of both the offending and the failure of the institutional response to
20 it, for Corrective Services to embark on a review of what went wrong at this Correctional Centre?

MR SEVERIN: Yeah, I mean, I wasn't aware – I wasn't around at the time –

25 **MR LLOYD:** You weren't there –

MR SEVERIN: - and good practice, I guess, would dictate that that's happening. However, if I can just step back to the time when this sort of – when it was formally brought to my attention. We were, as a result of the ongoing
30 investigations, prevented from doing any overt activity to could be linked to it being a result of what the investigation was trying to establish. So we used – and, again, that was something I quite clearly pursued as a result of this. The findings from two inquiries – one was the Operation Estry from ICAC, and the other one was Taskforce Themis, named after a Greek God (indistinct), into inappropriate
35 relationships between staff and inmates and – which resulted in a report.

So they had – Themis and Estry had a range of recommendations, all of which – sorry, most of which were directed towards improving systems, processes and governance for preventing inappropriate relationships from happening. Legislation
40 was changed and a range of other things. So there's a whole catalogue of actions that was taken at the time and certainly continued to be followed after – or when I left. Like, it was a work in progress still at that stage, which was – while we couldn't name it as a direct result of Astill, we nevertheless had that, certainly in my view, very clearly in mind, you know, to prevent that happening. But it was
45 not a formal review into Dillwynia and what actually happened at the time.

MR LLOYD: And this is my question: Once that impediment, that is, the criminal justice system dealing with the allegations and charges – once that had been removed, you’ve got just – would you agree with me – a catastrophic failure at this gaol in terms of result? Do you agree?

5

MR SEVERIN: Yes.

MR LLOYD: I’ve raised things with you about an institutional failure to deal with reports which were made; agree?

10

MR SEVERIN: I agree.

MR LLOYD: Would it be necessary, in your view, once that impediment, that is, the criminal justice system doing its work in relation to Astill, for Corrective Services at that point to embark on a specific review of what on earth went wrong at this particular Centre?

15

MR SEVERIN: I – I agree.

20 **MR LLOYD:** Would you expect that to have happened?

MR SEVERIN: As in, me not being there and not – but from my professional Corrections knowledge, yes.

25 **MR LLOYD:** I’m not suggesting you should have come out of retirement and done anything about it yourself. You understand?

MR SEVERIN: Yes, but I – but I agree with what you’re saying.

30 **MR LLOYD:** You headed this agency for nine years. If you had been there, would you expect that you would have made sure that there was a proper review to find out what went wrong, including at the institutional level, to see if there were things that still needed to be fixed?

35 **MR SEVERIN:** Yes.

MR LLOYD: Those are my questions, Commissioner. I’ve undertook to Ms Barnes, who’s here for Mr Severin, to raise with you, Commissioner, that she is here (indistinct) failed to follow that undertaking.

40

MS BARNES: Yes, your Honour. (Indistinct). My name is Barnes, B-a-r-n-e-s, (indistinct).

COMMISSIONER: You have leave.

45

MR LLOYD: Those are my questions.

COMMISSIONER: Mr Sheller.

<EXAMINATION BY MR SHELLER:

5 **MR SHELLER:** Mr Severin, my name is James Sheller. I'm one of the legal representatives for Corrective Services. Could Mr Severin have Volume 8 of the tender bundle. I think that's volume – I'm not sure what volume you have at the moment.

10 **MR SEVERIN:** This is Volume 8, I think.

MR SHELLER: Could you please go to Tab 84 and – Tab 84.

MR SEVERIN: 84.

15

MR SHELLER: And there's, within that tab, some annexures. If you could go to Annexure K.

MR SEVERIN: Yes.

20

MR SHELLER: This is the email from Mr Shearer to Governors and Managers of Security which you were asked to look at before, Mr Severin. You were asked some questions just after the morning break concerning what you understood Mr Shearer knew about this policy, and you gave an answer to a question. I just want to see if I've captured this correctly. If you could just have a look at the second paragraph of what Mr Shearer says to the Governors and the Managers of Security in relation to his understanding of the process thereafter.

25

MR SEVERIN: Yes.

30

MR SHELLER: I thought you might have said in answer to a question from Mr Lloyd that whatever Mr Shearer's understanding may have been of that change in policy, his involvement at the end of 2017 at Dillwynia with a proposal in relation to mediation of complaints could not have been as a response to that change in policy; is that correct?

35

MR SEVERIN: That was certainly my – sorry, I don't have any hard evidence to say it wasn't related to him having this policy in mind.

40 **MR SHELLER:** Yes.

MR SEVERIN: But what I read about the mediation, it was at the request of the Governor in relation to matters that had already been investigated – in inverted commas – internally and now that was subject to some mediation between parties. So I didn't see any direct inference there in relation to incidents of discipline or performance nature. However, it could well be that he felt that this was sort of guiding him doing that.

45

MR SHELLER: Thank you. And then if you could just close that folder up, Mr Severin, and if Mr Severin could be provided with Volume 14. Mr Severin, if you could go to, again, Tab 452.

5

MR SEVERIN: Yes.

MR SHELLER: Just before I show you any parts of that email, is it correct that your understanding during your time as Commissioner was that the Investigation Branch and Professional Standards were working together in terms of investigating misconduct?

10

MR SEVERIN: Yes.

MR SHELLER: And it was your expectation that, for example, Mr Hovey in the Investigations Branch would be reporting to Professional Standards certain decisions that he was making?

15

MR SEVERIN: Yes.

20

MR SHELLER: Including any decisions he may make upon considering and working upon an intelligence report?

MR SEVERIN: Yes.

25

MR SHELLER: If you could just have a look at the bottom of this email – sorry, this chain, on the bottom of the first page behind Tab 452, which is email from Mr Greaves to Mr Robinson. You’ll see the date of 11 October 2017.

30

MR SEVERIN: Yes.

MR SHELLER: I take it you don’t know – or didn’t know in terms of having read this document for the purposes of this Commission, that as at that date, that is, 11 October 2017, an intelligence report concerning this very inmate, Witness M, had been provided to the Investigation Branch?

35

MR SEVERIN: Yes.

MR SHELLER: And that that intelligence report had been worked on by a Mr Tayler within the Investigation Branch and that the Investigation Branch had finished its work to the point of signing off on the closure of the matter. I take it you weren’t aware of that?

40

MR SEVERIN: I wasn’t aware of that. I just can’t find the reference to Mr Tayler.

45

MR SHELLER: Just accept from me that Mr Tayler is a gentleman working under Mr Hovey in the Investigation Branch.

MR SEVERIN: Oh, right. Okay. Yep.

5

MR SHELLER: I take it your expectation at the time was that in a matter of this seriousness, if Mr Hovey had decided to close off the matter within his role within the Investigation Branch, that's something that would be communicated to Professional Standards?

10

MR SEVERIN: That's correct.

MR SHELLER: For their view as to whether that was the right course or not?

15

MR SEVERIN: Sorry, he should have reported this to PSB. He should have in turn referred it also to the PSC, the Professional Standards Committee.

20

MR SHELLER: Well, your view is that if the PSB had been told by Mr Hovey that he had closed off the matter and they were aware of this type of information, the PSB would have referred it to the PSC itself?

25

MR SEVERIN: Certainly the – I mean, again, the detail of the allegations are not here. But it sounds – when we're talking about sexual advances and serious misconduct, that is certainly a matter that has to be referred – or had to be referred at the time to the PSC, as well as obviously the PSB. It could not have been kept just with the IB.

30

MR SHELLER: It's impossible to understand how it could have been closed off in the Investigation Branch, allegations of this nature?

35

MR SEVERIN: Yes, in the absence of knowing what investigation might have taken place by police. But if that – if there was an investigation, a formal one, PSB and PSC would have been informed anyway on that. So that I assume that there wasn't a proper investigation conducted at this stage.

40

MR SHELLER: Well, if it's the case that the intelligence report never made it to the PSB, that line of reporting through to the Assistant Commissioner, then ultimately to you?

45

MR SEVERIN: It would. Yeah. So the intelligence report containing information like this should have been referred. It wasn't incumbent on the Director of IB to decide the matter (indistinct).

MR SHELLER: Yes.

MR SEVERIN: It should have been referred up.

MR SELLER: But my point is if the intelligence report had never made it to the PSB, then the PSB would not have been in a position to report upon its contents to the Assistant Commissioner and then up to you?

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

MR SELLER: And as I understand it, the process whereby someone within the Investigation Branch could close off a matter without reference to the PSB is completely alien to how the system should have worked, as you understood it?

10

MR SEVERIN: Yes.

MR SELLER: The evidence from Mr Hovey is that there were eight intelligence reports concerning Mr Astill which the Investigation Branch received, and none of those made it to the PSB. What would your comment be of that fact, if it's accepted what Mr Hovey says?

15

MR SEVERIN: I mean, without knowing the content of the intelligence, intelligence doesn't necessarily mean criminal behaviour. But it's highly –

20

MR SELLER: I want you to see, Mr Severin, and accept that it's of this type.

MR SEVERIN: This nature clearly had to be referred. And if there were eight of this nature, then it's catastrophic that it wasn't referred.

25

MR SELLER: And that in addition to not reporting any of them to the PSB, Mr Hovey did not assign any of the investigators within his own branch to interview anyone in relation to any of the matters contained in those eight intelligence reports.

30

MR SEVERIN: That's, likewise, not – I can't understand. That's not right.

MR SELLER: Those are my questions. Thank you, Mr Severin.

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

MS GHABRIAL: If I may, Commissioner.

<EXAMINATION BY MS GHABRIAL:

40

MS GHABRIAL: Mr Severin, my name is Ms Ghabrial and I appear for a group of correctional officers. I just had a couple of questions. In relation to the email of 12 September 2017, which you've been taken to now by Counsel Assisting and by Mr Sheller of senior counsel as well – you gave some evidence earlier about having become aware of this direction from the Assistant Commissioner of Governance. Who was that at the relevant time?

45

MR SEVERIN: Mr Koulouris. James Koulouris.

MS GHABRIAL: And do you recall how it was that you were made aware of that direction that had been given?

5

MR SEVERIN: Verbally. He brought it to my attention. I can't recall if it was at a regular meeting or if he saw me specifically and I directed him to take it up with Assistant Commissioner Corcoran for it to be (indistinct).

10 **MS GHABRIAL:** At the time that you had received that verbal communication, do you recall thinking to yourself – I think you've admitted in the course of your evidence today that that was a fairly serious breach of protocols; correct?

15 **MR SEVERIN:** It was certainly a breach of protocol, and it could have been serious in the context of matters potentially not being followed through, being simply left to the judgment of an individual, albeit no doubt very professional, by that person.

20 **MS GHABRIAL:** Given that – and I assume that when you received that information from the Assistant Commissioner for Governance, that at the very least it was a thought in your mind that this was a breach of protocols; if not, had the potential for a serious breach of protocols?

25 **MR SEVERIN:** It had the potential to be.

MS GHABRIAL: And did you, with that in mind, make any notations or notes about what you had been told?

30 **MR SEVERIN:** I might have. I didn't keep my notes when I left my employment because –

MS GHABRIAL: You didn't?

35 **MR SEVERIN:** I didn't, no, because there's a very fine line between things that are clearly confidential, that you don't want them lying in boxes at your home. So I destroyed all my notes.

40 **MS GHABRIAL:** So do you recall being at home when you received that verbal communication?

MR SEVERIN: Sorry?

MS GHABRIAL: When you at home when you received that verbal –

45 **MR SEVERIN:** No. Sorry. When I talked about home, it was the reference of me leaving my job –

MS GHABRIAL: Okay.

MR SEVERIN: - taking things with me. So, no, I was at work when this was brought to my attention.

5

MS GHABRIAL: After it was brought to your attention, was there an immediate communication by you to Assistant Commissioner Corcoran?

MR SEVERIN: No, there wasn't. It was through Assistant Commissioner Koulouris. And as I mentioned in evidence earlier, I cannot recall details of me talking to Mr Corcoran about it. It wasn't a formal process. It was – if anything, I would have communicated with him verbally about it.

MS GHABRIAL: Are you saying that you can't recall having a conversation with Assistant Commissioner Corcoran or that you do recall having a conversation but you can't remember what that entailed?

15

MR SEVERIN: The latter.

MS GHABRIAL: The latter. Okay. And you made no notes of that conversation?

20

MR SEVERIN: I might have made notes, but I haven't got those notes any more.

MS GHABRIAL: At some stage, did you actually receive the minutes that were taken during that meeting that led to that direction?

25

MR SEVERIN: I remember receiving minutes from the Custodial Corrections executive on a regular basis. And I mentioned earlier in my evidence that one of the minutes that I've now had the benefit of having a look at again – I mean, I didn't recall it from the time. But now that I've seen it, that made a mention in there. I would have spoken to the – sorry, the Assistant Commissioner, Governance would have come to me before I would have received the minutes, as soon as he became aware that this was happening. The minutes might have taken a period of time before they got to me. But I – I cannot give you any indication on the actual sequence of events at t-e time.

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35

MS GHABRIAL: But at the time it was quite a serious decision that had been made, on your evidence, without consulting you at all; is that correct?

MR SEVERIN: It was – it was clearly not an appropriate decision. It would have required a change of policy and procedure. And the way you do that is you use the avenue of either a submission to the Commissioner or a discussion at the executive group meeting which would have then resulted in a submission. And then ultimately you would have obtained some professional advice, and then redrafted the policy after some form of consultation as well. We would have also obviously obtained legal advice not just from Professional Standards lawyers but also from the Departmental lawyers in relation to the appropriateness of this change.

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45

MS GHABRIAL: But as the Commissioner for Corrective Services in the highest position of the organisation, did you not think that it was appropriate at that time to issue an immediate direction to all of the Directors and to Assistant
5 Commissioner Corcoran to correct or to ensure that that direction was not followed?

MR SEVERIN: No, I didn't issue a direction to rescind. That was done through – by communication with the Assistant Commissioner Governance. But what is very
10 clear is the policy stood, the policy was binding for everybody in Corrective Services New South Wales in relation to dealing with misconduct and dealing with disciplinary matters, and so I hadn't changed that policy. So I was quite satisfied that the intervention through the Assistant Commissioner Governance and Continuous Improvement was sufficient for this matter to be rescinded.

15 **MS GHABRIAL:** What steps –

COMMISSIONER: Well, Mr Severin, I think you told me, though, there should have been a written communication.

20 **MR SEVERIN:** As –

COMMISSIONER: Proper management would have resulted in a written communication rescinding that previous email. You told me that earlier on.

25 **MR SEVERIN:** Yes. However, I had no reason to believe that the way it was dealt with was sufficiently robust to ensure that this was not to continue. Of course when I now look back - and I'm not talking about hindsight here, but - and I'm not trying to make it sound relative, but I felt quite - quite comfortable to deal with it
30 in the way it was dealt with, in light of that the matter - and given that the matter was rescinded by the Commissioner - sorry, by the Assistant Commissioner Custodial Corrections as a result of the intervention from the Assistant Commissioner.

35 **COMMISSIONER:** You surprise me. I would have thought that when you have got such a serious matter communicated in writing, the proper thing to do is to respond in writing saying, "That previous email is to be ignored." Surely that is what you would do in a -

40 **MR SEVERIN:** I don't know how it was rescinded. It may well have been rescinded through email to the relevant decision-makers. It didn't come from -

COMMISSIONER: We haven't found it.

45 **MR SEVERIN:** It didn't come from me.

COMMISSIONER: We don't have it so it doesn't seem to exist.

MR SEVERIN: It obviously doesn't but I didn't issue anything at the time.

COMMISSIONER: No.

5

MS GHABRIAL: Can I ask you this, Mr Severin: Given the evidence you've given about understanding that the appropriate action was taken to address that direction, which had obviously those serious potential ramifications, what steps did you take to follow up with Assistant Commissioner Koulouris to ensure that
10 that had been actually addressed by him with all the directors and Assistant Commissioner Corcoran?

MR SEVERIN: He informed me that the matter had been rescinded, and that we were basically managing, as we always have managed, according to the existing
15 policy and procedures. So he got back to me to confirm that matters were basically taken care of.

MS GHABRIAL: Did you tell you how he did that?

MR SEVERIN: I can't recall if he told me. It would have been obviously
20 a conversation and a very clear instruction to change it.

MS GHABRIAL: Did he tell you whether or not he had sent a written communication to all of the Governors who had received that direction and all of
25 the Directors who were responsible for that direction being given and the Assistant Commissioner responsible for Custodial Corrections, did he indicate that anything in writing had been sent to all those parties?

MR SEVERIN: Like I just mentioned to the Commissioner, I'm not aware how
30 that was done, through email, through written direction, and by who in terms of - I would have expected it would have come from the Assistant Commissioner Custodial Corrections. And what would have also been - been raised through the Director of Professional Standards reminding everybody that the processes are still the way processes were. I'm not across - I can't recollect the detail of what was
35 actually done by those people.

MS GHABRIAL: Having received that verbal confirmation of this rescission, or that direction, did you ask Assistant Commissioner Koulouris to forward you any
40 evidence or indication as to how it was done?

COMMISSIONER: Ms Ghabrial, this is not profitable, sorry. I think we should move to another subject.

MS GHABRIAL: Thank you. Do you recall having any conversations with any
45 of the directors at all, or were all your communications only through the Assistant Commissioner for Governance, that you can remember?

