



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

**PUBLIC HEARING
SYDNEY**

**THURSDAY, 23 NOVEMBER 2023
AT 10.00 AM**

DAY 27

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
MR C. WATSON appears for two correctional officers
MR A. WILSON appears for one correctional officer
MR B. DEAN appears for a CSNSW member of staff
MR H. WHITE appears for one correctional officer
MR E. JAMES appears for one correctional officer
MS J. HICKLETON appears for one correctional officer
MR K. HORTON KC appears with **MS GAUSSEN** for a CSNSW member of staff
MR HALL appears for CSNSW member of staff

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<THE HEARING RESUMED AT 10.01 AM

MR LLOYD: Thank you, Commissioner.

5 **<KEVIN CORCORAN, ON FORMER OATH**

<EXAMINATION BY MR LLOYD:

10 **MR LLOYD:** Mr Corcoran, late yesterday, I think you told us that you might be able to turn your mind overnight to whether you could remember additional people to whom you spoke at Dillwynia on 19 September.

MR CORCORAN: Yes.

15 **MR LLOYD:** Have you remembered - and you could remember two people yesterday.

20 **MR CORCORAN:** Yeah. I could remember two people, but I - sorry, I couldn't remember anyone else. But I'm sure that after I've given my evidence, I'll be able to ask people who -

MR LLOYD: As in, inquire of other people who were out there that day as to who you spoke to?

25 **MR CORCORAN:** Yes.

MR LLOYD: I've just got to ask: it wasn't that long ago; a little over two months.

30 **MR CORCORAN:** Yes.

MR LLOYD: It might be thought surprising that you can't remember more than two of the officers you spoke to. What would you say about that?

35 **MR CORCORAN:** Well, some of the officers I'd only just met on the day, so - well, I mean, I had met them before, but, you know, I've got 12,000 employees. So it's difficult to remember all their names.

40 **MR LLOYD:** I suppose, in fairness, you did tell us you'd had a meeting with the entire staff -

MR CORCORAN: Yes.

MR LLOYD: - of hundreds of people.

45 **MR CORCORAN:** Yes.

MR LLOYD: And then a number of meetings either with one officer or two in the room -

MR CORCORAN: Yes.

5

MR LLOYD: - during the course of it.

MR CORCORAN: I think there were - at that stage might have been a few - a few more than two. But, you know, there were, I think, multiple meetings with groups of staff.

10

COMMISSIONER: Why did you go to the gaol on that day, Mr Corcoran?

MR CORCORAN: Commissioner, I just wanted to meet with the staff and talk to them about, you know, what had happened and talk to them about, you know, how, you know, supportive I wanted to be of them.

15

COMMISSIONER: This is in September?

MR CORCORAN: September.

20

COMMISSIONER: He was convicted earlier the previous year, wasn't he?

MR CORCORAN: Yes.

25

COMMISSIONER: Is this the first time you'd been there to offer support to the officers?

MR CORCORAN: I can't recall, but I'm -

30

COMMISSIONER: Sorry?

MR CORCORAN: I just can't recall. I -

COMMISSIONER: Really? You can't recall whether you previously went there to support the officers?

35

MR CORCORAN: Well, I had been there to support officers in the past, but - you know, prior to - to that meeting, but I thought it was important to go out there once the Inquiry was announced to offer the support to staff.

40

MR LLOYD: You told us that you had personally - you personally feel some reluctance about revealing the names of those officers you can remember?

MR CORCORAN: Yes.

45

MR LLOYD: And that was nature of those meetings, at least with those officers, you regarded as being them raising things with you confidentially?

MR CORCORAN: Yes.

5

MR LLOYD: But the two officers who you can remember - I think you must be able to tell us this - they're two officers who have given evidence in this Inquiry?

MR CORCORAN: Sorry, who - who - who were those two?

10

MR LLOYD: Well, I'm trying to do this in a way which respects your view of the meeting.

MR CORCORAN: Yes.

15

COMMISSIONER: Well, look, that can be committed to paper, and I'll make an order that precludes others from - other than essential persons from looking at the names.

MR LLOYD: We have the piece of paper, Commissioner, and if it's convenient, I can tender it and then seek -

COMMISSIONER: You've got the names on there, have you?

MR LLOYD: The names are on there.

25

COMMISSIONER: So, Mr Corcoran, this piece of paper contains the names of people you remember speaking to, does it?

MR CORCORAN: Yes.

30

MR LLOYD: And I'll seek a non-publication order with respect to -

COMMISSIONER: Very well. It will become Exhibit 51. But who should have access to it?

35

MR LLOYD: The parties - because as you'll see, Commissioner, there's no - I'm quite confident I can say this. There's no secret about -

COMMISSIONER: No mystery.

40

MR LLOYD: No mystery about it at all.

COMMISSIONER: Well, is there any need for me to make an order?

45

MR LLOYD: Well, perhaps if I could show you the document, then you might be able to better receive it - yes. So just to make it clear, what I'm handing up is

a document that Mr Corcoran wrote in the witness box yesterday and which he handed to me, which discloses the names of two of the officers to whom he spoke on 19 September.

5 **COMMISSIONER:** Well, they've both given evidence before us. Mr Sheller, is there any reason why I should make a non-publication order?

MR SELLER: No. I'm sorry. It may be better raised with those persons representing those other officers who obviously aren't here. We obviously know
10 who they are because (indistinct) -

COMMISSIONER: Who represents these two officers?

MR SELLER: Well, they're not here at the moment but previously have been
15 represented when Mr Villa was here.

COMMISSIONER: Is he coming back at all, Mr Lloyd?

MR LLOYD: (Indistinct).
20

MR SELLER: (Indistinct) they're not -

COMMISSIONER: There's movement behind -

25 **MR SELLER:** No, I withdraw that. My friend is quite right. They've never been represented. I'm getting confused. They are represented?

MR GUY: As I understand it, they're mine.

30 **COMMISSIONER:** Is there any reason why I shouldn't allow these names to be public? They've given evidence before.

MR GUY: Yes. And I don't see an issue, Commissioner.

35 **COMMISSIONER:** Don't see any issue. All right. Well, all I'll do is record on the transcript that Mr Corcoran recalls speaking to Renee Berry and Jude Barry.

MR LLOYD: Thank you, Commissioner.

40 **MR GUY:** Thank you, Commissioner.

COMMISSIONER: I won't mark the document as an exhibit.

MR LLOYD: No, it's not necessary.
45

COMMISSIONER: No.

MR LLOYD: Could Mr Corcoran have access, please, to Exhibit 48. Now, I'm going to get some of that paper taken away from you, Mr Corcoran.

5 **COMMISSIONER:** Mr Corcoran, you've said that if you speak to others, you may have your memory refreshed as to who you spoke to.

MR CORCORAN: Yes.

10 **COMMISSIONER:** I'm going to ask you to do that when you finish your evidence.

MR CORCORAN: Yes.

15 **COMMISSIONER:** And let us know during the course of today whether you recall any other names. Do you understand?

MR CORCORAN: Yes.

20 **COMMISSIONER:** Mr Sheller - well, I suppose maybe not you, but someone should accept responsibility for ensuring that happens.

MR SELLER: Yes. Well, I may put some names to him when I ask questions, if that assists as well, Commissioner.

25 **MR LLOYD:** I should, just while the folder is being turned up, tell you, Commissioner, that we have been produced - again, I'm not being critical of anyone. I got this at 9.55, what is said to be notes of Assistant Commissioner Snell of at least some of the meetings, a three-page document.

30 **COMMISSIONER:** Of at least?

MR LLOYD: Of at least, it would seem, one of the meetings.

35 **COMMISSIONER:** One of the meetings -

MR LLOYD: That occurred on 19 September.

MR SELLER: I'm able to assist from the bar table -

40 **COMMISSIONER:** We're talking about multiple meetings on that day, are we?

MR LLOYD: Well, that's what we've been told by this witness, is that there was a series of meetings with officers either individually or in groups after the staff meeting.

45

COMMISSIONER: Yes. I see.

MR SELLER: If I could assist?

MR LLOYD: I would like you to.

5 **MR SELLER:** The minutes that have been - sorry, the notes that have been
handed up, as I understand it, relates to a meeting that was held between a number
of officers out at Dillwynia and a number of visitors, including the Commissioner,
Ms Snell and then a couple of other persons were also present. You'll hear in due
10 course, if not from Mr Corcoran, maybe from Assistant Commissioner Snell, there
were three levels of meeting.

There was a town hall meeting where - style meeting where there might have been
70 or so people present, amongst officers at Dillwynia. Then there was
15 a smaller - sorry, after that, there was a union meeting at which none of
management were present. Then after that, there was a meeting of maybe six to 10
persons. And then finally - and, again, the Commissioner will confirm this - there
were one-on-one meetings of which only he and perhaps one other officer were
present. The notes that have just been tendered are of that sort of middle meeting
20 where there were a number of officers at Dillwynia present - or a handful of
officers from Dillwynia present and a handful of management present.

COMMISSIONER: I don't know that it's been tendered yet, but I'd like to see it.

25 **MR LLOYD:** I'll just hand it up for present purposes. I -

COMMISSIONER: I've just been given a copy. It will become Exhibit 51.

<EXHIBIT 51 TENDERED AND MARKED

30 **MR LLOYD:** Did you say 51, Commissioner?

COMMISSIONER: 51, yes. So whose notes are these?

35 **MR SELLER:** They're Assistant Commissioner Snell's.

COMMISSIONER: When were they prepared?

40 **MR SELLER:** They were prepared, as I understand it, contemporaneously with
the meetings on 19 September at Dillwynia.

COMMISSIONER: Very well.

45 **MR LLOYD:** And I'll just come to you, Mr Corcoran. It's right, isn't it, that you
did not prepare a file note or a documentary record of what you were told in the
meetings that you attended?

MR CORCORAN: No, I relied on Assistant Commissioner Snell recording.

MR LLOYD: You heard what Mr Sheller said about what the notes that was the subject of the discussion record, that is, a meeting between six to 10 officers. Is that the way you remember it, that there was a meeting of that kind?

5

MR CORCORAN: Yes.

MR LLOYD: After what's called a town hall meeting, but a meeting with a large number of staff?

10

MR CORCORAN: Yes.

MR LLOYD: And then following that meeting with six to 10 or so officers, there were meetings, were there, between you and officers one on one?

15

MR CORCORAN: I recall, yes, one on one.

MR LLOYD: And was it just you and the officer, or you and other people from Corrective Services and the officer or officers?

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MR CORCORAN: I'm pretty sure that Assistant Commissioner Snell was with me in all the meetings, but I can't recollect.

MR LLOYD: And the names that we have, Ms Barry and Ms -

25

MR CORCORAN: Berry.

MR LLOYD: Ms Barry and Berry, were they officers you spoke to in these individual meetings?

30

MR CORCORAN: I don't think so, but I - I - I'm not 100 per cent certain.

MR LLOYD: They might have been in the six to 10 -

35

MR CORCORAN: Yes.

MR LLOYD: Information - if you can - sorry, has Mr Corcoran now got Exhibit 48, may I ask? If you do, could you turn - it should be at the very end of that bundle. It's the Submission to Commissioner dated 20 September 2023. It's the smaller folder, I'm confident.

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MR CORCORAN: Right at the end?

MR LLOYD: It should be right at the end.

45

MR CORCORAN: Number 10?

MR LLOYD: Well, I don't have the tabs. Can I just approach? This is the Submission to Commissioner dated 20 September 2023?

MR CORCORAN: Yes.

5

MR LLOYD: And I just want to - if you go to the first page, you see some information is recorded here. The 20 June 2023 PSC recommendation that those three officers be suspended. Do you see that?

10 **MR CORCORAN:** Yes.

MR LLOYD: And then 13 August, following further information - I withdraw that. Have a look in that paragraph. After the recommendation by the PSC, what follows then is a record that Mr Thorpe and Ms Smith expressed concerns and, as
15 a consequence, no officers at that time were suspended. Do you see that?

MR CORCORAN: Yes.

MR LLOYD: You understood those two people to be, relevantly, the
20 decision-makers when it came to that decision?

MR CORCORAN: Yes.

MR LLOYD: And 13 August, following further information received about
25 Officer Giles, Anne Marie Martin signed papers suspending him. Do you see that?

MR CORCORAN: Yes.

MR LLOYD: And that suspension took effect - do you see - on 30 August? Is
30 what's recorded in the document?

MR CORCORAN: 30 August, yes.

MR LLOYD: And there was no change by Ms Martin with respect to the earlier
35 decision not to suspend the other two officers; correct?

MR CORCORAN: Yes.

MR LLOYD: And if you then have a look, this further information is contained
40 from a submission prepared by PSI and attached as Tab (i). Do you see that? Just start with the words. You see there's a reference to Tab (i)?

MR CORCORAN: Yes.

45 **MR LLOYD:** And that same submission considered but did not recommend suspensions in respect of SAS Holman and SI Paddison, and they were not suspended. Do you see that?

MR CORCORAN: Yes.

5 **MR LLOYD:** Now, the form in which this submission has been provided to us, I can tell you, Mr Corcoran, doesn't have the attachment, Tab (i). But, first, you've got no doubt, do you, that when you got this document, you either had before you or had access to that Tab?

10 **MR CORCORAN:** I - I imagine so.

MR LLOYD: And do you remember that that Tab, being a reference to an earlier submission by PSI, is the document to be found, if you go earlier in that bundle, starting at page 37? And running to page 42?

15 **MR CORCORAN:** Sorry, where's this?

MR LLOYD: Page numbers down the bottom right-hand corner, page 37.

20 **MR CORCORAN:** 37, yeah.

MR LLOYD: And do you see that's a Submission to Commissioner. And if you go right to the end, it's dated 31 July 2023?

25 **MR CORCORAN:** Yes.

MR LLOYD: And do you see, in that document, the recommendation by Ms Zekanovic is to suspend Officer Giles and decline to exercise your discretion to suspend officers Paddison and Holman?

30 **MR CORCORAN:** Yes.

MR LLOYD: And it's obvious, isn't it, to you, just looking at this, that that is the submission that's referred to as the annexure in the submission of 20 September?

35 **MR CORCORAN:** Yes.

MR LLOYD: In terms of your decision-making on 20 September, I take it you looked at the attachment, that is, this document?

40 **MR CORCORAN:** If it had been included in that, I would have referred to it.

MR LLOYD: You've got no reason to think you wouldn't have been given it?

45 **MR CORCORAN:** No, no reason.

MR LLOYD: And if it was attached, you would have been bound, acting properly, to read it?

MR CORCORAN: Yes. That's right.

MR LLOYD: And so do you have a recollection of reading it?

5

MR CORCORAN: I don't have a recollection of reading it. But as you said, if it was attached, I would have read it.

MR LLOYD: Because, obviously, the decision before you on 20 September was one that was properly described as a weighty one, that is, whether to suspend two officers; true?

MR CORCORAN: Yes, that's - well, that's true.

MR LLOYD: You could only exercise that power that you undoubtedly had to do that if you had then considered all the available information?

MR CORCORAN: About Westley Giles?

MR LLOYD: No. Go back - I'll try and do it without taking you back. The submission that was before you on 20 September was about whether to suspend Officers Holman and Paddison.

MR CORCORAN: That's right.

25

MR LLOYD: That was the weighty decision that was before you on that day, wasn't it?

MR CORCORAN: That was the decision that was before me on that day.

30

MR LLOYD: And in order to properly exercise your power to suspend, if it was to occur, you would need to have read and considered the - all the available material, which included this earlier submission at page 37. Do you agree?

MR CORCORAN: Well, having a look at this, I don't recall this being included in the documentation that I received.

MR LLOYD: That submission at 37?

MR CORCORAN: This documentation.

MR LLOYD: As in - I just want to make sure that -

MR CORCORAN: If I - if I recall correctly, you know, the submission I received was the submission we see here in 11 - page, sorry, 93.

45

MR LLOYD: And so that's page 93 through to 96.

MR CORCORAN: Yes.

MR LLOYD: And nothing else?

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MR CORCORAN: And two letters.

MR LLOYD: Two letters containing the form of letters going to Officers Holman and Paddison suspending them?

10

MR CORCORAN: Yes.

MR LLOYD: But, Mr Corcoran, do you see there's a reference here - I withdraw that. The submission of 20 September is not a particularly long document? It's a few pages?

15

MR CORCORAN: This particular one? Yes.

MR LLOYD: It contains, on the first page, a reference to further information which is contained within a submission prepared by PSI and what is said to be attached.

20

MR CORCORAN: Well, what it says is there's a - and this is information that's reproduced from the submission.

25

MR LLOYD: No, no. The sentence I'm drawing to your attention is:

"This further information is contained within a submission prepared by PSI and attached as Tab (i)."

30

Do you see those words?

MR CORCORAN: Is this under Current Position Comments?

35

MR LLOYD: On the first page of the 20 September document -

MR CORCORAN: Yep.

MR LLOYD: - in the paragraph starting, "On 13 August." Do you see that?

40

MR CORCORAN: 13 August, yeah.

MR LLOYD: Do you see that paragraph contains a sentence, which is the third sentence, I think:

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"This further information..."

MR CORCORAN: I see, yes. I see.

MR LLOYD:

5 "...is contained within a submission prepared by PSI and attached as Tab (i)."

Do you see that?

MR CORCORAN: Yes.

10

MR LLOYD: Does that help you to answer whether you had before you at the time of receiving this document, the 20 September one, the earlier submission that was prepared by PSI and was said to be attached as Tab (i)?

15 **MR CORCORAN:** I don't recall seeing this material.

MR LLOYD: It would have been necessary for you, acting properly, in making the decision that was before you on 20 September, if that earlier submission which was said to have been attached wasn't attached, to ask to see it, wouldn't it?

20

MR CORCORAN: Well, I - when I looked at this document, I thought that what was going on was they were reproducing relevant material from that, and that was, you know, what was going to be required to understand what was going on.

25 **MR LLOYD:** You must have also thought that the author of this document, 20 September, intended to attach an earlier submission as Tab (i)?

MR CORCORAN: Looking at this now, yes.

30 **MR LLOYD:** It's obvious, isn't it?

MR CORCORAN: Yes.

35 **MR LLOYD:** And adopting a presumption of regularity, if someone like the Acting Director of Professional Standards says they intend to attach something in a document that goes to you, you would have concluded, wouldn't you, that that was because it might be thought important for you to read it. Do you agree?

MR CORCORAN: Yes.

40

MR LLOYD: Do you now say that you don't have a recollection of calling for the earlier submission?

MR CORCORAN: Yes.

45

MR LLOYD: That is, you cannot, sitting here today, remember reading that earlier submission referred to?

MR CORCORAN: Yes, I cannot remember.

5 **MR LLOYD:** Do you think that's a failure on your part to have actually asked to see a document which was said to be attached to the submission?

MR CORCORAN: I thought that the tables that were included in the - in the submission were what I needed to consider.

10 **MR LLOYD:** But, Mr Corcoran, the position as recorded in the 20 September document records that on earlier occasions, information had been considered by three decision-makers about whether to suspend Paddison and Holman, that is, Mr Thorpe, Ms Smith and then Ms Martin; true?

15 **MR CORCORAN:** Yes.

MR LLOYD: Each of those decision-makers had formed the view that they declined to exercise their authority to suspend; true?

20 **MR CORCORAN:** Yes.

MR LLOYD: That was plainly based, to your knowledge, from reading this document of 20 September on material that they had before them?

25 **MR CORCORAN:** Yes.

MR LLOYD: Are you saying when you made your decision on 20 September, you did not call for the material that those earlier decision-makers had before them when they made their decisions?

30

MR CORCORAN: No, because I thought the relevant material was included in the submission.

MR LLOYD: Is your answer to my question that you did not call -

35

MR CORCORAN: I did not call.

MR LLOYD: That sounds like a failure by you to require the production of material that would have plainly, in your mind, been relevant to exercise of your power?

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MR CORCORAN: Well, I guess I had different information from those decision-makers and, you know, I wanted to act on that information.

45 **MR LLOYD:** You didn't know what they had, on your evidence.

MR CORCORAN: It's - it's included here in the tables, this summary of what the other decision-makers were considering.

MR LLOYD: Well, just go back and have a look at page 37, then.

5 Acknowledging it's a document you - on your evidence, you say you have not read, or had not read at least at the time you made your decision on 20 September. But just making sure that's right. I've got that right, haven't I?

MR CORCORAN: Yes.

10

MR LLOYD: If you look at the table starting on page 38, that contains some of the description of information available that also appears in the 20 September document; true?

15 **MR CORCORAN:** Yes. Yes.

MR LLOYD: You didn't know that, but as it turns out, the table in this one and the table in the document you had, 20 September, records, in effect, the same information?

20

MR CORCORAN: Yes.

MR LLOYD: Have a look, though, at the analysis in the page which follows the table on pages - at the bottom of page 39, 40 and over to 41. Do you see that?

25

MR CORCORAN: Yes.

MR LLOYD: Is that information that you had available to you when you made your decision on 20 September to suspend?

30

MR CORCORAN: Well, if I hadn't seen it, no, it wasn't available.

MR LLOYD: You see, have a look at some of the information, this being an analysis by the Acting Director, Professional Standards. Middle of page 40, you see:

35

"Without further investigation..."

Do you see that bullet point?

40

MR CORCORAN: Yep.

MR LLOYD:

45

"Without further investigation and aside from one allegation in respect of Officer Giles, the forensic quality of the evidence showing that the officers

were complicit, whatever their meaning, in concealing or facilitating Astill's offending is poor."

MR CORCORAN: Yes.

5

MR LLOYD: That's an important piece of analysis by the Acting Director of PSI if you are going to exercise your power to suspend Officers Paddison and Holman. Do you agree?

10 **MR CORCORAN:** Yes.

MR LLOYD: But that was not in the 20 September document, was it?

MR CORCORAN: (Indistinct) be able to answer that, but -

15

MR LLOYD: Well, the other bits of analysis - I mean, we can compare the documents, Mr Corcoran -

MR CORCORAN: Yes.

20

MR LLOYD: - but I'll just take you through some other things. Middle of 40, underneath that:

25 "The allegations of threatening and bullying staff and inmates to stay quiet is only specifically made about Officer Giles. No direct evidence names Officers Paddison and Holman in the same way."

MR CORCORAN: Can I just go back to the previous point you raised. On page 95, at the top of the page, it does say:

30

"The evidence tends to be vague or speculative."

MR LLOYD: Which might be similar to the opinion in the middle of 40, but the opinion in the middle of 40 is that the evidence about Officers Paddison and Holman is poor. Do you see that?

35

MR CORCORAN: It is poor, yes.

MR LLOYD: And going back to page 40, no one, on the evidence here, is making allegations of Officers Paddison and Holman bullying or threatening staff to stay quiet. Do you see that?

40

MR CORCORAN: Yes.

45 **MR LLOYD:** And just going down, the bullet point:

"Though there is sufficient corroborating evidence to be satisfied the three officers were..."

Do you see that?

5

MR CORCORAN: Yes.

MR LLOYD:

10 "...to varying degrees aware of rumours, etcetera, about Astill's offending."

MR CORCORAN: Yes.

MR LLOYD:

15

"It's considered that their awareness does not rise to any higher level of complicity than many of the other officers in the Centre who also knew."

And:

20

"It's open to consider they were more senior and should have had more proactively addressed those reports, but there is evidence to suggest that they did make some reports."

25 That's important information, isn't it?

MR CORCORAN: It's important information, yes.

MR LLOYD: Did you know that?

30

MR CORCORAN: Look, I think there are certainly passages in the document that was produced to me that are very similar to the matters that you're raising here.

35 **MR LLOYD:** You did not - even though there may be some degree of overlap between some of the information between these documents, you did not have the benefit of the analysis starting from the bottom of 39 and running right over to about three-quarters of the way down page 41 in the 20 September document, did you?

40

MR CORCORAN: No.

MR LLOYD: And you should have?

45 **MR CORCORAN:** Well, I regard this as a summary of what was put in those documents.

MR LLOYD: How -

5 **MR CORCORAN:** And, indeed, you know, it did mention here that SAS Holman escalated to the Governor an allegation that Mr Astill had kissed an inmate. So, yes, it did identify the fact that they had reported up.

10 **MR LLOYD:** How would you have known whether what you were being given on 20 September was an accurate summary of what had been given to the earlier decision-makers when they declined to suspend the officers?

MR CORCORAN: Well, I rely on the professionalism of the officers in Professional Standards to provide me with that.

15 **MR LLOYD:** Well, can I put this to you for your response.

MR CORCORAN: Yes.

MR LLOYD: You are head of Corrective Services New South Wales?

20 **MR CORCORAN:** Yes.

25 **MR LLOYD:** Do you think it's appropriate for officers within Professional Standards to expect you to call for documents which are said to be attached to submissions calling for you or allowing you to make important decisions like suspending officers?

MR CORCORAN: I took this to be the submission with all the information that I required to make a decision.

30 **MR LLOYD:** Is that your answer?

MR CORCORAN: Yes.

35 **MR LLOYD:** Do you see the ultimate recommendation in this document, in the middle of 42, was to decline to exercise your discretion to suspend?

MR CORCORAN: Yes.

40 **MR LLOYD:** The opinion of the Acting Director of Professional Standards in the form of a recommendation is a matter deserving of very considerable weight in the exercise of power by a decision-maker about whether to suspend. Do you agree?

MR CORCORAN: If they have the relevant information, yes.

45 **MR LLOYD:** You had no reason to think that the information that was available to the decision-makers when they decided not to suspend, and of the Acting

Director in the preparation of this submission, was anything other than adequate information at that time, did you?

5 **MR CORCORAN:** If I - can I just, you know, relate to you that, you know, action was taken against these staff members in terms of removing them from the workplace by the other decision-makers. I'm not sure if you're aware of that.

MR LLOYD: As in, moving them away from Dillwynia?

10 **MR CORCORAN:** Moving them away from Dillwynia.

MR LLOYD: Well, Mr Corcoran, I'm not sure what you say the relevance of that is, but I put to you yesterday one of the things that you had to consider before exercising power to suspend was to move them away.

15 **MR CORCORAN:** Yes.

MR LLOYD: That - if that is going to address whatever the perceived problem is, that action has to be considered and, in proper exercise of power, preferred to a more draconian decision to suspend. You agree?

20 **MR CORCORAN:** Agreed.

MR LLOYD: You're telling us that that had already happened, they'd been moved away?

25 **MR CORCORAN:** That had - that had already happened.

MR LLOYD: And so to the extent there were current staff at Dillwynia who were distressed by the presence of Officers Holman and Paddison, being officers who there might be a belief were complicit in some way in the offending -

MR CORCORAN: Yes.

35 **MR LLOYD:** - that wasn't a real issue because they'd been moved away. Is that fair?

MR CORCORAN: Well, it was a real issue and really underpinned my decision.

40 **MR LLOYD:** They'd been moved away, though, so they wouldn't be distressing the staff at Dillwynia on a daily basis as at 20 September.

MR CORCORAN: It wasn't staff; it was the victims.

45 **MR LLOYD:** As in, the inmates there?

MR CORCORAN: Yes.

MR LLOYD: Is that something that you were told on the 19th?

MR CORCORAN: Yes.

5

MR LLOYD: Inmates were distressed by the presence of Officers Holman and Paddison?

MR CORCORAN: In the locations they'd been moved to.

10

MR LLOYD: That's inmates at some other facility?

MR CORCORAN: Well - yes. And, you know, if - if you understand where they were moved to, they - there were female inmates coming in through one of those locations.

15

MR LLOYD: There are plenty of correctional centres in New South Wales which house men; true?

20

MR CORCORAN: Yes.

MR LLOYD: If you wanted to make sure that the officers, if that was the particular problem, weren't going to have any contact with any inmates who had any association with the events at Dillwynia during Astill's offending, the obvious thing was to move them to a male centre; is that right?

25

MR CORCORAN: Yes. In the context of, you know, what we had in front of us with respect to the Commissioner's instruction that I put out in relation to action that might be taken against anybody who was alleged to have engaged in some sort of retribution against inmates, you know, I formed a view that it would be best for these two officers to be removed from the workplace to ensure that no allegations were brought against them.