MR SEVERIN: I didn't have any conversation about that with any other director.

5 **MS GHABRIAL:** There was just one further thing as well that I wanted to take you to. In Volume 7, Tab 542 - sorry, Volume 17, Tab 542, perhaps if I could just take you to that.

MR SEVERIN: Would you repeat the Tab number?

10 **MS GHABRIAL:** 542. I'll just pull that up myself.

MR SEVERIN: Yes.

15 **MS GHABRIAL:** So there at the top of the page you can see that it is an email from you to Michael Hovey on 21 November 2018. Do you see that there?

MR SEVERIN: Mmm.

20 **MS GHABRIAL:** And that appears to be in response to an email from Mr Hovey of the same date, 21 November 2018?

MR SEVERIN: Yes.

25 **MS GHABRIAL:** If you could just scroll down the email from Mr Hovey, about, I think it's the third paragraph, it says this:

"I have had the opportunity to read a copy of Astill's New South Wales Police Professional Standards file. This is a highly confidential document."

30 Do you see that?

MR SEVERIN: Yes.

35 **MS GHABRIAL:** Then Mr Hovey goes into detail as to - that after Mr Astill had joined Corrective Services:

"At the time that he had joined Corrective Services he had done so after having resigned from the police on 27 March 1996."

40 Do you see that? And then he goes through all of the details from his Professional Standards file from the police. Do you see that?

MR SEVERIN: Yes.

45 **MS GHABRIAL:** Where he talks about:

"At the time of his resignation from the police, he had engaged in gross acts of misconduct and neglect of duty and of note the then Assistant

Commissioner of New South Wales Police Professional Standards, Geoff Schuberg stated 'It is in the public interest and the interests of the service that the resignation be accepted'."

5 This was a resignation from Mr Astill:

"The detective senior constable is not entitled to a satisfactory certificate of discharge."

10 End quote. Do you see that?

MR SEVERIN: Yes.

15 **MS GHABRIAL:** Then further down he goes into some details about all of the, what appear to be criminal conduct that was engaged in by Mr Astill but not taken any further than that. He just - his resignation was accepted. You see that there?

MR SEVERIN: I can see that, yes.

20 **MS GHABRIAL:** Just following from the question that was asked of you about if you had been in charge at the relevant time, in respect of Mr Astill's offending conduct over the relevant period and had the opportunity to essentially investigate what went wrong in relation to him, you would have given that direction or you would have asked for that to occur, a full Inquiry into his conduct internally;
25 correct?

MR SEVERIN: Yes, I think as is evident here, that already happened for the (indistinct).

30 **MS GHABRIAL:** That's what I wanted to ask you. Having been made aware that this officer at the time that he had commenced his service with Corrective Services New South Wales, having been made aware by Mr Hovey that this was an officer who had a very dark past from the New South Wales Police with this kind of information in his Professional Standards file, did you take any steps to find out
35 how it was that Mr Astill actually managed to be employed by Corrective Services New South Wales with this kind of file in his past?

MR SEVERIN: No, I did not. The likelihood of me being able to get any information that would have added any value to what we were facing at the time
40 would have been quite remote. I had no reason not to believe what Mr Hovey put to me as a result of him having access to that highly confidential Professional Standards file from New South Wales Police. I mean, as I mentioned here in my response, that I had obviously issues with the system at the time that people like that slipped through. I was a lot more confident when I was there that matters like
45 this would have been far more unlikely than they might have been in the 80s or 90s to occur.

MS GHABRIAL: Just in light of that, obviously it was quite a serious - and I'm not saying it was under your watch - but quite a serious failure in employing somebody like that into the Corrective Services organisation; correct?

5 **MR SEVERIN:** Only if the information would have been available to recruiters at the time.

COMMISSIONER: Well, Mr -

10 **MR SEVERIN:** I cannot judge. But if it's a highly confidential Professional Standards file, there are certainly some - some - there's a likelihood that this information would have never been shared with Corrective Services at the time.

15 **COMMISSIONER:** Mr Severin, if your organisation is employing someone who is leaving the police force, at the very least wouldn't you do what you would do with anyone coming in, and that is ask their previous employer?

MR SEVERIN: Yes.

20 **COMMISSIONER:** And an honest answer from the police would have told you this man should never be employed in Corrective Services?

MR SEVERIN: I agree.

25 **COMMISSIONER:** It wasn't a question of necessarily getting access to their highly confidential file?

MR SEVERIN: I agree. I was just referring to this information.

30 **COMMISSIONER:** Yes.

MR SEVERIN: There should have been some proper reference checking done. And I agree with what you're saying, that not reference checking should have resulted in at least being made aware that this officer has got some serious issues.
35

COMMISSIONER: Yes. I mean, it's a mystery as to why he wasn't ever charged with some of these -

40 **MR SEVERIN:** At the time, yes.

COMMISSIONER: - matters.

MR SEVERIN: Yes.

45 **COMMISSIONER:** But nevertheless, a proper process from Corrective Services surely would never have let him in?

MR SEVERIN: And obviously I can't speak for the recruitment -

COMMISSIONER: No, I'm not suggesting you can.

5 **MR SEVERIN:** But I totally agree that reference checking - background checking is very, very important.

COMMISSIONER: Yes. And when you came into the job, did you ever come to appreciate that there may be problems in that part of the organisation?

10

MR SEVERIN: To some extent, particularly when we embarked on the recruitment of a large number of correctional officers. At a time, that was very difficult. We were dealing with a whole range of very serious threats to national security, and we needed to ensure that we were not getting the wrong people into our employment. The process that was managed by the human resource group stopped background histories, and I'm not critical about that, but that didn't serve Corrections right. That's one of the reasons we had these workload issues. But we actually did undertake some very, very thorough background checks into individuals to ensure that we didn't end up employing the wrong person. This type of information would have been automatically brought to the surface for that large group of people that we employed.

15
20

MS GHABRIAL: So just in that respect - I don't know what the protocols were when you left, but were the protocols in respect of employing or recruiting new people such that if they did come from another government organisation, that their Professional Standards file would automatically have to be made available before they're employed or that wasn't something that was in place during your time?

25

MR SEVERIN: That's obviously depending on which organisation we're dealing with. If we would have recruited somebody from an intelligence organisation, I doubt if they would have made Professional Standards files available. But reference checking doesn't require that level of detail, as long as you get a fair appreciation and appraisal off somebody's bona fide, so to say, and if somebody might not be suitable to become a prison officer.

30

35

MS GHABRIAL: In that respect, though, reference checking, you would agree, if a person is put down as a reference for the applicant, that there is always a possibility that that person might not convey this kind of information to the body or the organisation that's checking that reference? You would appreciate that, wouldn't you?

40

COMMISSIONER: Ms Ghabrial, I don't think you can make that claim in relation to a request of the police to inform Corrective Services whether someone is suitable.

45

MS GHABRIAL: I think there's a distinction to be drawn between a person who's referenced and the organisation. And so what I was going to ask -

COMMISSIONER: I don't think so. The person in the organisation - in the police force has an obligation to tell the truth.

5 **MS GHABRIAL:** I understand that, Commissioner.

COMMISSIONER: Ms Ghabrial, you're whistling in the wind, I'm afraid.

10 **MS GHABRIAL:** Perhaps if I could just ask this just to finish off. Do you think that there would be utility that each time a person applies for a position with Corrective Services New South Wales, if they've come from a government background like the police or other government organisations, that they are required to consent to their Professional Standards file being released to Corrective Services so that -

15 **COMMISSIONER:** Ms Ghabrial, I can think of many reasons why that would be an onerous obligation. There may be information in there which has nothing to do with their capacity or integrity in performing the task for which they have applied. I don't think that takes us anywhere.

20 **MS GHABRIAL:** I understand.

COMMISSIONER: But what you can expect from a government department is an honest response to a request for a reference. That's where the obligation lies.

25 **MS GHABRIAL:** On the assumption that they're getting an honest response and it's not a subjective response -

30 **COMMISSIONER:** Well, I've been through that ground with you, Ms Ghabrial. You must be overly suspicious, I suspect.

MR SEVERIN: Can I make one comment there. I think there's also a robust way of dealing with references, is to look at the requirement to nominate your previous line supervisor, so not somebody that you might have reported to six years ago. That is a relatively robust way of getting sort of a recent appraisal of somebody's -

MS GHABRIAL: And was that something that they were required to do at the time that you were -

40 **MR SEVERIN:** By and large, yes. There were some - some services where that wasn't possible, but by and large that was always a requirement, to nominate with your application your previous line supervisor.

MS GHABRIAL: Nothing further. Thank you, Commissioner.

45 **COMMISSIONER:** Anyone else, questions?

MR HORTON: Commissioner, I'm unlikely to examine this witness, but I do need to raise some matters with my client over the lunch break, to take instructions for matters which were raised - and no criticism, but we weren't provided with the statement beforehand. But I do need to check some matters with my client.

5

COMMISSIONER: Is there anything you can go on with at the moment?

MR HORTON: No, there's - at present, there's no examination.

10 **COMMISSIONER:** All right. Does anyone else have any questions?

MR DEAN: I do, Commissioner.

<EXAMINATION BY MR DEAN:

15

MR DEAN: Mr Severin, my name is Dean. I appear for Mr Hamish Shearer. You gave some evidence earlier in answer to a question from Senior Counsel Assisting about the mediation between my client and Mr Corcoran that was conducted by Deputy Commissioner Luke Grant.

20

MR SEVERIN: Yes.

MR DEAN: Do you remember that evidence?

25 **MR SEVERIN:** That's correct.

MR DEAN: Do you recall, before that mediation, receiving an email from Mr Shearer raising concerns about Mr Corcoran's management of a performance assessment of Mr Shearer?

30

MR SEVERIN: I think that was subject to the grievance resolution that was undertaken by Mr Grant, from memory. So it was all rolled up into - into this process of mediation. And I did have a meeting, as I mentioned in my evidence, with Mr Shearer, from memory, and the then Executive Director of Human Resources, Michael Baldi, talking about some details of him being aggrieved. And that resulted in the - in the mediation, which he consented to and participated in.

35

MR DEAN: Well, I want to suggest to you that the meeting that you had with Mr Shearer about the bullying claims - that's the meeting you are talking about?

40

MR SEVERIN: (Indistinct), yes.

MR DEAN: And in that meeting, Mr Shearer raised concerns that he had; is that correct?

45

MR SEVERIN: Yes, that was the very reason why we met. Yes.

MR DEAN: And also concerns that Governors had about Mr Corcoran as well?

MR SEVERIN: Yes. So he stated that - I didn't go and independently verify the views of Governors -

5

MR DEAN: Yes.

MR SEVERIN: - but he stated that he had some issues with Assistant Commissioner Corcoran and detailed them. I don't have all the details off the top of my head. And if you state, I don't have any reason not to believe that he would have also referred to Governors having similar concerns.

10

MR DEAN: Thank you. And I want to suggest that the email about performance assessment happened about a year after that meeting.

15

MR SEVERIN: I - I haven't got that in front of me. My recollection is that I met with Mr Shearer. There might have - there might have been another one that I'm just simply not - not across at this point in time. (Indistinct) want to provide me with the information, I'm more than happy to -

20

MR DEAN: Is it fair to say that your memory about these matters is not perfect?

MR SEVERIN: It's fair to say that my recollection of - of all the details -

25

MR DEAN: Yes.

MR SEVERIN: - is - is not - I would never say it's perfect, and obviously it's my best endeavour. I have no reason not to try to provide the information as I recall it.

30

MR DEAN: So if I suggested to you that the mediation had arisen because of that performance assessment process, you wouldn't be able to disagree with that proposition?

35

MR SEVERIN: No, that's what I just said. My understanding was because there was a - a concern about a range of things - one of them was being bullied and harassed; the other one was in relation to performance agreements - that I suggested to engage in that mediation process. I did that both with Mr Shearer and Mr Corcoran, and they both agreed, separate from one another obviously, and Mr Grant was accepted by both of them as a suitable person to undertake that mediation.

40

MR DEAN: If I suggested to you that the mediation was independent and much later than the bullying complaints, what do you say to that suggestion?

45

MR SEVERIN: I - in the absence of having information in front of me, I cannot dispute what you're saying.

MR DEAN: You can't be sure?

5 **MR SEVERIN:** I can't be sure of the sequence of the events. All I know is that there were serious issues between Mr Corcoran and Mr Shearer. They resulted in complaints being made. They resulted in a process being engaged in to resolve those - those concerns. And to the best of my recollection, that was the mediation process. I was involved in the - the organisation of this following me being appraised on their concerns. The actual sequence, or if there were one or two different occasions where he's actually raised these grievances, I cannot recall.

10

MR DEAN: Those are my questions, Commissioner.

COMMISSIONER: Yes. Is there anyone else wishing to ask a question? Very well. We'll take the luncheon adjournment.

15

<THE WITNESS WAS RELEASED

<THE HEARING ADJOURNED AT 12.59 PM

20 **<THE HEARING RESUMED AT 2.02 PM**

MS DAVIDSON: Commissioner, the next witness is Saffron Cartwright, and she'll take an affirmation.

25 **<SAFFRON CARTWRIGHT, AFFIRMED**

<EXAMINATION BY MS DAVIDSON:

30 **MS DAVIDSON:** Ms Cartwright, could you tell the Commissioner your full name?

MS CARTWRIGHT: Saffron Lynn Cartwright.

35 **MS DAVIDSON:** And did you prepare a statement for the purposes of this Commission dated 25 October 2023?

MS CARTWRIGHT: I did.

40 **MS DAVIDSON:** And are the contents of that statement true?

MS CARTWRIGHT: They are, but I'd just like to clarify a couple of points in my statement. Paragraph 7 on page 4, dot point BB, I defined SIU as the Special Investigation Unit, which was my advice at the time. I've since heard it called Security and Investigation Unit and the Staff Intelligence Unit. The other clarifying point is paragraph -

45

MS DAVIDSON: And do you know which one of those is correct?

MS CARTWRIGHT: No, I don't.

MS DAVIDSON: All right.

5

MS CARTWRIGHT: And at paragraph 39, sentence 3, 4 and 5 should, in fact, be the last three sentences in paragraph 39 on page 10.

MS DAVIDSON: I'm sorry.

10

MS CARTWRIGHT: So paragraph -

MS DAVIDSON: Paragraph 39, which is on page 10 -

15 **MS CARTWRIGHT:** Yep. Sentence number 3, 4 and 5 - so sentence 3 beginning with, "In addition," and the sentence finishing in "to IB" should, in fact, be the last three sentences in that paragraph.

MS DAVIDSON: All right. So there are sentences that should not be there.

20

MS CARTWRIGHT: No, they should be. They should - they're out of order.

MS DAVIDSON: I see. I see. Commissioner, I tender that statement.

25 **COMMISSIONER:** It will be become be Exhibit 46.

<EXHIBIT 46 TENDERED AND MARKED

30 **MS DAVIDSON:** Yes. There is also - and it should be added to Exhibit 46 - I can hand up two copies - an index to the annexures to Ms Cartwright's statement. It should become part of the exhibit.

COMMISSIONER: We'll add those to the exhibit.

35 **MS DAVIDSON:** I'm grateful, Commissioner. Ms Cartwright, you are currently the Director of the Custodial South Region within Corrective Services?

MS CARTWRIGHT: I am.

40 **MS DAVIDSON:** And have you held that position since approximately July of this year?

MS CARTWRIGHT: August. I was acting and then became ongoing.

45 **MS DAVIDSON:** And immediately prior to that, you were Governor at Dillwynia Correctional Centre?

MS CARTWRIGHT: I was.

MS DAVIDSON: And that was a role that you took up in approximately September 2021; is that correct?

5

MS CARTWRIGHT: That's correct.

MS DAVIDSON: You've been tasked by those within Corrective Services to provide some evidence to the Inquiry in relation to a range of questions that were directed to Corrective Services in relation to matters, including staff roles at Dillwynia and rostering. I first intend to ask you some questions about those subjects and then come to some issues relating to your time at Dillwynia. Could I ask you, do you have your statement with you in the box there?

10

MS CARTWRIGHT: I do.

MS DAVIDSON: Could you go first to paragraph 33 of your statement. You are referring there to some leadership training that was delivered as a result of the benchmarking process that took place largely in 2017; is that right?

15

MS CARTWRIGHT: That's correct.

MS DAVIDSON: And you refer particularly in paragraph 33 to an advanced diploma in leadership and management that was delivered to Governors and Managers of Security throughout the latter stages of the benchmarking program, and that was a qualification that you were awarded in 2019. Do I understand from that that it wasn't only as part of the benchmarking program that that diploma was delivered to Governors and Managers of Security?

20

MS CARTWRIGHT: No. I think it followed on from benchmarking to support the Governors and MoSs take on their leadership role, but it was something that was offered to all Governors and MoSs to help them undertake their leadership and management roles.

25

MS DAVIDSON: All right.

COMMISSIONER: Ms Davidson, we've talked about benchmarking a lot.

MS DAVIDSON: Yes.

30

COMMISSIONER: I'm not sure I fully understand what it involved.

MS DAVIDSON: This witness may be able to explain that from her perspective. Are you able to assist the Commissioner in relation to your understanding, briefly, what benchmarking, in fact, involved?