30

COMMISSIONER: Mr Corcoran, there's nothing in the documents that suggests that you considered those matters at the time, is there? Not a single word -

35

MR CORCORAN: No, because -

COMMISSIONER: - in the documents that suggest that you considered those matters?

40

MR CORCORAN: The staff wanted that sort of information that I - that I was -

COMMISSIONER: I'm sorry?

45

MR CORCORAN: The staff wanted that information to be kept confidential.

COMMISSIONER: But it was a report to you and your decision to make upon reasonable grounds.

MR CORCORAN: That's right.

5

COMMISSIONER: Nothing that you've now said to Mr Lloyd about these people being suspended from this gaol or moved to another gaol or causing problems in another gaols - not a word of it is in this document.

10 **MR CORCORAN:** That's right.

COMMISSIONER: Nor did you record anywhere that that was the basis upon which you had made the decision, did you?

15 **MR CORCORAN:** No.

COMMISSIONER: No.

20 **MR LLOYD:** Do you remember yesterday - I just want to put some things to you about this process, Mr Corcoran, but before doing that, I'll just remind you of some things yesterday that came out of the February 2016 policy that you gave some evidence about. You remember the policy, obviously?

25 **MR CORCORAN:** Yes.

MR LLOYD: I'll see if I can do it without taxing you with the policy itself again by just reading out to you something I read to you yesterday. After the bullet point - this is on page 7, Tab 149 for the parties. After the bullet point saying:

30 "All allegations of misconduct are to be reported to Strategic Human Resources Business Partner or Professional Standards unit in the first instance."

You remember that I drew your attention to that bullet point?

35

MR CORCORAN: Yes.

40 **MR LLOYD:** And I drew your attention to the next bullet point, which plainly from the document, I suggest to you, relates to the stage of assessment by Professional Standards or the Strategic Human Resources Business Partner of misconduct allegations. The words I read to you yesterday:

45 "Any reports, file notes, emails, CCTV footage or any other evidentiary material which will assist with the initial assessment process must be provided..."

That's "must be provided":

"...to the Strategic Human Resources Business Partner or divisional Professional Standards unit as appropriate as soon as possible."

5 Do you remember me reading those to you?

MR CORCORAN: Yeah.

10 **MR LLOYD:** That requirement to provide any reports, file notes, emails, footage or other evidentiary material at the initial assessment stage of misconduct applies equally to the - I think you've agreed - weighty decision to suspend officers?

15 **MR CORCORAN:** Well, I didn't regard this as a misconduct. What I - I know I could have put these people on special leave. I wouldn't have had to suspend them. But in my view, you know, suspension was more appropriate because that gives the decision-maker an opportunity every 30 days to review that decision and - and record, you know, that you have endorsed the continued suspension. So, you know, I regard that as a more appropriate way of dealing with the matter that was before me.

20 **MR LLOYD:** You see, you knew on 20 September that there was a misconduct process underway with respect to these three officers; correct?

25 **MR CORCORAN:** Yes. Yes.

MR LLOYD: Your decision to exercise power to suspend must have been a decision to suspend pending the outcome of that investigation; true?

30 **MR CORCORAN:** It was a decision to protect the - those two officers from any allegations and for - and to protect the inmates from seeing those two officers in their - in the workplace.

35 **MR LLOYD:** Are you saying that you suspended them in part to protect them as officers?

MR CORCORAN: Yes. Yes.

MR LLOYD: How would it -

40 **MR SELLER:** I object. This is now, with respect, a merits assessment. As I understood, the question here was about the process. We're now moving into merits. In my respectful submission, this Commission does not have within its Terms of Reference a merits assessment of a decision to suspend.

45 **COMMISSIONER:** I'm sorry, Mr Sheller, I don't agree with you.

MR LLOYD: Aside from anything else, Commissioner, it goes squarely to the process in any event. I'll put that to the witness. In terms of the process, what are you actually, in your mind, doing on 20 September when you elected option 1 to suspend? Is it acting on the information recorded in the document and then exercising your own decision-making functions? Is that what you -

MR CORCORAN: It was consideration of the material in the document, as well as the material as - the information that I was given, confidentially, by staff.

MR LLOYD: There is nothing in this document which talks about the need to suspend Officers Holman and Paddison in part to protect their own interests, though, is there?

MR CORCORAN: No.

MR LLOYD: But if that was to be a consideration informing your decision as the decision-maker, in terms of a proper process, you plainly needed to get some advice from the Professional Standards Acting Director, didn't you, about whether that would be a relevant factor? Do you agree?

MR CORCORAN: I think the document - the managing misconduct document does say "when required".

MR LLOYD: But are you saying here, Mr Corcoran, that you did not require any advice in order to properly exercise your decision-making function from Professional Standards about this matter you've now raised today?

MR CORCORAN: As I've said, I could have put them on special leave and it would have had nothing to do with Professional Standards.

MR LLOYD: But this was - you didn't do that. You exercised the option to suspend arising from the submission.

MR CORCORAN: Yes.

MR LLOYD: See, I want to put some things to you, Mr Corcoran. You understand the process of an Inquiry. After the evidence, I'll have to make submissions to the Commissioner about findings that are available. And I want to put some things to you to make sure that you have a fair opportunity to respond. Do you understand?

MR CORCORAN: Sure.

MR LLOYD: I want to suggest to you that, acting properly in exercising your role as a decision-maker on 20 September, you were required to disclose the substance of the matters which had been told to you on 19 September to the

Acting Director of Professional Standards in order so that she could consider those matters and you could get the benefit of her considered position in response.

MR SELLER: I object. (Indistinct).

5

MS GHABRIAL: Commissioner, can I just raise something, please, at this juncture. I note that Mr Corcoran is represented by King's Counsel who is present in court. Mr Sheller keeps taking objections on behalf of this witness -

10 **COMMISSIONER:** (Indistinct) Mr Sheller acting as he sees his client's interests to require.

MS GHABRIAL: I understand that, but -

15 **COMMISSIONER:** No, that's enough.

MS GHABRIAL: Thank you.

COMMISSIONER: Mr Sheller, what did you wish to say?

20

MR SELLER: I've made the submission that I think these matters fall outside the Terms of Reference.

COMMISSIONER: Well, I don't agree with that proposition.

25

MR SELLER: So any objection I'm making is, in a sense, formal in relation to these questions. If my objection is somewhat noted, I won't need to repeat it.

COMMISSIONER: You want to rise too?

30

MR HORTON: And, I'm sorry, I rose earlier but didn't say "objection", probably at the same time as Mr Sheller. My objection was might the witness be directed to the source of the obligation which it's said was not complied with to provide Professional Standards with the information that's identified.

35

MR LLOYD: The source of the obligation, I put to you, Mr Corcoran, is you acting properly as the Commissioner for Corrective Services in discharge of your obligations in that office. Do you understand?

40 **MR CORCORAN:** Yes.

MR LLOYD: You are the decision-maker exercising power that you undoubtedly had to suspend these officers; correct?

45 **MR CORCORAN:** Yes.

MR LLOYD: You needed to exercise that power acting properly and fairly?

MR CORCORAN: Yes.

5 **MR LLOYD:** And do you understand the proposition I'm putting is rooted in the things I've just put to you? Do you understand that?

MR CORCORAN: Yes.

10 **MR LLOYD:** You ought to, in compliance with the things that I've just put to you, have disclosed the substance of the matters that you were told on 19 September to the Acting Director of Professional Standards in order to allow her to consider them and for you to get the benefit of her considered position. Do you agree.

15 **MR SHELLER:** I object. With respect to my friend, there's no basis - if this is meant to be a legal proposition, there is no basis in law for what is being put as some sort of requirement for a decision-maker to get specific advice from someone (indistinct).

20 **COMMISSIONER:** Mr Lloyd.

MR LLOYD: Commissioner, we are dealing with the Commissioner for Corrective Services who is exercising power to suspend officers. It is not necessary for the obligation that I put to the witness to be rooted in a legislative instrument, a policy or procedure. The Commissioner is perfectly capable of responding, no doubt including by adopting what Mr Sheller has just said in open court. But he is perfectly capable of responding to a proposition that I wish to advance.

30 **COMMISSIONER:** What you're putting is that Mr Corcoran took a shortcut in your - that's in your proposition, isn't it?

MR LLOYD: It goes slightly higher than that, but that's an aspect of it.

35 **COMMISSIONER:** And what you're saying is that proper administration would have required him to seek advice from those whose job it was to give that sort of advice. That's the proposition?

40 **MR LLOYD:** That is the proposition.

COMMISSIONER: Well, perhaps we should put that shortly and move on.

MR LLOYD: Well -

45 **COMMISSIONER:** I mean, I understand it.

MR LLOYD: Really, it's a matter of fairness.

COMMISSIONER: I know. Yes. Sure. Well, Mr Sheller will have to live with his objection, perhaps.

5 **MR LLOYD:** Exercising your decision-making function to suspend, properly, requires you to have the considered advice and assistance of the relevant person from Professional Standards. Do you agree with that?

MR CORCORAN: No.

10

MR LLOYD: You don't agree that if you are to exercise your power to suspend an officer during the course of a disciplinary complaint, that it is necessary for you to seek the advice of Professional Standards. Is that what you say?

15 **MR CORCORAN:** Well - no. No, there's no requirement that I'm aware of that requires me to run everything past the Director of Professional Standards.

MR LLOYD: Why did you ask for the submission?

20 **MR CORCORAN:** I asked for the submission so I knew what was going on with these particular individuals in the past.

MR LLOYD: Why didn't you call for the earlier submission?

25 **MR CORCORAN:** I thought this was a summary of the earlier submission.

MR LLOYD: But if you wanted to know what had happened historically, you just ask for the earlier submission which led to those earlier decision-makers not - deciding not to suspend.

30

MR CORCORAN: I thought this was a summary and, I think, you know, you've pointed out a number of things that were in the - in the documentation that are also contained in the summary.

35 **MR LLOYD:** Didn't you call for this because you know that in proper exercise of your function as a decision-maker, if you're going to suspend, it's entirely necessary for you to get the advice of the relevant person from Professional Standards?

40 **MR CORCORAN:** I require letters to suspend and a submission. So that's what I asked for from - well, through Assistant Commissioner Snell from Professional Standards.

45 **COMMISSIONER:** Well, Mr Corcoran, can I just understand what you've just said.

MR CORCORAN: Yes.

COMMISSIONER: You say you required letters to suspend. Do you mean you asked to be given a draft letter to enable suspension? Is that what you mean by that?

5

MR CORCORAN: Every submission that's sent from Professional Standards comes with a letter to suspend.

COMMISSIONER: Yes. Well, that's a clerical matter, right?

10

MR CORCORAN: That's a clerical matter.

COMMISSIONER: Yes. Now, after that, you say you asked for - you asked for, through the Assistant Commissioner Snell, from Professional Standards. Now, what were you asking her to do for you?

15

MR CORCORAN: To get me a submission from Professional Standards. And in the normal course of events, the submission would come forward with letters of suspension. So if the decision-maker would like to go down that path, those letters are already included in the submission.

20

COMMISSIONER: But surely the purpose in having the submission is so you are presented with all relevant information to enable you to make a proper decision. Isn't that why you receive a submission?

25

MR CORCORAN: That's right, yes.

COMMISSIONER: And you didn't have that here, did you?

30

MR CORCORAN: Well, I knew the relevant information that - I already - I already had it. I wasn't - I wasn't, in my mind, required then to report to the Director of Professional Standards and, you know, get her to analyse what I already analysed as being a risk to the workplace, a risk to inmates, a risk to officers.

35

COMMISSIONER: Well, you didn't put that in your decision, did you, anywhere?

MR CORCORAN: Because the decision was I - you know, I signed the letters to suspend. That's -

40

COMMISSIONER: That's all you did?

MR CORCORAN: That's right.

45

COMMISSIONER: You never put on paper - you never recorded your reasons for making that decision, did you?

MR CORCORAN: That's - that's not - that's not the normal course of events. So you would get a submission -

5 **COMMISSIONER:** Answer my question. You never did, did you?

MR CORCORAN: No.

10 **COMMISSIONER:** No. Nor did you ask for advice about whether the information you had now received was sufficient to found a decision to suspend. You didn't ask for that advice, did you?

MR CORCORAN: No.

15 **COMMISSIONER:** You'd just made up your mind that you were going to suspend, hadn't you?

MR CORCORAN: Yes.

20 **COMMISSIONER:** And the report was just to put a veneer of legitimacy upon that decision, wasn't it?

MR CORCORAN: No, it gave me information about what had transpired previously.

25 **COMMISSIONER:** And put a veneer of legitimacy on a decision which you had already made?

30 **MR CORCORAN:** Yeah, I had made a decision about this was the most appropriate thing to do in the circumstances to protect the victims, to protect the officers.

35 **MR LLOYD:** Can I move to a different topic, Mr Corcoran. Do you remember yesterday you gave some evidence about the performance management plan for Shari Martin? You can close up that folder.

MR CORCORAN: Yes.

40 **MR LLOYD:** Do you remember yesterday giving some evidence about that?

MR CORCORAN: Yeah.

45 **MR LLOYD:** I need to put some things to get your response. Ms Martin - and for those at the bar table, this is transcript 2181 and 2182 - when she was asked about this performance improvement plan, told the Commission this:

"There was an instance when Hamish Shearer had sent me a letter saying he was going to place me on a performance improvement plan, which I couldn't understand why. And with my union delegate, I met with Assistant Commissioner Corcoran to discuss the situation."

5

Do you remember that?

MR CORCORAN: No.

10 **MR LLOYD:** And she said that she explained to you that in an earlier meeting with Mr Shearer, he had said to her that you had reported to him that she was a challenging Governor. Now, do you remember that being said?

MR CORCORAN: Do I remember saying that to -

15

MR LLOYD: Or this being discussed in the meeting that I'm asking you about.

MR CORCORAN: Yeah. No, I don't remember the meeting, so I don't remember that, no.

20

MR LLOYD: Do you remember this happening - see if this prompts any memory - that you spoke to Mr Martin and, during a meeting, you said to her that Mr Shearer was down at Human Resources, HR, as you were speaking, organising to have an improvement plan done. Do you remember that happening?

25

MR CORCORAN: No.

MR LLOYD: That kind of thing, though, being told that Mr Shearer was going to put her on a performance improvement plan, would be consistent with what you told us yesterday in terms of your belief that that had happened?

30

MR CORCORAN: Yes.

MR LLOYD: What Ms Martin said, though, was that whilst it had been discussed, it never happened, that is, she was never placed on a performance improvement plan. Do you have a response to that?

35

MR CORCORAN: Well, my response is that Hamish sent me the performance improvement plan, which I forwarded through to Peter Severin.

40

MR LLOYD: Can I just - I'll show you a document in a minute, but just tell you what Mr Shearer told us: that he had formed the view by February/March '17 that Ms Martin should be put on a performance improvement plan. That would be consistent with what you told us?

45

MR CORCORAN: Yes.

MR LLOYD: That he told you he was going to raise that with Ms Martin, that is, a performance improvement plan. Again, consistent - is that right?

MR CORCORAN: Yes.

5

MR LLOYD: And he informed you - it wasn't a matter of agreement. He said that that's what he was going to do?

MR CORCORAN: Yes.

10

MR LLOYD: Sound consistent so far?

MR CORCORAN: Yes.

15

MR LLOYD: He said, after that, he reflected on that decision and then made a different decision, in effect, what he said - his words - to withdraw the plan, and he drafted one, but it wasn't sent to her. What do you say about that?

20

MR CORCORAN: Well, I'm pretty sure he sent that plan to me, and I forwarded it through to the Commissioner.

MR LLOYD: Can I just ask for Mr Corcoran to be shown a document. I'll just show you something we've only just got.

25

MR CORCORAN: Yeah.

30

MR LLOYD: I'll just get a - at the moment, we've only got one copy. More are coming. I'll just show you this and then, in fairness to others, I'll pursue it when we've got the other ones. Just have a look at that. Does that match your memory, going back many, many years, to the document that you got sent?

MR CORCORAN: No.

35

MR LLOYD: I see.

MR CORCORAN: No, I just remember seeing an email from Hamish that had gone through what was included in the plan, which I forwarded through.

40

MR LLOYD: You say you sent that through to then Commissioner Severin?

MR CORCORAN: That's my recollection, yeah.

45

MR LLOYD: Could I have that document back. Perhaps that could be marked, Commissioner. I'm not sure whether at the moment we can tender it.

COMMISSIONER: It's MFI4.

<MFI4 TENDERED AND MARKED

MR LLOYD: See, I want to suggest to you, Mr Corcoran, you're mistaken that there was any finalised performance improvement plan that ever came into effect for Ms Martin. What do you say about that?
5

MR CORCORAN: I'd say that I got something from Hamish that I thought constituted his discussions or summarised his discussions and, you know, I forwarded it through to the Commissioner. So, yeah, I was not aware that he had walked back on his plans to do that. So -
10

MR LLOYD: Didn't you think it was necessary for you, having regard to what you told us about the views you formed about Ms Martin, to go back to him and make inquiries about how she was going, that is, "Is her performance improving?"
15

MR CORCORAN: Well, I'm sure I did have those discussions. I had those discussions with every Director about their Governors.

MR LLOYD: Well, I want to suggest to you that you did not go back to Mr Shearer to ask him whether Ms Martin's performance had improved as a consequence of any performance improvement plan. What do you say about that?
20

MR CORCORAN: I have no recollection of going there or not going there.
25

MR LLOYD: Do you agree that having regard to the state you had reached in terms of Ms Martin's abilities to perform her role, that it was necessary for you to go back and check whether her performance was improving?

MR CORCORAN: Yeah, that would be the normal course of events. Yes.
30

MR LLOYD: And if you didn't do that, that would be a failure by you in your then role as Assistant Commissioner with oversight over this particular Correctional Centre?
35

MR CORCORAN: Well, I have no recollection whether I did or I didn't. So -

MR LLOYD: If you didn't, you should have?

MR CORCORAN: I - I should have, yes.
40

MR LLOYD: Could I - you told us yesterday also that that performance review plan was the - I think your words were something like the one tool that you had available to address the problem that you told us about with Shari Martin's inability to do the job?
45

MR CORCORAN: That's the primary focus for, you know, managing poor performance in the workplace. That was the tool that HR had for those things.

5 **MR LLOYD:** And you said that there were some problems arising from the award in taking anything other action. Do you remember that?

MR CORCORAN: Yes.

10 **MR LLOYD:** Do you remember whether you caused anyone to secure advice from a lawyer who had an understanding of the award about what the options available to Corrective Services were to deal with the situation you told us, namely, your view that she was not up to performing her role as Governor?

15 **MR CORCORAN:** I don't have any recollection of that.

MR LLOYD: Do you think, having regard to the difficulties you've identified in your understanding of the award, that is, the limitations - just pausing there, the limitations, in effect, you told us about were short of a misconduct process, you felt the award constrained your ability and Corrective Services' ability to deal with her properly arising from the inability to perform the role. Is that a fair summary?

MR CORCORAN: Yes. Yes.

25 **MR LLOYD:** You should have - in the circumstances regarding the view that you'd formed about her inability to do the job, you should have made sure that someone obtained some advice about what the legal options available were, shouldn't you?

30 **MR CORCORAN:** Well, at that time, you know, I think there were a number of us on our executive that weren't satisfied with how things were travelling with respect to performance management, misconduct, and we raised these things in executive.

35 **MR LLOYD:** Doesn't it go pretty centrally to the performance of - institutionally of Corrective Services if there's a Governor in charge of two Correctional Centres who is not up to doing his or her job?

MR CORCORAN: It is an issue.

40 **MR LLOYD:** And if that is the position over almost a period of two and a half, or thereabouts, years, that represents a very serious problem, institutionally, for Corrective Services. Do you agree?

45 **MR CORCORAN:** Yes.

MR LLOYD: What was done, to your knowledge, about getting some advice about how to address that kind of situation, that is, belief by an Assistant Commissioner that a Governor was not up to performing the role?

5 **MR CORCORAN:** We put forward in executive - a number of members of executive put forward our dissatisfaction with the processes, on a regular basis. It resulted in a review of Professional Standards and how they operated. The review revealed that there were no problems with Professional Standards but that Directors and decision-makers needed further development.

10

MR LLOYD: This wasn't a Professional Standards issue; this was a competence issue.

15 **MR CORCORAN:** Well, Professional Standards, you know, are the body that we would have to take things through once you arrive at a particular juncture to do something about a Governor, for example.

MR LLOYD: What you're describing to us as at this period, August '16 to the end of December '18, though -

20

MR CORCORAN: Yeah.

MR LLOYD: I thought from yesterday what you said was that there was not enough to engage a disciplinary process -

25

MR CORCORAN: Yes.

MR LLOYD: - because you didn't have enough evidence of misconduct -

30 **MR CORCORAN:** That's right.

MR LLOYD: - on her part?

35 **MR CORCORAN:** Yes.

MR LLOYD: And so that being the position, assuming that to be so, then the disciplinary or Professional Standards system did not really have a role to play in terms of the disciplinary oversight; correct?

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

MR LLOYD: But you had formed the view, in terms of her competence, that she was not competent to do the job at two Correctional Centres?

45 **MR CORCORAN:** Yes.

MR LLOYD: That, if what you're telling us is right, that the - well, let me just get your response to this. Are you saying that the only responses that you were aware of that Corrective Services, institutionally, had to this particular problem that I just put to you were a performance improvement plan?

5

MR CORCORAN: That's one of the responses, yeah.

MR LLOYD: Or to hope that the conduct was so bad that one day it might be sufficient to engage the disciplinary system?

10

MR CORCORAN: Yes.

MR LLOYD: It sounds like a very serious problem, institutionally, with managing the proper organisation and control and governance of Corrective Services.

15

MR CORCORAN: I agree. Yes.

MR LLOYD: And that's a problem that existed between August '16 and December 2018?

20

MR CORCORAN: Yes.

MR LLOYD: And I think from what you were saying yesterday, but please respond, that problem exists today?

25

MR CORCORAN: That's right.

MR LLOYD: Unaddressed?

30

MR CORCORAN: It's certainly being addressed.

MR LLOYD: But not successfully?

35

MR CORCORAN: Well, we - we're in the process of doing it. So we've been - if I may?

MR LLOYD: Certainly.

40

MR CORCORAN: We've been looking over the last 12 months at how we do business differently. We've been examining that by going out and looking at other law enforcement agencies. So I've had a team working on this over the last 12 months to come up with a new structure, consulting in Professional Standards, consulting with the staff in Professional Standards and going around and looking at other models of - in law enforcement agencies to understand how we can do this better, how we can make sure that conduct or competency in the workplace is addressed.

45

COMMISSIONER: Mr Corcoran, what Mr Lloyd is putting to you is that conduct or misconduct is one thing; competence to do the job is a different thing. Do you understand?

5

MR CORCORAN: Yes.

COMMISSIONER: I would have thought, but maybe you can tell me if my thinking is awry -

10

MR CORCORAN: Yes.

COMMISSIONER: - that competence of people in management positions is an issue for those to whom they report, is it not?

15

MR CORCORAN: Yes.

COMMISSIONER: It's got nothing to do with Professional Standards; it's got to do with the managers above those who may not be able to perform the job satisfactorily. Isn't that right?

20

MR CORCORAN: The only - I guess the only avenue we have, if it's a competence issue, is more training and development.

25

COMMISSIONER: Well, that's where we end up. And that's just not good enough, is it?

MR CORCORAN: Not if you have someone you think is not up to the job. And this is where we want to move to, you know, to get to a point where we've got much more in the way of tools to deal with that.

30

COMMISSIONER: But you won't increase your tools in that area by going around Australia looking at Professional Standards, because as we've just agreed, it's an entirely different topic. This is about competence of management right through in the structure of Corrective Services, isn't it?

35

MR CORCORAN: Yes.

MR LLOYD: And this -

40

COMMISSIONER: Have you put in train any work to try and find out how you might change your management structure or processes to try and deal with lack of competence in some of your managers?

45

MR CORCORAN: Yes. So what - what we're looking at, at the moment is - and we - we actually have implemented this - is a new process for selection of senior people in Correctional Centres. So we're talking about the supervisor level, the

middle manager level and the senior - the Manager of Security level. So we're putting in place a process where they will have to pass a pre-promotion course that is run by external agencies so that they go through the GSE compliant process to get to that point, where they do that pre-promotion course and we make sure that they are competent to lead and manage at that level in the Correctional Centres.

COMMISSIONER: Has this proposal been committed to paper?

MR CORCORAN: It's actually been implemented.

COMMISSIONER: Sorry?

MR CORCORAN: It's been implemented.

COMMISSIONER: Implemented. So there's a document that records what you're doing, is there?

MR CORCORAN: Yes.

COMMISSIONER: We might get hold of that document. But, secondly, as happened here - I mean, Shari Martin was the subject of a special commendation, wasn't she, for running a good gaol?

MR CORCORAN: I think she got a Premier's Award back many years ago, yeah.

COMMISSIONER: So a guarantee of passing muster at one point doesn't mean that you ultimately not fail in doing the job, does it?

MR CORCORAN: No, that's right.

COMMISSIONER: So you need to have available to you management tools to make sure that you don't have people in management positions who can't adequately perform, don't you?

MR CORCORAN: That's exactly right.

COMMISSIONER: What have you put in train to try and find out about what you can do in that space?

MR CORCORAN: So we've also - and I think it was mentioned before. We've also put all the existing Governors and Managers of Security through an advanced leadership - sorry, an advanced diploma of leadership and management. And, you know, we have got - now got this pre-promotion course in place.

COMMISSIONER: Well, they will assume that thereafter the person will do the job properly. But as we've just discussed -

MR CORCORAN: Yes.

COMMISSIONER: - you can't always assume that.

5 **MR CORCORAN:** No, you can't always assume that.

COMMISSIONER: What have you put in place, then, to deal with the circumstance that you said arose here where you had a Governor who wasn't up to the job?

10

MR CORCORAN: Yes. So what we've put in place since then is a completely new structure in the agency that looks after prisons. So now I have a Deputy Commissioner that's looking after strategic issues, two Assistant Commissioners and five Directors. Previously when I was doing the job, same number of inmates - about the same number, I had one Assistant Commissioner and three Directors. So I've now got a much greater coverage of -

15

COMMISSIONER: Maybe you have, but you still haven't dealt with the proposition that you may have an incompetent Governor. What are you going to do about that?

20

MR CORCORAN: Well, I believe that we have the management structure there now to properly operate and - and - and make sure that the Governors are performing well. And quite frankly, you know, the Governors we have at the moment, as far as I'm concerned, are all excellent.

25

COMMISSIONER: Nothing I'm saying should suggest to the contrary of that proposition.

30 **MR CORCORAN:** Yes.

COMMISSIONER: But a properly managed organisation has to be able to deal with people who aren't doing the job properly, doesn't it?

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

COMMISSIONER: Well, what have you put in place or what are you proposing to do in that space?

40 **MR CORCORAN:** Well, as I said, we've got the - we -

COMMISSIONER: I know you said you've got a new structure.

MR CORCORAN: We have the training.

45

COMMISSIONER: But if in that structure you end up with someone who can't do the job, what have you put in place to deal with that management problem?

MR CORCORAN: Well, we - they won't be able to get into the job, you know, because we have these new pass/fail pre-promotion courses. So if they're not up to it - and, you know, we can analyse that and assess that at three different levels.

5 And I believe we've got the capacity, then, to make sure that people don't get into Governor positions that are not competent.

COMMISSIONER: We've been around that loop, Mr Corcoran. You understand that I don't understand that proposition.

10

MR CORCORAN: Yes.

COMMISSIONER: Because as is plain here, someone who was commended as doing a very good job ultimately was found out to be failing.

15

MR CORCORAN: Yes. But we have, you know, much greater level of - or capability of supervision from the Directors, from the Assistant Commissioners, from the Deputy Commissioner in that space at the moment.

20 **COMMISSIONER:** So does that mean that you weren't able to do your job properly under the previous arrangements?

MR CORCORAN: It was very difficult with that number of prisons, one Assistant Commissioner, three Directors. We had four Directors when Hamish came along, but it was still very, very difficult to get across.