35

MS CARTWRIGHT: Yeah. Benchmarking had a look at our resources and how we could best deploy them to provide quality correctional services, and it did involve some changes to the management structure. It actually flattened the management structure. But what it did do is provide executive staff with very
5 distinct functionalities and responsibilities which better supported the Governor. It also resulted in a number of other changes specific to Dillwynia, such as the D watch was removed and then they only had the A watch, which is the day watch; the C watch, the evening; and the B, night. It also resulted in Chief Correctional Officers, which was part of the Dillwynia island agreement award, being deleted
10 and replaced with Functional Managers or Principal Correctional Officers.

COMMISSIONER: It's been described as a difficult time. Was it a difficult time?

MS CARTWRIGHT: I think a lot of people in Corrective Services struggle with
15 change, and in that respect change was difficult. But staff were supported in that change, and from my perspective the change was a good change and heading in the right direction for supporting Governors.

COMMISSIONER: And the change meant people's job description changed. Is
20 that what you're telling me?

MS CARTWRIGHT: The biggest change with the deletion of the Chief
Correctional Officer at Dillwynia or the Assistant Superintendent in other,
25 non-island award Centres was that a lot of the Chiefs and Assistant Superintendents had to step up to the next level. And so the training that the Functional Managers took supported them in that. So that was challenging, but they were supported in the Functional Manager training they undertook at that time.

MS DAVIDSON: You've given some evidence, just to supplement that, at
30 paragraph 26. You refer to a change from the 209 shift formula to the 195 shift formula. Was that in terms of the number of shifts an officer was expected to work in a year?

MS CARTWRIGHT: No. The number of shifts that an officer required to work
35 remained the same. What the 19 formula did was - as opposed to the 209 was more realistic about the times that staff would not be on duty, either because of training requirements - managing training requirements or - it actually reflected the sick leave that staff were actually taking. So it actually involved identifying
40 staff whilst required to be on duty were not present at the Centre. So what it resulted in is more staff - a larger staffing profile in order to meet the operations of the Centre.

MS DAVIDSON: Right. So it was an attempt to be realistic - or that part of it was
45 an attempt to be realistic about what was actually happening on the ground?

MS CARTWRIGHT: Absolutely. And manage overtime and staff exhaustion.

MS DAVIDSON: Just coming back to paragraph 33 and the advanced diploma in leadership and management, are you aware of how long that course was expected to take a person to complete?

5

MS CARTWRIGHT: I can't recall over what timeframe it took. I do recall having face-to-face blocks where we would spend a week or so at a time, go away, work on our assessments, assignments and projects, and then come back.

10 **MS DAVIDSON:** And do you know whether it was compulsory for all Governors and Managers of Security to complete that advanced diploma?

MS CARTWRIGHT: It was my understanding that it was.

15 **MS DAVIDSON:** At least by 2019, it was compulsory. And do you recall whether that advanced diploma course involved any content in relation to either the management of misconduct or the Code of Conduct or ethical leadership more generally?

20 **MS CARTWRIGHT:** It did talk about conflict management. It did talk about ethical leadership. It talked about management from an operational perspective. I can't recall if it particularly covered misconduct, but it did talk about performance management.

25 **MS DAVIDSON:** Right. So if it covered performance management, you don't recall whether that was performance management including the formal misconduct processes that were set up within -

MS CARTWRIGHT: I don't recall that.

30

MS DAVIDSON: Go to paragraph 39 - and I realise you've indicated that there's some misordering of the sentences in this paragraph, but just taking it in the order in which it's written. At the end of the paragraph, you've referred to staff members going directly to a more senior manager than their direct manager. Were you aware during your time at Dillwynia of there being too little knowledge amongst officers in relation to their capacity to go outside their line of - their management line or their chain of command in terms of reporting misconduct?

40 **MS CARTWRIGHT:** No, I wasn't aware of that. And at that time, I had an open-door policy. My office was very accessible to staff. Staff were coming in all the time with matters. I was also fielding complaints and inquiries from all avenues from inmates. So it never occurred to me at that point that staff didn't know they could go outside of the organisation.

45 **MS DAVIDSON:** Well, that relates to my next question. Did you, during your time as Governor, take steps to encourage staff in relation to the reporting of

misconduct to realise that they were not stuck in their chain of command, in effect, in terms of reporting of misconduct?

5 **MS CARTWRIGHT:** I did. And it was just after they'd announced the trial for Mr Astill, and that trial was taking place, and it was becoming clear to me some of the staff I was supporting were sharing some of the information with me and their experience and what they went through. And I was shocked to hear that staff didn't know how to take a matter of misconduct or concern outside of the Centre.

10 **MS DAVIDSON:** So what did you do, having realised that?

15 **MS CARTWRIGHT:** Over a number of staff parades, I made sure I attended and I spoke to staff, and I said if at any point they did not feel comfortable coming to me or felt that I hadn't managed something well, then they were entitled to, and could, report outside of direct reporting line to me. They could go to the Director. They could go to a more senior manager, including the Commissioner. We also mentioned ICAC, Ombudsman and, of course, police.

20 **MS DAVIDSON:** And after you'd attended those parades and delivered that message, did you become aware of any change in staff practices in terms of the reporting of misconduct?

25 **MS CARTWRIGHT:** No. Because prior to that, staff were coming to me with matters that concerned a misconduct, as were inmates, as were the Official Visitor, the Ombudsman, the CSL line and even relatives of inmates. I was fielding concerns and complaints from a number of avenues. So it never occurred to me that reporting was a problem.

30 **MS DAVIDSON:** At paragraph 41 -

COMMISSIONER: Sorry. When you say you were shocked to become aware of staff concerns about reporting -

35 **MS CARTWRIGHT:** I was shocked -

COMMISSIONER: - what were they telling you? What was the sort of way they framed the problem?

40 **MS CARTWRIGHT:** To be clear, it was the people I was supporting that were part of the Astill - Mr Astill trial. And what concerned me is that they didn't know that they could report outside of the Centre. But it also became very clear that there was a lot of fear at that time and a lack of trust in the management team there at the time.

45 **COMMISSIONER:** You mean fear of the management team at the prison?

MS CARTWRIGHT: And fear of Mr Astill. And more a lack of trust in the management and a fear of reprisals.

5 **COMMISSIONER:** And were they saying to you that they had information that they wished - they had been able to communicate but weren't able to because of their fears?

10 **MS CARTWRIGHT:** No, they didn't word it like that. They just said they didn't know.

COMMISSIONER: They didn't?

15 **MS CARTWRIGHT:** They didn't know they could, and they said there was a lot of fear. It came across more that fear had clouded their judgment on what to do next, who to trust, where to go to.

COMMISSIONER: But presumably they told you that they had issues that they would have taken somewhere if they could have?

20 **MS CARTWRIGHT:** They said that they now knew and at the time they didn't. I have got a - one report where - I received from one of the officers that were part of the Astill trial, and what they said is in hindsight, in reflection, they wished they had had the courage to take it outside of the Centre.

25 **COMMISSIONER:** Courage - in other words, to report something which they observed -

MS CARTWRIGHT: Yeah. Yeah. To take it -

30 **COMMISSIONER:** - of Mr Astill's behaviour?

MS CARTWRIGHT: Yes.

35 **COMMISSIONER:** Yes. Thank you.

MS DAVIDSON: Do you know what it was that they had observed of Mr Astill's behaviour?

40 **MS CARTWRIGHT:** As the trial went on, they actually shared a lot more information, and they did talk about his intimidating ways. They talked about inappropriate actions over the can of Coke sharing incident, the ring incident. But they did also say there was songs about alleging his sexual offending.

45 **MS DAVIDSON:** Did you understand that to be the song about which there's been some evidence in this Inquiry in relation to having a rub and tug and going to The Hub?

MS CARTWRIGHT: That's correct.

5 **MS DAVIDSON:** Can I ask you to go to paragraph 41. You're setting out there roles being - roles to which Astill was allocated. At (f) and (h), you've referred to him being Chief Sector 1A and Chief Sector 1B. Do you know what Sector 1A and Sector 1B refers to?

MS CARTWRIGHT: No, I don't.

10 **MS DAVIDSON:** Did you understand those to be areas or sectors to which particular officers were allocated during your time as Governor?

MS CARTWRIGHT: Yeah, it could have reflected where they sat or what time they started.

15 **MS DAVIDSON:** I see. So it's not necessarily a geographical area?

MS CARTWRIGHT: It could be. For example, if they record Chief of high needs, then you would base yourself in the high needs area.

20 **MS DAVIDSON:** Right.

MS CARTWRIGHT: If it was Chief of low needs or on the D watch, then you would locate yourself accordingly.

25 **MS DAVIDSON:** Would you expect there to be some record of what Sector 1A and Sector 1B related to?

MS CARTWRIGHT: Yes, there would be. I just can't answer that.

30 **MS DAVIDSON:** I understand. If you go to paragraph 50. You're referring there to Astill's application for the role of Assistant Superintendent. Was that a role that was created as part of the benchmarking process or something that pre-existed it, do you know?

35 **MS CARTWRIGHT:** No, it's not related to benchmarking. It was before - Assistant Superintendent is an executive rank that's been state-wide. It just didn't exist at Dillwynia. The equivalent on the island award agreement was Chief Correctional Officer.

40 **MS DAVIDSON:** Right. And you refer to the steps that he proceeded through. Is it right to say, just in terms of the substantive aspects of the recruitment process, that it was that application in 2016 that led to him being placed in a state-wide talent pool -

45 **MS CARTWRIGHT:** That's correct.

MS DAVIDSON: - for the rank of Assistant Superintendent? And that subsequently, when he was placed in temporary Chief Correctional Officer positions, using the word "temporarily" fairly loosely - I understand you've been quite specific in relation to the Government Sector Employment Act in your statement. But when he was placed - during the period from late 2016 onwards into those - that is, through 2017 and into 2018, that there was no further substantive selection process that he went through in the same kind of way as you've described in paragraph 50?

10 **MS CARTWRIGHT:** No. I'm only aware of the one competitive process that Mr Astill applied for.

MS DAVIDSON: Right. And you've gone through - or those assisting you in preparing your statement have gone through quite carefully such that if there had been any further competitive recruitment processes, you would certainly expect those to have been identified?

MS CARTWRIGHT: I would have been -

20 **MS DAVIDSON:** You have to give an answer.

MS CARTWRIGHT: Yes. I would have been made aware, and I haven't.

MS DAVIDSON: So is it also true to say that then throughout late 2016 and the dates that you've specified through 2017 and into 2018, the temporary assignments that Mr Astill was given were effectively on the approval, as you understand it, of Shari Martin as Governor of the Centre?

MS CARTWRIGHT: That's correct.

30 **MS DAVIDSON:** And without further additional process, other than administrative staff, effectively, within the human resources function for Corrective Services contacting Ms Martin, asking her whether she wished to extend Astill and her agreeing that she did?

35 **MS CARTWRIGHT:** That's correct.

MS DAVIDSON: You referred in paragraph 71 to what occurred in May 2018 where Ms Martin was alerted by Sophia Xie, a Human Resources officer, that further temporary assignment without comparative assessment above level beyond 12 months is not GSE compliant. And this related to both Mr Giles and Mr Astill, who had been on temporary assignment by that point for a year and a half, effectively, and that Director approval was required. It doesn't appear, from your review of the records, as though Director approval was ever obtained, was it?

45 **MS CARTWRIGHT:** Nor - no. And nor was it required. Sophia Xie had incorrectly assumed it was without comparative assessment.

MS DAVIDSON: Right.

5 **MS CARTWRIGHT:** The original recruitment action had a comparative assessment process.

MS DAVIDSON: Which was the process that you've described earlier in your -

10 **MS CARTWRIGHT:** And they'd actually been assigned to that appointment since September 2016, not November.

15 **MS DAVIDSON:** But in any event, it was - or it is your understanding, as set out in paragraph 73, that the talent pool was due to expire and therefore the person, that is, Astill, was, in fact, eligible to remain in a temporarily appointed role for up to two years out any need for a further comparative assessment; is that correct?

MS CARTWRIGHT: That's correct.

20 **MS DAVIDSON:** Do you understand what the effect would have been of the expiry of the talent pool?

25 **MS CARTWRIGHT:** The existence of the talent pool would have required any manager wanting to fill a position, ongoing or temporary, was to select a candidate from the talent pool.

MS DAVIDSON: But the effect of the expiry of the talent pool. Do you know what -

30 **MS CARTWRIGHT:** It didn't - it didn't stop the temporary appointment. In Mr Astill's case, he had undergone a comparative assessment, and his temporary appointments had been continuous all the way through.

35 **MS DAVIDSON:** You then go on to refer to Astill's acting appointments as intelligence officer, and you've indicated that you understand Astill's appointment to that role was likely approved by Ms Martin. Again, if there was any record of a central, that is, human resources, comparative process or assessment process that he had undergone for that role, you would expect that to have been discovered for the purposes of preparing your statement, I assume; is that correct?

40 **MS CARTWRIGHT:** That's correct. It wasn't subject to that. It would have been a local decision to ensure you had a intelligence team, and the Governor was entitled to identify an appropriate person to do that. They undertake the training and the necessary checks to undertake that. And then there would have been a relief officer to fill daily vacancies on the roster in the absence of the main
45 intelligence manager.

MS DAVIDSON: So the main intelligence officer, to your understanding, would have gone through some form of comparative assessment process?

5 **MS CARTWRIGHT:** No. With the intelligence manager -

MS DAVIDSON: (Crosstalk) that either?

10 **MS CARTWRIGHT:** No. I've done it myself in the centres. And if you show an aptitude for it, or an interest in it, you undertake some training, you undergo the checks and you can undertake that specialised function.

15 **MS DAVIDSON:** Paragraph 77, you refer to those checks being coordinated by the CIG and including various checks that you've referred to there. Are you aware of whether a search has been conducted in relation to records of those checks for Astill?

20 **MS CARTWRIGHT:** I received an email confirming that Mr Astill had been subject to those checks and cleared by the General Manager of CIG. I, however, have not seen actual results from that.

MS DAVIDSON: Right.

COMMISSIONER: Who was that General Manager?

25 **MS CARTWRIGHT:** At the time, I can't - I don't know.

COMMISSIONER: Okay.

30 **MS DAVIDSON:** You indicate at paragraph 80 that at least at the time of preparing your statement, no such checks had been located. Do you know whether those searches are ongoing for records in relation to those checks?

35 **MS CARTWRIGHT:** And the training. I could go back to CIG and see if they can produce it. I'll need to take that on notice.

MS DAVIDSON: All right. But you don't know?

MS CARTWRIGHT: I don't know.

40 **MS DAVIDSON:** You refer at paragraph 81 to whilst you were Governor, there was somebody permanently who held the intelligence officer role and then other relieving staff members. What were your criteria for selecting those relieving staff members when you were Governor?

45 **MS CARTWRIGHT:** So under benchmarking, the Functional Manager became - one of their operational areas was intelligence. So for the main officer, they would have had to have been a Functional Manager.

MS DAVIDSON: Right.

5 **MS CARTWRIGHT:** And, ideally, we would have rotated all Functional Managers through that role, if they'd had the aptitude for that.

MS DAVIDSON: So it would have been other Functional Managers that you would have sought to have as relieving -

10 **MS CARTWRIGHT:** As the - no, as the main manager. But in relation to the relief officers, I was always guided by the Functional Manager as to those that assisted and showed aptitude and interest.

15 **MS DAVIDSON:** Skip to paragraph 105. You're dealing there were staffing roles and numbers of staff required in relation to inmates. You indicate at 105, paragraph (b) that in relation to maximum security Centres, officers must abide by the sight or sound principle, and the Inquiry has heard some evidence in relation to the sight or sound principle. Did you regard that as applicable at Dillwynia, appreciating that not all of the inmates there are held in a maximum security
20 environment?

MS CARTWRIGHT: Absolutely. It underpinned everything we did each day.

25 **MS DAVIDSON:** And so that is notwithstanding what you've said there about, "In relation to maximum security Correctional Centres, officers must abide by the sight or sound principle," you - am I understanding correctly that you at Dillwynia required officers to comply with that even in Area 2 in maximum security areas?

30 **MS CARTWRIGHT:** Yes. Dillwynia was a maximum-security correctional centre. So we hold minimum and medium security women there. It still remained a maximum security correctional centre.

35 **MS DAVIDSON:** I see. So because there were maximum security inmates there, you regarded the principle as applicable in any event. And how did you, during your time as Governor, communicate that requirement in relation to the sight and sound principle?

40 **MS CARTWRIGHT:** Staff knew that I never saw an inmate or a staff member on my own because it's about accountability and transparency and working safely. The last thing you want is a staff member seeing an inmate on their own or going into an area on their own and then putting others at risk to respond should there be an incident. But it was also a way of managing allegations.

45 **MS DAVIDSON:** And you think that the staff knew that was your practice. Did you communicate to them that you expected it to be their practice likewise?

MS CARTWRIGHT: Absolutely. But the staff themselves - I was asking my management team to step up and manage and lead and sometimes make decisions where staff involved that staff might not like. I was also encouraging senior correctional officers to do the same. They all voiced concerns around being
5 accused of bullying and harassment should they do their job, and I've always promoted not to be afraid to do their job, do it respectfully, professionally and smartly, always (indistinct) to manage the allocation. That was my clear message from day 1.