25

COMMISSIONER: But you tell me all your other Governors were competent and not a management concern for you?

30 **MR CORCORAN:** At the moment?

COMMISSIONER: No, back then.

MR CORCORAN: Back then? I'm saying there were others that were problematic too.

35

COMMISSIONER: Well, I think we've exhausted the topic.

MR LLOYD: I just wanted to ask you for your response to some final things in relation to Dillwynia. I think you've told us about your belief about Shari Martin's competence or incompetence in running Dillwynia and also that you made the then Commissioner Severin aware of your belief?

40

MR CORCORAN: Yes.

45

MR LLOYD: And I think it's clear from what you've said that in that period of a bit short of two and a half years, August '16 to the end of '18, that aside from the

performance improvement plan, if it came into operation, nothing else was done to try and explore the options of removing her; is that right?

5 **MR CORCORAN:** Of removing her?

MR LLOYD: Yes.

10 **COMMISSIONER:** I mean, this is an award employee. We just can't remove people.

MR LLOYD: No, no, no. Getting advice is one of the propositions I put to you.

MR CORCORAN: Okay.

15 **MR LLOYD:** Nothing was done about that?

MR CORCORAN: Not that I'm aware.

20 **MR LLOYD:** And no investigation or audit or quality assurance conducted of what was actually happening inside that gaol in that period; is that right?

MR CORCORAN: Yeah, that's right.

25 **MR LLOYD:** And in that period, you also had at least some doubts about the level of competence of the Regional Director with oversight for that gaol?

MR CORCORAN: Yes.

30 **MR LLOYD:** Doubts about the Regional Director, belief; is that right?

MR CORCORAN: Yes.

MR LLOYD: Belief that the Governor was not up to the job?

35 **MR CORCORAN:** Yes.

MR LLOYD: In that period of time - that two and a-third years or so, you know that the gaol who you ultimately had some responsibility for, 13 - or more than 13 women were victims of sexual assault by a senior officer?

40 **MR CORCORAN:** Yes.

MR LLOYD: And nothing was done in that period to remove or suspend that officer?

45 **MR CORCORAN:** Yes.

MR LLOYD: Do you agree, on the facts that I've just put to you, that just at an institutional level, that represents a serious failure by Corrective Services to discharge one of its core obligations, being the humane and safe detention of inmates?

5

MR CORCORAN: Yes.

MR LLOYD: Do you agree that an institution like Corrective Services, it's important for leaders to take responsibility to achieve important institutional outcomes?

10

MR CORCORAN: Yes.

MR LLOYD: You were one of the leaders?

15

MR CORCORAN: Yes.

MR LLOYD: You were one of the most senior leaders with direct responsibility for this particular Correctional Centre?

20

MR CORCORAN: Yes.

MR LLOYD: Do you agree that what is represented by the failures I've just put to you, that is, that the matters involving the - you having doubts the Regional Director, no steps being taken to remove the Governor in the form of advice and the offending that occurred at the gaol, that that represents a failure of leadership?

25

MR CORCORAN: I think it's a failure of the organisation to have sufficient tools for leadership to operate in that sort of environment.

30

MR LLOYD: Do you agree that it represents a failure of leadership of Corrective Services?

MR CORCORAN: Leadership of Corrective Services, yeah.

35

MR LLOYD: And I want to suggest to you as one of the leaders who had responsibility for this Centre that it was a personal failure on your part.

MR CORCORAN: Look, I don't regard it as a personal failure. I - I did everything I could to make sure that we had systems in place, that we stopped the way that we were doing business or tried to change the way we were doing business at an institutional level that would have given us those opportunities to deal with this. But I wasn't able to do anything there.

40

45 **MR LLOYD:** Can I put some things to you about the -

COMMISSIONER: Mr Lloyd, I think that answer, if it's to be helpful, needs some particulars.

5 **MR LLOYD:** Well, you just heard what the Commissioner said. Can you tell us -

MR CORCORAN: Yes.

MR LLOYD: I withdraw that. You've told us some of the things -

10 **MR CORCORAN:** Yes.

MR LLOYD: - in answer to the Commissioner's questions about steps that have been taken to deal with the Governors, for example, by making sure that they're competent when they're employed?

15

MR CORCORAN: Yes.

MR LLOYD: And trained?

20 **COMMISSIONER:** No, no. We're talking about - he said that he did everything back then -

MR CORCORAN: Yes.

25 **COMMISSIONER:** - to make sure we had systems in place, that we stopped the way that we were doing business or tried to change the way we were doing business at an institutional level that would have been given those opportunities to deal with this. We're talking back at the time when Astill was offending.

30 **MR LLOYD:** Thank you, Commissioner. Can you just identify what you're talking about there?

35 **MR CORCORAN:** Yeah, what I'm talking about is raising these issues in executive and having, you know, discussions with Assistant Commissioner, Governance and Continuous Improvement, James Koulouris, about the way we were doing business at that point in time, which led then to James Koulouris commissioning the WEIR Consulting report, which I mentioned before.

40 **MR LLOYD:** But, Mr Corcoran, is that the - are they the things that you had in mind -

MR CORCORAN: Yes.

45 **MR LLOYD:** - in that answer? But, you see, don't you agree with me that just stepping back and looking at the situation, it's really, to your knowledge at the time, in this two-and-a-third year period, it's really a disastrous outcome that there

would be a Governor who you believed isn't up to the job running two correctional centres in New South Wales?

MR CORCORAN: Yes.

5

MR LLOYD: Correctional centres that you had some oversight of?

MR CORCORAN: Yes.

10 **MR LLOYD:** That just sounds, if you just go to the end, and state that as a conclusion, it sounds like a terrible outcome that cannot be tolerated at an institutional level. Do you agree?

MR CORCORAN: Yes.

15

MR LLOYD: It would be absolutely incumbent for an institution acting properly in the discharge of its core functions like Corrective Services to fix that problem; correct?

20 **MR CORCORAN:** Yes.

MR LLOYD: You are telling us one of the tools was the performance renew and you've given us a number of answers and given us evidence about that.

25 **MR CORCORAN:** Yes.

MR LLOYD: And I think you've agreed that there was no audit or quality assurance done of the gaol. That was another thing that was available to you?

30 **MR CORCORAN:** No, it wasn't. It wasn't available to me.

MR LLOYD: Why?

35 **MR CORCORAN:** There was no quality assurance capability in the organisation for Community Corrections or for Custodial Corrections. The only quality assurance was being done on the private sector.

40 **MR LLOYD:** You are telling me that in your role that, aside from this performance improvement plan, that really you just felt for this period of time that you couldn't do anything else to deal with the particular problem of two correctional centres being run by someone who was not up to the job?

MR CORCORAN: Yeah.

45 **MR LLOYD:** Is that what you're saying?

MR CORCORAN: I'm saying, and the Commissioner identified before, that there were very few resources in this particular area when I came into the role. Prior to coming into the role, and prior to the, I think, the Hamburger Review, you had a situation where there was a Deputy Commissioner, three Assistant
5 Commissioners, about 90 staff, and there were capabilities to undertake quality assurance of correctional centres and Community Corrections at that point in time. And then we go to a situation where we've got one Assistant Commissioner, three Directors and about 13 staff.

10 **MR LLOYD:** But this particular situation you've described to us is exceptional, isn't it?

MR CORCORAN: It's exceptional.

15 **MR LLOYD:** But this didn't warrant ordinary processes. This demanded particular and immediate and aggressive action when you achieved the state of belief that you had a Governor running two places that wasn't up to the job; correct?

20 **MR CORCORAN:** As I said, you know, the tools were not there to do much about it.

MR LLOYD: What did you do about getting more tools?

25 **MR CORCORAN:** As I said, raising it in the executive.

MR LLOYD: And so are you saying that there was a failure at that level, executive level, to not act properly to the situation?

30 **MR CORCORAN:** I'm saying that it was raised in executive, and we were not able to successfully achieve the results that we wanted. I must say that if you go back and look, you know, once I had opportunity to go and look at the Themis report once I became Commissioner, that identified some of the failings that, you know, led to this issue. And, you know, and now - and came up with a range of
35 recommendations which I think is a great blueprint for a way forward. And those are the sorts of things that we are looking at, at the moment to make sure that this sort of thing never happens again, as well as a whole range of other matters associated with the development of senior staff in Custodial Corrections.

40 **MR LLOYD:** Could I just put some other things to you to get your response. Yesterday, I asked you some questions about the culture of officers making reports of serious misconduct by other officers?

MR CORCORAN: Yes.

45

MR LLOYD: And I think, in effect, you told us that there was still, at least amongst some officers, a cultural problem?

MR CORCORAN: Yes.

5 **MR LLOYD:** Do you agree that a key aspect of a system of disciplinary oversight is a culture in which officers feel that they are able to make, or forward, complaints about misconduct by other officers?

MR CORCORAN: Yes.

10 **MR LLOYD:** And do you agree that - I withdraw that. You also told us that at least amongst some officers you are aware of a culture of not cooperating with the PSB when the PSB come to inquire or investigate?

MR CORCORAN: Yes.

15 **MR LLOYD:** Cooperation by officers at that level also is a key feature of a system of disciplinary oversight that is working properly, do you agree?

MR CORCORAN: Yes.

20 **MR LLOYD:** Would you agree that a culture, if it still exists, of the kind that you have identified, represents a serious institutional problem for Corrective Services in managing the system of disciplinary oversight?

25 **MR CORCORAN:** Yes.

MR LLOYD: You, in your time, starting from Acting Commissioner in the second half of 2021 and then into the role formally at the end of '21 until now, I want to get you to respond to this. You have not taken any adequate steps to address those cultural problems?

30 **MR CORCORAN:** Yes, certainly have taken adequate steps. As I said, we had a team working on how we were going to reshape reporting, how we were going to reshape Professional Standards. That team has been working for about 12 months. I've had to take that team off that particular task at the moment. But nevertheless, it is very close. I want to make sure that we are putting in place the things that will address these issues, you know, hopefully by the end of the year.

40 **MR LLOYD:** By the end of this calendar year?

MR CORCORAN: By the end of this calendar year. I mean, these are large changes and they need to be considered appropriately. They need to be based on good evidence and that's what we have been gathering over the last 12 months.

45 **MR LLOYD:** See, the problem to your knowledge, the cultural problems that I've identified you've been aware that those have plagued Corrective Services for years?

MR CORCORAN: As - as they do in your over uniformed agency.

5 **MR LLOYD:** Corrective Services in New South Wales, those problems have plagued Corrective Services for years?

MR CORCORAN: That's right.

10 **MR LLOYD:** To your knowledge?

MR CORCORAN: Yeah.

MR LLOYD: Since you started there formally in January '14.

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

MR LLOYD: What has been done, starting by you, what steps have you personally taken to try and address the cultural problem?

20 **MR CORCORAN:** Yeah. So what we've been doing over the last 12 months is looking at new ways of reporting, making sure that officers feel safe to report so that they don't have to go through any management chain, so that they've got multiple methods of reporting, so that we've got a misconduct case management database instead of an Excel spreadsheet to record matters in Investigations and in
25 Professional Standards.

MR LLOYD: Are these -

30 **MR CORCORAN:** Merged professional - sorry, can I just -

MR LLOYD: No, you go.

MR CORCORAN: Merged Professional Standards and Investigations. You heard
35 evidence to say that, you know, things were coming back and forth between Investigations and Professional Standards because the investigations were inadequate. It's been a recommendation of a number of - of reviews to merge Professional Standards. That's been done. And we have - and you've also heard evidence, I think, that our misconduct case management database has been
40 underway for about 12 months and, unfortunately, will be another 12 months. But I am trying to make sure that we have an interim measure in place so that we can start conducting things like monitoring, like quality control, proper case management, identification of the hot spots in - in Corrective Services so that we can start looking at, you know, what interventions need to be taking place where
45 there is significant reports coming in of - of inappropriate behaviours.

MR LLOYD: Can I put this to you for your response: another key aspect of a proper system of disciplinary oversight is the existence of clear and consistent

policies which are capable of being understood by all Corrective Services officers about to whom allegations of serious misconduct must be reported?

MR CORCORAN: Yes.

5

MR LLOYD: Do you agree?

MR CORCORAN: Yeah.

10 **MR LLOYD:** The February '16 policy - and I want to suggest to you the system prior to 12 September 2017 - required allegations of serious misconduct to be reported either to Professional Standards Branch or the Strategic Partner?

MR CORCORAN: Yes.

15

MR LLOYD: The policy that was introduced on that day effected a substantial change to that system in putting the Regional Director for each of the regions in the place of the first person to whom allegations of that kind would be reported?

20 **MR CORCORAN:** Sorry, you want me -

MR LLOYD: I want you to respond. Do you agree with me?

25 **MR CORCORAN:** I - I don't think it - I think it allowed - you know, this is, I guess, where we get back to a scenario where we have a situation where people who are in charge and operating correctional centres have no idea what's going on in their correctional centres unless they are informed by the Governor that - that certain things have happened in their centre.

30 **MR LLOYD:** That's your response to my question?

MR CORCORAN: That's right.

35 **MR LLOYD:** I want to suggest to you that the effect of the change introduced on 12 September was to render the policy and system with respect to reporting to PSB or strategic partner unclear and inconsistent from that date.

40 **MR HORTON:** I object. Change to what? Is it the procedure? Is it the policy? That's one of the critical issues that's emerged that remains -

MR LLOYD: I'll withdraw the question and deal with it this way. The 12 September email policy had as one of its effect to change the February '16 policy in terms of the requirement to report in the first instance to the Professional Standards or strategic partner. Do you agree?

45

MR CORCORAN: Can I just refer back to the policy, please?

MR LLOYD: Do you want to see the policy?

MR CORCORAN: Yeah, if that's all right.

5 **MR LLOYD:** It's in Volume 9, Tab 149. On page 7, Mr Corcoran.

MR CORCORAN: Sorry, what Tab?

10 **MR LLOYD:** 149. The first bullet point on page 7 under 5.1.

MR CORCORAN: So, from my perspective, what that policy decision did was involve the Directors in the first report.

15 **MR LLOYD:** You don't - is that you disagreeing with my proposition that that policy of 12 September effected a change to the policy represented in the first bullet point on this page 7 of the February '16 policy?

20 **MR CORCORAN:** Well, it didn't change the fact that it could have been - that it should have been reported through to the either strategic business partner - HR business partner or the divisional Professional Standards. All it meant was that it was being reported through, in the first instance, to the Director so that that information was known to the Director and could then be reported through.

25 **MR LLOYD:** I suggest to you the policy coming into operation on 12 September '17 also effected a change to what you understood to be the system which had grown up, that is, requiring reports of serious misconduct to go to Professional Standards or the Investigations Branch in the first instance.

30 **MR CORCORAN:** I think I said yesterday that I didn't agree with that.

MR LLOYD: I want to - I think you agreed with me yesterday that the policy that came in on 12 September was never rescinded?

35 **MR CORCORAN:** Yes.

MR LLOYD: It's still in place today?

40 **MR CORCORAN:** It's - well, you could say, yeah, it's still in place today, but there's a different management group in there, you know, and I'm not sure what processes they have put in place recently.

MR LLOYD: But you're the Commissioner. I'm just asking for your understanding. Is the 12 September '17 policy still in place now?

45 **MR CORCORAN:** I think I said yesterday that was the case.

MR LLOYD: I want to suggest to you that, to your knowledge, the present position with respect to the February '16 policy - the system that I've put to you on the evidence about reports of serious misconduct either to Investigations or Professional Standards - and the 12 September policy has the effect that the policies and systems with respect to whom reports of misconduct go to in the first instance in Corrective Services is unclear.

MR CORCORAN: They are unclear, yes.

MR LLOYD: And - sorry, you finish.

MR CORCORAN: Yeah, because - it's clear that there's been different evidence on that. So, you know, there's certainly some understanding - or different understanding amongst the people, such as the person in charge of Investigations Branch, at that particular point in time.

MR LLOYD: The policy and system with respect to the reporting of allegations in the first instance of serious misconduct, I want to suggest to you, has - or is presently unclear, and you have known about this since at least September '17. Do you agree?

MR CORCORAN: I didn't - I didn't know that the Commissioner wasn't aware - the former Commissioner wasn't aware of this process or that the Director of Investigations wasn't aware.

MR LLOYD: You didn't consult the Director of Investigations or anyone from Professional Standards before the 12 September policy came in, did you?

MR CORCORAN: Consult them about what?

MR LLOYD: Asked them whether it was a good idea to introduce the 12 September policy?

MR CORCORAN: No.

MR LLOYD: You didn't tell them that it had come in?

MR CORCORAN: Well, as far as I was concerned, this gave us the capacity to make a judgment about whether it went to human resources or to the Professional Standards.

COMMISSIONER: Mr Lloyd -

MR LLOYD: Commissioner, I note the time. I only have to get Mr Corcoran - I've given him an undertaking twice to allow Mr Corcoran to give evidence about the future, and I wish to do that. It'll take about 10 minutes.

COMMISSIONER: Well, just before the morning adjournment, MF14 - Mr Corcoran, I don't know whether you still have a copy. There is the performance management plan. Does Mr Corcoran have a copy of that? Who prepared this plan?

5

MR CORCORAN: I don't know, because I've never - this is the first time I've seen this particular plan. But I imagine it would have been Hamish Shearer.

COMMISSIONER: So you've never seen this before?

10

MR CORCORAN: No, because it's got Hamish Shearer's name on it.

COMMISSIONER: Well, I know that, but you've never seen -

15

MR CORCORAN: No, I've never seen this before.

COMMISSIONER: Even though you asked for it, you've never seen it?

20

MR CORCORAN: No, I saw an email where he documented what he was doing.

COMMISSIONER: Well, now that you've got this document, it's a catalogue of failures, isn't it? Right the way through. Look at each item in here. It's a catalogue of failure.

25

MR CORCORAN: I think it's just setting out, you know, things that are in role descriptions. That's what it is, setting out what is generally in a general manager's role description.

30

COMMISSIONER: That's what - well, no, it's more than that. It's the level of performance that you expect of a Governor from a gaol. That's what it is.

MR CORCORAN: That's what it is, yeah.

35

COMMISSIONER: And what this document is saying is to Ms Martin, "You need to improve in all of these areas." That's what it's saying, isn't it?

MR CORCORAN: Well, I don't know if it's saying that, that, "You need to improve in each of these areas."

40

COMMISSIONER: "Standard expected". Doesn't that mean - "standard expected". That's what you expect of her as the manager, and that's all of these items.

45

MR CORCORAN: Well, essentially what I see here is basically everything that's in a role description for a General Manager.

COMMISSIONER: Maybe. That rather suggests that she's not meeting the standard.

5 **MR CORCORAN:** Well, it doesn't actually say that. It -

COMMISSIONER: Well, how else do you interpret it? If it's a performance management plan designed to ensure she lifts her performance - and you defined the standard expected in relation to various items - how else can you interpret other than that this is what whoever drafted this document expected Ms Martin to be able to achieve?
10

MR CORCORAN: Yes.

COMMISSIONER: Well, it's a catalogue of failure, isn't it?
15

MR CORCORAN: Well, as I said, it's a role description.

COMMISSIONER: Well, I'm sorry, Mr Corcoran. You can't just give someone a performance management plan defining standards expected and just say it's a role description.
20

MR CORCORAN: Yes. Well, I -

COMMISSIONER: That just doesn't work.
25

MR CORCORAN: It's the first time - it's the first time I've seen the thing, and I agree with you. It's -

COMMISSIONER: Well, you asked for this to happen, didn't you, this performance plan?
30

MR CORCORAN: Yes, I - normally, with a performance improvement plan, what you say is, "Look, I'm not happy about your communication skills. I'd like you to be - you know, not to swear at people on parade, for example."
35

COMMISSIONER: I understand that, but you've asked for this plan to be prepared and implemented, didn't you?

MR CORCORAN: Yes, but it's not -
40

COMMISSIONER: And you tell me that you've never seen this before?

MR CORCORAN: That's right, because I saw a document from - or an email from Hamish which outlined what he was talking about with Shari.
45

COMMISSIONER: Don't you think, in your role of managing what was obviously identified as a serious problem, it was incumbent upon you to make yourself familiar with what was actually going to happen?

5 **MR CORCORAN:** I thought I did by getting that email from Hamish.

COMMISSIONER: Have we got that email?

10 **MR LLOYD:** No. And that's - Commissioner, I'm just inquiring with Mr Sheller to make sure that - I would be astonished if it's not caught by any of the multiple summons. But I can tell you, Commissioner, that, on my understanding, there is no email to that effect. There is no finalised document. And as I've already said to Mr Corcoran, Mr Shearer's evidence is that it was never finalised, and the document before Mr Corcoran is what Mr Shearer says is the draft.

15 **COMMISSIONER:** Did you hear that, Mr Corcoran?

MR CORCORAN: Sorry?

20 **COMMISSIONER:** Did you hear that?

MR CORCORAN: Yes, I heard that.

25 **COMMISSIONER:** It's suggested there's no email. Did you hear that?

MR CORCORAN: Well, I - I'm pretty sure there is an email.

COMMISSIONER: Well -

30 **MR LLOYD:** We'll have to go back in light of -

COMMISSIONER: We'll do another search, but - anyway. All right. We'll have the morning adjournment. And can I see Counsel Assisting in chambers.

35 **<THE HEARING ADJOURNED AT 11.36 AM**

<THE HEARING RESUMED AT 11.52 AM

40 **MR LLOYD:** Mr Corcoran, I'm sorry to just go back for one minute to some things about 19 September. Are you sure, sitting here today, that you were told information on that day about concerns with respect to the performance by Officers Paddison and Holman of their obligations at other gaols, that that was a problem?

45 **MR CORCORAN:** Sorry, could you repeat that question?

MR LLOYD: I thought you told us earlier that one of the things that came to your attention on 19 September is that there were some problems in relation to the way Officers Holman and Paddison were performing their obligations at other gaols?

5 **MR CORCORAN:** No.

MR LLOYD: What were you told about - I withdraw that. They had been moved by 19 September to other Correctional Centres?

10 **MR CORCORAN:** Yes. Instead of a decision-maker making a decision to suspend, they were moved out of the facility.

MR LLOYD: And I thought you told us that something came to your attention about what was happening at the other facilities they'd been moved to?

15

MR CORCORAN: Victims in proximity.

MR LLOYD: Victims of Astill?

20 **MR CORCORAN:** Yes.

MR LLOYD: In proximity to them, that is, inmates at the facilities they'd been moved to?

25 **MR CORCORAN:** Yes.

MR LLOYD: Was that the extent of what you were told about the problems in relation to those two officers at the other centres?

30 **MR CORCORAN:** Yes.

MR LLOYD: Now, one can imagine concern on the part of inmates who had been victims of Astill if those inmates had a belief that two senior officers were at the centre that they were at, if those inmates, for example, believed those officers hadn't (indistinct)?

35

MR CORCORAN: One wasn't - one - one wasn't a centre per se; it was in an office on the complex.

40 **MR LLOYD:** What, in effect, the concern that you're describing is on the part of inmates who had been victims of Astill having to see senior officers on a day-to-day basis who they felt hadn't acted properly?

MR CORCORAN: Yes.

45

MR LLOYD: That was the concern?

MR CORCORAN: Yes.

MR LLOYD: Is that -

5 **COMMISSIONER:** Who told you this? Who told you?

MR CORCORAN: The - the staff at that - you know, those meetings on the -

10 **COMMISSIONER:** Sorry?

MR CORCORAN: The staff at the meetings on the 19th.

COMMISSIONER: At Dillwynia?

15 **MR CORCORAN:** At Dillwynia.

COMMISSIONER: They told you about problems in other gaols, did they?

20 **MR CORCORAN:** Well, one of them - one - one of the places that these - one of the officers had been placed was actually on the complex, right adjacent - right adjacent to -

25 **COMMISSIONER:** My question was, these officers told you about problems in other facilities?

MR CORCORAN: Right - it was right adjacent to Dillwynia fence.

30 **COMMISSIONER:** All right. Well, a sensible thing, then, was to move him further away, wasn't it?

MR CORCORAN: I just wanted to make sure that they were protected, those officers.

35 **COMMISSIONER:** Well, you could easily - sorry, the officers were protected?

MR CORCORAN: Yeah, the officers were protected from any allegation.

40 **COMMISSIONER:** Well then, you move them to another gaol where they can't be a problem, don't you?

MR CORCORAN: We'd already explored the options of moving some of these people, as I understand it. I wasn't involved, but, you know, I - I just thought the - the safest way to deal with this matter was in this - in this form.

45 **COMMISSIONER:** Did you ever tell these two officers when they were suspended that the reasons for the suspension included for their own safety?

MR CORCORAN: I spoke with both these officers.

COMMISSIONER: And did you tell them that?

5 **MR CORCORAN:** Yeah.

COMMISSIONER: Sorry?

10 **MR CORCORAN:** Yes.

COMMISSIONER: You did?

MR CORCORAN: Yes.

15 **COMMISSIONER:** Was this before you suspended them or when you suspended them or what?

MR CORCORAN: Well, when I brought them into my office and talked to them about these concerns.
20

COMMISSIONER: And what was the safety issue?

MR CORCORAN: The safety issue is, you know, the allegations of retribution that they might face if, you know, they come into contact with one of the victims.
25

COMMISSIONER: So a victim might attack them?

MR CORCORAN: Sorry?

30 **COMMISSIONER:** A victim might attack them? Is that what you say?

MR CORCORAN: No. No. A victim might make an allegation against that particular officer of - you know, they're involved in retribution against them.

35 **COMMISSIONER:** Now, who was the officer that told of you of these problems at other gaols or other centres?

MR CORCORAN: I think there - I think there multiple officers who expressed concern about this in the meeting.
40

COMMISSIONER: Who, please? Who?

MR CORCORAN: I think it would have been Renee Berry and Jude Barry. I can't - and there may have been other staff members. I - I can't recall their names.
45

COMMISSIONER: And I assume the Assistant Commissioner would have a note of these things, would she?

MR CORCORAN: Yes.

COMMISSIONER: All right.

5

MR LLOYD: Could I just ask - now, I appreciate the decision to suspend is reviewed every 30 days.

MR CORCORAN: Yes.

10

MR LLOYD: The situation you've just described as, in your mind, requiring the suspension that occurred on 20 September or thereafter - shortly thereafter - when is that situation, in your mind, likely to be resolved?

15 **MR CORCORAN:** I have to consider that when I get the papers. So every 30 days, as I said, you know, I will get an opportunity to consider that decision again.

MR LLOYD: But if nothing has changed in terms of that risk you've identified -

20 **MR CORCORAN:** Yeah.

MR LLOYD: - could there be a reasonable basis for you to change your mind?

MR CORCORAN: I could, yeah.

25

MR LLOYD: If nothing -

MR CORCORAN: And then, you know, I will speak to those officers before I make a decision.

30

COMMISSIONER: Mr Lloyd, there would have been at least one review by now, wouldn't there? Or should have been.

MR LLOYD: I'll ask the -

35

COMMISSIONER: Is there any document that supports the review?

MR LLOYD: I am not aware of that, but I'll have it checked. I'll just ask the witness, though. Do you remember turning your mind to the (indistinct) 30 days after the suspensions?

40

MR CORCORAN: Sorry?

45 **MR LLOYD:** Do you remember turning your mind to whether the suspensions should be continued in that first review date, 30 days after the suspensions?

MR CORCORAN: No, I don't. Sorry.

MR LLOYD: I'm just interested in -

COMMISSIONER: Sorry. You say the system required a review?

5

MR CORCORAN: It requires a review, yes.

COMMISSIONER: And it hasn't happened?

10 **MR CORCORAN:** Not that I can - not that I've seen so far.

COMMISSIONER: Well, surely it should have, shouldn't it?

15 **MR CORCORAN:** It should have, yes. And I'll be talking to the Director of Professional Standards afterwards to make sure that that happens.

MR LLOYD: You've heard Mr Sheller say at least once that this isn't the occasion to review the merits of the decision. Do you remember hearing him say that?

20

MR CORCORAN: Yes.

MR LLOYD: In terms of the process, what are we dealing with here? A decision is made to suspend, you say, on the new information you got on 19 September?

25

MR CORCORAN: Yes.