10 **MS DAVIDSON:** You refer at paragraph 107(a) to a local operational - or what I understand to be a local operational procedure or a general manager's order and instruction entry by staff into accommodation areas dated 30 August 2016. Do you see the reference there?

15 **MS CARTWRIGHT:** I do.

MS DAVIDSON: Could you go - and this is in the third volume of your statement, which I'll organise to have provided to you, which is Tab 142. You see that's a local order - it's not a signed version, but I take it that you understand this
20 was an order that was, in fact, made at Dillwynia on 30 August 2016 by Ian McRae as Acting General Manager. Do you understand that to be an order that's still in place?

MS CARTWRIGHT: I do understand it to be an order still in place.
25

MS DAVIDSON: And during your time as Governor - just refresh your memory of it. It refers to several instances where staff have entered a unit where the situation has ended up with a disturbance between inmates, or allegations. As Governor, what was your response - were you ever required to make a response to
30 situations involving staff entering accommodation units alone?

MS CARTWRIGHT: No.

MS DAVIDSON: And was that because your expectation was that this local order
35 was being followed?

MS CARTWRIGHT: That's correct.

MS DAVIDSON: Paragraph 110, responding here to a question in relation to
40 required ratios of the overseers to inmates, and then you also indicate that this is not a ratio that applied to inmates engaged in domestic cleaning duties within accommodation units and that they were supervised by custodial accommodation staff. In relation to the administration blocks that are associated with the accommodation units, does what you say there in terms of supervision of those
45 inmates also apply to those administration blocks, that is, supervision of cleaning staff or inmates who are employed as cleaning staff in those administration blocks?

MS CARTWRIGHT: Yes. And it was the same in the administration block where I sat. I had inmate cleaners. They were never in my room on their own with me. There was always somebody else. I would expect that to be the case for our entire Centre.

MS DAVIDSON: In relation to - well, you've referred in paragraph 112 to inmate movements and the way in which inmates were moved around. The Inquiry has heard a deal of evidence as to Astill repeatedly calling for particular inmates over the public address system at Dillwynia. Is that a system that you understand to be still in use?

MS CARTWRIGHT: Yes, we still have a PA system.

MS DAVIDSON: If an inmate - well, I withdraw that. The Inquiry has also heard some evidence as to particular inmates who were frequently missing or late to muster and radio calls going out in relation to their location and Astill repeatedly, effectively, accounting for them being with him or in his office. Is that something, that is, particular inmates being repeatedly missing or late for muster and accounted for by a Chief Correctional Officer, that you would expect to come to the attention of other executive staff within the Centre at Dillwynia, if that were the situation (crosstalk)?

MS CARTWRIGHT: Yes, staff in general. If they're in a location where they hear these PA announcements, and it's repeated, I think it raises questions.

MS DAVIDSON: Would you expect that kind of scenario, that is, an inmate or particular inmates repeatedly missing or late at muster being accounted for by a Chief Correctional Officer as being with him or in his office, to be a situation that would come to the attention of the Governor? At Dillwynia, that is.

MS CARTWRIGHT: It would probably rely on a staff member telling the Governor, because where the Governor's office is located, you wouldn't hear the PA announcements.

MS DAVIDSON: Right.

MS CARTWRIGHT: You may hear them if you were out in the Centre.

MS DAVIDSON: And would the Governor carry a radio while he or she was located in the office area or -

MS CARTWRIGHT: They should. However, if you're in a meeting - and there's a lot of meetings - you may turn that radio down.

MS DAVIDSON: Right. You've provided a set of policies or - that is, local policies and procedures within Dillwynia. That's annexure SC3, and you refer to

5 them in paragraph 114. All of those, with the exception of the one that I've showed to you at Tab 142, post-date or are dated 2018. There appear to be a reasonably large number of them that seem to have been initiated on 21 November 2018. Are you able to give any indication as to why that may be? I realise it predates your time as Governor.

10 **MS CARTWRIGHT:** I would be speculating. I'd have to look back and see when benchmarking was actually transitioned in. I'd have to remind myself of that date. That's me speculating.

MS DAVIDSON: Right. But benchmarking may have provided some explanation for the adoption of new local operating procedures on a particular date; is that right?

15 **MS CARTWRIGHT:** Possibly.

MS DAVIDSON: You, as I think you've already indicated, were Governor at Dillwynia during the time of Astill's trial and the period of his sentencing. Are you able to indicate to the Commissioner any steps that you took as Governor within 20 Dillwynia to address the issues of which you became aware during that trial and sentencing process in relation to Astill's offending?

25 **MS CARTWRIGHT:** It started off with supporting the women - the inmates at Dillwynia and the staff involved. For the women, I worked very closely with the Acting Principal Women's Advisor, Kelly Austin. She was assigned to the Centre to work very closely with the women, and I provided for the opportunities to support the women, such as mental health support through Justice Health. We also supported them through making accessible support people of their choice.

30 We provided quiet places for them to be able to sit before any appearance that they were required to undertake for the trial. We also made sure their civilian clothing was available even if they were attending the trial, and we also - anything that concerned them, such as if they were missing work and they thought they were going to be missing pay, we put measures in place to make sure they weren't 35 disadvantaged there. We also - there was also Victim Support for victims of sexual assault. So we made sure that Kelly Austin had everything she needed to support the women. It was treated very confidentially where the women were concerned.

40 Where the staff were concerned, we provided a lot of support. We - I reached out to them personally and asked them what support looked like to them. And we were able to do a number of - implement a number of strategies. We were able to put their nominated support people on detached duty to accompany them to the trial. We provided some accommodation for staff that had to travel. We provided 45 a quiet space in the Centre so that they could watch the sentencing - the verdict and the sentencing if they weren't able to attend.

We had the Professional Standards and Investigations Branch come in and support the women. We actually had the chaplain supporting the - sorry, the staff, not the women. That was a reference to inmates. We - there was a number. We had peer support officers. Anything the staff wanted, we provided.

5

MS DAVIDSON: Were you aware - or did you become aware during your time as Governor that there were staff who very much felt that they had not been provided with support at the time of Astill's arrest?

10 **MS CARTWRIGHT:** Yes. They made it very clear. They were not supported.

MS DAVIDSON: And what were the steps that you took to address those concerns? Were those the measures that you've already referred to?

15 **MS CARTWRIGHT:** The measures I just mentioned. We actually went to - when the trial started - and that's the first time that the identities of the inmates and the staff become known to me, and I asked, "What did support look like to you?"

20 **MS DAVIDSON:** Were they, that is, the steps that you were putting in place, in conjunction with Kelly Austin, steps in relation to which you were taking the initiative as the Governor of Dillwynia?

25 **MS CARTWRIGHT:** That's correct. But I had the full support of my Director, and together we provided that support.

MS DAVIDSON: And was that Emma Smith at the time?

30 **MS CARTWRIGHT:** That's correct.

MS DAVIDSON: Do you recall - or did you at that time take any steps that you recall in relation to the executive management of Corrective Services to seek further support in relation to either the women who had been victims of Astill or the staff members who were providing evidence at the trial?

35

MS CARTWRIGHT: Sorry, can you repeat that?

40 **MS DAVIDSON:** Do you recall taking any steps - or asking Ms Smith, I should say, to take any steps to make the more senior leadership within Corrective Services aware of those concerns that had been raised in relation to lack of support either by the victims of Astill or the staff who were giving evidence at the trial?

45 **MS CARTWRIGHT:** Yeah, I - I first became aware - FM Renee Berry and FM Judy Barry had sent a confidential report each to me saying they had concerns the trial was coming up. They had concerns about the placement of a particular inmate back at the Centre that may need to present to the trial. They, in that confidential report, provided some of the concerns that they had and that they were never

supported. And on 26 July, after receiving those reports, both myself and Director Smith met with those two officers, and they started to share and give us some insight about why they didn't feel supported, which went back to they didn't have trust in the management at the time. They felt fearful of Mr Astill. They were
5 fearful of reprisals. And so we took that on board, and that's the support measures we put in place.

MS CARTWRIGHT: So that was the steps you and Ms Smith took on board. Just to clarify, are we talking about 26 July 2022?
10

MS CARTWRIGHT: Correct. It was just as the trial was commencing.

MS DAVIDSON: And were there steps that you took to communicate those concerns that were being raised to the more senior leadership within Corrective
15 Services?

MS CARTWRIGHT: I didn't, but I'm aware that Director Smith did speak with Assistant Commissioner - or the Deputy Commissioner now, Anne Marie Martin.

MS DAVIDSON: And did you - or Director Smith receive a response from Dr Martin in relation to further steps that would be taken?
20

MS CARTWRIGHT: I don't recall in relation to the support, but a month later - or during August, the same two officers then expressed a desire for management to be held accountable back at that time, that they didn't feel
25 supported by. And I do know that that was also referred by Ms Smith to Anne Marie Martin, and I do know there was a meeting at some point that talked to the staff about what they went through, what they felt. I also know GC Martin also attended the trial and sat with the staff on that. I don't know if it was the verdict or
30 the sentencing.

MS DAVIDSON: Were you a part of that meeting that you referred to at some point occurring with the staff?

MS CARTWRIGHT: No. That was in March of this year, and I was acting in another role by then. I had had an opportunity for a professional development opportunity, and I was acting as the Director of South Region for about three months.
35

MS DAVIDSON: All right. So before the time that you finished at Dillwynia, you weren't, in fact, in that role in 2023, am I correct in understanding, for about three months before you formally finished up there?
40

MS CARTWRIGHT: I was away for approximately three months, I came back for a period of time and then I left again.
45

MS DAVIDSON: I see. In terms of steps taken within Dillwynia to address the issues raised by Astill's offending, did you put in place during your time as Governor any additional staff training?

5 **MS CARTWRIGHT:** In relation to Mr Astill's offending, we did have - they had their manager training for ethical conduct and doing the right thing. I also had -

MS DAVIDSON: That was state-wide training. I'm just being specific to Dillwynia.

10

MS CARTWRIGHT: I did have the Professional Standards Investigations Branch staff come out so that they could have a look at Dillwynia and get a layout to help them do their job in relation to any allegations of misconduct that they may receive and, in turn, they presented to managers about the misconduct process.

15

MS DAVIDSON: And do you recall when that occurred?

MS CARTWRIGHT: I - I can't recall, but I can easily get the date.

20 **MS DAVIDSON:** All right. So they presented to managers in relation to the misconduct process. And was the purpose of that, from your perspective, to improve the knowledge of managers at Dillwynia in relation to that process?

MS CARTWRIGHT: And support the staff in reporting and knowing what to do.

25

MS DAVIDSON: In relation to the Integrated Intelligence System, the Inquiry has heard considerable evidence in relation to the SIU function and staff not - many staff, it seems, not knowing it existed. Did you take any steps during your time as Governor at Dillwynia in relation to staff training around that function?

30

MS CARTWRIGHT: No. In all honesty, most of my information in relation to Mr Astill's offending has come from this Inquiry.

35 **MS DAVIDSON:** Do you think that reflects a failure in terms of those within the management of Corrective Services providing information to you during your time as Governor?

MS CARTWRIGHT: I understood it to be a reflection of not wanting to jeopardise the process of the trial. Because even with the announcement of the trial, the details around especially the women was handled very privately and confidentially by Kelly Austin, who was assigned to the Centre to support the inmates. But as the trial went on and the staff I was supporting, they started to share information. So I got small snippets from there.

45

MS DAVIDSON: All right. After Astill was sentenced, that is, earlier this year - after that point, there was no concern in relation to jeopardising the trial, presumably. Did you expect to be provided with more information at that point?

5 **MS CARTWRIGHT:** I can't recall when the sentencing actually occurred, but I wasn't at the Centre for at least the first three months. So - and when I returned, it wasn't at the forefront of my mind. I was actually trying to work on the staff culture in general.

10 **MS DAVIDSON:** Trying to work on the staff culture in general.

MS CARTWRIGHT: In general, yeah. And I had been during my time of Governor.

15 **MS DAVIDSON:** What were your objectives in relation to the staff culture at Dillwynia during your time?

MS CARTWRIGHT: I - I started off as the Manager of Security, second-in-charge, for approximately six months, working under the Governor,
20 Emma Smith. I continued on what she had started, which was leading by example, role modelling behaviours we wanted, calling out poor performance and misconduct, and being consistent in calling out poor performance. That continued on. But for me, as the Manager of Security, I set up a working group, because not long - the operations of the newly expanded Area 1 had commenced. And as you'd
25 expect with any newly operating centre or part of a centre, there were teething problems. And you could see that. So I actually took the initiative to set up a working group to work on that.

30 What became clear to me is that the infrastructure over there was vastly different to the infrastructure in the existing Centre. It was built more like a men's max. It was a very small footprint. It was mostly concrete. There wasn't as much to do for the women. And I think that sent a message to the staff, "We're dealing with dangerous women here - dangerous inmates here." And they tended to have a very restrictive regime of operating over there. And to actually break that was quite
35 difficult, and we started working on that. So I was actually trying to work on a rehabilitative culture. Ultimately, the working group started looking at the Centre as a whole, because it was clear it was operating as two separate sides, and then to try and integrate it.

40 So in relation to doing the cultural work, it was not only working with the staff but the women themselves, you know, working with supporting them in returning the Centre back to the rehabilitative centre I knew when I first went there in 2004. And one of the biggest things that we did do - with the announcement of the Strategic Plan 2030 that Commissioner Corcoran had put out, he actually
45 identified a handful of Centres that would become centres of excellence, and those centres of excellence would be supported by a project team called the high performing teams project team.

And Dillwynia was nominated as one of those centres of excellence. But rather than wait till it was our turn for that project team to turn up, I actually started to do work on that. And as a part of that, I was actually taking staff out to Macquarie
5 Correctional Centre, which was a centre of excellence, and I wanted to show staff that you can actually manage men's maximum and still have and do that safely with a rehabilitative approach. And that was my focus in trying to change that culture.

10 **MS DAVIDSON:** In relation to changing the culture, are you aware of evidence that the Inquiry has heard in relation to the language that was being used commonly on the evidence of some officers by other officers towards inmates at Dillwynia? Were you aware of that being a problem during your time as
Governor?

15 **MS CARTWRIGHT:** Not as big a problem as what I've heard from this Inquiry. Obviously staff swear, but if they did it in front of me, then we'd call it out. And I asked my own executive staff to call it out and watch their own language. In fact, I referred staff, including executive staff, to PSB for foul language.

20 **MS DAVIDSON:** Did you understand that to be a significant change from the approach that had previously been taken to the use of foul language towards inmates at Dillwynia?

25 **MS CARTWRIGHT:** Yes, I did. And that was the work started by Emma Smith - Governor Emma Smith, and we continued that on. It was about calling out any poor performance or poor behaviour.

30 **MS DAVIDSON:** Did you take additional steps during your time as Governor in relation to building staff trust in management in relation to dealing with complaints of misconduct?

35 **MS CARTWRIGHT:** Yes. As I said, when I started to become clear of what was happening, as the trial went on, I did address staff. I've always had an open-door policy. I actually - as I said before, I was fielding complaints from staff and inmates from many different avenues, and I didn't see the reporting as a problem. But we treated any reports of misconduct confidentially, sensitively, and I always said, "Thank you for being courageous for reporting it." Where I could, I'd get
back to them with what details I could without jeopardising the process.

40 **MS DAVIDSON:** Could the witness be shown Exhibit 45, the bundle of documents that were produced by Ms Rafter.

45 **COMMISSIONER:** While they're coming forward, Ms Cartwright, you probably heard the evidence we received about old school and kid gloves.

MS CARTWRIGHT: Yes.

COMMISSIONER: Can you tell me what you think is being meant by, first of all, kid gloves?

5 **MS CARTWRIGHT:** I don't, but what I do know is in 2004 when the Centre first opened - I joined it six months after opening. And what I do know is that we had a handful of experienced staff, and we had mostly new recruits. And in that respect, it was refreshing. It was a new culture. They were keen to learn. They really got up to speed quickly with the computer systems and the policies.

10 On the flip side of that, you would have to really manage - if you had an incident of assault or a medical episode, you really had to micromanage that. They didn't take time for the staff to learn. But what I did say to all staff, and I've said it throughout my entire career and done it myself, is, "Seek diverse operational
15 experience. We're a very multifaceted organisation. You'll learn something wherever you go." I wouldn't say kid gloves; I think they were just used to a respectful and professional working environment.

COMMISSIONER: Well, what's the old school, then?

20 **MS CARTWRIGHT:** Old school? I would say it was a tough love. I'd say it was - they used foul language. It was very authoritarian. I don't know if it was that progressive in rehabilitation. However, under Marilyn Wright, she led the team -

25 **COMMISSIONER:** She gave evidence - you probably know she gave evidence.

MS CARTWRIGHT: - (crosstalk).

COMMISSIONER: Does the old school still exist inside Corrective Services?

30 **MS CARTWRIGHT:** I think there's a lot of officers that have been around for years that might be described as "old school", but they're very innovative. They're very supportive of their staff. They lead, and they lead well.

35 **COMMISSIONER:** So is the old school gone?

MS CARTWRIGHT: It's definitely decreasing. And those experienced staff that remain, as I said, are adaptable to change. They're very strong leaders. They're good leaders. But it's - there's definitely an emerging group of new leaders.
40 Definitely.

COMMISSIONER: The sense that I presently have of the evidence of the management of Dillwynia, during Mr Astill's offending period anyway, is that it was pretty much old school. Would I be right in thinking that?