MR LLOYD: Are you planning on getting the input of Professional Standards or the Professional Standards Committee at any point on that decision based upon the information that came to your attention on 19 September?

30

MR CORCORAN: I will certainly make inquiries, yes.

MR LLOYD: Now? That is, are you saying, after this, you will seek the advice of Professional Standards and Investigations on - based upon the information that came to you on 19 September to get their advice on what to do?

35

MR CORCORAN: No, I said I'd make inquiries, and I'll be making inquiries of - of various people to come to my decision about whether to extend that suspension.

40

MR LLOYD: Will those inquiries - one of them, will they be made with Professional Standards and Investigations based upon the information that came to you on 19 September?

45

MR CORCORAN: I might make inquiries with Professional Standards. But, you know, that information is - you know, I would need to update what is going on

with that particular scenario to make sure that, you know, I've got sufficient information to make a decision.

5 **MR LLOYD:** That's really my question. Are you going to go back to Professional Standards and say, "This is the substance of the information I had on the 19th. Can you please give me your recommendations and advice about whether to continue the suspension"?

10 **MR CORCORAN:** Well, they - they normally write a letter to me to say, "Here's" - or giving me a submission saying, "Here's" - you know, "Sign here if you wish to continue the suspension." So, yes, Professional Standards have to be involved in that aspect of -

15 **COMMISSIONER:** Mr Corcoran, the system, as I understand it, is set up so that Professional Standards are capable of giving advice to decision-makers about whether or not someone should be suspended. Have I got that right?

MR CORCORAN: Yeah, that's the case.

20 **COMMISSIONER:** Well, how can you possibly get that advice from Professional Standards unless you tell them what it was that you learnt on 19 September?

25 **MR CORCORAN:** They will certainly know now because I've given evidence, but, you know, I will be speaking further to Professional Standards but also to other people about this particular circumstance and how I should make a decision in relation to continuation of the suspension.

30 **COMMISSIONER:** Proper administration would require you to put what you know on paper so that Professional Standards can evaluate it, wouldn't it?

MR CORCORAN: What would normally happen is an allegation would come to -

35 **COMMISSIONER:** No, no. Please answer my question. Proper administration would require you to put in writing so they can evaluate the information that you say you retrieved on 19 September?

40 **MR CORCORAN:** As I said before, Commissioner, I - I treated that information as confidential.

COMMISSIONER: Yes, but how can you possibly get advice - proper advice from Professional Standards unless you tell them what you learnt, even if you anonymise where it came from?
45

MR CORCORAN: What I was asking for was a submission which -

COMMISSIONER: No, no. We're now talking about the review. We've gone past 20 September.

MR CORCORAN: Right.

5

COMMISSIONER: We went past the review date more than a month ago.

MR CORCORAN: So the normal course of events, the - Professional Standards would just give a submission saying, "Here, would you - yeah, do you - will you require this suspension to be continued?"

10

COMMISSIONER: They have no capacity to advise you at all because you haven't told them what you know, have you?

MR CORCORAN: Yes, but normally you wouldn't get a letter to advise you differently, you know, if it was a continuation of a suspension. You would get, "Here's what's happened in the past, and here's a submission. Do you wish to continue this suspension?"

15

COMMISSIONER: Right. Well, they don't know what's happened in the past because you haven't told them; correct?

20

MR CORCORAN: Well, that's right, yes.

COMMISSIONER: And you say that's because you want to maintain privacy?

25

MR CORCORAN: Confidentiality, yeah.

COMMISSIONER: Confidentiality. Now, you're getting allegations - or Corrective Services are getting allegations every day, as I understand it. You don't make them confidential when you send them to Professional Standards, do you?

30

MR CORCORAN: Look, it's very sensitive out at Dillwynia at the moment, and that's why I wanted to make sure these things remain as confidential as possible.

35

COMMISSIONER: So you wouldn't even tell Professional Standards in an anonymised way what you'd learnt?

MR CORCORAN: Well, I'm not sure what was conveyed to Professional Standards because I didn't - I - I wasn't the person that conveyed that to the Director of Professional Standards. That was Assistant Commissioner Snell.

40

COMMISSIONER: Well, unless you told someone what you had known or come to know, there was no capacity for them to evaluate it, was there?

45

MR CORCORAN: Well, Assistant Commissioner Snell was aware. She was there in the - in the meeting with me.

COMMISSIONER: Very well.

5 **MR LLOYD:** Could I ask you, Mr Corcoran, about a different topic. Do you remember - I withdraw that. Do you think it's fair to describe the position with respect to sexual activity between officers and inmates in correctional centres throughout New South Wales as being one of the repeat problems that comes to the attention of Professional Standards?

10 **MR CORCORAN:** Yes.

MR LLOYD: And obviously we had that playing out at Dillwynia, as we know.

15 **MR CORCORAN:** Normally it would be more of a consensual thing than what happened at Dillwynia.

MR LLOYD: And we know - I think you can respond to this. Many witnesses have said even what might look like consensual relationships between officers and inmates, nonetheless, are serious conduct issues?

20 **MR CORCORAN:** Very serious.

MR LLOYD: I see from your reaction you agree wholeheartedly with that.

25 **MR CORCORAN:** Yeah. Absolutely.

MR LLOYD: And that's a fairly constant - amongst others, but a constant thing that comes to the attention of the Professional Standards Unit?

30 **MR CORCORAN:** Yes.

MR LLOYD: Do you remember in the middle part of this year there was being discussed by people in senior levels within Corrective Services whether there should be a state-wide review into the handling of sexual misconduct allegations between officers and inmates?

35 **MR CORCORAN:** It was - we were - we were discussing a review to look at, I think, 12 correctional centres and two Community Corrections offices about sexual harassment in the workplace, is what I recall. Are you referring to something else?

40 **MR LLOYD:** What I want to ask you about is whether, to your knowledge, in around the middle part of this year, a proposal was being circulated to conduct a state-wide review into the handling of sexual misconduct throughout correctional centres in New South Wales. Do you remember that?

MR CORCORAN: If - if what you're referring to is this expansion of the Jane Seymour work in Bathurst and Kirkconnell to another 12 correctional centres and two Community Corrections offices, yes, I do remember that.

5 **MR LLOYD:** It's not quite - I'll just make sure I'm putting a proposition you understand. There'd been the Jane Seymour review -

MR CORCORAN: Yes.

10 **MR LLOYD:** - that involved significant problems at Bathurst and Kirkconnell?

MR CORCORAN: Yes.

15 **MR LLOYD:** Ultimately, it was decided this year that there be a review into nine further correctional centres which had been flagged?

MR CORCORAN: Well, we've expanded that to 12 now.

20 **MR LLOYD:** And then that later got changed to 12?

MR CORCORAN: 12. And two Community Corrections offices.

25 **MR LLOYD:** What I'm putting to you is whether you had knowledge that in between times, that is, after Seymour and before the decision to first look at nine and then later 12 - so in between, there was a suggestion that it be a state-wide review, that is, a review into all correctional centres in New South Wales handling - or handling of sexual misconduct allegations at all correctional centres. Do you remember that?

30 **MR CORCORAN:** I - I know about the 12 and the two, but I can't recall - sorry, I can't recall the all correctional centre model for review.

35 **MR LLOYD:** You don't remember being made aware of a proposal to make it state-wide and then a decision being made to limit it to nine and then later 12?

MR CORCORAN: No, I - I'm sorry, I can't recall that it was a proposal for all correctional centres.

40 **MR LLOYD:** Do you think the problem, based on what you know now, of sexual misconduct by officers towards inmates at correctional centres is of sufficient seriousness to warrant a state-wide review?

45 **MR CORCORAN:** A state-wide review on that is something that we're actually looking at in terms of doing a survey of all inmates around the state. But this - the thing that you're talking about is about sexual harassment and sexual assault of staff on staff.

MR LLOYD: Is that the limits of that review?

MR CORCORAN: Yeah.

5 **MR LLOYD:** Staff on staff?

MR CORCORAN: Staff on staff.

10 **MR LLOYD:** Do you think there should be a state-wide review that is not limited to 12 centres into that particular issue?

MR CORCORAN: Well, we - we would start off with those 12 and two and - and - and have a look at what comes out of that and then, you know, potentially roll it out around the rest of the state.

15 **MR LLOYD:** And what about the review, even taking the 12, extending to misconduct by officers towards inmates?

20 **MR CORCORAN:** Well, we can certainly have a look at that, yes.

MR LLOYD: Do you think you should?

25 **MR CORCORAN:** Yeah, I think so. After this experience, I - I can't see why we wouldn't expand that.

MR LLOYD: Can I ask you for your response to some things looking forward. I take it you've read Assistant Commissioner Snell's statement?

30 **MR CORCORAN:** No.

MR LLOYD: I'll just tell you that in that there is an annexure about a number of measures that she has identified going forward in the next three months, six months and 12 months.

35 **MR CORCORAN:** Right.

MR LLOYD: And you must also know that Ms Chappell gave evidence yesterday?

40 **MR CORCORAN:** Yes, but I didn't hear her evidence.

MR LLOYD: Well, just take it from me she made a number of recommendations about things at Dillwynia but also, in her view, that should extend more broadly.

45 **MR CORCORAN:** Yes.

MR LLOYD: And I take it, not being aware of the detail, you're not in a position presently to respond to the detail of the recommendations by Assistant Commissioner Snell or Ms Chappell?

5 **MR CORCORAN:** Well, I mean, if you put them to me. I can certainly have -

MR LLOYD: I'm conscious of the time, Mr Corcoran. I might think about doing it a different way. I'll ask you some questions about general things, though.

10 **MR CORCORAN:** Sure.

MR LLOYD: You have, including your time in the private sector, rich experience with respect to the operation of security systems -

15 **MR CORCORAN:** Yes.

MR LLOYD: - that detect a range of things that might come into gaols that should not come gaols?

20 **MR CORCORAN:** Yes.

MR LLOYD: And you know broadly, right across the system in New South Wales, there's a significant issue about contraband coming in?

25 **MR CORCORAN:** Yes.

MR LLOYD: And that contraband, often enough, is in the form of things that may not be able to be detected by the ordinary scanning system that officers go through?

30

MR CORCORAN: Yes.

MR LLOYD: And that - those facts that I've just put to you, that is, obviously enough, a problem?

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MR CORCORAN: Yes.

MR LLOYD: Which is one of the things I wanted to get your response to. You will know this. Many, many inmates come into correctional centres with drug addictions?

40

MR CORCORAN: Yes.

MR LLOYD: And many, many of those inmates have committed crimes that have resulted in them being incarcerated that at least have something to do with the use of illicit drugs?

45

MR CORCORAN: Yes.

MR LLOYD: And have an involvement with, and being addicted?

5 **MR CORCORAN:** Yes.

MR LLOYD: Just in terms of in a perfect world if you could achieve the outcome, one noble goal of running correctional centres in New South Wales would be, to the extent humanely possible, to eliminate drugs coming into the
10 places.

MR CORCORAN: That's right. And to offer treatment to people who have, you know, got those substance abuse issues too.

15 **MR LLOYD:** Because the experience of being incarcerated, as I said to you at the very outset, is not intended to be easy, but one rehabilitation feature of it might be that some people might be able to get rid of drug addictions if you could keep the drugs out?

20 **MR CORCORAN:** If we keep the drugs out and we give them treatment as well.

MR LLOYD: And I'm not suggesting for a minute that it's easy to keep the drugs out. It's a constant problem?

25 **MR CORCORAN:** It - it definitely is. And, you know -

MR LLOYD: One way of trying to reduce it, though, is by having security systems that would detect or be capable of detecting when officers are bringing contraband in the form of drugs into the gaol?
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MR CORCORAN: Yes.

MR LLOYD: Is there a problem - can I ask you this - with the union in introducing additional measures of that kind?
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MR CORCORAN: Well, I think that would be a very sensitive topic with the union. But, you know, I think after this Inquiry, I think it's very well worthwhile broaching that with the union to see what we - what we can do with respect to that.

40 **MR LLOYD:** If you could do something like this - just going through it in sequence - it might reduce the quantity of drugs coming in?

MR CORCORAN: Yes.

45 **MR LLOYD:** And that might well, from what you've said, make the lives of a number of inmates in correctional centres throughout New South Wales better?

MR CORCORAN: Yes.

MR LLOYD: And it might make the community a better place in the sense of improving prospects of rehabilitation?

5

MR CORCORAN: Yes.

MR LLOYD: It sounds like something that, to the extent possible, any right-thinking person would want to do everything they can to achieve?

10

MR CORCORAN: Yes.

COMMISSIONER: Mr Corcoran, as I understand it, when an officer comes into the gaol to carry out the work required in their shift, a surveillance process takes place?

15

MR CORCORAN: That's right.

COMMISSIONER: Is that process conducted always by someone who is presently serving as an officer in the gaol?

20

MR CORCORAN: Yes, it is. And - and that's -

COMMISSIONER: And that will be a junior person, will it? That will be a junior officer doing that task?

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MR CORCORAN: It would be a junior officer, but we do have procedures in place that more senior staff can review the processes that occur on night shifts. So -

30

COMMISSIONER: Do you think it might be wise to have people from outside gaols, at least from time to time, conducting those surveillance exercises?

MR CORCORAN: I've never contemplated that, no.

35

COMMISSIONER: No. But when you think about what happened in this gaol -

MR CORCORAN: Yes.

COMMISSIONER: - where seniority accounted for a lot, it might be sensible, mightn't it?

40

MR CORCORAN: It could be. I mean, other jurisdictions do do that. They have -

COMMISSIONER: They do do that?

45

MR CORCORAN: Yeah.

COMMISSIONER: Well, maybe it's time you thought about it.

MR CORCORAN: Thank you, Commissioner.

5

MR LLOYD: Could I ask - it's not a criticism for not reading Assistant Commissioner Snell's or Nicola Chappell's statement at all, Mr Corcoran. But in view of the detail of those things, I won't tax you by requiring you to descend into the particular detail of those things. But I do want you to help us with some bigger ticket items, if I can put it that way.

10

MR CORCORAN: Yeah. Sure.

MR LLOYD: There's some evidence that the Commission has heard about some difficulties which are created by officers, taking Dillwynia as an example, being in intimate relationships.

15

MR CORCORAN: Yes.

MR LLOYD: Are you aware of that?

20

MR CORCORAN: Yes.

MR LLOYD: Do you agree that that can present a problem in terms of proper governance of a correctional centre?

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MR CORCORAN: Well, it certainly did at - at this particular correctional -

MR LLOYD: What about more broadly in your experience -

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MR CORCORAN: Yeah, more broadly, you know, it - it - it can be an issue, you know. But certainly in the regional centres, we would have a - you know, a significant problem if we said, you know, intimate partners could not work together because we have to - probably only about two-thirds of the staff left after that.

35

MR LLOYD: And it might mean that staff in those regional centres, if they want to continue to be correctional officers, would have to move to the city, effectively?

MR CORCORAN: That's right, yeah.

40

MR LLOYD: And even in terms of Dillwynia, we've got a correctional facility right next door?

MR CORCORAN: Yes.

45

MR LLOYD: But for places that are a little bit out of the city (crosstalk) -

MR CORCORAN: Yeah. Look, the city is fine. You know, we can certainly make that sort of a policy work in the city.

5 **MR LLOYD:** Is that - do you think, in terms of its workability, it can work?

MR CORCORAN: It - it can work now that we have rescinded this island award. It was a problem in Dillwynia before because of the nature of that award that applied. But now that that's been rescinded, there's no barrier to that sort of policy coming into play.

10 **MR LLOYD:** Is it good policy? So it's workable in the city. Is it good policy, though, do you think?

15 **MR CORCORAN:** Look, yeah, I think so. But it's going to be problematic to retrospectively apply that to regional locations.

MR LLOYD: But just in terms of the city ones at least, do you think it's a good policy?

20 **MR CORCORAN:** City ones - yeah, I think it would be good policy.

MR LLOYD: What about ways to encourage officers to move between centres? We've heard some evidence that multiple officers are located at Dillwynia for many, many years?

MR CORCORAN: Yeah.

30 **MR LLOYD:** At least the opinion of Ms O'Toole in an email which many witnesses have been asked about from 2015 suggested that the fact that many officers had never moved from Dillwynia represented a problem for them discharging their duties properly?

MR CORCORAN: Yes.

35 **MR LLOYD:** Now, whether or not that opinion is right, I'm frankly more interested in your opinion. Is it something that is capable of being a problem if officers stay at the one correctional centre for many, many years?

40 **MR CORCORAN:** Yeah, I think so. Yeah.

MR LLOYD: Is there a way of dealing with this fairly and practically to try and encourage movement between centres?

45 **MR CORCORAN:** I mean, I have tried to do this in some ways. You know, certainly if you are getting promoted to a Senior Assistant Superintendent role, you cannot be promoted in the Centre that you've been working in. That's - that's

something that I've brought in to make sure that, you know, that sort of thing where people are working in one centre for a very long time doesn't occur.

5 **MR LLOYD:** So it encourages those who wish to rise through the ranks -

MR CORCORAN: Yes. Yes.

MR LLOYD: Well, really requires them to move?

10 **MR CORCORAN:** Requires them to move, yeah.

MR LLOYD: Are there other ways?

15 **MR CORCORAN:** Well, of course, with the MoS and Governors, you know, we have sort of an approach where, you know, every now and then, we look at people who have done about four years in a prison and say, "Hey, where would you like to move now?" Because I think it's very important that there's movement around the centres there. So we - you know, we take into account personal circumstances, like they've got their children in a high school, or something of that nature, and
20 they want to stay in that particular area for a period of time. But, in general, we would like to move people around for that reason. But there's also other roles in Corrective Services that General Managers - or Governors perform that - such as the intelligence role or the rosters role, that it's good to have people who have had recent experience in - in the - in the field coming into those roles.

25 **MR LLOYD:** In terms of executives within Corrective Services, is it a good idea to mandate basic officer training for anyone filling that kind of a role?

30 **MR CORCORAN:** Yeah. Look, anybody coming in from an external, you know, area - a lateral entry or something like that, you know, I would like - you know, after, you know, the experience here, I think it would be very good to mandate that.

35 **MR LLOYD:** As in, whatever the position - there's a dispute between you and Mr Shearer about what happened.

MR CORCORAN: Yeah.

40 **MR LLOYD:** It culminated in him being in an executive role for six and a half years without doing basic officer training.

MR CORCORAN: Yeah. That's right.

45 **MR LLOYD:** You should have a system that doesn't allow that?

MR CORCORAN: I agree. I agree. Yeah.

MR LLOYD: Could I ask you about some things - we've obviously been over systems about - and policies about reporting serious allegations to Professional Standards.

5 **MR CORCORAN:** Yes.

MR LLOYD: I do not want to go back there.

MR CORCORAN: Yeah.

10

MR LLOYD: I want to ask you this, though: where a matter comes to the attention of the Professional Standards and Investigations, that is, the merged unit -

15 **MR CORCORAN:** Yeah.

MR LLOYD: - and that matter involves allegations of criminal activity -

MR CORCORAN: Yes.

20

MR LLOYD: - you understand currently the system is that that would be referred off to the CSIU for assessment?

MR CORCORAN: Yeah.

25

MR LLOYD: Those officers within the CSIU are embedded in the sense of being seconded over to Corrective Services from police?

MR CORCORAN: Yes.

30

MR LLOYD: Is - I want to get your response: is better system that if it's an allegation of criminal conduct, there ought to be referral out to the ordinary non-seconded or embedded members of the police force?

35 **MR CORCORAN:** Yes, I think it would be, actually. Yeah.

MR LLOYD: And this question is not intended to criticise any of those seconded officers -

40 **MR CORCORAN:** No. I understand.

MR LLOYD: - but, in effect, they can be seconded for many, many years?

MR CORCORAN: They can.

45

MR LLOYD: And whilst they're not employees of Corrective Services, they can become more closely aligned with culture, personalities -

MR CORCORAN: Yes.

MR LLOYD: - than external officers?

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MR CORCORAN: Yes, agree. Agreed, yeah.

MR LLOYD: And is a better system to get it out to someone completely external where there's allegations of a criminal -

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MR CORCORAN: Yeah, that's right. And they can just report to the Local Area Command.

MR LLOYD: And they could send it back, obviously, to CSIU if they wanted to?

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MR CORCORAN: Yeah, that's right.

MR LLOYD: And it would be also imperative to have clearly defined parameters around what needs to go over to that external police, as in, when you need to send it out?

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MR CORCORAN: Yes. I mean, what I was thinking, you know, for the future is that we have one, you know, area - or as I was talking about before, multiple entries into one area that was able to consider everything that happened. So everything must go to that one area, and it would be reviewed on a weekly basis by, you know, the people in that unit, in conjunction with - I know - I heard you're having some problems with CSIU or police being involved in - in considering, you know, what to do with various matters, but I - I just think it's good to have some sort of external oversight - even from an external oversight body coming in to look at what's coming in every week, everything that's coming in, whether it's intelligence, you know, whether it's performance management staff or whether it's misconduct, because performance management can turn into misconduct.

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30

MR LLOYD: At a macro level, the system we're looking at, which is the appropriate way of dealing with it, is -

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MR CORCORAN: Yeah.

MR LLOYD: - one where there's a body that considers all allegations of misconduct in the first instance?

40

MR CORCORAN: Yes.

MR LLOYD: That body, in effect, operates as - like a police officer at an intersection saying, "This one goes over externally to the police because it's an allegation of a crime"?

45

MR CORCORAN: Yep.

MR LLOYD: "This one goes to Investigations. It's not criminal, but it's serious and needs investigations"?

5

MR CORCORAN: Yes.

MR LLOYD: "This one is minor but needs attention locally, so we'll refer that back to the gaol with the support of HR"?

10

MR CORCORAN: That's correct, yeah.

MR LLOYD: And - but there's one repository initially to form that traffic (crosstalk) -

15

MR CORCORAN: Yes. Yes, one repository, which is also a case management system, and ensures that, you know, Investigations and, you know, the lawyers all have the same piece of information before them.

MR LLOYD: And we've heard multiple witnesses, and seen documents, where people talk about allegations involving hearsay and legal or quasi-legal conclusions of that kind.

20

MR CORCORAN: Yeah.

25

MR LLOYD: This kind of approach where you get the analysis by the kind of team of these allegations at the first instance might be capable of dealing with misconceptions about what is hearsay and what's not.

MR CORCORAN: Exactly.

30

MR LLOYD: And that team - I won't tax you with the details, but Assistant Commissioner Snell has identified that it effectively, I think, would be a multidisciplinary team.

35

MR CORCORAN: Multidisciplinary, yes.

MR LLOYD: And that's a good idea?

MR CORCORAN: It's an excellent idea.

40

MR LLOYD: Finally, I just wanted to ask you about CCTV. Now, there are budgetary constraints, obviously, about how many cameras you put in gaols?

MR CORCORAN: Yes.

45

MR LLOYD: How significant are they?

5 **MR CORCORAN:** Look, we were able to significantly upgrade, you know, the electronic security as a result of the Prison Bed Capacity Program. Dillwynia didn't get enough of that, you know, in the old area. Certainly it's well equipped in the new area. But we have put in an NPP - a new policy something or other - NPP - I know it's that - you know, for requesting additional funds for CCTV upgrades in the rest of the system.

10 **MR LLOYD:** And have you been told what the status of that is?

MR CORCORAN: Yeah, we've just put it in. Yeah. Because they - they've just requested those NPPs.

15 **MR LLOYD:** Are there enough cameras at Dillwynia at the moment to detect -

MR CORCORAN: Not at the moment. No.

MR LLOYD: Is that the position at other centres throughout New South Wales?

20 **MR CORCORAN:** Not - not so many other centres because most of them were subject to upgrade as a result of this Prison Bed Capacity Program.

MR LLOYD: But Dillwynia -

25 **MR CORCORAN:** Dillwynia sort of missed out a bit on that one.

MR LLOYD: It's not a criticism, but it seems a bit curious, at least from where I'm standing -

30 **MR CORCORAN:** Yeah.

MR LLOYD: - that a gaol where there's been prolific offending over many years by an officer might be the one that misses out.

35 **MR CORCORAN:** Yes. And, you know, I think the way that the place was built, you know, right from the outset, you know, they - they didn't want, like, too many cameras around. So we've got a significant amount of cameras to - to put into that facility. I think you heard evidence from Fergal Molloy to - to that effect, and we've certainly started that process of putting additional cameras into Dillwynia.

40 **MR LLOYD:** Thank you. Just pardon me. Those are my questions, Commissioner.

45 **MR CORCORAN:** Sorry, I think the - NPP, I think, is a new policy proposal.

MR LLOYD: Thank you.

MR CORCORAN: Sorry, I just - the acronym escaped.

MR LLOYD: We're not short of acronyms in this Inquiry.

5 **MR CORCORAN:** No. That's for sure.

COMMISSIONER: Mr Corcoran, I assume you're familiar with the *Crimes (Administration of Sentences) Act*?

10 **MR CORCORAN:** Yes.

COMMISSIONER: It's a rather lengthy document.

MR CORCORAN: Yes.

15

COMMISSIONER: But I assume that you're familiar with section 236Q. Would that be right?

MR CORCORAN: You have to just remind me.

20

COMMISSIONER: Well, I'll read it:

25

"A correctional employee (other than one referred to in subsection (2)) is guilty of an offence if the correctional employee engages in sexual conduct or an intimate relationship with an inmate..."

MR CORCORAN: Yes.

COMMISSIONER: However, the section presently goes on to say:

30

"...and that causes a risk or potential risk to the safety or security of a correctional centre..."

35 Now, can you tell me how it came about that it wasn't an offence unless there was a risk or potential risk to the safety or security of the centre?

MR CORCORAN: Well, I think anything to do with sexual misconduct involving officers and inmates is a huge risk to safety and security.

40 **COMMISSIONER:** I think that's plain.

MR CORCORAN: Yep.

45 **COMMISSIONER:** Shouldn't the section just say, "You can't have sex with an inmate," full stop?

MR CORCORAN: Yes. We'll have to look at that section. It's a relatively recent -

5 **COMMISSIONER:** I appreciate that, but that's why I wondered why - or I wondered if you could help me as to why that qualification was included.

MR CORCORAN: I - I - I wasn't involved in that, so I can't tell you the reasoning behind that. But I'll certainly raise it with Deputy Commissioner Grant.

10 **COMMISSIONER:** Well, I think you might find that I raised it too.

MR CORCORAN: Okay. Thank you, Commissioner.

15 **COMMISSIONER:** Yes. Who wants to go first?

MR SHELLER: I was going to go before Mr Horton, if anyone else wants to go before me. Yes, I think I - if Ms Ghabrial has got questions, I would like to go after Ms Ghabrial.

20 **COMMISSIONER:** Sure.

<EXAMINATION BY MS GHABRIAL:

25 **MS GHABRIAL:** Mr Corcoran, my name is Ms Ghabrial and I appear for a group of correctional officers. I wanted to start with your evidence about the meeting this year on 19 September 2023. You've given some evidence to the Commission that there are a couple of things that happened during the course of that meeting: firstly, that you spoke with officers in a larger group setting; and then, as I understand it, you spoke with officers in a smaller group setting. Is that
30 correct?

MR CORCORAN: Yes.

35 **MS GHABRIAL:** And so when you gave evidence to the Commissioner about having spoken with Renee Berry and Judith Barry about their concerns, in which meeting did that occur? Was that in the larger meeting or in the smaller meeting?

MR CORCORAN: My recollection is that it was in a smaller meeting.

40 **MS GHABRIAL:** And can you tell the Commissioner what they actually said to you about their - what you say - concerns about inmate safety as a result of Mr Paddison and Mr Holman being in correctional centres where women were? Could you actually tell the Commissioner what those words were?

45 **MR CORCORAN:** I can't remember the exact words, but they inferred, as I - as I can recollect, that both these officers were in locations where they would, you

know, sometimes potentially come into contact with victims or be in close proximity to victims.

5 **MS GHABRIAL:** What I'm going to suggest to you is that what Renee Berry and Judith Barry actually said in the meeting at the very outset was words to this effect, and this was directed to you: That you had let them down from the very beginning and that this was the first time that anybody in the Department had ever spoken to them in relation to this Astill situation and that they had no support from anybody in the Department from 2015 right up until the day that you attended that meeting on 19 September 2023. That's how the meeting started, didn't it?

MR CORCORAN: That might have been how it started, but there would definitely have been a lot of support given to staff in that centre.

15 **MS GHABRIAL:** Well, they said to you that there was no support at all and that this was your meeting - your attendance at that centre was the very first time that anybody from the Department had actually come to the centre to speak to them and give them any support. Isn't that the case?

20 **MR CORCORAN:** I can't remember their exact words, but I - I know they were very upset. But as I said, there have been - there's been a lot of support given to staff at that centre.

25 **COMMISSIONER:** Well, I think, Mr Corcoran -

MR CORCORAN: Or offered to them.

30 **COMMISSIONER:** - the question, really, was no one from, as it were, headquarters - no one from administration had been to the gaol to offer support. That's what's being put to you. Now, I appreciate there may have been support provided through the Governor or the Governors, but it's a different question that's being put to you.

35 **MR CORCORAN:** Yes. Well, my understanding was that, you know, Assistant Commissioners and - and Directors had been coming to Dillwynia on a regular basis to offer -

COMMISSIONER: It seems these two ladies don't remember that happening.

40 **MR CORCORAN:** Look, I know they don't. Yes, I - yes, I'm well aware that they put that to me. But I'm afraid, you know, there has been, you know, support offered to them.

45 **COMMISSIONER:** All right.

MS GHABRIAL: I'm going to suggest to you that the evidence - I withdraw that. You've given evidence that they expressed specific concerns to you about Officers

Holman and Paddison being around female inmates. Essentially, from that, you inferred they were putting the safety of inmates at risk; is that correct?

MR CORCORAN: Yeah.

5

MR LLOYD: I object. Mr Ghabrial has put to him that that is his evidence. It's not quite right. I think his evidence was that he was told that by some officers, not necessarily by these two.

10 **MS GHABRIAL:** I thought he said - pardon me, Commissioner. I thought that the evidence was that he inferred that from what they said to him.

COMMISSIONER: I think you're entitled to make that assumption given that he's only named those two.

15

MS GHABRIAL: Yes.

MR CORCORAN: Sorry, could you repeat?

20 **MS GHABRIAL:** So you've given evidence to the Commission that you inferred from the words that they used that female inmates were at risk of retribution - I think was the word you used - or retaliation - retribution - that their safety was at risk in that regard because those officers were still working in correctional centres that had female inmates; is that correct?

25

MR CORCORAN: No. I - what I think I said was that the victims were feeling - you know, would feel uncomfortable if they encountered them, not that they were feeling like that they would be the subject of retribution from those officers.

30

MS GHABRIAL: So are you now suggesting that the words that were used by Renee Berry and Judith Barry were that - to the effect that inmates felt that they were threatened? Is that what you're saying?

35 **MR CORCORAN:** Inmates would feel - look, it might be I had other meetings. I'm not 100 per cent certain without referring to Chantal Snell's notes that - you know, that that information came up in other meetings.

40 **MS GHABRIAL:** Well, Chantal Snell actually did make some notes. They were served this morning, Commissioner. Perhaps if they could be shown to the Commissioner - to Mr Corcoran. Have they been tendered? Exhibit 51, is it?

COMMISSIONER: Yes, Exhibit 51.

45 **MS GHABRIAL:** So if you have a look through those notes, there is nothing in those notes about any concerns for inmate safety, is there?

MR CORCORAN: I don't know. I'll need to have a read through them. Some of the writing is a little hard to read, I must admit.

5 **MS GHABRIAL:** But there's no notes about inmate safety or concerns about inmate safety, are there?

MR CORCORAN: That doesn't mean it wasn't said.

10 **MS GHABRIAL:** I'm going to suggest to you that it wasn't said. What do you say about that?

MR CORCORAN: I just said it doesn't mean it wasn't said.

15 **MS GHABRIAL:** What was said was this - and this is actually noted by Assistant Commissioner Snell in her notes. She notes it in this way, that there was - she says these words:

"Disappointed Holman and Paddison are not suspended."

20 Do you see those words on page 2?

MR CORCORAN: Yes.

25 **MS GHABRIAL:** So what actually was said by Ms Barry in that regard - and I think Ms Berry also agreed with this. They asked you this question:

"Why was it that a POVB member had been suspended..."

30 So that's obviously the Prison Officers Vocational Branch; is that correct?

MR CORCORAN: Yes.

MS GHABRIAL: So a POVB member - who is Westley Giles?

35 **MR CORCORAN:** Yes.

MS GHABRIAL:

40 "Why it was that a POVB member had been suspended but two COVB members had not."

COVB being Commissioned Officers Vocational Branch; correct?

45 **MR CORCORAN:** Yes.

MS GHABRIAL: And so they asked you, "Why is it that a POVB member has been suspended but not COVB members?" That was the highest it went, and they

expressed disappointment about it. There was nothing expressed about Mr Paddison or Mr Holman actually giving rise to any issues of safety in respect of the inmates at all, or in respect of the officers at all, was there?

5 **MR CORCORAN:** It may not have been by then, but -

MS GHABRIAL: Well, they -

MR CORCORAN: - I certainly recollect having a conversation.

10

MS GHABRIAL: I'm going to suggest to you that it just wasn't brought up at all. What do you say in respect of that?

15 **MR CORCORAN:** Well, it may not have been brought up in that meeting with those individuals (crosstalk) -

MS GHABRIAL: I'm going to suggest to you that the tone and the feeling and the upset that you referred to earlier in that meeting was directed at you for failing to do anything to support the officers at Dillwynia.

20

MR CORCORAN: It was - there were things done to support officers at Dillwynia.

MS GHABRIAL: It was directed at you, wasn't it?

25

MR CORCORAN: Well, yes, it was directed at me.

MS GHABRIAL: And what I'm going to suggest to you is that - well, I withdraw that. Firstly, you didn't make any enquiries, for example, of the PSI to see if there had actually been any complaints made about Mr Paddison and Mr Holman in recent times to actually support the assertion you say was made to you about concerns about inmate safety, did you?

30

MR CORCORAN: I didn't say there was any concerns about inmate safety; I said there were concerns about inmates seeing them and being traumatised.

35

MS GHABRIAL: I think the evidence that you gave earlier, though, was that there was a concern that there might be retribution against the victims of Mr Astill's offending. I think that was the word that you used; correct?

40

MR CORCORAN: No, I said that they would - the officers themselves could be subject to allegations of retribution.

MS GHABRIAL: The officers could be?

45

MR CORCORAN: Yeah.

MS GHABRIAL: But there was no actual evidence that Mr Holman or Mr Paddison had actually engaged in any such conduct from which that could be inferred; correct?

5 **MR CORCORAN:** No.

MS GHABRIAL: And you didn't make any -

10 **MR CORCORAN:** Well, you know, I didn't make any statement about their conduct.

MS GHABRIAL: In fact, you didn't make any enquiries in relation to whether that was a legitimate concern at all?

15 **MR CORCORAN:** It wasn't a legitimate concern of mine.

MS GHABRIAL: It wasn't?

20 **MR CORCORAN:** My - my concern was that allegations of retribution could be made against those two particular officers.

MS GHABRIAL: Is that the basis on which you suspended them?

25 **MR CORCORAN:** And - and - and the - the fact that they were in close proximity to victims.

MS GHABRIAL: And you're saying that's the basis on which you suspended them?

30 **MR CORCORAN:** I've already said that.

35 **MS GHABRIAL:** Can I suggest this, Mr Corcoran: You were the Assistant Commissioner for Custodial Corrections during the entirety of the period of Mr Astill's offending conduct; correct?

MR CORCORAN: Yes.

40 **MS GHABRIAL:** And so when it was levelled at you that you were the person that had let the officers down, you knew full well that the inaction that occurred over that period - that you were ultimately responsible for that as the Assistant Commissioner for Custodial Corrections; correct?

45 **MR CORCORAN:** Well, I - I have given evidence that there wasn't inaction, that there was action taken to performance management.

MS GHABRIAL: But you knew, when that criticism was levelled at you, that there was no action and no support from 2015 right up until 19 September 2023.

You knew that that meant that they were criticising you and calling you to account for the fact that nothing had been done over the period of Mr Astill's offending. You knew that, didn't you?

5 **MR CORCORAN:** Well, I thought they were talking about - when they said no support, they were talking about since the - since the trial of Astill.

MS GHABRIAL: And in actual fact, the fact that you were the Assistant Commissioner for Custodial Corrections during the entirety of the offending
10 period did mean that you were ultimately responsible for what occurred in that centre as a result of that role that you played; correct?

MR CORCORAN: I wouldn't say I was ultimately responsible. I mean, what we have in these correctional centres are very senior staff who are paid at mid-level
15 SES1. Now, we expect those particular individuals to be able to operate independently, to be role models for staff, to be role models for the inmates, to ensure that behaviours are appropriate in the centres, to report things through. So they are very independent operators. You know, a Director might only get out to see them once every three or four weeks.

20 **MS GHABRIAL:** Well, the question I'm asking -

COMMISSIONER: Mr Corcoran, what's being put to you is that in respect of Dillwynia, that management of the gaol was failing. That's what's being put to
25 you. And it's being put to you, implicit in the question, is it was your responsibility to do what you could to fix it. That's what's being put to you.

MR CORCORAN: That's right.

30 **MS GHABRIAL:** And you would have to accept that the fact that Mr Astill's offending occurred under your leadership and command of that business unit, being Custodial Corrections, gives rise to a perceived - or a perception of inaction on your part; correct?

35 **MR CORCORAN:** There's a whole range of failures that took place to - that enabled that offending to occur.

MS GHABRIAL: But it gives rise to a perception of inaction on your part. Would
40 you agree with that?

MR CORCORAN: No.

MS GHABRIAL: What I'm going to -

45 **COMMISSIONER:** Well, Mr Corcoran - I'm sorry to interrupt again, but it's plain that there were multiple failures that caused the problem ultimately to emerge.

MR CORCORAN: Yes.

5 **COMMISSIONER:** One of the big failures, though, was you had a manager in the gaol who wasn't up to the job.

MR CORCORAN: Yes.

10 **COMMISSIONER:** And it was your responsibility, wasn't it, to make sure if you had a manager who wasn't up to the job that, through the Director, you fix the problem? That was your responsibility?

15 **MR CORCORAN:** Ultimately, as I said to you, I think yesterday, that the Commissioner was the one who was the -

COMMISSIONER: May be the Commissioner above you, but it was your responsibility, on behalf of the Commissioner, to try and solve the problem, wasn't it?

20 **MR CORCORAN:** Yes, that's right. And, you know, as I said, we put - I thought a performance management plan was put in place by the Director.

25 **COMMISSIONER:** Well, it's plain that that didn't happen. But you should have been following through on that, shouldn't you? If you thought it had been put in place, you should have been finding out what the results were, how she was going. All of those things is what a manager - in your position, knowing that there was a failure in your line of command, they're all things that you should have been doing, aren't they?

30 **MR CORCORAN:** Yes.

COMMISSIONER: And you weren't?

35 **MR CORCORAN:** Well, as I said to you, I can't recollect whether I was having those conversations or not, but I'm pretty sure I was having conversations with -

40 **COMMISSIONER:** We have no evidence to suggest that you - and you've said you didn't even know that the performance management plan hadn't been put in place.

MR CORCORAN: No -

COMMISSIONER: You've told us you didn't know that.

45 **MR CORCORAN:** Well, I had an email which said it had been put in place. So -

COMMISSIONER: Mr Corcoran, I have to tell you that the multiple failures come down to a catastrophe, as you know, for a number of women. You're not prepared to accept responsibility for some of those failures?

5 **MR CORCORAN:** Yeah. I mean, we did our absolute best. As I said to you before -

COMMISSIONER: Are you not prepared to accept responsibility for some of those failures?

10

MR CORCORAN: I have to accept, obviously, some responsibility for some of those failures. If - you know, if we had perhaps acted, you know, earlier, to, you know, address those issues -

15 **COMMISSIONER:** The most critical failure, it seems to me at the moment anyway, is that you had the wrong person as Governor.

MR CORCORAN: Yes.

20 **COMMISSIONER:** And you knew she couldn't do the job, didn't you?

MR CORCORAN: Yes. And very limited -

COMMISSIONER: It was your responsibility -

25

MR CORCORAN: Very limited capacity to do anything about it.

COMMISSIONER: Well, it was your responsibility to do you what could help her to manage the gaol, wasn't it? If you couldn't move her, you had a responsibility to do what you could to help her manage the gaol.

30

MR CORCORAN: That's right, and that's what - unfortunately that's what Directors are for in this environment.

35 **COMMISSIONER:** No, no. In this case you knew you had a failure on your hands. You can't wash your hands and say it's someone else's fault, someone else's responsibility. You are in the line of command, aren't you?

MR CORCORAN: Yes.

40

COMMISSIONER: And aren't we entitled to expect you to have done your job properly in those circumstances?

MR CORCORAN: Yes.

45

COMMISSIONER: And do you accept to you failed?

MR CORCORAN: I accept that, you know, there were multiple failures in this circumstance which enabled this offending to occur. And, you know, the management of that particular individual is certainly a significant factor.

5 **COMMISSIONER:** And do you accept responsibility for at least some of those failures?

MR CORCORAN: As I said before, there were very limited - there's very limited capacity to do anything about -

10

COMMISSIONER: Please answer my question.

MR CORCORAN: - removing people -

15 **COMMISSIONER:** Please, Mr Corcoran, please answer the question. Do you accept responsibility for any of those failures?

MR CORCORAN: I have to accept responsibility for some of the failures.

20 **MS GHABRIAL:** I'll just ask a question, and if you could please answer my question. So you knew that, as a result of your leadership of this facility, this Correctional Centre, and the inaction that was taken to prevent what had occurred, that that gave rise - I withdraw that. As a result of your position as Assistant
25 Commissioner for Custodial Corrections over that offending period, you knew that that gave rise to perceived inaction by you; correct?

MR CORCORAN: Well, I don't believe there was inaction. I believe that we had a performance management plan in place.

30 **MS GHABRIAL:** I will get to that in a moment. The reality is, is that you knew you were in the firing line when this Inquiry was announced, didn't you?

MR CORCORAN: How do you - what do you mean?

35 **MS GHABRIAL:** You knew were you in the firing line because you were the person who was ultimately responsible for this centre and the management of it and the inaction that was taken over that period. You knew that, didn't you?

40 **MR CORCORAN:** If - if things had been reported through properly, this would not have happened. If the systems that were in place worked, this would not have happened.

COMMISSIONER: Mr Corcoran -

45 **MR CORCORAN:** Yes.

COMMISSIONER: Did you ever ask your Director how the management performance plan was going?

5 **MR CORCORAN:** Look, I can't recall.

COMMISSIONER: Well, it's pretty clear you didn't, isn't it otherwise I would have been -

10 **MR CORCORAN:** As I said to you before, right from the outset these performance improvement plans are very - you know, are very difficult to manage.

COMMISSIONER: No, no. At the very least you, in your role, should have been saying to your Director, "How's it going, how is the performance management plan going"?

15 **MR CORCORAN:** Well, I'm sure I did say that to -

COMMISSIONER: Well, you would have been told it wasn't going at all, wouldn't you?

20 **MR CORCORAN:** Well, that's not what he communicated to me.

COMMISSIONER: That's what we know to be the fact. You are not saying he lied to you, surely?

25 **MR CORCORAN:** Well, as I said, you know, I am sure I've seen an email to this effect that he said there's a performance improvement plan in place, which I then communicated through to the -

30 **COMMISSIONER:** Maybe that's the case but surely it was incumbent upon you to ask from time to time at least, "Mr Shearer, how is the performance management exercise with this Governor going?" That was your responsibility.

MR CORCORAN: Yes.

35 **COMMISSIONER:** And you didn't do that, did you?

MR CORCORAN: Well, I can't recall whether I did or not. I can't give you I spoke to him on that date or that date.

40 **COMMISSIONER:** You can't tell me you spoke to him on any date about it, can you?

MR CORCORAN: No, well, I can't.

45 **COMMISSIONER:** No.

MR CORCORAN: Because I can't recall.

5 **COMMISSIONER:** There's no evidence that the plan was ever put in place. If you had asked the question and got the answer, and got an honest answer, it would have been there's no plan in place.

MR CORCORAN: No that's not my recollection of events.

10 **COMMISSIONER:** Well -

MR CORCORAN: But anyway.

COMMISSIONER: Very well.

15 **MS GHABRIAL:** You knew when this Inquiry was announced that there could potentially be criticism of you as the person who was ultimately responsible for the entire during the relevant period. You knew that, didn't you?

20 **MR CORCORAN:** Well, obviously, there's going to be criticism of everybody involved in, you know, enabling this offending to take place.

MS GHABRIAL: And it wasn't until this Inquiry was announced that you were actually concerned about that. Isn't that the case?

25 **MR CORCORAN:** No.

MS GHABRIAL: I'm going to suggest to you that that's probably the reason why you didn't visit the Centre at all until 19 September 2023, isn't it?

30 **MR CORCORAN:** Are you suggesting that I've never visited Dillwynia until then?

35 **MS GHABRIAL:** Well, you didn't visit Dillwynia in relation to Mr Astill's offending either to support the staff or the inmates in any way until after the Inquiry had been announced, had you?

40 **MR CORCORAN:** Well, I'd have to go back to my diary and check that, you know, because, you know, if what you're saying is, you know, an extensive period of time and, as I said, I'd have to go back and check.

45 **MS GHABRIAL:** I'm going to suggest to you that the reason that you went - I withdraw that. Isn't this the case: When you went there on 19 September 2023 you were concerned that it looked like you had done nothing up until that point. Would you agree or disagree with that?

MR CORCORAN: No.

MS GHABRIAL: And your attendance at that centre on 19 September 2023, I'm going to suggest to you, was a way of trying to demonstrate to the Commission in advance of the Inquiry that you were actually doing something.

5 **MR CORCORAN:** No.

10 **MS GHABRIAL:** And what you were trying to do was address the fact that there was a long period of inaction by you in respect of what had occurred at Dillwynia in respect of Mr Astill. And that's what you were trying to do: you were trying to address that by being a face saying, "Well, here I am, I'm here to support everybody." You were trying to address the actual inaction over that period.

MR CORCORAN: No.

15 **MS GHABRIAL:** And in actual fact, what I'm going to suggest to you is that after these officers held you accountable for that inaction and for not coming to the Centre all of that time until 19 September 2023, that your decision to suspend Officers Holman and Paddison was not based on any concern about any safety of anybody, either inmate or correctional officer, but was more borne out of trying to
20 repair a perception that you had not acted to prevent any of these things that had occurred at Dillwynia.

MR CORCORAN: No.

25 **MS GHABRIAL:** And in actual fact, when you called for this submission to be prepared, the reason why - I'm going to suggest to you the reason why you didn't actually tell Ms Zekanovic what that further information was, was because there actually was no further information at all, was there?

30 **MR CORCORAN:** No. I'm sorry, can you just state that question again?

MS GHABRIAL: You told Ms Zekanovic, you directed Ms Zekanovic through Chantal Snell to prepare a submission to suspend Officers Holman and Paddison; correct?

35

MR CORCORAN: Yes.

MS GHABRIAL: You had already made a decision to suspend them before you called for that submission; correct?

40

MR CORCORAN: Yes.

MS GHABRIAL: And you say that you based that decision to suspend on unsubstantiated concerns about inmate welfare and safety and correctional officer welfare and safety; correct?

45

MR CORCORAN: Not unsubstantiated. I mean, those individuals were working in close proximity to victims.

5 **MS GHABRIAL:** Well, unsubstantiated in the sense that nobody had actually provided you any actual evidence of them engaging in any type of conduct along those lines; correct?

MR CORCORAN: I never suggested that there was any conduct.

10 **MS GHABRIAL:** So unsubstantiated; correct?

MR CORCORAN: I am suggesting - well, I'm not suggesting. I'm stating that these individuals were working in locations in close proximity to victims.

15 **MS GHABRIAL:** With no evidence that they were posing any risk to the safety of those inmates in any way; correct?

MR CORCORAN: I think just the fact that they're working in close proximity is sufficient for me to be concerned about the welfare of those inmates.

20 **MS GHABRIAL:** This decision to suspend those officers - I'm going to put this to you, Mr Corcoran - was a decision that you made based on your own personal interests to repair your reputation and try and make it look like you were doing something. Isn't that the case?

25 **MR CORCORAN:** No.

MS GHABRIAL: And in actual fact, in the submission that was provided to you from Ms Zekanovic - if I could just take you to that submission. I think it's Exhibit 30 48. I don't have the page numbers; I just have Exhibit 48. Sorry. Is it 93? Page 93 of volume - Exhibit 48. Sorry. So it's - apparently page 93 is the submission. On page 3 of that submission, under the heading Risks - do you have that there?

MR CORCORAN: Page 3, yeah.

35 **MS GHABRIAL:** So under it, it says this, second sentence:

40 "CSNSW is already under considerable scrutiny in respect of its handling of Mr Astill's offending."

See those words there?

MR CORCORAN: Sorry, where's -

45 **MS GHABRIAL:** Under Risk, second sentence?

MR CORCORAN: Yes.

MS GHABRIAL:

5 "CSNSW is already under considerable scrutiny in respect of its handling of Mr Astill's offending."

MR CORCORAN: Yes.

10 **MS GHABRIAL:** See those words there? That was what, I'm going to suggest to you, was operating in your mind when you made the decision to suspend Officers Holman and Paddison before calling for this submission.

MR CORCORAN: No.

15 **MS GHABRIAL:** You knew that you, as the Assistant Commissioner, was the person who was under scrutiny in respect of what occurred at Dillwynia Correctional Centre. You knew that, didn't you?

20 **MR CORCORAN:** Everybody was under scrutiny.

MS GHABRIAL: You knew that you, as the head of that division, of Custodial Corrections, was under scrutiny. You knew that, didn't you?

25 **MR CORCORAN:** Yes.

MS GHABRIAL: Next sentence:

30 "Further perceived inaction, particularly if hindsight demonstrates that inaction was an error, would exacerbate any criticisms."

Do you see that sentence there?

MR CORCORAN: Yes.

35 **MS GHABRIAL:** What I'm going to suggest to you is that when you made that decision before calling for that submission, that you knew that any further perceived inaction by you, personally, could call for further criticisms of you. You knew that, didn't you?

40 **MR CORCORAN:** No, I don't accept that proposition.

45 **MS GHABRIAL:** And what I'm going to suggest to you is that the reason you took this knee-jerk approach of making an immediate decision to suspend Officers Holman and Paddison on 19 September, calling for this submission to be provided to you with papers ready to suspend them, was because you felt like you needed to repair that perception and actually do something about it by suspending these officers.

MR CORCORAN: No.

MS GHABRIAL: It's 1 o'clock, Commissioner.

5

COMMISSIONER: We'll take lunch.

<THE HEARING ADJOURNED AT 1.00 PM

10 **<THE HEARING RESUMED AT 2.03 PM**

MR LLOYD: Commissioner, just before Ms Ghabrial resumes, may I just raise something for your attention and also the information of the parties. The next witness is scheduled to be Assistant Commissioner Chantal Snell. It was proposed to take Ms Snell's evidence by audiovisual link. She presently is in New Zealand. If the evidence can't be done today, there are not insignificant logistical problems about doing it tomorrow. I raise that with you, Commissioner -

15
20 **COMMISSIONER:** Well, we'd have to do it on Monday, wouldn't we, if that comes to pass?

MR LLOYD: Well, that may be an option, but I really raised it for now for people - those people who intend to ask Mr Corcoran questions to bear in mind that the very strong preference would be to try and complete Assistant Commissioner Snell's evidence today.

25

COMMISSIONER: I agree with that. Yes.

MS GHABRIAL: Thank you, Commissioner. Mr Corcoran, I just wanted to take you back to something that you said earlier in my questions about your belief that there were support systems in place for the officers and inmates at Dillwynia prior to your attendance at the Centre on 19 September 2023. Do you remember giving evidence along those lines?

30
35 **MR CORCORAN:** Yes.

MS GHABRIAL: And so can I just ask you this: Is it your view, and are you suggesting to the Commission, that the support systems that were in place - that you say were in place for the staff and the inmates at Dillwynia from the time that Mr Astill was arrested until your attendance on 19 September 2023 - and I'll just clarify that he was arrested in early 2019. So are you suggesting to the Commission that your view was that the support systems that you say were in place were adequate?

40
45 **MR CORCORAN:** No. You know, I'm only referring, you know, to the period of time that I took over as Commissioner and we put in place, you know, substantial additional supports for staff.

MS GHABRIAL: So you were Acting Commissioner from what date?

MR CORCORAN: August '21.

5

MS GHABRIAL: August '21. So August 2021. So you're - I'll clarify. Are you suggesting to the Commission that from the time that you took on the role of Acting Commissioner, and obviously into the substantive role of Commissioner - so from August 2021 until you attended on 19 September 2023, is it your evidence to this Commission that the support networks that - or the support that you say was in place was adequate?

MR CORCORAN: I'm not saying that it was adequate from 2021. We had to go through a process of setting those support systems up. So that took, you know, really up till the end of '22 to set those support systems up and put them in place.

15

MS GHABRIAL: So do you accept that the support was inadequate?

MR CORCORAN: Look, I think, you know, there were some inadequacies there. But we've worked very hard to increase the staff support roles in the agency to make sure that staff are supported as much as possible.

20

MS GHABRIAL: And, in fact, I think this is something that you acknowledged, was that the support for staff at Dillwynia impacted by Mr Astill's actions were actually inadequate. You accept that, don't you?

25

MR CORCORAN: I think for a period of time - for a period of time, I think they were.

MS GHABRIAL: And I think you say that in an update that you sent to the staff on 31 March 2023 by email. This is Exhibit 48 at page 2. If I could just take you to that. I think it's in that black folder. Do you have that there, Exhibit 48? I think it was there earlier - or it's that white folder. At page 2.

30

MR CORCORAN: Page 2.

35

MS GHABRIAL: 31 March 2023.

MR CORCORAN: Yeah.

40

MS GHABRIAL: The - this is an update that you sent on that date.

MR CORCORAN: Yes.

MS GHABRIAL: And in the fourth paragraph, you say these words:

45

"I acknowledge that management support for staff at Dillwynia Correctional Centre impacted by the actions of Mr Astill was inadequate."

5 Do you see that there? So you accept that it was inadequate; correct? You can just put that away. Thank you.

MR CORCORAN: Sure.

10 **MS GHABRIAL:** Now, just going back to the evidence that you were giving before the luncheon adjournment. You've given evidence that as at 19 September 2023 when you had that meeting at Dillwynia, and shortly thereafter, that you had, in your mind, you say, a concern that Officers Paddison and Holman would be around female inmates and also pose issues for the correctional officers at Dillwynia because they were in close proximity to those officers. Is that the effect
15 of the evidence that you gave?

MR CORCORAN: No. I said, as far as I can recall, that it was if they were in close proximity to the inmates, the inmates could be traumatised.

20 **MS GHABRIAL:** If they were in close proximity - and "to inmates", you mean female inmates; correct?

MR CORCORAN: Female inmates, yes.

25 **MS GHABRIAL:** You also gave evidence when Counsel Assisting was asking you some questions about this particular topic, and you said that you were aware that the decision-makers - prior to the action that you took, the decision-makers who had decided not to suspend those officers had moved those officers instead of suspending them. Remember giving that evidence?
30

MR CORCORAN: Yes.

MS GHABRIAL: Did you actually ask the decision-makers, or those assisting the decision-makers, where those officers had actually been moved to?
35

MR CORCORAN: Well, I knew where they'd been moved to. They'd been moved to corporate office and Amber Laurel.

40 **MS GHABRIAL:** To Corporate Office?

MR CORCORAN: CSI Corporate Office.

MS GHABRIAL: And where's that located?

45 **MR CORCORAN:** On the fence of Dillwynia.

MS GHABRIAL: Pardon?

MR CORCORAN: On the fence of Dillwynia.