45 **MS CARTWRIGHT:** Yes, that would be correct.

COMMISSIONER: And that's exhibited in, you say, officers being reluctant to report, abusive language, acceptance of bullying conduct by officers. Are they all attributes we would contribute to the old school?

5 **MS CARTWRIGHT:** Yes. Yes, I would.

COMMISSIONER: And kid gloves is not, I assume, the complement of the old school, but nevertheless it's a way of describing an approach which has a much greater human or humanising content in its management of the prison. Would that
10 be right?

MS CARTWRIGHT: That would be right.

MS DAVIDSON: Ms Cartwright, you have a bundle of documents before you.
15 These are documents that were produced to the Inquiry by the Inspector of Custodial Services. What I want to show you is a couple of Official Visitor half-yearly reports that were produced by the Official Visitor at Dillwynia. Could you turn to page - using the red page numbers - do you see the red page numbers? To page 15. This is part of the Official Visitor report prepared for the period of 1
20 July to 31 December 2021. Now, I appreciate - by Michelle Cole, I should say, as the Official Visitor.

I appreciate you that weren't Governor for the entirety of that time, but Ms Cole indicates about halfway down the page in that last paragraph there that she found
25 it difficult to meet with the Governor or Acting Governor. She found it the case that she was often, to use her words, fobbed off to other staff, some of whom had had complaints made about them via the OV process. She also found that it was often the case that in the first instance, a defensive stance is taken to most complaints, including those about staff members, and that staff complaints are
30 often met with dismissive responses or those which seek to explain and excuse rather than investigate. She accepted she wasn't privy to the investigation process or outcome but said that:

35 "The Governor also appears to resent that issues raised with me are also - or are often issues that inmates have raised elsewhere and verbalised to me that by my raising matters is an unnecessary double-up."

What's your response in relation to those comments? Are you aware of the Official
40 Visitor holding those concerns at that time?

MS CARTWRIGHT: No. I'd always ask the Official Visitor when they turned up to come and see me so we could make sure we ensured the Centre was opened up to her. I'd also ask her before she left would she come and see me so I could have an understanding from her what the issues were. Now, we didn't always get to
45 meet up because I was either in a meeting or offsite -

MS DAVIDSON: And sometimes Emu Plains, presumably?

MS CARTWRIGHT: Yes. Exactly. And the other thing is I wasn't always aware of the time that she would come or go, so it was really at the Official Visitor's convenience. But I actually welcomed the job that Michelle Cole or any Official Visitor does, because it's an opportunity for me to become aware of what's
5 happening in the Centre, any potential risks I should know about or any sort of cultural climate. So I actually did welcome what she had to say.

The reason why I asked her to come and see me before she left the Centre was I
10 wanted to hear it from her, because sometimes in a report - I always got her report. You can miss the meaning. So I wanted to hear what her feeling was of what the women were saying. When I did get her report, I would always forward it on to my Manager of Security to manage the responses. But I always asked for the report back, because there was a tendency by staff to be defensive in their
15 responses, and I wanted to make sure that the responses we were providing was actually dealing with the issue.

Now, in relation to staff, the Official Visitor, and in particular Michelle Cole, would come and see me and talk to me about them. And in the report that
20 I got - I'd get the ones that named staff that were problematic. However, the report that I sent out for the Manager of Security to deal with did not have those details. I wanted to, like, protect the Official Visitor from any sort of potential reluctance for staff to assist when she came back.

MS DAVIDSON: And if the Official Visitor raised with you naming staff that were problematic, you didn't indicate who they were to the Manager of Security, but what steps did you take as Governor in relation to that kind of notification from the Official Visitor?

MS CARTWRIGHT: I would review it. I would also actually let staff know to be mindful if there was particular acts or comments or - and in actual fact, one of the staff she did bring up was counselled. I do believe it was for using foul language and also being obstructive - or a perception of obstruction.

MS DAVIDSON: Did you regard yourself as having a good working relationship with Ms Cole during your time at Dillwynia?

MS CARTWRIGHT: I - I thought we did. To be clear, the Official Visitor is actually there for staff and for inmates, the women. I did feel at time there was
40 a bias toward officers, that Ms Cole didn't have a lot of time for the officers. Having said that, she did come in support of some of the officers, and I had no reason to not believe her when she said women were reporting certain things about the officers. Now, if I had some inside knowledge about a particular incident, I could fill Michelle in and put it into context for her. And I would always talk to
45 my management team about managing perceptions by people that come in as well, such as the Official Visitor.

MS DAVIDSON: Can you turn to page 5. This is the Official Visitor report for a year later, so the period 1 July to 31 December -

MS CARTWRIGHT: Was it page 5?

5

MS DAVIDSON: - 2022. She's referring here to concerns about women who are traumatised as a result of having been victims of Astill. And she indicates about halfway down - it's that last paragraph on page 5, I should say, under Q12, the heading. Do you see that?

10

MS CARTWRIGHT: Mmm.

MS DAVIDSON: I'll give you an opportunity to read that.

15 **MS CARTWRIGHT:** Yes.

MS DAVIDSON: You said locally - this is about halfway through the paragraph - she was told by correctional staff that women can request to see psychologists that are on staff at Dillwynia, and she didn't believe that that was adequate. Is that a concern that she raised with you?

20

MS CARTWRIGHT: I don't recall that.

MS DAVIDSON: Those are my questions, Commissioner.

25

COMMISSIONER: Does anyone else have any questions? Mr Sheller?

MR SELLER: Ms Melis will (indistinct).

30 **MS MELIS:** I have no questions, Commissioner, unless - if I might reserve that. If there are others that have questions, there might be some arising.

COMMISSIONER: Anybody have any questions? No? Thank you, Ms Cartwright. That concludes your evidence, and you are now excused. Thank you.

35

<THE WITNESS WAS RELEASED

MS DAVIDSON: The next witness is the recall of Ms Angela Zekanovic.

40

<ANGELA ZEKANOVIC, SWORN

<EXAMINATION BY MS DAVIDSON:

45 **MS DAVIDSON:** Can you tell the Commissioner your full name?

MS ZEKANOVIC: Angela Zekanovic.

5 **MS DAVIDSON:** Ms Zekanovic, have you now prepared three statements in this Inquiry, the first dated 27 September; the second, a supplementary statement, dated 28 September; and the third, a further supplementary statement, dated 17 November?

MS ZEKANOVIC: I have.

10 **MS DAVIDSON:** And are the contents of those statements true?

MS ZEKANOVIC: Yes.

15 **MS DAVIDSON:** Commissioner, on the previous occasion, the statements of Ms Zekanovic were only marked for identification. Due to issues that have now resolved, as I understand it, I tender the three statements -

COMMISSIONER: They will become Exhibit 47.

20 **MS DAVIDSON:** - within Volumes 21, 21A and 21B.

<EXHIBIT 47 TENDERED AND MARKED

25 **MS DAVIDSON:** Ms Zekanovic, can I ask you to go to your further supplementary statement, which can be shown to you if you're having difficulty locating it, but it is 21B.

MS ZEKANOVIC: I have it now. Thank you.

30 **MS DAVIDSON:** If you go to paragraph 11 of that statement. You refer there to your proposed new case management system for PSI. Do you say that's to replace the Integrated Intelligence System?

MS ZEKANOVIC: Yes.

35 **MS DAVIDSON:** Is that intended to replace the SIU function that the Inquiry has heard a deal of evidence about?

MS ZEKANOVIC: Yes.

40 **MS DAVIDSON:** And will that be a replacement of the IIS insofar as it's also used by CIG or simply the part of IIS that's used by PSI?

45 **MS ZEKANOVIC:** I can't talk to the part that's used by CIG, but certainly for the SIU function, our new case management system - the SIU will no longer be used, or needed.

MS DAVIDSON: Right. And when you say the SIU will no longer be used or needed -

5 **MS ZEKANOVIC:** Sorry, not used or needed. That's probably a poor choice of words. I mean the SIU will no longer be used, and we'll have a case management system that will allow for intelligence to be captured in one system.

10 **MS DAVIDSON:** All right. And how is it - or will there be a mechanism by which staff electronically can provide a report that they understand will go outside the gaol, that is, directly to someone within PSI? Is that part of the functionality that's envisaged for the case management system?

MS ZEKANOVIC: Yes.

15 **MS DAVIDSON:** And are you able to give any greater information in relation to how that's envisaged to work?

20 **MS ZEKANOVIC:** Only - it's very much still in the planning stages. It was identified in the case management system as part of Project Merge earlier in the year, and the functionality of that - the entirety of that system will be an end-to-end - I guess, from referral to completion of the misconduct process and include an intelligence function. Exactly how that will work, I'm not sure.

25 **MS DAVIDSON:** All right. Are you aware that there's been some evidence in this Inquiry in relation to deficiencies within the existing PSI systems, or the systems as they were in place before PSI was created, in relation to capacity to analyse intelligence, that is, for pieces of information about a particular officer to be assembled together easily?

30 **MS ZEKANOVIC:** Yes, I understand that's been a frequent theme of the Inquiry.

MS DAVIDSON: Do you -

35 **COMMISSIONER:** I wonder - is that microphone capable of more direct - I'm having trouble hearing.

MS ZEKANOVIC: Sorry.

40 **MS DAVIDSON:** Perhaps if it's a bit closer to you, Ms Zekanovic.

MS ZEKANOVIC: Thank you.

45 **MS DAVIDSON:** You indicated you were aware of that evidence being given to the Inquiry.

MS ZEKANOVIC: Yes.

MS DAVIDSON: Do you understand that the new case management system will enable superior intelligence analysis to what's hitherto been possible?

5 **MS ZEKANOVIC:** Yes. And better oversight of intelligence that's coming in to that new system.

MS DAVIDSON: But you have no idea how that will work at this point?

10 **MS ZEKANOVIC:** No.

COMMISSIONER: Why are you able to say that?

15 **MS ZEKANOVIC:** The new case management system is intended to address a number of issues we have with our current and existing processes. And I think the Inquiry has shown quite clearly that the SIU is not serving the purpose in the way that it should. So a new case management system will be able to - will be able to procure that functionality as part of that process.

20 **COMMISSIONER:** But you don't know how it's going to do it?

MS ZEKANOVIC: No. We need to -

25 **COMMISSIONER:** It's a bit hard to say it's going to succeed when you don't know what it's going to do.

MS ZEKANOVIC: We intend on getting a custom-built case management system.

30 **COMMISSIONER:** Sorry, you're going to have a custom built -

MS ZEKANOVIC: A custom-built case management system.

35 **COMMISSIONER:** So we're at the stage now where we're thinking about having a new system; is that right?

MS ZEKANOVIC: We were thinking about having a new system earlier on in the year when we were going through - when we identified that we needed a new case management system as part of Project Merge for the whole of PSI.

40 **COMMISSIONER:** So we're now thinking about it, and we're going to get a custom-built system; correct?

MS ZEKANOVIC: Yes.

45 **COMMISSIONER:** But we don't know what it is?

MS ZEKANOVIC: Not at this stage.

MS DAVIDSON: You indicate -

5 **MS ZEKANOVIC:** We haven't gone to tender yet, so -

MS DAVIDSON: That's what I was just about to take up with you. You indicate that you're in the preparatory stage of procurement for implementation in the next 12 months. You haven't gone to tender yet?

10 **MS ZEKANOVIC:** No.

MS DAVIDSON: Are you able to envisage a timeframe for going to tender?

15 **MS ZEKANOVIC:** Not at this stage. It will be - no.

MS DAVIDSON: And the system is going to be custom built, according to you?

MS ZEKANOVIC: Yes.

20 **MS DAVIDSON:** It's not at all realistic to think it's going to be implemented within the next 12 months, is it?

MS ZEKANOVIC: Perhaps 12 to 18 months is more of a realistic timeframe.

25 **MS DAVIDSON:** So in relation to the new system, is it true that what exists at the moment is a set of objectives?

30 **MS ZEKANOVIC:** Yes. Well, we've scoped what we require for the new system to include, but we haven't gone out to tender yet. And that procurement process hasn't yet commenced.

MS DAVIDSON: Do you have some budget for this? Presumably it's not an inexpensive exercise?

35



MS DAVIDSON: And do you have any idea when you'll be in a position to go to tender?

40

MS ZEKANOVIC: Not off the top of my head, no.

MS DAVIDSON: Is that a process that you've been involved in, that is, the scoping exercise?

45

MS ZEKANOVIC: Yes, I'm involved in that process, but I'm at the moment not sort of leading that process. There's a separate project team that's doing that work.

MS DAVIDSON: Is that a team within PSI?

5 **MS ZEKANOVIC:** It's a team within the Delivery, Performance and Culture portfolio.

MS DAVIDSON: Right. Which is the same portfolio as PSI?

10 **MS ZEKANOVIC:** That's right.

MS DAVIDSON: And so it's ultimately a team reporting to Assistant Commissioner Snell; is that correct?

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

MS DAVIDSON: Right. Can you go to paragraph 16. You're responding here to a request from the Commission in relation to categories of entries within the PSI database, and I just want to see if I'm understanding correctly what you've said in relation to these entries:

20 "Where a complaint..."

You say in paragraph 16:

25 "Where a complaint falls within more than one category, it's been listed under each relevant category in the table below."

30 So some, therefore, are listed in multiples. So am I correct in understanding that a complaint in relation to an officer who is engaged in a sexual or inappropriate relationship with an inmate could fall under each of the following categories: firstly, inappropriate conduct?

MS ZEKANOVIC: Yes.

35 **MS DAVIDSON:** Secondly, criminal matter?

MS ZEKANOVIC: Yes.

40 **MS DAVIDSON:** Thirdly, corrupt conduct?

MS ZEKANOVIC: Yes.

MS DAVIDSON: Fourthly, sexual harassment? Go over the page. Fifthly, legal matter?

45 **MS ZEKANOVIC:** Yes.

MS DAVIDSON: And sixthly, presumably, AVO or ADVO?

MS ZEKANOVIC: Possibly.

5 **MS DAVIDSON:** So is there any - given that, and understanding that you've sought to capture all of the various categories that are in the database, is there any way of analysing this data in terms of proportion of complaints or entries that might relate to a complaint that involves an officer in a sexual or inappropriate relationship with an inmate?

10

MS ZEKANOVIC: Sorry, can you ask that again?

15 **MS DAVIDSON:** Given the way in which a complaint of that kind - an officer in a sexual or other inappropriate relationship with an inmate could fall within all of those categories, I'm just asking for your understanding: is there any sensible way of discerning the proportion that categories of that - I'm sorry, that complaints or entries of that kind relate to as a proportion of the whole and not really because of the double-counting involved?

20 **MS ZEKANOVIC:** There - there is, but we can't really escape the double-counting because one matter that's referred to us may fall within multiple categories.

25 **MS DAVIDSON:** Right. Does it inhibit your ability to - that is, the double-counting that you can't escape, inhibit your ability to analyse the data in a meaningful way?

30 **MS ZEKANOVIC:** Well, we've started using an interim solution, a system called Relativity, to analyse the data, and that provides us better reporting, data collection, data analysis so that we can understand the data better.

35 **MS DAVIDSON:** And does the interim - or is the interim solution able to be applied to data before it was implemented or only data that's been collected since it's been implemented?

35

MS ZEKANOVIC: No, it's able to be - it's able to use data that was implemented prior to the current solution being in place.

40 **MS DAVIDSON:** Right.

40

MS ZEKANOVIC: It's using existing PSI data and drawing on that.

45 **MS DAVIDSON:** Is that an exercise you've done, that is, kind of attempt to proportional analysis what kinds of complaints or complaint entries are found or categories of conduct are found within the PSI database?

MS ZEKANOVIC: Yes, that's correct.

MS DAVIDSON: And for what purpose have you done that proportional type of analysis?

5 **MS ZEKANOVIC:** To identify persons of interest that come up frequently, to determine which workplaces have issues that require further attention, to identify trends in certain categories where they've been increasing.

10 **MS DAVIDSON:** All right. So you haven't - it is true to say that since the interim solution has been implemented at least, you don't regard the way in which the data is stored as being an impediment to analysis of that data?

15 **MS ZEKANOVIC:** I think the way the data was stored was - it was somewhat thorough, but it was difficult to extract data from it. It was quite a manual exercise. It required a lot of people - not a lot of people, but it required a lot of resources to be able to extract the data, analyse the data, see trends. It wasn't easily identifiable where the, I guess, trends were.

20 **MS DAVIDSON:** And that was because a lot of things were being recorded on an Excel spreadsheet, as I understand it.

MS ZEKANOVIC: That's correct.

25 **MS DAVIDSON:** Can you go to paragraph 18. You're addressing here your attempt - and I understand you've got various qualifications in relation to this, but to identify the avenues for complaints in the PSI database, that is, where they came from. Is it fair to say that the Official Visitor is a very small source, from what you've been able to identify, of those kinds of complaints?

30 **MS ZEKANOVIC:** From what I've been able to identify, yes.

35 **MS DAVIDSON:** I note there's no reference to the Inspector of Custodial Services. Are you aware of complaints being raised directly with PSI since you've taken over by the Inspector herself, that is, not an Official Visitor contacting you but the Inspector?

MS ZEKANOVIC: Yes.