5 **MS GHABRIAL:** Did you make any enquiries as at 19 September 2023 as to whether either of those officers were actually working anywhere near female inmates?

MR CORCORAN: Well -

10 **MS GHABRIAL:** Did you make any enquires on 19 September?

MR CORCORAN: Well - well, I know that female inmates come in through Amber Laurel.

15 **MS GHABRIAL:** Did you make - if you could just answer my question. Did you make any enquiries on 19 September this year as to whether either of those officers were working anywhere near female inmates at that time?

20 **MR CORCORAN:** I knew by their location that they were working near female inmates.

MS GHABRIAL: So your answer to my question is "no"; is that correct?

25 **MR CORCORAN:** No, because I already knew that.

MS GHABRIAL: Would it be fair to say this: That if you were aware of information that suggested that either of those officers did not work anywhere near any female inmates, that that certainly would be important information to know?

30 **MR CORCORAN:** It would be.

MS GHABRIAL: Yes. Because it would have influenced the decision that you made to suspend them; correct?

35 **MR CORCORAN:** Yes.

40 **MS GHABRIAL:** I'm going to suggest to you that had you made an Inquiry as to where either of those officers were actually stationed, you would have discovered that Mr Paddison wasn't actually working anywhere near any female inmates as at 19 September 2023. Were you aware of that?

MR CORCORAN: No.

45 **MS GHABRIAL:** He was actually working at John Morony Correctional Centre, which I understand is a gaol for male inmates; correct?

MR CORCORAN: It's on the complex of - the same complex Dillwynia is on.

MS GHABRIAL: Can you answer my question, please.

MR CORCORAN: It's a male gaol.

5

MS GHABRIAL: It's a male gaol. And had you discovered that he was working in an office above the gatehouse in a male gaol, that certainly is not suggestive of his working anywhere near female inmates, is it?

10 **MR CORCORAN:** Well, my understanding was -

MS GHABRIAL: Is it?

MR CORCORAN: - he was in CSI Corporate Office.

15

MS GHABRIAL: You didn't make any enquiries, did you?

MR CORCORAN: Well, I knew that he was - I did make enquiries where they were working at the time, in the sense that people told me they were working in - I can't remember who told me now - in CSI Corporate Office.

20

MS GHABRIAL: So who are these -

COMMISSIONER: Mr Corcoran, before we lose it, can I just take you back a step. I want to take you back to Exhibit 48, which you were given a minute ago. Is it still there? Page 2.

25

MR CORCORAN: Yes, Commissioner.

30 **COMMISSIONER:** You said that support mechanisms were put in place, although they were inadequate?

MR CORCORAN: I said they were put in place at the end of 2022.

35 **COMMISSIONER:** But you said they were inadequate?

MR CORCORAN: Prior to that, yes, they were inadequate.

COMMISSIONER: Well, how do I then reconcile that with what you said to all of the staff in the fourth paragraph of your email:

40

"I encourage all those who continue to experience distress to take advantage. We are putting in place a staff support framework that will ensure that staff in future do not have to go through an experience like this unsupported."

45

Now, this is at 31 March 2023. It's hard to reconcile with what you've been telling the Inquiry.

MR CORCORAN: Well, that staff - that staff support framework was being filled out, that there were, you know, people involved in the staff support framework.

5

COMMISSIONER: This -

MR CORCORAN: It was a large - it was - it was a rather large organisation. There was around about 30 positions that we had, but there was certainly staff support.

10

COMMISSIONER: But this says you're putting it in place in March - or the end of March 2023.

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

COMMISSIONER: And it says that the aim is not to leave staff unsupported -

MR CORCORAN: That's right.

20

COMMISSIONER: - as they were until this change was to be made.

MR CORCORAN: They were still supported. There was a staff support framework in place, but it was very small.

25

COMMISSIONER: Well, that's not what you say in this document.

MR CORCORAN: I think what we're saying in this document is that we are putting - you know, maybe I didn't express it adequately, but we are putting in place a much greater staff support framework than was presently, you know, in place in the - so -

30

COMMISSIONER: Sorry, you go on.

35 **MR CORCORAN:** Yeah. From my perspective, you know, we had - up until - you know, through '19 up till, you know, '22, then when we started to put these things in place, I think we only had about four people involved in the staff support framework.

40 **COMMISSIONER:** There's not even a hint of that in this email, is there? This says you're starting from scratch, doesn't it?

MR CORCORAN: Well, I don't know that it says we're starting from scratch. You know, we certainly had a staff support framework in place, and people knew about that staff support framework, which was part of Professional Standards at the time.

45

MS GHABRIAL: Just following from the Commissioner's questions, Mr Corcoran, I'm going to suggest to you that that is precisely the reason why Officers Barry and Berry were upset with you for the complete lack of support for officers from the period 2015 until your attendance at the Centre on 19 September 2023, isn't it?
5

MR CORCORAN: Yes, they were upset.

MS GHABRIAL: Because of that, the lack of support?
10

MR CORCORAN: In their perception, the lack of support.

MS GHABRIAL: The actual lack of support.

MR CORCORAN: Well, as I said to you before, I am sure that support did occur prior to my visit.
15

MS GHABRIAL: Just going back to the questions I was asking you about Mr Paddison. Mr Paddison, as at 19 September 2023, as I understand it, was working in an office above the gatehouse at John Morony Correctional Complex, which you've agreed is a male gaol; correct?
20

MR CORCORAN: It's a male gaol.

MS GHABRIAL: No interaction with inmates whatsoever in an office above the gatehouse; correct?
25

MR CORCORAN: If he was working in CSI Corporate Office but worked over in that office, he would still be going to the CSI Corporate Office on occasion.
30

MS GHABRIAL: If he's working in the office above the gatehouse, he has no interaction with any inmates, whether male or female; correct?

MR CORCORAN: Yes.
35

MS GHABRIAL: And in actual fact, he would have minimal to no contact with any of the correctional officers that were working at Dillwynia; correct?

MR CORCORAN: Yes.
40

MS GHABRIAL: So no basis to suspend him, was there?

MR CORCORAN: CSI Corporate Office -

MS GHABRIAL: No basis to suspend him on that information I've just given you; correct?
45

MR CORCORAN: No. Just -

MS GHABRIAL: Just going -

5 **MR CORCORAN:** Can I just - could you get - could you ask that question again, because I'm not sure if I gave the right answer there.

10 **MS GHABRIAL:** There was no basis to suspend him because he had no contact with any inmates and no possible contact with any correctional officers from Dillwynia working in the office above the gatehouse; correct?

15 **MR CORCORAN:** Well, if you only look at that particular aspect of it. I'm looking at the aspect that he actually worked in CSI Corporate Office. And he - if he - if you're correct, then he would have used that office.

MS GHABRIAL: Which you made no enquiries about as at 19 September 2023; correct?

20 **MR CORCORAN:** Well, I was told that he worked in CSI -

MS GHABRIAL: You made no enquiries on that date?

MR CORCORAN: I was told that he worked in - so if I -

25 **MS GHABRIAL:** I heard.

MR CORCORAN: - was told this, I can't recall, but I - I was told he worked in CSI -

30 **MS GHABRIAL:** When were you told that?

MR CORCORAN: Around the time we made the decision.

35 **MS GHABRIAL:** By whom?

MR CORCORAN: (Crosstalk) -

MS GHABRIAL: Someone in head office or someone at the gaol?

40 **MR CORCORAN:** I can't recall, but my understanding was I was told that he worked in CSI Corporate Office and that there were inmates that were - and if I - if I recall correctly now, he - he was to come - after the females that were working in CSI Corporate Office had departed, he would then go back to CSI Corporate Office. So he was working in CSI Corporate Office at that point in time.

45

MS GHABRIAL: As at 19 September?

MR CORCORAN: That's my understanding.

5 **MS GHABRIAL:** Mr Corcoran, this is something that was only not even really two months ago. And are you seriously suggesting to the Commission that you don't know or don't remember who told you that information?

MR CORCORAN: I believe it would have been some of the staff that I spoke to at Dillwynia.

10 **MS GHABRIAL:** Of which there are no notes to actually substantiate that?

MR CORCORAN: That's right.

15 **MS GHABRIAL:** And no enquiries made by you to check the veracity of that?

MR CORCORAN: I can't.

MS GHABRIAL: Correct?

20 **MR CORCORAN:** I can't verify that, no.

MS GHABRIAL: Just going back to my questions about this further information on which you took this very drastic action of suspending those officers. When you called for this submission - I had asked you a question earlier, but I think you asked me what I meant by the question, and I'm just going to take you to the submission that you were provided by Ms Zekanovic. Do you have that there? It's in Exhibit 48, and I think it'll be the last page. The first paragraph, it says:

30 "The decision to suspend is complicated by the patchwork nature of the evidence. There is no bar to reconsidering suspension at any time, and this can be done as and when that information is received."

And these are the key words:

35 "If further information is known to the Commissioner, this may also be relied upon."

40 What I'm going to suggest to you is that - and this was the question I was trying to ask you earlier - the reason why you did not tell Ms Zekanovic what that further information was is because there actually was no further information at all, was there?

MR CORCORAN: I don't accept that proposition.

45 **COMMISSIONER:** Well then, can you tell me what the further information was?

MR CORCORAN: The further information was the information that I had already told you -

5 **COMMISSIONER:** No, just tell me again. What was the further information?

MR CORCORAN: Sorry?

COMMISSIONER: Tell me again, what was the further information. I understand what you say about the two gentlemen being in another gaol, but what was the further information apart from that?

MR CORCORAN: The further information is they were in close proximity -

15 **COMMISSIONER:** No, no, no. Leaving aside the fact that they had been moved to another gaol, what was the further information, apart from that, which justified suspension?

MR CORCORAN: The justification was that they were - and I don't know what you're trying to ask me here, because I - I have communicated that they were in close proximity to -

COMMISSIONER: No, no, Mr Corcoran. We've heard you say multiple times that they were in another gaol nearby, which you believed might be a problem.

25 **MR CORCORAN:** Yes.

COMMISSIONER: Did you have any other further information justifying the suspension of the two gentlemen apart from that?

30 **MR CORCORAN:** No.

COMMISSIONER: No.

MR CORCORAN: No. As far as I was concerned, that posed a sufficient -

35 **COMMISSIONER:** So that was the sole basis on which you said there was further information?

MR CORCORAN: Yes. That posed sufficient risk for me to make that decision, in my view.

MS GHABRIAL: What I'm going to suggest to you, Commissioner Corcoran, is that the so-called further information that you had were the criticisms levelled at you on that meeting - or during that meeting on 19 September 2023 in respect of your inaction. That's the further information that was available to you, wasn't it?

MR CORCORAN: No.

MS GHABRIAL: It triggered, in your mind, a concern with this Inquiry coming up that you were perceived to have done nothing, didn't it?

5 **MR CORCORAN:** No.

MS GHABRIAL: And the further information that you were acting on was the information that you received from these staff about your failings, and that was the information you acted upon, wasn't it?

10

MR CORCORAN: No.

MS GHABRIAL: To preserve your optics in respect of this Inquiry. That's what I'm suggesting to you.

15

MR CORCORAN: No.

MS GHABRIAL: I just want to ask you also about the time that you were Acting Commissioner of Custodial Corrections. Now, during that time - so that was from 2014 until August 2021; correct? You were the Acting Commissioner for Custodial Corrections - Assistant Commissioner, sorry, for Custodial -

20

MR CORCORAN: Assistant Commissioner, not Acting Commissioner -

25 **MS GHABRIAL:** Not Acting Commissioner - Assistant Commissioner. That's my mistake. Assistant Commissioner for Custodial Corrections from 2014 to August 2021; correct?

30

MR CORCORAN: Yes.

MS GHABRIAL: Okay. Now, you are obviously well aware from your time at CSNSW that CSNSW is a government sector agency; correct?

35

MR CORCORAN: Yes.

MS GHABRIAL: Governed by the *Government Sector Employment Act*; correct?

MR CORCORAN: Yes.

40 **MS GHABRIAL:** And the *Government Sector Employment Rules*, as they then were, up until - just bear with me for a moment. So prior to 1 January 2017, the Rules that related to government sector were the *Government Sector Employment Rules 2014*. You were aware of that?

45 **MR CORCORAN:** Yes.

MS GHABRIAL: And then the Rules changed from 1 January 2017 to the *Government Sector Employment (General) Rules 2014*; correct?

MR CORCORAN: Yes.

5

MS GHABRIAL: Now, just in relation to that, as the Assistant Commissioner for Custodial Corrections, under those legislative instruments, the Act and the Rules, it would be fair to say that you had delegated authority to undertake employer functions; correct?

10

MR CORCORAN: Yes.

MS GHABRIAL: Yes? Okay. And, in fact, you also had delegated authority under the Rules as the decision-maker, which stems from your ability to perform employer functions; correct?

15

MR CORCORAN: Yes.

MS GHABRIAL: Okay. Now - just bear with me for a moment. You've given evidence about your view of Shari Martin not only yesterday but today. And I think it's fair to say that during the period that she was at Dillwynia, you didn't think that she was fit to run both those centres. That's the effect of your evidence; correct?

20

MR CORCORAN: Not that whole period. I think, you know, I formed that opinion later - you know, later in the piece, yes.

25

MS GHABRIAL: All right. Can you say precisely when during that period you formed that actual view?

30

MR CORCORAN: Well, you know, I started about '14, so maybe '15, '16, somewhere around there.

MS GHABRIAL: All right. So she started, I think, at Dillwynia - perhaps if I could just call on those assisting the Commission to just remind me when Governor Martin started at Dillwynia. I'm sorry, there's so much information.

35

COMMISSIONER: Ms Ghabrial -

MS GHABRIAL: Sorry.

40

COMMISSIONER: - we've covered this ground already.

MS GHABRIAL: Okay. I'll -

45

COMMISSIONER: That's -

MS GHABRIAL: I'll ask the questions that I want to ask about it.

COMMISSIONER: That's the new ground.

5 **MS GHABRIAL:** So obviously from fairly early on in the piece of her time at Dillwynia, you formed that view about her; correct? Okay. Now, you've given -

COMMISSIONER: Well, he said he had formed the view about her before she got to Dillwynia.

10

MS GHABRIAL: That's so.

COMMISSIONER: That was his evidence.

15 **MR CORCORAN:** Sorry, I didn't hear that.

COMMISSIONER: You'd been counselling her, you told me yesterday -

MR CORCORAN: Yes.

20

COMMISSIONER: - before she got to Dillwynia because she wasn't up to the job.

MR CORCORAN: That's right.

25

MS GHABRIAL: All right.

COMMISSIONER: We've been over this ground.

30 **MS GHABRIAL:** I know. There are specific questions that haven't been asked about this, so I'll just -

MR LLOYD: To make sure it doesn't off the rails even further, Commissioner, she was there in two periods. So -

35

COMMISSIONER: True.

MS GHABRIAL: I'm obviously talking about the second period, Commissioner. So the effect of your evidence is, essentially, that Ms Martin was not capable of performing her role satisfactorily; correct?

40

MR CORCORAN: Yes.

MS GHABRIAL: Unsatisfactory; correct? Her performance was unsatisfactory?

45

MR CORCORAN: Yes.

COMMISSIONER: Ms Ghabrial, we've been over and over this ground. I'm not going to let you keep going, unless there's some point in this that's novel to this Inquiry -

5 **MS GHABRIAL:** There is.

COMMISSIONER: Well then, get to that.

10 **MS GHABRIAL:** Okay. I will. So - just bear with me for a moment. You are aware that under - just to clarify, under the *Government Sector Employment Act 2013*, was her role as Governor regarded as that of a senior executive or - a senior executive employee or a non-executive employee? What was your understanding?

15 **MR CORCORAN:** Non-executive.

MS GHABRIAL: Non-executive. Okay. So in relation to her position as a non-executive employee, you're aware that under section 68 of the Act, it actually deals with unsatisfactory performance of government sector employees. You're aware of that?

20 **MR CORCORAN:** Yes.

MS GHABRIAL: Okay. So the constant theme of your evidence between yesterday and today was that there was nothing that could be done about Ms
25 Martin and her unsatisfactory performance over that period - nothing that could be done other than this performance plan?

MR CORCORAN: That's right.

30 **MS GHABRIAL:** And that's your evidence?

MR CORCORAN: That's right.

MS GHABRIAL: So I'm just going to take you to section 68 of the Act.
35 Commissioner, I actually have copies of everything for everybody, so I'll just hand that up. I'm going to give a copy to the - Mr Corcoran as well, just some provisions that I've extracted of the legislation. This is -

40 **COMMISSIONER:** I've got it here. I've got it.

MS GHABRIAL: So this is the legislation as it stood during the period of 26
October 2018 to 8 November 2018. Now, I've provided you that. I actually have a copy of that legislation from 1 January 2016 through to 30 June 2016. You can
45 take it from me that I've looked at all of the various versions of these provisions during that intervening period. And so what I'm showing you are essentially the same provisions. Okay. So they were applicable during the entire time that Ms

Martin was the Governor at Dillwynia and Emu Plains. So I'll just take you to section 68 in that bundle.

MR CORCORAN: I haven't got it.

5

MS GHABRIAL: You have the -

MR CORCORAN: I don't have them.

10 **MS GHABRIAL:** You don't have them. Subsection (2):

"If the performance of an employee of a government sector agency is determined to be unsatisfactory in accordance with the Rules, the person who exercises employer functions..."

15

And I'm just going to pause there for the moment. That's you - correct - as the Assistant Commissioner?

MR CORCORAN: Well, I get delegated -

20

MS GHABRIAL: You had delegation? Yes?

MR CORCORAN: I was the one that -

25 **MS GHABRIAL:** You had delegation, did you not? Yes.

MR CORCORAN: Yes.

MS GHABRIAL: Okay. Thank you:

30

"...in relation to the employee may, without limitation on relevant action, take any of the following actions: (a) terminate the employment of the employee after giving the employee an opportunity to resign..."

35 You didn't do that, did you?

MR CORCORAN: No.

MS GHABRIAL: (b):

40

"...reduce the remuneration payable to the employee..."

You didn't do that, did you? (c):

45 "...reduce the classification or grade of the employee..."

You didn't do that, did you?

MR CORCORAN: No.

MS GHABRIAL: (d):

5

"...assign the employee to a different role."

You did not do that, did you? You had the option of doing all of those things, didn't you, Mr Corcoran?

10

MR CORCORAN: The only way you can exercise those sort of options is going through a performance management plan.

MS GHABRIAL: Is your answer that you didn't take any of those steps?

15

MR CORCORAN: Well, as I said, you have to go through a performance management plan which, from my perspective, Hamish was undertaking.

MS GHABRIAL: Okay. Well, let's go to section 67, which is the section before. There, it talks about a performance management plan system with respect to employees of the agency. Do you see that there?

20

MR CORCORAN: Yes.

MS GHABRIAL: I'm going to show you the Rules in relation to that. And, again, what I'm showing you is a reflection of what was actually applicable during the relevant period. I have all of those here. So you can take it from me that during the period I'm about to show you - this is for the period 31 August 2018 to 1 September 2019 - these reflect what was in place also from 2016, and I have those here if you -

25

30

MR CORCORAN: Are you referring to -

MS GHABRIAL: I'm about to show you the Rules.

35

MR CORCORAN: - 67 or -

MS GHABRIAL: Pardon?

40

MR CORCORAN: Are you - you're not referring to -

MS GHABRIAL: No, I'm about to show you the Rules to which that refers. Just bear with me for a moment.

45

MR HORTON: Can I object on this basis: that it's really being put as an assumption for the moment by the questioner -

MS GHABRIAL: Well, I'll show them.

5 **MR HORTON:** - that this Act and regulations applied to this employee in this instance. Now, I'm happy for it to proceed on the basis of that assumption, but there is an award which the witness has given evidence about -

COMMISSIONER: No, this is an Act.

10 **MR HORTON:** I'm sorry?

COMMISSIONER: We're looking at an Act of Parliament.

MR HORTON: Yes.

15 **MS GHABRIAL:** I do have the award, so I'll get to that in my questioning.

MR HORTON: Thank you.

20 **COMMISSIONER:** We went to the award, but -

MR HORTON: Well, the award mentions the applicability of the regulations, is the point, and this witness is not a lawyer.

25 **MS GHABRIAL:** Okay. But I have the awards. But I'll get to that shortly. So I will show you *the Government Sector Employment Rules 2014*. This is before they changed name. So this was from the period 1 July 2016 to 31 December 2016, and these are the same as what was before that as well. I couldn't print off all the different versions, I'm sorry, Commissioner. There were quite a lot of different dates, but I'm just going to hand that up to you and hand that out to
30 (indistinct). These were the Rules that applied until the name of the regulations changed - or the Rules changed. So part 7, Performance Management. So section 35 - or regulation 35 deals with the core requirements of performance management systems. See that there?

35 **MR CORCORAN:** 35, yes.

MS GHABRIAL: Yes. And section 36 - sorry, firstly dealing with 35. The core requirements of a performance management system are - and include on that list - to monitor employee performance; correct?

40 **MR CORCORAN:** Yes.

MS GHABRIAL: Just pausing there for a moment. You've given evidence to the Commission that you understood that Ms Martin was on a performance plan; correct?

45 **MR CORCORAN:** Yes.

MS GHABRIAL: But you did nothing to follow that up; correct?

5 **MR CORCORAN:** I - no, I said that I couldn't recall having those conversations. But I would definitely be having conversations with my Directors about these sorts of things.

10 **MS GHABRIAL:** What did you actually do to monitor Ms Martin's performance? What did you actually do?

MR CORCORAN: I had Hamish engage with her and develop a performance plan.

15 **MS GHABRIAL:** Apart from that, what else did you actually do?

MR CORCORAN: Well, that's - that's what performance management is.

20 **MS GHABRIAL:** What did you do to monitor her performance? What did you actually do?

MR CORCORAN: I - I engaged with my Director who's responsible for managing that individual.

25 **MS GHABRIAL:** But you're ultimately responsible, aren't you?

MR CORCORAN: Yeah, of course I am ultimately responsible, as the Commissioner is.

30 **MS GHABRIAL:** And you've got no paper trail at all to support -

MR CORCORAN: And can I just say, as I said the other day, the Commissioner was the person who took responsibility for managing General Manager - Governors' performance.

35 **MS GHABRIAL:** But you had delegated authority to exercise employer functions.

MR CORCORAN: That's right.

40 **MS GHABRIAL:** So you had -

MR CORCORAN: And we - I delegated those employer functions for everybody below.

45 **COMMISSIONER:** Mr Corcoran, we've been over this ground. You accepted responsibility before lunch for the failures in relation to Ms Martin; correct?

MR CORCORAN: Yes.

COMMISSIONER: You accepted that?

5 **MR CORCORAN:** Yes.

COMMISSIONER: And you accept that in your role, as one of the deputies to the Commissioner, you had a responsibility to ensure that this gaol was being properly managed.

10

MR CORCORAN: That's right. And as I said -

COMMISSIONER: And it wasn't being properly managed.

15 **MR CORCORAN:** Well, as I said, Commissioner, there was evidence that her performance management was put in. (Indistinct) put in.

COMMISSIONER: No, there's not. No, there's not. There's no evidence of that. The evidence is to the contrary.

20

MR CORCORAN: Well - okay.

COMMISSIONER: And furthermore, if it was put in place, you did nothing - nothing - to follow up and see how she was going, did you?

25

MR CORCORAN: Well, I'm disputing that I did nothing. You know, I - I can't say that, you know -

COMMISSIONER: Well, there's no evidence -

30

MR CORCORAN: I - I can't point to any particular document now, but I was always having conversations with my Directors about how things were going in their regions.

35 **COMMISSIONER:** Unless Mr Shearer was prepared to bald-face lie to you, the position must be that there was no management plan in place.

MR CORCORAN: Well, I believe there was a management plan in place -

40 **COMMISSIONER:** I know, but you - well, you say that.

MR CORCORAN: - and - and the Commissioner knew about it.

45 **COMMISSIONER:** You say that, but it must have been that Mr Shearer was lying to you if you had discussed with him how Ms Martin was going in relation to the plan; correct?

MR CORCORAN: Well, I don't - I mean, I think the plan was pretty comprehensive and - and covered off on - on the sorts of behaviours that, you know, we were - we were looking at.

5 **COMMISSIONER:** Yes. But it was your responsibility to find out how she was going, wasn't it?

MR CORCORAN: Yes.

10 **COMMISSIONER:** Yes.

MS GHABRIAL: And it was your responsibility, according to section 35 - or regulation 35, if you go to point (f), to resolve unsatisfactory employee performance, wasn't it?

15

MR CORCORAN: Yes.

MS GHABRIAL: You didn't do that, did you?

20 **MR CORCORAN:** Well, I think I did.

MS GHABRIAL: Well, you didn't do that yourself -

25 **MR CORCORAN:** As I said, you know, we had a management plan in place.

MS GHABRIAL: If I could take you to regulation 36 dealing with unsatisfactory performance. There it says under subsection (1):

30 "The person who exercises employer functions in relation to a person employed in the government sector agency may not take any action under section 68..."

Which is what I took you to in the Act about unsatisfactory performance:

35 "...unless the employee's performance is determined by the employer to be unsatisfactory in accordance with the agency's performance management system."

40 Now, you've given evidence that you'd already formed the view that her performance was unsatisfactory and you had a dim view of the performance management plan; correct?

MR CORCORAN: The performance improvement plan.

45 **MS GHABRIAL:** The performance improvement plan; correct? And you weren't satisfied that that plan was going to actually cure the issue of her unsatisfactory performance; correct?

MR CORCORAN: It was the only thing we had available to us.

5 **MS GHABRIAL:** Well, you keep saying it's the only thing that you had available to you. At this stage, having determined in your mind that the performance plan - the performance review plan was not going to have any effect in resolving her unsatisfactory employee performance, you did have other options, didn't you?

10 **COMMISSIONER:** Ms Ghabrial, I think you're starting at the wrong point. Regulation 36, if that be what it is, speaks of a person who is unsatisfactory in accordance with the agency's performance management system. That's not an improvement plan; that's the management system of the gaol. So, Mr Corcoran, it's plain from what you've said that Ms Martin was failing at that point, wasn't she?

15 **MR CORCORAN:** Yes.

COMMISSIONER: She was unsatisfactory?

20 **MR CORCORAN:** Yes.

COMMISSIONER: And after that, provided reasonable steps had been taken to advise her that the performance is unsatisfactory and the basis is advised to her and she's notified that the employer is proposing to take specific action under section 68(2) and given a reasonable opportunity to respond and the employer has taken such response into consideration, then section 68 can be implemented, can't it?

MR CORCORAN: It could, yes.

30 **COMMISSIONER:** And so you had the power to do something about Ms Martin, didn't you?

MR CORCORAN: No, I didn't have the power, because the Commissioner said he wanted -

35 **COMMISSIONER:** I'm sorry. Sorry. You mean you didn't have the power, but you suggest Mr Severin did. Is that the idea?

40 **MR CORCORAN:** Correct. Yes.

COMMISSIONER: Well, it was your responsibility to keep Mr Severin informed as to what was going on, wasn't it?

MR CORCORAN: I did.

45 **COMMISSIONER:** And did he refuse to take action, did he?

MR CORCORAN: Well, I kept him informed.

COMMISSIONER: No. Did he refuse to take action?

5 **MR CORCORAN:** I don't know if he refused to take action or he didn't want to take action, but he was - he was being kept informed.

COMMISSIONER: What did he say to you about the action that should have been -

10

MR CORCORAN: I can't recall.

COMMISSIONER: Sorry?

15 **MR CORCORAN:** I can't recall conversations about this now.

COMMISSIONER: You don't recall anything by way of discussion with Mr Severin about this?

20 **MR CORCORAN:** I can't recall specific conversations about it, no.

COMMISSIONER: You mean - very well. You appreciate that creates a difficulty for me in accepting this account, don't you?

25 **MR CORCORAN:** That I communicated to Peter Severin about this -

COMMISSIONER: Well, you've been saying to us for some days that you had no power to do anything because of the status of this - of a Governor as an employee. That's what you've been saying to us?

30

MR CORCORAN: I said the award employee, it's very difficult. It's not difficult if they were an SES role. There's a contract with the Secretary of the agency, and it has specific (crosstalk) -

35 **COMMISSIONER:** I understand what you've been saying. I do understand what you've been saying.

MR CORCORAN: Yeah.

40 **COMMISSIONER:** But this document, together with section 68, tells me that you, or ultimately Mr Severin, had the power to remove Ms Martin from your employment.

MR CORCORAN: That's right.

45

COMMISSIONER: So it's not the case that you were bound to keep her in this gaol, is it?

MR CORCORAN: That's right. Not the case.

5 **COMMISSIONER:** So what you've been telling me now for a day isn't correct, is it?

MR HORTON: I object. Commissioner, that is really a legal question in the end, whether someone -

10 **COMMISSIONER:** Well, except I'm trying to find out what he, as a manager, understands to be the law, which is not an irrational position - proposition.

15 **MR HORTON:** No. I accept that. But there is an award which operates here which the witness has mentioned, and the interaction of has not been explored in the questioning today.

COMMISSIONER: Might be?

20 **MR HORTON:** There's an award which the witness has mentioned which has an interaction with the Act and the regulations - the *Government Sector Employee Regulations* and Act, and that's not been explored in questioning to date.

25 **COMMISSIONER:** Are you saying that section 36 together with 68 doesn't prevail?

MR HORTON: I'm saying that the award claims primacy in its provisions over the Act and regulations, that they apply only to the extent the award does not expressly provide for something. So it's a more nuanced than might otherwise -

30 **COMMISSIONER:** Well, we'd better have a look at the award, then. Have you got a few copies?

MS GHABRIAL: (Indistinct), Commissioner.

35 **COMMISSIONER:** Have you got a few copies?

40 **MS GHABRIAL:** I have copies. I have several awards because there were different awards at different times. The first award is the award of the - that was published -

COMMISSIONER: Well, is there one that's more important? Is there one that really matters?

45 **MS GHABRIAL:** Well, there's one from 2 August 2016 that we've sourced. There's one from 3 November 2017 which specifically relates to Dillwynia and General Managers there. And then the most recent one is - which was provided by

those representing the organisation of Corrective Services, is 5 October 2021, which really doesn't apply.

5 **COMMISSIONER:** We can distribute what you have. And is there a clause in the award that you want me to look at it?

MR HORTON: In the most recent of those mentioned, I just draw your attention to clause 4.2, for -

10 **COMMISSIONER:** 4.2.

MS GHABRIAL: The most recent one? That doesn't apply. As I read this award, Commissioner, there's nothing that says that those sections don't apply to a Governor.

15 **COMMISSIONER:** Well, it's the first time I've looked at it, but that seems right, doesn't it? That's dealing with conditions -

20 **MS GHABRIAL:** So this one - this first one is the award that applies to - and I'll just take the Commission to page 4 and 5, the ranking structure.

COMMISSIONER: This is the conditions of employment, isn't it? How does that speak to the Act, or contradict the Act? Can anyone help me? (Indistinct), can you help me?

25 **MS GHABRIAL:** It doesn't override the Act at all, Commissioner.

MR LLOYD: Commissioner, can I - rightly or wrongly, I made a conscious decision not to explore the -

30 **COMMISSIONER:** I think we have to, Mr Lloyd, because I don't think we can be fair otherwise.

35 **MR LLOYD:** May I just this at least for your consideration, Commissioner. In terms of the matters that, as I understand it, Ms Ghabrial wants to put to this witness, it is, in effect, you had a wrong understanding of the applicable law and, in fact, you did have the power - delegated power or delegated authority to take action, including dismissal of Ms Martin. That's the proposition for the witness. The question of whether that proposition is made good, that is, the witness had
40 a wrong understanding, is really a matter for us.

COMMISSIONER: I understand that. But I think it's important that if it be the case - I'm not saying it is, because we'll need to get to the bottom of it - that Corrective Services has been acting upon a misunderstanding of their capacity to effectively manage Governors in the gaols, that's a really serious proposition.
45

MR LLOYD: Commissioner, there is a reason -

COMMISSIONER: Mr Corcoran is entitled, I think, to at least tell us, maybe through his counsel, that this may have been what he had in mind. But it's not entirely apparent to me at the moment.

5

MR LLOYD: Certainly. It's just really my - the reason I rise is really to raise a very real question about the detail that's necessary in order to get to the position that's just fallen from him.

10 **COMMISSIONER:** I understand. Ms Ghabrial, you understand what Mr Lloyd is saying?

15 **MS GHABRIAL:** I do. The purpose of obtaining these awards as well was it arose from evidence given by Mr Corcoran yesterday about limitations on him and the Commissioner in respect of what they could do with Ms Martin, and that's why I've produced them. I've also got -

20 **COMMISSIONER:** You understand the issue - the question ultimately for me is, were they doing it correctly?

MS GHABRIAL: I do understand that, but my purpose of providing these is also for a different purpose. I'll just give the Commission also a copy of the award from 3 November 2017 because it actually does cover the relevant period at Dillwynia.

25 **COMMISSIONER:** Mr Sheller, do you know whether Corrective Services has a legal advice in relation to the operation of these provisions?

MR SELLER: I'm sure there is, yes.

30 **COMMISSIONER:** Well, I would have expected it.

MR SELLER: Yes.

COMMISSIONER: Perhaps we can find it.

35

MR SELLER: Yes, we will definitely find it.

40 **MS GHABRIAL:** So this is the Crown Employees (Correctional Officers, Corrective Services New South Wales) Award 2007 for Kempsey, Dillwynia, Wellington and John Morony Correctional Centres, and that applied to general managers as well at those Centres. So I've got two copies, one for Mr Corcoran and one for the Commissioner, and Mr Sheller and Mr Lloyd.

45 **MR CORCORAN:** Thank you.

MR SELLER: And similarly there, there's no information that would reveal that the Act is - this is the second award that appears to cover that period -

COMMISSIONER: Which clause?

MS GHABRIAL: Pardon?

5

COMMISSIONER: Which clause?

MS GHABRIAL: The *Government Sector Employment Act*.

10 **COMMISSIONER:** Which clause of this -

MS GHABRIAL: Which clause? So if the Commissioner goes to - just bear with me for a moment - page 6. There, it talks about who's covered by this award, which includes general managers.

15

COMMISSIONER: Yes.

MS GHABRIAL: And then just in relation to the proposition that was put by Mr Corcoran's barrister, there is nothing there in clause 4 that indicates that the Act and the regulations and the Rules do not apply to Governors during that period.

20

COMMISSIONER: It just provides for general managers to enter into a performance agreement.

25

MS GHABRIAL: Yes. Now, we have not been, obviously, given access to the performance agreement, and perhaps that could be provided -

COMMISSIONER: (Indistinct), Mr Sheller, do you know?

30

MR SELLER: Sorry. We'll check if there's such a thing that exists.

MS GHABRIAL: Perhaps if I could invite the Commission to receive those two instruments as evidence in these proceedings. Could I invite the Commissioner to receive those two awards that I've handed up as evidence in these proceedings.

35

COMMISSIONER: I don't need, I don't think, to receive them as evidence. They operate on their terms.

MS GHABRIAL: Thank you. One of the reasons, Mr Corcoran, why I obtained copies of these awards is because yesterday you gave evidence about the effect - or your understanding of the effect of the award and what you could do with Ms Martin. Now, I'm assuming that you have read the awards before today?

40

45 **MR CORCORAN:** Yes.

MS GHABRIAL: And that at the time that Governor Martin was at Dillwynia and Emu Plains, you knew what those awards actually said; correct?

MR CORCORAN: Yes.

5

MS GHABRIAL: And yesterday you gave evidence specifically that you couldn't do anything about her other than, I think - just bear with me for a moment. I'll just quote what you said. Yesterday's evidence, 22 November 2023, page 151.
Question by the Commissioner:

10

"So you are telling me that the award..."

No, I'll take it back. Line 19. Commissioner:

15

"I'm still not understanding how you go from one to two..."

And the Commissioner was referring to gaols:

20

"...when she is not performing satisfactorily in one."

Your answer:

25

"We have to rotate these people around. So, you know, unless you go down the path of terminating someone because they're - you know, they're not up to the role, as I said to you before, very difficult - very difficult to do with these award employees."

Question by the Commissioner:

30

"So you are telling me that the award demanded that she be given responsibility for two gaols. Is that what you're saying?"

Your answer:

35

"No, the award demanded that they be rotated around."

When you gave that answer yesterday, Mr Corcoran, you knew that that's not what the awards - either of those awards demanded at all. You knew that, didn't you?

40

MR CORCORAN: No, I didn't know it then, but I certainly know it now.

MS GHABRIAL: But you've just told the Commission that you were aware of the contents of those awards during the relevant period when Ms Martin was the Governor of Dillwynia and Emu Plains, didn't you?

45

MR CORCORAN: I was aware that the - that the awards had a provision in there that every three years or so, we could rotate Governors or General Managers around in positions.

5 **MS GHABRIAL:** So your evidence is now different. You're saying that you could rotate people. The evidence you gave yesterday was that the awards demanded that that occur. That was not correct, was it?

MR CORCORAN: That is right.

10

MS GHABRIAL: And you knew yesterday when you gave that evidence that that was not correct, didn't you?

MR CORCORAN: No.

15

MS GHABRIAL: Just in relation to the rules about performance management - and the ones that I've provided you were the ones that pre-dated 1 January 2017. Because your learned counsel has raised an issue as to whether or not I actually can show that those rules still continued to exist during the time that
20 Governor Martin was at those facilities, I'm just going to hand up a copy of the *Government Sector Employment (General) Rules 2014*, which commenced on 1 January 2017. Now, this covers to the period of 11 May 2017. I'll just hand that up to you and to the Commissioner and to the parties. If you have a look at that
25 against the previous version that I gave you, it would be fair to say that they're in the same terms?

MR CORCORAN: Yes.

30 **MS GHABRIAL:** So the power was still there to deal with unsatisfactory performance; correct?

MR CORCORAN: Yes.

35 **MS GHABRIAL:** I'm just going to hand up to you the version for 31 August 2018 to 1 September 2019. If you could satisfy yourself again, just comparing that to the earlier versions that I have given you. They're the same; correct?

MR CORCORAN: Yes, they appear to be. I mean, without going through every -

40 **MS GHABRIAL:** Well, I'm going to suggest to you that when you gave evidence yesterday, that it's only really been in recent times that you've received some advice that the GSE - the *Government Sector Employment Act* and Rules supported more options being taken - that that actually wasn't the case, that the option were always there.

45

MR CORCORAN: The options are - are there to dismiss people, yes.

MS GHABRIAL: And these options of removing a person from a role, of reducing a person's remuneration - all of the other options under section 68, after dealing with the employee under regulation 36, were available during the relevant period, weren't they?

5

MR CORCORAN: Yes.

MS GHABRIAL: They weren't a recent thing at all, were they?

10 **MR CORCORAN:** No.

MS GHABRIAL: Now, you also gave some evidence yesterday - just bear with me for a moment - that some of the information that you knew about Ms Martin's behaviour was as a result of your own enquiries and other information about Ms
15 Martin's conduct and behaviour was information that you had received through Hamish Shearer; correct?

MR CORCORAN: Yes.

20 **MS GHABRIAL:** Okay. And I think you understood during - please correct me if I'm wrong. You understood during the period that she was at Dillwynia from 2016 to 2018, the period of Astill's offending - you knew that - either directly or through Hamish Shearer that she was abusive of staff; correct?

25 **MR CORCORAN:** I think I said that - that I heard information about her behaviour, but I'm not sure if I ever heard that she was abusive of staff. I think that was referred to that she was swearing to staff on parades. I - I am, you know, not certain that I ever heard allegations of that nature.

30 **COMMISSIONER:** Ms Ghabrial, we've been over this ground. We know what the conclusion is. I don't think you should go there.

MS GHABRIAL: Can I just ask one question about that? I think yesterday you gave some evidence - and it relates to something in the legislation as well, so if
35 you could just indulge me with this, Commissioner, please. I appreciate that. Yesterday you gave evidence that you had concerns about - and heard information directly and through Mr Shearer about her treatment of staff; correct?

MR CORCORAN: Yes.

40

MS GHABRIAL: Yes. Okay. Now - just bear with me for a moment. Did you make any enquiries at all with Mr Shearer or any other person as to what precisely that treatment of the staff actually looked like or was?

45 **MR CORCORAN:** Yes, I would have made enquiries of Mr Shearer. Yes.

MS GHABRIAL: And did it become apparent to you during that period that whilst you may not have known about her swearing directly at the staff, that she was abusive of staff in her interactions with them?

5 **MR CORCORAN:** I think I - I just mentioned that I - I was aware of general bad behaviour.

COMMISSIONER: Ms Ghabrial, we truly have been over this ground. I'm not going to let you keep going. The position is very clear.

10

MS GHABRIAL: Commissioner, could I just - could I raise this: The reason I'm asking these questions is because there are regulations - or the *Crimes (Administration of Sentences) Regulation 2014*, specifically regulation 249 which deals with insulting or abusive language - and it's the reason I'm actually asking these questions as to what precisely he understood the bad behaviour to be, because there are certain consequences in respect of that under those regulations.

15

COMMISSIONER: I'm prepared to make a guess, he probably isn't aware of that provision. Are you aware of it, Mr Corcoran?

20

MR CORCORAN: I can't recall that particular provision.

COMMISSIONER: No. Look, we know factually what happened. If there's a law that bites, then it will bite. Simple as that. But it's plain that Corrective Services effectively did nothing.

25

MS GHABRIAL: Could I then just ask this question, then: Mr Corcoran, were you aware that an officer who abuses or uses abusive language or insulting language is deemed under the *Crimes (Administration of Sentences) Regulation* to be engaging in misconduct?

30

MR CORCORAN: Yes.

MS GHABRIAL: That can be dealt with under the GSE Act and regulations?

35

MR CORCORAN: Yes.

MS GHABRIAL: In the same way, under section 68 and under section 69. Now, in relation to - there was some evidence you gave - just bear with me for a moment, please. There was some evidence that you gave yesterday about the culture of reporting by officers. Do you remember giving that evidence earlier in your evidence yesterday?

40

MR CORCORAN: Yes.

45

MS GHABRIAL: And that was actually a problem that I suggest you were aware of prior to Mr Astill's offending; correct?

MR CORCORAN: Yes.

5 **MS GHABRIAL:** And, in fact, it was a problem that was identified by ICAC when they were engaging in their investigation in respect of Operation Esty. You're aware of that; correct?

MR CORCORAN: Yes.

10 **MS GHABRIAL:** Now, did you give evidence in that Inquiry?

MR CORCORAN: No.

15 **MS GHABRIAL:** Okay. But you were certainly aware of the report that had been published by ICAC in June 2019; is that correct?

MR CORCORAN: Yes.

20 **MS GHABRIAL:** And just in that respect, can I ask if you actually sat down and read the report?

MR CORCORAN: I, yes, read it, but it was some time ago. I probably wouldn't be able to recall specific passages.

25 **MS GHABRIAL:** It would be fair to say that you were aware that ICAC had looked at the process of investigation and decision-making in relation to conduct of - officers' use of force at Lithgow Correctional Centre.

MR CORCORAN: Yes.

30 **MS GHABRIAL:** Are you aware of that?

MR CORCORAN: Yes.

35 **MS GHABRIAL:** And in the course of making recommendations, ICAC specifically looked at the problems in the investigation and decision-making process. Do you recall that?

MR CORCORAN: Yes.

40 **MS GHABRIAL:** Now, most specifically, one of the things that I suggest you would have been aware of was the Commission's view in relation to, specifically, decision-makers and who those decision-makers should actually be; correct? Now, during the relevant period, you were actually the Assistant Commissioner for
45 Custodial Corrections when this investigation by ICAC was taking place; correct?

MR CORCORAN: Yes.

MS GHABRIAL: And you were also the Assistant Commissioner for Custodial Corrections at the time that this conduct occurred at that Centre at Lithgow; correct?

5

MR CORCORAN: Yes.

MS GHABRIAL: So ICAC said this:

10 "During 2014, the decision-maker in relation to the alleged misconduct at the LCC..."

Which is Lithgow Correctional Centre:

15 "...was the Assistant Commissioner of Custodial Corrections..."

That was you; correct?

MR CORCORAN: Yes.

20

MS GHABRIAL:

25 "...who was responsible for the management of all Correctional Centres. Across CSNSW more generally, the decision-maker was the person responsible for the area in which the misconduct had occurred."

That's correct, isn't it?

MR CORCORAN: Yes.

30

MS GHABRIAL: Because the correctional centre is under your division; correct?

MR CORCORAN: Yes.

35

MS GHABRIAL:

"Therefore, the officer who decided whether a formal investigation would take place was not independent."

40 You were the decision-maker that made the decision for the investigation to take place in respect of that Lithgow incident; correct?

COMMISSIONER: Ms Ghabrial, where is this going? Because I'm not looking at Lithgow.

45

MS GHABRIAL: I understand that.

COMMISSIONER: Is there a point that needs -

MS GHABRIAL: The point of it is this: that ICAC had raised concerns about that-

5

COMMISSIONER: I understand what their concern was, but where are you going?

MS GHABRIAL: Where I'm going with it, Commissioner, is that this witness is aware that there is a perception that arises from -

10

COMMISSIONER: Ask him that question.

MS GHABRIAL: Okay. I will. So you were aware that they were concerned that the person who was making the decision was essentially not an independent person?

15

MR CORCORAN: Yes.

MS GHABRIAL: And they were specifically referring to you in that example; correct?

20

MR CORCORAN: No.

MS GHABRIAL: No?

25

MR CORCORAN: I think if you read the report, you'll see it was the Acting Assistant Commissioner that referred it through.

MS GHABRIAL: Okay. Well -

30

MR CORCORAN: The Acting Assistant Commissioner.

MS GHABRIAL: Who was the Acting Assistant Commissioner?

35

MR CORCORAN: I - I don't know.

MS GHABRIAL: All right. But in any event, you were aware -

MR CORCORAN: (Indistinct) shortly after I started, you know, maybe a month after I started in the role.

40

MS GHABRIAL: You were aware as of the time of this report in June 2019 that ICAC had expressed concerns about the lack of -

45

COMMISSIONER: Ms Ghabrial, I think we know -

MS GHABRIAL: Yes.

COMMISSIONER: - that they are of the view that these roles should not be allowed to be in conflict. We understand that.

5

MS GHABRIAL: Well, that's what I want to ask this witness.

COMMISSIONER: Why don't you put that to him?

10 **MS GHABRIAL:** I will. Okay. So knowing that there's a potential for conflict and the perceptions of a conflict of interest that ICAC identified in that report, what have you done - as either the Assistant Commissioner at the relevant time when this report came out or as the Acting Commissioner or the Commissioner, what have you done to address that issue?

15

MR CORCORAN: Well, that would have been a matter - as - in terms of implementation of the ICAC recommendations, that's a matter for the Commissioner at the time and the Assistant Commissioner, Governance and Continuous Improvement. So you should ask - ask them that.

20

COMMISSIONER: It's a matter for you now, Mr Corcoran. You're the boss. There's the recommendation from the ICAC sitting there, which has some logic to it, frankly. Surely it's your responsibility to address it. Has it already been addressed?

25

MR CORCORAN: I'll put it this way, Commissioner: the ICAC have reviewed our actions on all the recommendations of Estry and have written to me and said that, as far as they're concerned, they have been satisfactorily implemented.

30 **COMMISSIONER:** Well, you haven't implemented that one, though, have you?

MR CORCORAN: No, not that one.

COMMISSIONER: Maybe I should -

35

MR CORCORAN: Maybe -

COMMISSIONER: Should I revisit that, should I?

40 **MR CORCORAN:** You - you certainly could, yes.

COMMISSIONER: It mightn't be a bad idea to ensure -

MR CORCORAN: Yes.

45

COMMISSIONER: - an independent decision-maker, would it?

MR CORCORAN: Yeah. That's - that's true, yes.

COMMISSIONER: Yes, Ms Ghabrial.

5 **MS GHABRIAL:** Just in relation to implementation and recommendations and actually carrying out recommendations. I just want to ask you some questions about that. We know that -

10 **COMMISSIONER:** Ms Ghabrial, where is this going? I'm not here to investigate what the ICAC (crosstalk) -

MS GHABRIAL: No, no, no.

15 **COMMISSIONER:** - nor the prisons they might have looked at. I'm here to look primarily at Dillwynia and the processes in and around the matters relevant to Dillwynia.

20 **MS GHABRIAL:** And also in that respect, Commissioner, the Commission would want to have some confidence that those recommendations that the Commissioner makes as a result of this Inquiry are actually going to be put into place and carried out.

25 **COMMISSIONER:** Well, that might be a matter for others to go back and audit after we've finished.

MS GHABRIAL: Maybe.

COMMISSIONER: It's not for today.

30 **MS GHABRIAL:** Can I -

COMMISSIONER: Move to something else.

35 **MS GHABRIAL:** Can I indicate what it was that I was going to ask. There is some evidence that this witness has been involved in previous Inquiries where recommendations were made and not carried out.

COMMISSIONER: Well, maybe that's so. But how is that going to help me?

40 **MS GHABRIAL:** It's just in terms of what recommendations can be made.

COMMISSIONER: Well, there will be other people who come after me to ensure that any recommendation that I make which they consider sensible is carried out. Mr Corcoran won't have much choice but to do it; correct?

45 **MR CORCORAN:** That's correct, Commissioner.

MS GHABRIAL: Sorry, Commissioner. I'm skipping past all of those questions. Nothing further. Thank you, Commissioner.

COMMISSIONER: Who's next?

5

MR LLOYD: Commissioner, there's something - I've discussed this quietly with Mr Sheller and Mr Horton. I've been handed a document after I finished asking questions that is relevant, and I wish to clear something up. And, in fairness, I should do that before Mr Sheller and Mr Horton, and I think that they agree.

10

COMMISSIONER: Very well.

<EXAMINATION BY MR LLOYD:

15 **MR LLOYD:** Mr Corcoran, you have answered a number of questions about the performance improvement plan?

MR CORCORAN: Yes.

20 **MR LLOYD:** And you were shown a document which I think I put to you was a draft.

MR CORCORAN: Yes.

25 **MR LLOYD:** Can I show you - and -

COMMISSIONER: That's MFI4, I think, at the moment. It should become an exhibit -

30 **MR LLOYD:** And I intend to - I'll tender it now.

COMMISSIONER: It will become Exhibit 52.

<EXHIBIT 52 TENDERED AND MARKED

35

MR LLOYD: You have mentioned more than once in your evidence that you have a recollection of being sent, by email - I withdraw that - sent an email by Mr Shearer which at least made reference to the plan?

40 **MR CORCORAN:** Yes.

MR LLOYD: And your belief was that based upon that email - make sure I've got this right. Based upon the email, you thought the plan had been finalised and put into place?

45

MR CORCORAN: Yes.

MR LLOYD: Can I show you something that might be the document you had in mind, being something that your legal team has uncovered during the course of your evidence, I think.

5 **MR CORCORAN:** Okay.

COMMISSIONER: Have you got a copy, Mr Lloyd?

10 **MR LLOYD:** We've got multiple copies, hopefully, including for you, and distribution to the parties. Can you look first at the email.

MR CORCORAN: Yes.

15 **MR LLOYD:** Hamish Shearer, copied to you, 8 March '17.

MR CORCORAN: Yes.

MR LLOYD: It's addressed to Cathy, but you're on the distribution list.

20 **MR CORCORAN:** Yes.

MR LLOYD:

25 "Cathy, here is the draft. I intend to forward to her later this week for her input before I formally present it to her during the Governors' conference next Tuesday."

MR CORCORAN: Yes.

30 **MR LLOYD:** And:

"Any thoughts greatly appreciated."

MR CORCORAN: Yes.

35 **MR LLOYD:** Doing the best you can, is this the email that you had in mind when you gave evidence or -

MR CORCORAN: No.

40 **MR LLOYD:** You think that there's another one?

MR CORCORAN: Yes.

45 **MR LLOYD:** And on your best recollection sitting there today -

MR CORCORAN: Yes.

MR LLOYD: - is the contents of the other one - they dealt with a performance improvement plan?

5 **MR CORCORAN:** Yes.

MR LLOYD: And do you remember, at least in general terms, what it was that that email -

10 **MR CORCORAN:** Basically, it was an email that had been - as I recall it, had been sent to Shari Martin from Hamish, copied into me, which went through a range of behavioural issues, with - that he had spent the day with Shari going through these things. This is - his documentation of what was discussed at the time was forwarded to me. I forwarded it to the - to the Commissioner.

15 **COMMISSIONER:** How long had Ms Martin been the Governor of the gaol -

MR CORCORAN: At that - at that time -

20 **COMMISSIONER:** - by March 2017?

MR LLOYD: I'll have that checked. It's Tab 59. I just need to have checked when it was on the evidence that she came back. Paragraph 8 of her statement to the Commission, Commissioner, says in 2014/2015 she was appointed Governor of
25 the two Centres, including Dillwynia. '14/15.

COMMISSIONER: She was appointed three years before this, or thereabouts?

30 **MR LLOYD:** Well, depending on when - between two and three, it would seem, on the evidence.

COMMISSIONER: Mr Corcoran, this covers a whole ground, I know, but this at least gives us some timeframe for this. But you've told me that you believe she wasn't performing appropriately or satisfactorily before she got to Dillwynia.

35 **MR CORCORAN:** Yes. And my -

COMMISSIONER: So that's some considerable time after you'd formed that view that any step along these lines was taken, isn't it?

40 **MR CORCORAN:** I think my recollection of that earlier email from - that other email from Hamish was that it was earlier than this.

COMMISSIONER: Well, this is still talking about a draft.

45 **MR CORCORAN:** Well, it was a draft, I think, by the looks of it, until Cathy Hellams, the Strategic HR Business Partner, had had a look at it.

COMMISSIONER: Well, this doesn't suggest that there had been movement in this direction at an earlier point in time, but maybe you're right.

5 **MR CORCORAN:** Well, I'm just - yes.

MR LLOYD: I'm going to show you something to see whether it jogs your memory. Could Mr Corcoran -

10 **COMMISSIONER:** Mr Lloyd, should I mark this email and its accompanying -

MR LLOYD: For my part, I propose to tender it.

COMMISSIONER: So should I mark it now as Exhibit 53?

15

MR LLOYD: Yes, Commissioner.

<EXHIBIT 53 TENDERED AND MARKED

20 **MR LLOYD:** Could Mr Corcoran be shown Exhibit 41, please. Can I just show you this.

COMMISSIONER: What is this?

25 **MR LLOYD:** This is Exhibit 41, Commissioner. Mr Corcoran, I'm only showing you this because you said to the Commissioner one moment ago that you had a recollection of an email earlier in time than the March one I just showed you?

MR CORCORAN: Yes.

30

MR LLOYD: And we have here - and also - I withdraw that. Also you made reference to communications between you and then Commissioner Severin?

MR CORCORAN: Yes.

35

MR LLOYD: I just wanted to draw to your attention - first, if you look at Exhibit 41 on page 1, there's an email halfway down the page from Mr Shearer to you of 30 November '16?

40 **MR CORCORAN:** Yes.

MR LLOYD: And that is, in turn, it would appear from the email chain, sending you on a lengthy email that he had sent to Ms Martin of 30 November '16?

45 **MR CORCORAN:** Yes.

MR LLOYD: Raising a number of things about her performance?

MR CORCORAN: Yes.

5 **MR LLOYD:** And then going back to page 1 of Exhibit 41, you send that one, that is, Mr Shearer's email, on to then Commissioner Severin?

MR CORCORAN: Yes.

10 **MR LLOYD:** May I ask you this: Does that assist you to be able to tell us whether this is the email chain you -

MR CORCORAN: This is the email chain I had in mind, yes.

15 **MR LLOYD:** So in order to try and fix up, by reference to the documents we have now, the sequence. We have this email chain, culminating in you sending on to Commissioner Severin a range of concerns that Mr Shearer had raised with Ms Martin?

20 **MR CORCORAN:** Yes.

MR LLOYD: If you look at the email that's before you now, one a few months later of 8 March '17 where you're being copied in on a performance improvement plan prepared, on its face, by Mr Shearer for Ms Martin?