40 **MS DAVIDSON:** Would you expect that to be captured within the Official Visitor line item we see in that table or -

MS ZEKANOVIC: Yes, definitely.

45 **MS DAVIDSON:** All right. So you didn't make a separate entry for the Inspector, but we should understand the Official Visitor to include the Inspector of Custodial Services; is that right?

MS ZEKANOVIC: No, the Inspector should have her own entry in there, actually.

MS DAVIDSON: All right. But she doesn't.

5

MS ZEKANOVIC: No.

MS DAVIDSON: Does that mean that there should be some amendment made to that table?

10

MS ZEKANOVIC: Yes.

MS DAVIDSON: That's information you could supply to the Inquiry?

15

MS ZEKANOVIC: Yes.

MS DAVIDSON: In circumstances where the Inspector of Custodial Services raises with you complaint or concern that has been received from an Official Visitor or come to her - that is, come to the Inspector's attention, what would be the process that you would follow in relation to that, her coming to you?

20

MS ZEKANOVIC: I would then refer it to the assessment and triage team, who receives all of our referrals, in PSI. They would then analyse all the information, prepare it so that it's on the agenda for the consideration of the Professional Standards Committee. So it would be treated in the same way that any referral would be treated.

25

MS DAVIDSON: Right. Can I ask you to look at paragraph 20. Here, you're dealing with open complaints within the PSI database. And the total number of open complaints, according to you in paragraph 19, is 832.

30

MS ZEKANOVIC: Yes.

MS DAVIDSON: Do we understand the table in paragraph 20 correctly to therefore mean that - because the total there is plainly more than 832 - that a matter can fall within more than one category listed in that paragraph 20 table?

35

MS ZEKANOVIC: That's correct. And it says at the top of that table, Complaint Entries.

40

MS DAVIDSON: Yes.

MS ZEKANOVIC: Yep.

45

COMMISSIONER: Ms Davidson, I'm not at all sure I understand all this material. But how many total complaints, on average, are you now getting a year?

MS ZEKANOVIC: On average -

COMMISSIONER: And is that number in here?

5 **MS ZEKANOVIC:** No. So the entries is where the number of people that are listed within a complaint. So we might get 800 complaints, but within each complaint, if there's two people, it will be 1600 entries in our database.

10 **COMMISSIONER:** Well, how many complaints are you getting a year?

MS ZEKANOVIC: Last year, it was about 807, I think, or thereabouts. I included, I think, the figure in my second supplementary statement. But this year - or today, it was about 810 we're at, at the moment.

15 **COMMISSIONER:** 810 this year?

MS ZEKANOVIC: Yes. As of today, I think.

20 **COMMISSIONER:** And what's the number at the moment of unprocessed or unfinalised complaints?

MS ZEKANOVIC: According to the data that I provided here, it's 832 complaints and 1607 complaint entries remaining -

25 **COMMISSIONER:** So about a year's worth -

MS ZEKANOVIC: That's right.

30 **COMMISSIONER:** - of complaints haven't been finalised?

MS ZEKANOVIC: That's correct.

COMMISSIONER: And how old would the oldest of those complaints be?

35 **MS DAVIDSON:** There is data on that, Commissioner.

COMMISSIONER: Is there?

40 **MS DAVIDSON:** Yes. I'm coming to -

COMMISSIONER: Well, I'll leave it in your hands, but you know what I'm looking for.

45 **MS DAVIDSON:** Yes.

COMMISSIONER: I'm looking for how efficient we are.

MS DAVIDSON: Yes. And there is some information given by Ms Zekanovic in relation to what she refers to -

COMMISSIONER: I'll leave it to you.

5

MS DAVIDSON: Just sticking with this table at paragraph 20 to make sure I understand it correctly, there's - the second line there is Under Investigation with IB. How is anything under investigation with IB anymore?

10 **MS ZEKANOVIC:** That is a historical reference in the database to IB. Even though we've combined PSI, that's - the database has been around since 2015. So when the two branches were separate, things would get referred from PSB to IB, and that's where that entry in the database - or that description has come from.

15 **MS DAVIDSON:** All right. So does that mean that those matters are all backlog-type matters, the ones that are listed as Under Investigation with IB?

MS ZEKANOVIC: Some of them are new matters. It's all of the matters.

20 **MS DAVIDSON:** All right. So things might still be being given that description even though IB doesn't exist anymore?

MS ZEKANOVIC: That's right. So you can take that to mean it's with the investigations team within PSI.

25

MS DAVIDSON: I see. The fourth line is Under PSI Assessment. What does that mean?

30 **MS ZEKANOVIC:** So PSI assessment is where PSI may be waiting on some advice from a decision-maker or we have just received the referral and we are yet to present it to the PSC, for instance.

MS DAVIDSON: So it may be with the assessment and triage (crosstalk) -

35 **MS ZEKANOVIC:** That's right.

MS DAVIDSON: - referred to earlier?

40 **MS ZEKANOVIC:** Or consideration - some other consideration within the team.

MS DAVIDSON: All right. And then a few lines further down, we see Under PSB Assessment. Now, again, PSB doesn't exist anymore. Are you able to explain what that means?

45 **MS ZEKANOVIC:** That would mean the same as PSI assessment.

MS DAVIDSON: All right.

MS ZEKANOVIC: The numbers should be combined.

5 **MS DAVIDSON:** Okay. So, again, should it be assumed that Under PSB Assessment is backlog-type matters or that's not a safe assumption to make?

MS ZEKANOVIC: These are all open matters. Some of them will be - have been open for a while, but some of them would have only been received quite recently.

10 **MS DAVIDSON:** All right. Four lines from the bottom, you refer to Awaiting Conduct and Professional Standards Outcome. I understand that to be a Professional Standards unit or branch or entity within another part of DCJ.

15 **MS ZEKANOVIC:** Yes.

MS DAVIDSON: And that is - according to your footnote 14, it would relate to staff members who had been employed in some other part of DCJ?

20 **MS ZEKANOVIC:** Yes.

MS DAVIDSON: Is that Conduct and Professional Standards, for want of a better word, one that you have liaised with in the process of Process Merge in terms of designing Corrective Services processes?

25 **MS ZEKANOVIC:** We have consulted DCJ HR in relation to designing the model that we've come up with under PSI - the new PSI model.

30 **MS DAVIDSON:** All right. But you didn't consult with the Conduct and Professional Standards?

MS ZEKANOVIC: I would have to check if they were specifically consulted.

MS DAVIDSON: All right. Do you understand how their model works?

35 **MS ZEKANOVIC:** Not specifically, no. Of course, their model would be underpinned by the GSE Act, as is ours, and the rules. But exactly how they process their referrals, I'm not entirely sure.

40 **MS DAVIDSON:** Paragraph 22, you're referring to the Professional Standards Committee and to the membership, and you say in the last sentence that you've recently taken steps to invite a representative from New South Wales Police -

MS ZEKANOVIC: Yes.

45 **MS DAVIDSON:** - who will join the next PSC meeting in the week of 20 November 2023 and all future PSC meetings. Are you able to indicate whether that representative of New South Wales Police is someone from the CSIU?

MS ZEKANOVIC: Yes, it's the Commander.

5 **MS DAVIDSON:** The Commander. Do you regard it as appropriate for a police officer to be involved in decision-making in relation to whether or not a matter should be referred to police?

10 **MS ZEKANOVIC:** I think it's valuable to have their advice on the committee. Often we refer things to them, but often - we sometimes refer matters to them where it would have been helpful to get their preliminary advice. If they could find something, it's helpful to get that information sooner so then we can then refer it to investigations within PSI. It saves their time. It saves our time. Also, sometimes the committee members of the PSC will ask certain questions that I think are best answered by a police officer. And I understand, historically, a member of the
15 CSIU used to sit on the PSC, or some version of the PSC. I'm not sure at what point that stopped.

20 **MS DAVIDSON:** So you've indicated that it might save some time in relation to matters that the CSIU might decline?

MS ZEKANOVIC: Yes. But also just provide advice, I think, as an advisory role.

25 **MS DAVIDSON:** Do you expect the Commander - well, take a step back. When you refer something to CSIU, what do you understand to be their process in deciding (indistinct) have an understanding of what their process is in terms of deciding whether or not to accept that referral?

30 **MS ZEKANOVIC:** Their process - they look at all the information, obviously, that we send them. They make relevant inquiries as appropriate. And then depending on whether they will have enough, in their view, to proceed with it criminally in order for it to meet, obviously, the criminal threshold is how they decide whether to take on a matter or not.

35 **MS DAVIDSON:** So do you expect the Commander of the CSIU to be in a position to make that assessment in the PSC meetings by virtue of his or her membership in the PSC, or do you still expect that matters referred to CSIU would go away - well, sorry, would be considered by them with the process of them making further inquiries and then a determination?

40 **MS ZEKANOVIC:** I think both. I think sometimes we refer matters to them to err on the side of caution, which we probably assess - yeah, we assess as thinking, "This is something the CSIU are likely to decline, but for abundant caution, let's send it to them and they can check their police holdings and any other information they also have."
45

MS DAVIDSON: And you'd agree that's entirely appropriate in terms of the management of potentially criminal allegations, presumably, that is, that cautious approach that you've just described?

5 **MS ZEKANOVIC:** For us referring matters to the CSIU?

MS DAVIDSON: Yes.

10 **MS ZEKANOVIC:** I think it's appropriate to refer things to police, yes.

MS DAVIDSON: Yes. I think you indicated in your earlier answer that by having the Commander of the CSIU on the committee, that he or she may, in effect, be able to provide an earlier answer in relation to that. Does that raise a concern for you that that cautious approach that you've -

15 **MS ZEKANOVIC:** Will be compromised?

MS DAVIDSON: - described may be compromised?

20 **MS ZEKANOVIC:** No. I don't think so, because we will still - you know, if the committee is of the strong view that it should still be referred to the CSIU, we can still make that recommendation even if the Commander sitting on that committee.

25 **MS DAVIDSON:** Do you regard the other members of the committee, who are obviously none of them police officers, as being likely to defer to the view of the Commander of the CSIU as to whether a referral is likely to lead somewhere or not?

30 **MS ZEKANOVIC:** Yes, I do. But at the same time, to some extent we have to trust the advice of the police in making that assessment.

35 **MS DAVIDSON:** I'm just wondering by what mechanism you're going to ensure that that assessment process, that is, the one you've described of police going away and making further inquiries and forming a view, is actually one that will continue to be followed in relation to matters that the PSC would wish to see assessed by the CSIU.

40 **MS ZEKANOVIC:** Yes. That is something that I will take away and consider further in relation to this issue that you just raised.

MS DAVIDSON: So that's not a concern that had occurred to you previously?

45 **MS ZEKANOVIC:** I think I saw the benefit of the CSIU being part of the conversation, rather than what you just raised, and their early advice when we receive a referral. We often refer a particular matter to them if there's some urgency to it anyway, to get their advice before the PSC meets, where we think

that their prompt action is required. So I feel like, you know, having them on a PSC is an extension of that to some extent.

5 **MS DAVIDSON:** Can I take you to paragraph 23. In (a), you've referred to various mechanisms provided for under the Government Sector Employment Act, and they include the last option that you've identified there, cautioning or reprimanding the employee. If that was an outcome, that is, an employee was given a warning or a caution, would you expect that to be recorded somewhere within PSI's records?

10 **MS ZEKANOVIC:** Yes. So a caution or a reprimand is recorded - yes, (indistinct) warning. They're all recorded in our records. That's correct.

15 **MS DAVIDSON:** Do you understand that in Astill's case, there's some evidence of him being given a warning or a caution and seemingly, in terms of the records provided to the Inquiry, there being no record of that occurring?

20 **MS ZEKANOVIC:** So a letter of warning, which is different to a caution or reprimand, that is not stored on an employee's P file. It's stored in a PS - as it was then when he was around, in a PSB file, if we had knowledge of it. But sometimes local management issue letters of warning that PSI have no visibility or involvement in.

25 **MS DAVIDSON:** Right. And it's not stored on the personal file but stored -

MS ZEKANOVIC: A letter of warning, no.

MS DAVIDSON: But it was stored within a PSB file for the person?

30 **MS ZEKANOVIC:** If PSB - or, sorry, if PSI issue a letter of warning, yes, it's stored within our files. But in terms of Astill's letter of warning that he received, I'm not sure where that was stored.

35 **COMMISSIONER:** Well, why -

MS DAVIDSON: If he received one. I think you might be making an assumption.

MS ZEKANOVIC: Based on -

40 **COMMISSIONER:** Why is that distinction made? Why is it not on the personnel file?

MS ZEKANOVIC: Because it's not a misconduct outcome under the GSE Act.

45 **COMMISSIONER:** But it goes to the performance of the person in their job.

MS ZEKANOVIC: It does, but it's not - it's not a - when we follow the misconduct process under the GSE Act, if they're - if they result in a misconduct outcome under section 69(4), it's recorded on their P file. But a letter of warning, if it's issued by PSI, it's not.

5

COMMISSIONER: You haven't explained to me why not.

MS ZEKANOVIC: I actually don't know. I'm not sure why that's the case.

10 **COMMISSIONER:** Well - all right.

MS DAVIDSON: Going to the Commissioner's - or coming to the Commissioner's earlier - or the territory of the Commissioner's earlier questions as to complaints that have been closed and the backlog. In Annexure 2 and 3 of your statement - and these are referred to in paragraphs 25 and 26 - you've provided a schedule of complaint entries referred to PSI and its predecessors that have been closed by year referred and the outcome; is that right?

15

MS ZEKANOVIC: Mmm.

20

MS DAVIDSON: Are you able to explain, in relation to both of those tables, why it is that "no further action" appears to be by far the largest category in relation to the outcomes that are described there?

MS ZEKANOVIC: The "no further action" could be for various reasons, including, for instance, during a misconduct process, the person - once allegations were put to them, they provided an explanation as to whether they were involved or not in the misconduct, and a decision is then made by the decision-maker to take no further action following advice from PSI. "No further action" could also include where there's - the investigation has resulted in no further information that would allow PSI to put allegations to someone to commence a misconduct process, or where there is information that we keep purely for intelligence purposes because there's nothing much to go on or we refer to a matter that doesn't relate to a Corrective Services employee, for instance.

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MS DAVIDSON: Right. In relation to the backlog, you indicate at paragraph 29 that you first became aware of what you referred to as the backlog in February 2022. So that's before you took over as Acting Director. Back in February 2022, were there steps that you took as Manager of PSB to seek to address the backlog?

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MS ZEKANOVIC: Yes. As a manager in the team, I worked with other managers to develop a system whereby we assessed all the matters that were waiting allocation to a legal officer to - we allocated all those matters to the legal officers within the team so that at least we could draft allegations to each of those - for each of those matters and commence the misconduct process. So it wasn't a perfect way of dealing with the backlog, but it was what we could do at the time. So at least every matter that was awaiting allocation to a legal officer had

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commenced the misconduct process once we were done with that process - with that exercise.

5 **COMMISSIONER:** Well, I'm more interested in what the completion rate is.

MS DAVIDSON: So going, then, to the table that we see in paragraph 29 - or the tables. Commissioner, I think this might provide a partial answer in relation to your question. This shows the agedness, to use a general term, of the complaints that are currently open; is that right?

10 **MS ZEKANOVIC:** Yes.

MS DAVIDSON: So as to the number of complaints, appreciating that each complaint may give rise to more than one complaint entry, the largest number of outstanding complaints at the moment is one to two years old in terms of categories you've got in there?

MS ZEKANOVIC: Yes.

20 **MS DAVIDSON:** But there are, accumulating them, nearly 100 matters, that is, nearly 100 complaints, that are more than two years old?

MS ZEKANOVIC: Yes.

25 **MS DAVIDSON:** And some of them up to four years old?

MS ZEKANOVIC: Yes.

MS DAVIDSON: Do you agree that those tables that we see at paragraph 29 suggest a serious problem within PSI? And its predecessors, I should say.

MS ZEKANOVIC: I would suggest that it's been an ongoing challenge for PSI, and PSB as it was, to keep on top of the increasing referrals.

35 **MS DAVIDSON:** And -

COMMISSIONER: Well, can you explain to me how - how can you justify any complaint that's not disposed of within four years? How is that possibly reasonable?

40 **MS ZEKANOVIC:** There are various - well, it's hard to explain, isn't it? I think there are complaints in that that we're still waiting for a court process to finish, is one that comes to mind. There are - there is a couple of matters that relate to - I can't go into the details here, but that relate to another investigation that took
45 place, and that process has been delayed.

COMMISSIONER: What it means is the complaint is hanging over someone's head for years.

MS ZEKANOVIC: Yes. It's not ideal.

5

COMMISSIONER: Well, it's not even fair, is it?

MS ZEKANOVIC: Mmm.

10 **COMMISSIONER:** What are you doing to address those issues?

MS ZEKANOVIC: So that's the whole intention of Project Merge, is to develop a new way of dealing with misconduct and a new assessment and triage process.

15 **COMMISSIONER:** Well, that's the next 18 months away.

MS ZEKANOVIC: Not - no, not for - the case management system, yes, but in terms of implementing the model, in terms of how we're triaging misconduct matters, that won't be 12 to 18 months away. That's something that we'd like to commence sooner.

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COMMISSIONER: Have you got the model ready to go?

MS ZEKANOVIC: We've got a model, yes.

25

COMMISSIONER: Where it is?

MS ZEKANOVIC: Well, it's - we recently consulted with staff about it, and we are taking steps to implement it. My understanding is that the submission to sign it off, to commence working on the new model and actually rolling it out, is going through the sign-off process through the executive.

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COMMISSIONER: So when do you expect to be able to start to implement this process?

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MS ZEKANOVIC: I hope early next year.

COMMISSIONER: Hope? What's the reality?

40 **MS ZEKANOVIC:** I'm hopeful it'll be early next year. It's already been delayed -

COMMISSIONER: No, I'd like to know what the reality is. You say it's been delayed. What's the reality? What's the real time?

45 **MS ZEKANOVIC:** My expectation is that it'll commence early next year. We've been working towards this pretty much all year and getting this model off the

ground, so it's definitely something that's a priority for my team and for the executive.

5 **MS DAVIDSON:** Paragraph 30, you indicate that you are, at the moment, engaged in - well, 30 and 31, I should say, you're engaged in quantifying the backlog and analysing it. Are you able to indicate what analysis is presently being done of the backlog?

10 **MS ZEKANOVIC:** Yes. So you will see in paragraph 31, I talk about the CSO being engaged to assist us with the analysis. So that includes looking at the matters that have been - or the complaints that have been referred to PSI and are awaiting assessment by a legal officer to determine whether allegations can be issued, and we are going to - or we've asked the CSO to assist us with that work.

15 **MS DAVIDSON:** All right. You indicate in paragraph 31 that the CSO was engaged in August 2023. It's now nearly December, and you indicate the CSO will be asked to commence the work shortly. What's been happening in September, October and most of November?

20 **MS ZEKANOVIC:** There have been internal discussions about how we should proceed with the backlog, which has caused delay in terms of actually getting the CSO to commence that work.

25 **MS DAVIDSON:** All right. So the CSO wasn't really engaged in August?

30 **MS ZEKANOVIC:** No, conversations were had with them at that time about what we would like - what we wanted them to do. They provided us with a fee estimate. However, for various reasons, due to internal conversations about what else we could do internally before we engaged the CSO - that's what the reason for the delay is.

35 **MS DAVIDSON:** Right. You've referred in (b) and (c) to some recruitment processes. Is part of the reason for the backlog that you simply don't have enough staff in PSI at the moment?

MS ZEKANOVIC: Yes.

40 **MS DAVIDSON:** You indicate in paragraph 31(b) that within DCJ, you didn't receive any suitable candidates from expressions of interest in early July. You then say the roles have since been externally advertised. Do you know when that advertisement process took place?

45 **MS ZEKANOVIC:** For the - for the investigators, the roles closed about three weeks ago. And for the legal roles, they closed last week.

MS DAVIDSON: All right. So between early July and, again, last couple of weeks, what's been occurring in relation to progressing - obtaining more staff?

MS ZEKANOVIC: The reason that there was a delay in recruitment is because we're going through a restructure, and as part of our restructure, we are going to have a - PSI want to have a regional presence in terms of how we manage
5 misconduct, like, having a team of investigators and lawyers that work on the
misconduct matters that come out of the regional workplaces, and we weren't sure
whether we would have staff based in the regions or have a fly in, fly out service.
So we thought it wasn't fair to bring on new staff if we weren't sure
whether - whether - where they were going to be working, whether it was at a
10 metropolitan location or elsewhere.

MS DAVIDSON: So you were thinking about it internally? Is that what was happening between July and the last few weeks?

15 **MS ZEKANOVIC:** Also - I would say that PSI has been distracted also by the Inquiry and other work that we're trying to get the reform underway.

MS DAVIDSON: Right. But you'd agree that getting new staff on board is absolutely critical to being able to (crosstalk) backlog?
20

MS ZEKANOVIC: Yes. Of course.

COMMISSIONER: Who do you report to?

25 **MS ZEKANOVIC:** Assistant Commissioner Chantal Snell.

COMMISSIONER: And who does she report to?

MS ZEKANOVIC: Luke Grant, Deputy Commissioner.
30

COMMISSIONER: And these discussions that you're talking about, do they involve Luke Grant and Chantal?

MS ZEKANOVIC: The Assistant Commissioner, yes. Not so much Luke Grant,
35 no.

COMMISSIONER: Right. So for these purposes in moving forward, perhaps slowly but moving forward, is that Chantal is responsible for it?

40 **MS ZEKANOVIC:** No, it would be conversations that her and I would have together and decide on certain steps we're going to take to be able to progress either the reform or recruitment.

COMMISSIONER: But to use the ordinary expression, she carries the can, does she?
45

MS ZEKANOVIC: Well, she's my manager, yes.

MS DAVIDSON: How many roles are you recruiting for investigators and lawyers?

5 **MS ZEKANOVIC:** The investigators, we have about eight vacant - no, 11 vacant roles. And -

MS DAVIDSON: Are you going to be filling all those roles as a result of this recruitment drive?

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MS ZEKANOVIC: If we get suitable applicants, hopefully. And the legal roles, I can't remember off the top of my head, but it's - it's also quite - maybe not as many as the investigators. I'd have to check.

15 **MS DAVIDSON:** Fewer than 10 but more than five?

MS ZEKANOVIC: Yes.

20 **MS DAVIDSON:** You refer at paragraph 32 to you developing a high priority list. Are you able to explain how many matters are on that high priority list?

MS ZEKANOVIC: I haven't - I haven't looked at it in a few days. There's usually about 50 or so matters, if not more. It fluctuates.

25 **MS DAVIDSON:** That's not drawn from the backlog, is it, that's matters that come in can be added to the high priority list?

MS ZEKANOVIC: That's right.

30 **MS DAVIDSON:** Right. And does that include all allegations involving sexual misconduct or alleged sexual misconduct?

MS ZEKANOVIC: Yes.

35 **MS DAVIDSON:** You refer to serious criminal matters, serious fraud and corruption and likely media interest. How is "likely media interest" measured for the purpose of putting something on the high priority list?

40 **MS ZEKANOVIC:** If a staff member has been convicted of an offence, then they sometimes appear - they sometimes make their way onto the high priority list if we think it's going to generate media interest.

MS DAVIDSON: Right so that's high priority for misconduct matters associated with that criminal conviction, it is?

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MS ZEKANOVIC: Yes.

5 **MS DAVIDSON:** You've referred, in some answers that you've given, to the new model currently being in the stage of a sign-off. Where is the best documentary description of that new model? That is, what is it that's actually being signed off on? Is it just the misconduct process map that forms the first part of your statement. What is the model?

MS ZEKANOVIC: The model is essentially the merging of the two teams, Professional Standards and Investigations.

10 **MS DAVIDSON:** That's already occurred, hasn't it?

15 **MS ZEKANOVIC:** Yes, but how we organise the staff within those teams. Rather than having the investigations team separate to the legal team, we intend on creating teams where they work together in multidisciplinary teams. As part of the restructure there will also be a Prevention and Education team, that's a new function as part of this body of work. I spoke about the case management system. And then also a new assessment and triage approach to dealing with misconduct.

20 **MS DAVIDSON:** What's the document that's being or is in the process of sign-off?

MS ZEKANOVIC: It's a submission.

25 **MS DAVIDSON:** A submission to the Commissioner?

MS ZEKANOVIC: Yes.

30 **MS DAVIDSON:** You haven't annexed that to any of your previous statements, have you?

MS ZEKANOVIC: I don't think so, no.

MS DAVIDSON: That could be produced to the Inquiry?

35 **MS ZEKANOVIC:** Yes.

MS DAVIDSON: And where in the sign-off process do you understand that to currently be?

40 **MS ZEKANOVIC:** My understanding is with the Commissioner's office.

45 **MS DAVIDSON:** With the Commissioner's office. We heard some evidence in the course of the Inquiry about there's intended to be some triage function as part of the new model within the Commissioner's office. Is that accurate?

MS ZEKANOVIC: I think that was the thinking a few weeks ago following my initial evidence at the Inquiry. And the issue that came up in relation to clause 253

of the CAS Reg, that regulation has now - the delegation has now changed to enable that particular clause to be delegated to the PSI Director and other members of the executive to be able to receive misconduct reports.

5 **MS DAVIDSON:** So you understand the Commissioner to have put a new delegation in place in the last few weeks -

MZ ZEKANOVIC: That's correct.

10 **MS DAVIDSON:** - relation to the regulation -

MS ZEKANOVIC: Yes.

MS DAVIDSON: Is that right?

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MS ZEKANOVIC: Yes. And my understanding is that the Assessment and Triage team will not be located in his office.

MS DAVIDSON: All right. So where will it be located: within PSI, will it?

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MS ZEKANOVIC: I think there's some discussion about where that's going to land.

MS DAVIDSON: All right. So is this described, this process of what is envisaged currently, that is as at today, described in the submission or is the submission now (crosstalk).

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MS ZEKANOVIC: No, the submission is current.

30 **MS DAVIDSON:** Is current?

MS ZEKANOVIC: Last time I looked at it, yes.

MS DAVIDSON: All right.

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MS ZEKANOVIC: The delegation may not be in the submission.

MS DAVIDSON: Did you hear former Commissioner Severin's evidence this morning?

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MS ZEKANOVIC: Not much, no.

MS DAVIDSON: Did you understand the previous misconduct system to be one that was designed to remove the Commissioner from immediate involvement?

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MS ZEKANOVIC: When you say "previous" -

MS DAVIDSON: I'm sorry, the system prior to Project Merge.

MS ZEKANOVIC: To remove the Commissioner as in he would not be part of the assessment and triage function would not be part of -

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MS DAVIDSON: To keep him at some distance?

MS ZEKANOVIC: Yes.

10 **MS DAVIDSON:** At paragraph 33 you indicate that one of the priorities of the new model is addressing those matters that led to the backlog. What do you understand those matters that led to the backlog to be?

15 **MS ZEKANOVIC:** I think a key feature of the new misconduct model will be a better assessment and triage approach. So -

MS DAVIDSON: That's not quite an answer to my question. What do you understand to be the matters that led to the backlog?

20 **MS ZEKANOVIC:** I think an increasing number of complaints made -

MS DAVIDSON: Right.

25 **MS ZEKANOVIC:** - to PSI, shortage of staff. They're probably the two key factors.

MS DAVIDSON: And are you aware of what led to the shortage of staff?

30 **MS ZEKANOVIC:** Mostly natural attrition. A few key staff from PSI have left this year, some high-performing staff.

35 **MS DAVIDSON:** You indicated in your evidence on the last occasion that I think members, that you were aware of in your team, the longest tenure amongst any of them was about five years. Are you able to indicate any reason in relation to attrition of staff from PSI and its predecessors?

40 **MS ZEKANOVIC:** Better opportunities, for the most part. They were offered opportunities in other government agencies that were either a step up or some people just wanted a change, they'd been around for a couple of years.

MS DAVIDSON: And how will those issues, that is the issues that you have just identified as leading to the backlog, be treated in the new model?

45 **MS ZEKANOVIC:** As I mentioned, the Assessment and Triage, the focus of that is to be able to, I guess, screen assessment - screen complaints more thoroughly where - as part of the Assessment and Triage function would be lawyers and investigators in that team as well. So rather than having - they'll be

able to look at whether we can put allegations firstly to the POI as soon as a complaint comes in, is something that we'd like to see. Also the investigators, as part of that, team can make some preliminary inquiries about whether there's any further lines of inquiry that need to be explored more formally, for instance.

5

And we do get a number of referrals where it doesn't quite meet the level of - the serious level of misconduct, and we see the role of local management dealing with the more, I guess, trivial matters with the support of PSI but really being able to, I guess, be involved in addressing all lower level minor misconduct.

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MS DAVIDSON: And where do allegations of inappropriate relationships with inmates fit within that?

MS ZEKANOVIC: That's serious. That wouldn't be delegated down, that would remain within PSI and be referred to the CSIU.

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MS DAVIDSON: You've done some work in response to a query from the Inquiry in relation to complaints - well, sexual harassment type complaint entries, which I understand to include categories broader than sexual harassment but also alleged sexual offending. Is that an accurate description of the way you are using sexual harassment?

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MS ZEKANOVIC: Yes.

MS DAVIDSON: Within this analysis?

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MS ZEKANOVIC: Yes.

MS DAVIDSON: And you provided a breakdown of those in the table that's at paragraph 35, and then in Annexure 4 you have broken that down by Centre?

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MS ZEKANOVIC: Yes.

MS DAVIDSON: Looking at Annexure 4, you see that 22 out of what I think, if I am reading the table in paragraph 35 correctly, the 240 over that period of time come out of Dillwynia, which is the second highest number in the state after Bathurst.

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MS ZEKANOVIC: Mmm.

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MS DAVIDSON: Correct me if I am wrong, Dillwynia isn't the second largest Correctional Centre in the state, is it?

MS ZEKANOVIC: I'm not sure in terms of size.

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MS DAVIDSON: You don't know whether it's the second largest staff number in terms of officers?

MS ZEKANOVIC: I don't know that information, no.

5 **MS DAVIDSON:** Did the proportion coming out of Dillwynia splice surprise you?

MS ZEKANOVIC: Yes.

10 **MS DAVIDSON:** Does it indicate a problem from your perspective?

MS ZEKANOVIC: I think it indicates also the ability of inmates or staff to feel confident to report things where they perceive to be sexual misconduct.

15 **MS DAVIDSON:** Right. As indicators of a problem, that's not really an answer to the question, is it?

MS ZEKANOVIC: Sure.

20 **MS DAVIDSON:** The ability -

MS ZEKANOVIC: No, of course, 22 for Dillwynia of course is a problem, absolutely.

25 **MS DAVIDSON:** What steps does PSI intend to take in relation to that problem having now been identified by this piece of analysis?

30 **MS ZEKANOVIC:** That number - so as I mentioned somewhere else in my statement, I can't remember what paragraph it is, all matters of a sexual - any allegation of sexual misconduct is treated as a priority by PSI, so those matters are immediately referred to the CSIU. If they decline then the Investigations Branch investigate. They're the cases which are given priority above all others. And then once the investigation is complete, the legal officer is then - the legal team prioritises the assessment of those investigations reports and progression of those matters.

35 **MS DAVIDSON:** All right. Well, you say it's all referred to CSIU but if you go to paragraph 39, you've indicated the total numbers of cases that have been referred to CSIU out of these 240, and the total is 66. So it's plain that it's not all being referred to CSIU, is it?

40 **MS ZEKANOVIC:** I have to check that, actually. Maybe in the past it wasn't all referred to the CSIU.

45 **MS DAVIDSON:** Look at 2023, you see there that the number of matters referred is 25?

MS ZEKANOVIC: Yes.

5 **MS DAVIDSON:** But if you go back to Annexure 5, which is the schedule of complaints by year being referred to PSI, you see in the second column from the right, the total number of complaints I think is 79. So they're not all being referred to CSIU, are they?

10 **MS ZEKANOVIC:** With sexual harassment in Annexure 5, of the 30, if we're using "sexual harassment" as an all-inclusive term, it's got 25 for the CSIU referred in paragraph 38.

15 **MS DAVIDSON:** But the total, if you go down to the bottom, sexual harassment, I think you have explained is one of the subcategories but then there's a number of other things, including sexual advances, rape, grooming - those are other things you've got in your Annexure 5 - the total comes to 79 for 2023. Do you see that?

20 **MS ZEKANOVIC:** Sorry, where are you - sorry, no.

25 **MS DAVIDSON:** Looking down the bottom at the second right-hand column in Annexure 5.

30 **MS ZEKANOVIC:** Right. Yes. I'm not sure.

35 **MS DAVIDSON:** I'm just trying to understand how this data fits together with your evidence because at the moment it plainly seems that the matters are not all being referred to CSIU and the Inquiry has heard repeatedly -

40 **MS ZEKANOVIC:** Of course.

45 **MS DAVIDSON:** - everything is being referred to CSIU. It doesn't match up.

50 **MS ZEKANOVIC:** Okay. I will qualify that by saying that any sexual harassment, if it's staff making inappropriate comments to each other, for instance, we wouldn't necessarily refer to that the CSIU.

55 **MS DAVIDSON:** Right. So you'd say the category of sexual harassment should be taken out of 79, and that would leave us with 49 in 2023 on the Annexure 5 data; is that right?

60 **MS ZEKANOVIC:** Possibly, yes. Inappropriate comments would also fall into that category.

65 **COMMISSIONER:** I'm not sure I understand. Inappropriate comments of a sexual nature: they're sexual harassment, aren't they?

70 **MS DAVIDSON:** I think what Ms Zekanovic is indicating is that sexual harassment is not automatically referred to the CSIU. Is that right?

MS ZEKANOVIC: I have -

COMMISSIONER: Well, what she said was - I've lost it. No, I've lost the screen.

5 **MS ZEKANOVIC:** We have changed our approach throughout the year also -

MS DAVIDSON: Well that's why I'm - throughout 2023?

10 **MS ZEKANOVIC:** Yes, to refer most, not all, sexual matters to the CSIU. It may not be reflected in the data, but certainly we are referring more matters than we have in the past to the CSIU in relation to sexual harassment.

15 **MS DAVIDSON:** Well, if it's not reflected in the data, where else would we expect to see it? Surely it would show up in the data, would it not?

MS ZEKANOVIC: It should, yes. I'm not sure. I would have to - I would have to check.

20 **COMMISSIONER:** What she said was:

"I will qualify that by saying any sexual harassment, if it is staff making inappropriate comments to each other, for instance, we wouldn't necessarily refer that to the CSIU."

25 Now, inappropriate comments of a sexual nature are guaranteed to be sexual harassment, aren't they?

30 **MS ZEKANOVIC:** Yes, but sometimes we get a referral - and I think I spoke earlier about we might get some preliminary advice from the CSIU, for instance, and they may say, "To prosecute this, we wouldn't necessarily have any success. So we think you should deal with it as a workplace misconduct." So we'd then go to the PSC to say, "The CSIU have given us advice to say that this is better off being referred to the investigations team."

35 **MS DAVIDSON:** That's part of what I wanted to take up with you, the advice that you're getting from the CSIU. You say in paragraph 39:

40 "If the CSIU declined to investigate because a referral is unlikely to meet the criminal standard of proof threshold that applies, ie, beyond reasonable doubt..."

Do you understand them to be applying that threshold before they'd investigated anything?

45 **MS ZEKANOVIC:** I know that they consult with their legal team in police in relation to some of our matters and obtain advice from them in relation to the

things that they get referred from us. So how they make that assessment - I know that they do take that into consideration.

5 **MS DAVIDSON:** Are you aware of them applying a beyond reasonable doubt criminal standard of proof threshold, are you?

MS ZEKANOVIC: I would say that they possibly turn their minds to it and consult with their internal legal team within police.

10 **MS DAVIDSON:** Do you agree that that, if it's being applied before any investigation occurs, would seem to represent a problem in terms of CSIU's acceptance of matters?

15 **MS ZEKANOVIC:** They - they look at all the material that they've received from PSI. I do know that they make - they don't just decline matters instantly. In most cases, they do make their own preliminary inquiries. They are a team of six police officers. So they do have the ability to use other policing resources, but I know that they turn their mind to how successful or, you know, potentially the success of prosecution.

20 **MS DAVIDSON:** Where you say they are a team of six police officers, do you intend to - or in your experience - I realise you can't speak for the CSIU, but do you understand them to have concerns about their own resource constraints that lead to them sending matters back to you?

25 **MS ZEKANOVIC:** I know that they get - they're very busy. They get a - it's not expressed to me from them that they need more staff. They have had their team increased by one. They're a time of five substantively, but there is an extra police officer within that team at the moment.

30 **MS DAVIDSON:** Of the 25 matters that have been referred to CSIU that you have referred to in 2023, are you able to say what proportion of those have been accepted by CSIU for investigation as opposed to sent back to you?

35 **MS ZEKANOVIC:** Not off the top of my head, no.

MS DAVIDSON: But do you have -

40 **MS ZEKANOVIC:** I've got -

MS DAVIDSON: - access to that data?

MS ZEKANOVIC: Yes.

45 **MS DAVIDSON:** Commissioner, the intention was for the systemic-type questions to be addressed to Ms Zekanovic to be finished this afternoon so that Mr Lloyd could ask her some factual questions. Plainly, her evidence won't finish

5 this afternoon. But due to a difficulty that I have in relation to around midday tomorrow, which is, I understand, when the Commission might be in a position to sit, I'd be grateful if it might be possible to sit on for perhaps 15 minutes now to attempt to finish those systemic questions so that we can then start with that factual portion tomorrow.

COMMISSIONER: Yes, that's fine. No, that's fine. Yes.

10 **MS DAVIDSON:** I'm grateful. Paragraph 41, Ms Zekanovic, you refer to developing a targeted review into the handling of sexual misconduct by Corrective Services staff against other staff. Are you able to explain why the targeted review is being confined to that question of staff against staff as opposed to looking at sexual misconduct by staff against inmates?

15 **MS ZEKANOVIC:** There was - this is something that we were looking at earlier in the year. I understand that we were at the time looking at whether we need - whether we are to expand it to include staff on inmates. However, the - there is a SHAP study that's being done through a university - I'm not sure exactly what it stands for, but the study will be looking at sexual offending, I think, by staff on inmates. So we confined our review to staff on staff.
20

MS DAVIDSON: Do you know what's envisaged in terms of the targeted review of sexual misconduct by staff on staff?

25 **MS ZEKANOVIC:** It's to look at how sexual misconduct has been dealt with for the preceding seven years - for the preceding seven years.

MS DAVIDSON: And who's to conduct that review?

30 **MS ZEKANOVIC:** We haven't - I'm not sure if a person has been identified. I'm not aware if anyone has been identified in doing that.

MS DAVIDSON: All right. And what's the timeframe for it?

35 **MS ZEKANOVIC:** The submission to sign that off, I think, is going through the executive at the moment.

40 **MS DAVIDSON:** All right. So this was something you and Assistant Commissioner Snell were working on earlier in the year. Do you know what's been happening between earlier in the year and now?

45 **MS ZEKANOVIC:** There have been, I think, various internal discussions. I've not been privy to all of them. I worked with her to identify some of the workplaces that we could target as part of the review. But I - I'm not aware of exactly what's been happening between now and then.

MS DAVIDSON: Is Dillwynia one of them?

MS ZEKANOVIC: I can't recall off the top of my head, I'm sorry.

5 **COMMISSIONER:** Sorry, when did you start working with Assistant Commissioner Snell on this project?

MS ZEKANOVIC: It would have been maybe April.

10 **MS DAVIDSON:** Is it a project that is in any - or to any extent housed within PSI now or is it within Assistant Commissioner Snell's responsibilities but no longer anything to do with you?

15 **MS ZEKANOVIC:** I think it won't be something that I'll be leading, given that I already have quite a big area of responsibility, but it'll be something that she is - falls within her remit.

COMMISSIONER: So where's it up to now?

20 **MS ZEKANOVIC:** The submission, I think, is going through the sign-off process.

COMMISSIONER: What does that mean?

25 **MS ZEKANOVIC:** That means that it's - the proposal for what the review will cover is being signed off by the executive. That's my understanding of where it's up to.

COMMISSIONER: So when is something going to happen?

30 **MS ZEKANOVIC:** I'm not sure. I haven't - I'm not sure.

MS DAVIDSON: Were you part of the preparation of the submission?

35 **MS ZEKANOVIC:** I have not seen the latest draft of the submission. I was in more the preliminary conversations of when we were thinking about doing this and providing advice.

40 **MS DAVIDSON:** Right. So it's fair to say that really nothing has happened so far in relation to this review, other than preparations for something to happen?

MS ZEKANOVIC: Yes. And - and - and the Centres or the workplaces identified.

45 **MS DAVIDSON:** Right. And do you know which criteria you applied to identify the workplaces?

5 **MS ZEKANOVIC:** Yes. We looked at PSI data at the time to have a look at what workplaces had high numbers of sexual misconduct reported. The PSA also wrote to us late last year asking for this review to occur, and they identified some centres. And then I think at the time we also looked at some data from the WHS team.

10 **MS DAVIDSON:** Right. I want to just put to you some matters in relation to the evidence that this Inquiry has heard just to understand or seek to understand your view on how these will be addressed by what you've referred to as the new model. The first is staff not being aware of the ability to make a confidential report in relation to misconduct outside the gaol. You heard the evidence in this Inquiry in relation to that?

15 **MS ZEKANOVIC:** Yes.

MS DAVIDSON: How is the new model going to address that?

20 **MS ZEKANOVIC:** There will be a Prevention Education team dedicated to raising staff awareness around what is misconduct; how to report, including how to report anonymously; what happens when a referral is received by PSI. I understand this has been an ongoing issue for quite some time. You know, I realise mostly with what I've heard from the Inquiry that staff are unaware of how to report, who to report to. They don't have to go through their line manager; they can report directly to PSI. So this is all part of the work of the prevention
25 education team that will be developed.

MS DAVIDSON: Right. That team hasn't been formed yet?

30 **MS ZEKANOVIC:** No. That's an entirely new function within Corrective Services as well.

COMMISSIONER: If that works, are you expecting an increase in the number of complaints?

35 **MS ZEKANOVIC:** Yes.

COMMISSIONER: What steps are you taking to make sure you can cover those?

40 **MS ZEKANOVIC:** I think filling our vacancies - our current vacancies is a good starting point. Because we're - we're going to be engaging the CSO to help us clear the backlog of our current matters, we're hoping that current staff will be able to focus on the new work coming in.

45 **COMMISSIONER:** That doesn't sound like an increase in resource.

MS ZEKANOVIC: No, but the current staff won't be bogged down by the aged matters that we currently have within -

COMMISSIONER: Someone has got to attend to the aged matters. I mean, you're not increasing the resource, but you increase the number of complaints, you've got an increasing problem, haven't you?

5

MS ZEKANOVIC: That's why we're - we are engaging - or we have engaged the CSO to help us with our current matters.

COMMISSIONER: So you've engaged -

10

MS ZEKANOVIC: The Crown Solicitor's Office.

COMMISSIONER: So are you intending to engage them for some period of time? What's going to happen?

15

MS ZEKANOVIC: Yes. They've already been engaged, and my understanding is they've started looking at our cases already and providing us advice about - yeah, they've - they've just started late last week.

20

COMMISSIONER: How many people from the Crown have you got?

MS ZEKANOVIC: I would have to check how many staff they've dedicated to assisting us.

25

COMMISSIONER: One? Two?

MS ZEKANOVIC: No, it's more than one. I think it's a team, but I'll have to check. I'm not sure of the number.

30

COMMISSIONER: It does sound, I have to tell you, like something that's being cobbled together without an overall plan. Is that a fair comment?

MS ZEKANOVIC: I - I don't think it is.

35

COMMISSIONER: That's what it sounds like.

MS ZEKANOVIC: I think we have been trying to take steps to clear the backlog for most of the year. Earlier this year, we tried to engage a private law firm to help us with this, because we identified at the time that we - even with our current staffing levels, we weren't going to be able to get on top of it, and the numbers of referrals are increasing. However, we received some - the PSA raised concerns with us referring our cases to a private law firm, so we didn't proceed down that path. But we've acknowledged that this has been an ongoing issue for quite some time.

45

MS DAVIDSON: The new model is going to work, in your view? Does it require additional staff to be allocated to it?

MS ZEKANOVIC: I think - because the intention of the new model is for PSI to be dealing with the serious misconduct. So I don't think we will necessarily need new staff if that's what we're going to be focusing on. At the moment, we're
5 getting all referrals, and we're dealing with - you know, we're issuing letters of warning that could be issued by local management.

MS DAVIDSON: So, effectively, the expectation is that there will be a greater number of issues being raised because of the prevention and education team, but
10 because local management will deal with many of them there won't be a need to be an increase in PSI staff?

MS ZEKANOVIC: I'm saying there won't be a need. I'm just saying at the moment, if we clear the backlog and we are fully resourced, we will be in much
15 better position than what we are now, and we can always assess whether we need more staff going forward.

MS DAVIDSON: If staff understand that instead of being - instead of their complaints being addressed by the independent PSI branch, they're instead going
20 to be addressed by local management, it's inevitable that that will raise some of the concerns that have been the same as the evidence in this Inquiry in relation to the capacity of local management to deal with matters in a way that involves favouritism or protecting certain individuals or reprisal.

25 **MS ZEKANOVIC:** No, because -

MS DAVIDSON: Is that not a concern in relation to the new model?

MS ZEKANOVIC: - the PSI will still have oversight of local management
30 actions, and they're -

MS DAVIDSON: And how are they going to do that?

MS ZEKANOVIC: We're going to be recording all their local actions in our new
35 database, and we will require them to report back to us what steps they've taken to address that misconduct.

COMMISSIONER: No, the complement of the question is that if someone is
40 contemplating making a complaint which they know is going to then come back down through the system and be managed locally, you'll run into exactly the same problem that you ran into in relation to Mr Astill. Do you understand?

MS ZEKANOVIC: I do understand.

45 **COMMISSIONER:** So the staff, therefore, will be reluctant to report. You haven't cured your problem at all.

MS ZEKANOVIC: The messaging as part of the prevention education team will also be about the focus of PSI dealing with serious misconduct. Astill's offending was on the extreme end of serious, so something like that would not be referred to local management.

5

COMMISSIONER: Don't you understand that whether it be a severe complaint, a serious complaint, a modest complaint or even just an incidental complaint, if an officer knows that a person in command over them is going to hear about the complaint, they're going to be very reluctant to make it?

10

MS ZEKANOVIC: Possible.

COMMISSIONER: Well, that's what happened with Astill.

15

MS ZEKANOVIC: I think raising awareness of how to report and where to report and who to report to is - is critical in all of this. The - I've heard the Inquiry - a number of witnesses speak about they weren't aware of how they could report or who to report to. I'm hoping that by raising awareness, people will know they can come straight to PSI.

20

COMMISSIONER: Yes, but that's not addressing the problem I'm putting in front of you. You understand?

MS ZEKANOVIC: Yes.

25

MS DAVIDSON: Has any thinking in designing the new model gone into problems that have been revealed as a result of what occurred at Dillwynia in relation to Astill's offending and how the new model might ameliorate those problems?

30

MS ZEKANOVIC: I understand that - and I've not been involved in this, but I understand there's also a sexual misconduct telephone line that's going to be made available for inmates to be able to complain, and that complaint will go to PSI. The CSSL line - I think the hours are going to be expanded to enable inmates to access that telephone line and complain for a longer period of time each day.

35

MS DAVIDSON: Are those initiatives that you understand Assistant Commissioner Snell to be involved in developing?

40

MS ZEKANOVIC: Yes.

MS DAVIDSON: They're not mentioned in your statement. Are those very new responses to the Inquiry?

45

MS ZEKANOVIC: Yes.

5 **MS DAVIDSON:** Another of the issues that the Inquiry has revealed - or the evidence to the Inquiry has indicated is that there were staff intelligence reports submitted by the SIU function seemingly not being reviewed or, if they had been reviewed, no action being taken for very lengthy periods of time. How is the new model going to address that problem?

10 **MS ZEKANOVIC:** The new model - the intelligence - if there is - the intelligence function will be part of a broader case management system. The way the SIU operates is a very discrete function within IIS, with only a couple of people that have access to it. The intention of the case management system is for everyone in PSI to be able to use that database.

MS DAVIDSON: All right. So it will be available to a broader range of officers -

15 **MS ZEKANOVIC:** Yes, with better oversight. And it won't be, you know one or two people looking at the intelligence escalating it to a director, it will be multiple people.

20 **MS DAVIDSON:** Will there be more people allocated, in your understanding, to reviewing whatever the SIU function is replaced by in terms of the reports that come up from Correctional Centres of that kind?

25 **MS ZEKANOVIC:** Yes. Well, I'm not sure if there will be more people allocated because I'm not sure what exactly the intel function will look like with the new case management system. But already I've started to develop better oversight processes within - of the SIU function. I've got a manager that started recently to look at how that process works.

30 **MS DAVIDSON:** You'd agree that the design of that process, however it ultimately is designed, is critical to making sure that staff have confidence in the ability to report outside the Centre, outside their chain of command?

MS ZEKANOVIC: Yes.

35 **MS DAVIDSON:** And to do so confidentially is important from a staff perspective?

MS ZEKANOVIC: Definitely.

40 **MS DAVIDSON:** Another of the issues revealed by the evidence in this Inquiry was staff fear of retribution and of the person the subject of the - that is, the officer the subject of the complaint finding out about it. How is the new model going to address that issue?

45 **MS ZEKANOVIC:** The new model will enable people, as they can now, to complain anonymously. And we will make every effort within PSI to make sure that the complainant's identity is not disclosed. I understand that also under the

CAS Reg it makes it very clear under 253 that there's to be no retributive action for people that do make complaints.

5 **MS DAVIDSON:** Could the witness have access to Volume 14 - this is my last question, Commissioner - Tab 452.

MS ZEKANOVIC: Is that 452?

10 **MS DAVIDSON:** 452. Are you aware of this sequence of emails, Ms Zekanovic, involving Mr Greaves, Mr Robinson (crosstalk)?

MS ZEKANOVIC: Only - only as I heard it through the Inquiry.

15 **MS DAVIDSON:** Yes, of course. I understand it well pre-dates your period at Corrective Services. But nevertheless what it seems to reveal is matters not being referred to the PSC and some form of local information gathering or the word "investigation" is used in this email being conducted in relation to allegations of what Mr Greaves was of the view involved serious misconduct under the GSE Act, that should have led to a referral to PSC - well, PSB, yes. Are you aware of, 20 or do you have a view on how the new model is going to address this kind of problem?

25 **MS ZEKANOVIC:** Well, firstly, I can see that it looks like there was some discussion where the former Governor Dillwynia liaised with the then Director of Investigations Branch. Given that they were separate, that is Investigations Branch and PSB - there's no disconnect any more. We're one - it's one team. So in terms of sharing information and that flow of information, we're not operating in silos any more, we're under the one Director. The managers work quite closely together in terms of sharing information, progressing matters, yeah.

30 **MS DAVIDSON:** Those are my questions.

COMMISSIONER: Very well. I think it's appropriate now we adjourn until tomorrow.

35 **MS DAVIDSON:** Yes.

COMMISSIONER: I can't sit until 12 o'clock. So we'll adjourn until midday tomorrow.

40 **<THE HEARING ADJOURNED AT 4.20 PM UNTIL TUESDAY, 21 NOVEMBER 2023 AT 12.00 PM**