25 **MR CORCORAN:** Yes.

MR LLOYD: And the next thing in the sequence I want to ask you about is whether you looked at that performance improvement plan that was being sent in March of '17 when you were copied in?

30

MR CORCORAN: Yes, I would have looked at that.

35 **MR LLOYD:** And I'll take you through some things about it just in a minute, but can you remember an occasion where you were told that Mr Shearer had, in fact, done what he intended to do, that is, forward that performance improvement plan or formally presented it to Ms Martin at the Governors' conference the following Tuesday?

40 **MR CORCORAN:** I - I can only presume that that happened, yes.

MR LLOYD: Is it right that the state of your belief as at 8 March is that it hadn't happened, that is, she hadn't been put on the performance improvement plan, but you believed that it would happen the next week?

45 **MR CORCORAN:** That's right. And - and, you know, the nature of the email that Hamish sent me earlier on I think is really the start of a performance improvement plan going through those behaviours and - and just setting out expectations.

MR LLOYD: It's certainly the foundation for what followed in March.

MR CORCORAN: Yes.

5

MR LLOYD: And I think you say to Commissioner Severin you'd spoken to Mr Shearer who appeared pretty drained from his interactions?

MR CORCORAN: Yes.

10

MR LLOYD: Just dealing with the sequence after 8 March 2017 email - I'll just come back now we have more information about the sequence of events and put to you, in light of that information, Mr Shearer's evidence, that after the draft was prepared, that is, by a period after 8 March 2017, he made a decision not to proceed, that is, not to put her on the performance review plan. I mean performance improvement plan, I'm sorry.

15

MR CORCORAN: Yeah.

20 **MR LLOYD:** What do you say about that?

MR CORCORAN: I'm not very happy about it.

MR LLOYD: News to you?

25

MR CORCORAN: Yes.

MR LLOYD: Just coming back to some things that you said, and I want to be clear now I've put to you the documents recording the true sequence. Do you have a recollection of sitting down with Mr Shearer in meetings following March '17 where you sat down and said, "That performance improvement plan that you put Ms Martin on, how is it going?"

30

MR CORCORAN: I don't have a recollection, as I said.

35

COMMISSIONER: We've been over this, Mr Lloyd.

MR LLOYD: I only want to do it because there's a contemporaneous document that I haven't yet -

40

COMMISSIONER: Okay.

MR CORCORAN: Yeah, I don't have a recollection.

45 **MR LLOYD:** And I just want to understand exactly what you're saying. Is the effect of what you're telling us about the subsequent discussions with Mr Shearer

about how this plan was going - is that you telling us you don't have a direct recollection, but you expect, if you were following your usual or regular practice -

MR CORCORAN: Yes.

5

MR LLOYD: - that that is what would have happened?

MR CORCORAN: Yes, that - what would normally happen, yes.

10 **MR LLOYD:** And I should put this to you arising from Mr Shearer's evidence for your response -

MR CORCORAN: Yes.

15 **MR LLOYD:** - that you're mistaken about following your usual practice. In fact, that did not happen, the follow-ups with Mr Shearer asking him how this plan was going.

MR CORCORAN: That was Mr Shearer's evidence, was it?

20

MR LLOYD: I'm putting to you his account.

MR CORCORAN: Yes.

25 **MR LLOYD:** When you say you would have been likely to do this, that is, follow up with him how the plan was going, that you're wrong about that. That didn't happen.

MR CORCORAN: Well, I can't refute that because I have no recollection.

30

MR LLOYD: Thank you. Could I just finally just show you a couple of things about this draft, the one that's in front of you now.

MR CORCORAN: Yes.

35

MR LLOYD: I don't want to take you through all the entries, but do you agree with me, if you look at the third page, for example:

"Improve your communicate."

40

MR CORCORAN: Yes.

MR LLOYD: She might have some grammatical problems, but aside from that, the entry in the column on the furthest right with text in it:

45

"Actively listen and encourage staff to offer new ideas that might be different and encourage and empower a culture where officers seek improvement and efficiencies."

5 Do you see that?

MR CORCORAN: Sorry, is that in the -

MR LLOYD: Third page.

10

MR CORCORAN: Yes, the first -

MR LLOYD: (Crosstalk) up the top in the middle, the last two entries.

15 **MR CORCORAN:** Oh, yes, I see that.

MR LLOYD: Now, those matters identified there certainly bear a relationship to some of the failures that we know about that were occurring at Dillwynia?

20 **MR CORCORAN:** Yes.

MR LLOYD: Page 4:

25 "Being approachable and personable and engage in a way where staff feel comfortable, provide feedback and encouragement."

Again, do you agree?

MR CORCORAN: Yes.

30

MR LLOYD: And if you just look over page 6, a number of entries. Just take one - the first one:

35 "Create an environment where your staff feel they can contribute to your centre's decisions, invite discussion and feedback and empower your staff."

Again -

MR CORCORAN: Yes.

40

MR LLOYD: - directly relevant to the failures?

MR CORCORAN: Yes.

45 **MR LLOYD:** And:

"Deliver better results. Address..."

Second-last bullet point:

5 "Address poor culture at your centres and drive improvement."

MR CORCORAN: Yes.

MR LLOYD: And over the page, last bullet point - first bullet point, sorry:

10 "Seek to reduce the levels of contraband entering your centres."

MR CORCORAN: Yes.

MR LLOYD: That was a particular problem. Last bullet point:

15 "Consider ways to improve the welfare of inmates at your centres."

MR CORCORAN: Yes.

20 **MR LLOYD:** That would be directly relevant to what we know were the failures.

MR CORCORAN: Directly.

MR LLOYD: And then another entry on 8:

25 "Seek to improve..."

Second-last bullet point:

30 "...your KPIs, in particular reduce contraband and poor behaviour by your staff."

Do you see that?

35 **MR CORCORAN:** Yes.

MR LLOYD: In the ordinary course, if there had been a proper assessment of whether Ms Martin was improving in the areas that I've just drawn to your attention after 8 March 2017, we know now, don't we, it would have been highly likely to have revealed no improvement; agree?

MR CORCORAN: Well, as I said, I have no recollection of having those discussions with Hamish that he said didn't happen.

45 **MR LLOYD:** Those are my additional questions dealing with (indistinct).

COMMISSIONER: Who's next?

<EXAMINATION BY MR SELLER:

MR SELLER: Mr Corcoran, James Sheller on behalf of Corrective Services.
5 I first of all just wanted to ask you some questions about the meeting at Dillwynia
on 19 September 2023. And just for your benefit, and for the benefit of everyone
else here, the questions I'm about to ask you are based on information I've
received from Assistant Commissioner Snell.

10 **MR CORCORAN:** Right.

MR SELLER: I think it's agreed the meeting took place on that day, 19
September. Again, just for the benefit of everyone, there's a document before the
Commission, Exhibit 10, which specifies the purpose of that meeting. I won't take
15 you to it now, Commissioner. But the purpose of that meeting was to talk to staff
at Dillwynia about the upcoming Commission hearing. Do you recall that as being
one of the purposes?

MR CORCORAN: Yes.

20 **MR SELLER:** In attendance at the meeting was, obviously, Assistant
Commissioner Snell. Do you also recall that Deputy Commissioner Martin was in
attendance as well?

25 **MR CORCORAN:** Yes.

MR SELLER: One or two other members of your staff were in attendance as
well?

30 **MR CORCORAN:** I can't recall.

MR SELLER: The first meeting that took place at Dillwynia - I think you may
have heard it referred to earlier as a town hall style meeting, a meeting of where
there may have been 70 or so officers?

35 **MR CORCORAN:** Yes.

MR SELLER: Some of them - officers who had been at Dillwynia for a long
time?

40 **MR CORCORAN:** Yes.

MR SELLER: Some new recruits?

45 **MR CORCORAN:** Yes.

MR SELLER: That meeting was one at which you addressed those present to identify why you were there, and that was in relation to the upcoming Commission hearing. Do you recall that?

5 **MR CORCORAN:** Yes. Yes.

MR SELLER: When you went out there to that meeting, it wasn't the case that there was any expectation that there be individual meetings with officers?

10 **MR CORCORAN:** No.

MR SELLER: That's something that developed during the time that you were out there?

15 **MR CORCORAN:** Yes.

MR SELLER: In respect of being out there at Dillwynia, you had been out there on a number of occasions earlier this year. Do you recall that now?

20 **MR CORCORAN:** I don't recall it, but I'm - I'm checking on the actual dates that I went out. Yes.

MR SELLER: You've been out there frequently since 19 September; is that right?

25 **MR CORCORAN:** Yes. That's right.

MR SELLER: And, for example, you went out on 10 October?

30 **MR CORCORAN:** Yes.

MR SELLER: Now, coming back to the Dillwynia meeting on 19 September. After the town hall style meeting, there was a union meeting. Do you recall that?

35 **MR CORCORAN:** Yes.

MR SELLER: And then there was a meeting where there were a smaller number of participants -

40 **MR CORCORAN:** Yes.

MR SELLER: - present, and that was the meeting at which Assistant Commissioner Snell was in attendance and, if you can accept from me, the notes that are now Exhibit 51 were prepared?

45 **MR CORCORAN:** Yeah. Yes.

MR SHELLER: And you've identified on the piece of paper that Ms Barry and Ms Berry were present at the meeting?

5 **MR CORCORAN:** Yeah, at one of the meetings.

MR SHELLER: Potentially another person at the meeting was Jean Dolly. Does that ring a bell?

10 **MR CORCORAN:** Yes.

MR SHELLER: And maybe one or two others?

MR CORCORAN: Yes.

15 **MR SHELLER:** At the time, Dillwynia had an Acting Governor, Mr Dean?

MR CORCORAN: Mr Dean, yes.

20 **MR SHELLER:** Do you recall him being at that smaller group meeting?

MR CORCORAN: Yes. Yes.

MR SHELLER: And at the smaller group meeting, those officers were entitled to express views on matters of concern to them?

25 **MR CORCORAN:** Yes.

MR SHELLER: And you've seen from having the opportunity to read Assistant Commissioner Snell's notes what those matters were?

30 **MR CORCORAN:** Yes.

MR SHELLER: I suggest that then after that, there were one-on-one meetings -

35 **MR CORCORAN:** Yes.

MR SHELLER: - with you.

40 **MR CORCORAN:** Yes.

MR SHELLER: Do you have a recollection of those now?

MR CORCORAN: I do have a recollection of having those one-on-one meetings.

45 **MR SHELLER:** Assistant Commissioner Snell wasn't in those one-on-one meetings?

MR CORCORAN: Right.

MR SHELLER: Does that - do you have a recollection one way or the other?

5 **MR CORCORAN:** Yeah, that sounds correct. Yes.

MR SHELLER: And is it the case that, for example, for Ms Dolly, that she participated in one of those one-on-one meetings with you?

10 **MR CORCORAN:** I'm pretty sure that is the case, yes.

MR SHELLER: And she was, with respect to her, voluble, shouting at you?

MR CORCORAN: Yes.

15

MR SHELLER: And it was clear from - to you from those meetings that you were dealing with upset experienced officers at Dillwynia?

MR CORCORAN: Yes.

20

MR SHELLER: Who were telling you, for example, how they had been treated at the time that Mr Astill was offending?

MR CORCORAN: Yes.

25

MR SHELLER: And they were giving you very personal accounts of what had happened to them?

MR CORCORAN: Yes.

30

MR SHELLER: And this was all in a context where the Commission was approaching?

MR CORCORAN: Yes.

35

MR SHELLER: Do you have a recollection now whether you had, in your mind at the time you were at Dillwynia, the fact that these officers would be giving evidence before the Commission?

40 **MR CORCORAN:** Not - no, I - I didn't have in my mind.

MR SHELLER: Do you recall having it in your mind at all that it was likely that all the matters of concern to officers at Dillwynia would play out in public during the hearing of the Commission?

45

MR CORCORAN: I think at that point in time, I - and I could be wrong - you know, we - no, I won't say that. Yeah, it - it could play out in public, yes.

MR SELLER: It is possible, Commissioner, that because of the frequency of visits to Dillwynia that what was being said on one occasion compared to another tends to merge and not be so clear?

5

MR CORCORAN: It could well be, yeah.

MR SELLER: All right. Whatever information was disclosed by those officers, you were at Dillwynia for some hours -

10

MR CORCORAN: Yes.

MR SELLER: - on that occasion?

15

MR CORCORAN: Yes.

MR SELLER: You then returned back to the CBD?

20

MR CORCORAN: Yes.

MR SELLER: As I - sorry. Can I suggest you were in the company of Assistant Commissioner Snell -

25

MR CORCORAN: Yes.

MR SELLER: - and more of your staff. Is that right?

MR CORCORAN: Yes. I -

30

MR SELLER: And -

MR CORCORAN: - can't recall the other staff there, but we probably would have all been in the one vehicle, yes.

35

MR SELLER: And you weren't driving?

MR CORCORAN: I - I couldn't drive at that -

40

MR SELLER: Because you had suffered an injury earlier in August; is that right?

MR CORCORAN: Yes.

45

MR SELLER: Do you have a recollection of saying to Assistant Commissioner Snell something along the lines of, "I'm considering suspending Mr Paddison and Mr Holman"?

MR CORCORAN: I could well have said that, yes.

5 **MR SHELLER:** And do you have a recollection either saying then or later in the day to Assistant Commissioner Snell to ask her to prepare paperwork associated with your consideration of -

MR CORCORAN: Yes.

10 **MR SHELLER:** - whether Mr Holman or Mr Paddison or both should be suspended?

MR CORCORAN: Yes.

15 **MR SHELLER:** I think I'll ask this open. Had you on that occasion, that is, on 19 September while either at Dillwynia or on the way back into the CBD, formed a concluded view as to whether the officers should be suspended?

MR CORCORAN: That would have occurred while I was at the Centre.

20 **MR SHELLER:** At the Centre?

MR CORCORAN: Yeah.

25 **MR SHELLER:** So by the time you were in the vehicle on the way back to the CBD, was your view finalised as to whether you should suspend those officers or not?

MR CORCORAN: Yes.

30 **MR SHELLER:** And the final view was that you should; is that right?

MR CORCORAN: Yes.

35 **MR SHELLER:** Then - do you accept that Assistant Commissioner Snell then got in contact with staff in PSI for the purposes of preparing documents?

MR CORCORAN: Yes.

40 **MR SHELLER:** And there's been discussion - you've been shown the documents that were prepared?

MR CORCORAN: Yes.

45 **MR SHELLER:** Do you remember, then, on the next day - that's 20 September - attending upon Assistant Commissioner Snell's office at Strawberry Hills?

MR CORCORAN: Well, if I -

MR SELLER: Sorry, I'll withdraw that. I'll ask you a different question. One of your offices is at Strawberry Hills?

5

MR CORCORAN: Yes, that's right.

MR SELLER: So that - and also Assistant Commissioner Snell has an office there?

10

MR CORCORAN: That's right. Yeah.

MR SELLER: And do you recall attending upon Assistant Commissioner Snell's office during that day, on 20 September, for the purposes of considering papers in relation to Mr Holman and Mr Paddison?

15

MR CORCORAN: I can't recall whether - I mean, I obviously go to see Assistant Commissioner Snell all the time.

20

MR SELLER: Yes.

MR CORCORAN: If - if that happened, then it happened, yeah.

MR SELLER: So you don't have an independent recollection now of -

25

MR CORCORAN: No.

MR SELLER: - sitting in her office where there's a round table having papers in front of you to consider?

30

MR CORCORAN: No.

MR SELLER: You don't have a recollection of - then of spending about 20 minutes or so with the type of papers that have been shown to you in the witness box today -

35

MR CORCORAN: Yes.

MR SELLER: - and considering them?

40

MR CORCORAN: Yes, I - I recall considering these papers.

COMMISSIONER: What do you mean by "the type of papers"? There's just one -

45

MR SELLER: Sorry, I'll be more precise. If you have a look at Exhibit 48, the papers at the end of the document, I think starting at page 93.

MR CORCORAN: Yes.

MR SHELLER: The 20 September -

5

MR CORCORAN: Yes, I do.

MR SHELLER: - document.

10 **MR CORCORAN:** Yes.

MR SHELLER: Do you have a recollection now of reading that document in Assistant Commissioner Snell's office at Strawberry Hills?

15 **MR CORCORAN:** I have a recollection of reading it, but I'm not sure, you know, if that happened there, but -

MR SHELLER: And if I suggest to you that in addition to that paper, you had the attachment - that's what was referred to previously when you were asked some questions by Mr Lloyd - at Tab 1, which was the earlier report. It's the document - I think it's, for example, at page 37, 38.

20

MR CORCORAN: This one here?

25 **MR SHELLER:** Yes, the 31 July report.

MR CORCORAN: As I said, I - I don't recall reading through this entire document. Yeah.

30 **MR SHELLER:** Now, do you recall having, in addition to those documents, draft suspension letters?

MR CORCORAN: Yes.

35 **MR SHELLER:** And do you recall whether you signed those draft suspension letters on that day?

MR CORCORAN: Is that the - the day that they were issued?

40 **MR SHELLER:** No, this is still on the day that you're considering the document of 20 September, which we've just had a look at, and that you were in the office of Assistant Commissioner Snell.

45 **MR CORCORAN:** Normally I would sign them, you know, when I, you know, saw the person.

MR SELLER: All right. Do you remember reading the suspension letters on the day?

5 **MR CORCORAN:** I would have - if that was presented - these documents were presented to me on the 20th, yes, I would have read them.

COMMISSIONER: Mr Corcoran, given that you'd made up your mind the previous day to suspend the two officers, there wasn't much point in you reading this document, was there?
10

MR CORCORAN: Well, I read it, you know, for context about, you know, what was happening.

COMMISSIONER: Well, maybe, but you appear to have a very hazy
15 recollection of ever having read it. That's not surprising given you'd made up your mind.

MR CORCORAN: Yes.

20 **MR SELLER:** Then, Commissioner, on the next day, 21 September - that's the day after I suggest to you, you were in the Assistant Commissioner's office looking at these documents - do you recall that arrangements were made for Mr Paddison and Mr Holman to come into the Strawberry Hills office?

25 **MR CORCORAN:** Yes.

MR SELLER: And did you recall who was to be communicated with to facilitate their attendance at Strawberry Hills?

30 **MR CORCORAN:** I don't know who organised their attendance.

MR SELLER: And you remember they came into the office on 22 September? That's now two days later?

35 **MR CORCORAN:** Yes.

MR SELLER: Mr Paddison, I think, ended up having a support person in the form of Deputy Commissioner Taylor. Do you recall that?

40 **MR CORCORAN:** Yes.

MR SELLER: Can you explain how Mr Paddison - I think he was an assistant superintendent - a senior assistant - sorry, I'll withdraw that. I'll do this properly. At the time, Mr Paddison was a superintendent of operations, work and
45 education, and it's described as being at the Francis Greenway Complex, but effectively John Morony?

MR CORCORAN: Yes.

5 **MR SHELLER:** How did he, as a superintendent of operations, end up having the benefit of a Deputy Commissioner as his support person, do you know or can you recall?

MR CORCORAN: As I recall - I mean, this person works for Deputy Commissioner Taylor. So -

10 **MR SHELLER:** Right.

MR CORCORAN: Yeah. He probably asked him to come in.

15 **MR SHELLER:** And there was then - you recall that there was a discussion with Mr Paddison and Deputy Commissioner Taylor in which you announced what was occurring?

MR CORCORAN: Yes.

20 **MR SHELLER:** And that Mr Paddison was handed his - the letter that you, by that time, had signed -

MR CORCORAN: Yeah.

25 **MR SHELLER:** - which had the effect of suspending him?

MR CORCORAN: Yes.

30 **MR SHELLER:** Can the witness be shown a small collection of documents. Could I hand up - sorry, Commissioner. Could I hand up a spare copy for -

COMMISSIONER: Should they become an exhibit?

35 **MR SHELLER:** (Indistinct), please.

MR LLOYD: I propose to tender them, and I'm happy to do that now.

COMMISSIONER: We'll make it Exhibit 54.

40 **<EXHIBIT 54 TENDERED AND MARKED**

COMMISSIONER: What do I describe them as?

45 **MR SHELLER:** It's a bundle of documents including the suspension letters to Mr Paddison and Mr Holman. Mr Corcoran, if you could just - I think yours might have yellow tabs on it. No one else does. But just early in the bundle is a copy of a letter sent to Mr Paddison.

MR CORCORAN: Yes.

5 **MR SHELLER:** This copy, I'm afraid, is not signed - we're looking for that - and it's not dated. Please accept from me that the date of it is 22 September 2023.

MR CORCORAN: Yep.

10 **MR JAMES:** (Indistinct).

COMMISSIONER: Sorry, I can't hear you.

15 **MR JAMES:** Could perhaps the representative for Mr Paddison be shown a copy of these documents? I think they might be relevant to my client.

COMMISSIONER: I think it probably would be. I think they're on their way.

MR JAMES: Thank you.

20 **MR SHELLER:** Mr Corcoran, if you have in front of you a copy of the letter addressed to Mr Paddison. And it's in near identical terms to Mr Holman. On the first page under Mr Paddison's name - do you see the paragraph beneath there?

25 **MR CORCORAN:** Yes.

MR SHELLER: And you'll see that that paragraph appears to state two reasons for his suspension. The first is information alleging that Mr Paddison may have engaged in serious misconduct by failing to report criminal conduct?

30 **MR CORCORAN:** Yes.

MR SHELLER: And, second, further for displaying threatening and intimidating behaviour towards Corrective Services colleagues. Do you see that?

35 **MR CORCORAN:** Yes.

40 **MR SHELLER:** As I understand your evidence, you offered in the meeting with Mr Paddison when Deputy Commissioner Taylor was present, and then also in the meeting with Mr Holman, additional reasons for suspension; is that right?

MR CORCORAN: Yes.

45 **MR SHELLER:** But do you accept that in terms of written reasons advanced to each of the officers for their suspension, it's what appears in paragraph - the first paragraph of this letter addressed to Mr Paddison? And I can show you the equivalent to Mr Holman.

MR CORCORAN: Yes.

5 **MR SHELLER:** Then if we just keep going through these little bundle of documents, behind Mr Paddison's letter is the letter to Mr Holman and then - which is in near identical terms. Then, behind that document, do you see a document called Fact Sheet?

MR CORCORAN: Yes.

10 **MR SHELLER:** And you'll see on the left-hand side, under the heading Fact Sheet - sorry, on the left-hand side of the first page of the fact sheet, about a third of the way down, a heading, Why Have I Been Suspended from Duty?

MR CORCORAN: Yes.

15 **MR SHELLER:** And you'll see specified under there - in this standard document, the reasons that an employee may have been suspended?

MR CORCORAN: Yes.

20 **MR SHELLER:** There's four dashes. Is it the case that the suggestion for the suspension of each of Mr Paddison and Mr Holman is the second and fourth dash?

MR CORCORAN: I would say it was more the bottom paragraph.

25 **MR SHELLER:** So the bottom text beneath the dashes?

MR CORCORAN: Yes.

30 **MR SHELLER:** Is this - are you relying upon this sentence:

"It may sometimes be necessary for an employee to be suspended from the workplace in order to mitigate serious risks..."

35 And so on?

MR CORCORAN: Yes.

40 **MR SHELLER:** And was that on your mind at the time?

MR CORCORAN: That was on my mind, yes.

45 **COMMISSIONER:** Well then, why isn't it the letter? If that was on your mind, why isn't it in the letter?

MR CORCORAN: I guess the - the Professional Standards Branch put together a letter which was based on their views of the fact that there was some pending misconduct.

5 **COMMISSIONER:** Sorry?

MR CORCORAN: Their views -

10 **COMMISSIONER:** This is your letter.

MR CORCORAN: Yes.

15 **COMMISSIONER:** And you say there were reasons beyond what's in the letter. The officer was entitled to know what your reasons were, wasn't he?

MR CORCORAN: Yes, the officers are entitled to know.

COMMISSIONER: Yes. And in the letter.

20 **MR CORCORAN:** And I told them the reasons.

25 **COMMISSIONER:** But amongst other things - well, the officer is entitled, and you would expect, to go to his lawyer and get advice about this. And the first thing you do is look at the letter which gives the reasons, and this letter didn't give all the reasons, according to you.

MR CORCORAN: No, it didn't give all the reasons.

30 **MR SHELLER:** If you just close up those documents, please, for the moment, Mr Corcoran. Can I just ask you some questions about some other matters that were on the mind of the PSI -

MR CORCORAN: Yes.

35 **MR SHELLER:** - in particular, the Director, during the time that there were earlier reports prepared on the question of the suspension of these officers, and tell me whether they were ever on your mind when you were making your decision. One of the things on the mind was that there were persons on workers' compensation as a consequence of the inaction of management at Dillwynia
40 concerning Mr Astill and what he had done. Was that something that had ever been brought to your attention before you made the decision to suspend Mr Holman and Mr Paddison?

45 **MR CORCORAN:** Yes, I knew there were people on workers' compensation at Dillwynia as a result of the Astill matter.

MR SELLER: And did you understand that they were on workers' compensation for psychological injuries or claimed psychological injuries as a consequence of management inaction?

5 **MR CORCORAN:** Yes.

MR SELLER: And was there any discussion during the time that you were having the meetings at Dillwynia on 19 September where persons expressed to you the psychological or other mental harm that they had suffered as
10 a consequence of management inaction?

MR CORCORAN: Well, not only expressed, just - yeah, there was a couple of traumatic meetings, that's for sure.

15 **MR SELLER:** Is this right: that you had formed a view, from speaking to these people at Dillwynia, that they were still suffering the effects of this trauma?

MR CORCORAN: Very much so.

20 **MR SELLER:** Do you say that that was playing on your mind when you made the decision?

MR CORCORAN: Yes, that certainly was playing on my mind.

25 **MR SELLER:** Can I then just ask you some broader questions away from the suspension of officers. The Commissioner has raised one matter of particular significance in the whole of this Inquiry and that's the competence of the then Governor, Governor Martin, at Dillwynia during the relevant period and that has been addressed extensively. Is your answer to past incompetence of a Governor, in
30 terms of the present and future, that of a more rigorous process of employing Governors?

MR CORCORAN: Yes. As I said, certainly for people that come up through the ranks, they will have to pass pre-promotion courses to actually get to that next
35 rank. So there will be three levels of course they have to pass to get to that Governor rank. So, yeah, we will have a very good picture of the sort of person that is coming through those pre-promotion courses. They're run by external agencies and, you know, as I've said, the assessments will be rigorous.

40 **MR SELLER:** Another now added control over the Governors, if the legal analysis is right, is that the power to terminate may be greater than was otherwise understood by Corrective Services.

MR CORCORAN: That's right, yes.
45

MR SELLER: Another matter that has risen, and may be of varying interest to persons in the Commission, is how it was that information that was known about

Mr Astill somehow didn't make it to important decision-makers. Do you understand -

MR CORCORAN: Yes.

5

MR SHELLER: - that issue?

MR CORCORAN: Yes.

10 **MR SHELLER:** And this, to some extent, dovetails back into Mr Holman, Mr Giles and Mr Paddison with the greatest of respect to them. One area where there seems to have been most consideration by most people at Dillwynia concerning the actions of Mr Astill is the suggested assaults by him, perhaps indecent assaults by him, of a Witness M and that was reported on by a number of
15 inmates. You can accept from me those inmates initially reported those matters - this is inmates R and V - to Mr Giles. He brought it to the attention of Mr Holman and Mr Paddison and they, in turn, engaged the Governor into a meeting at some the persons who were concerned about Witness M could express their understanding of what had happened to her.

20

MR CORCORAN: Yes.

MR SHELLER: And that then formed the part of an investigation report that was in part prepared by Mr Holman - sorry, I'm indebted to my friend - the intelligence
25 report that was prepared by Mr Holman?

MR CORCORAN: Yes.

30 **MR SHELLER:** To which Mr Holman then added an observation he had of separate information concerning possible intimidation by Mr Astill of witnesses. Please accept from me that that document then made it into the - it was introduced into the IIS system and it made it to the Investigation Branch. This is then the document you were asked some questions about yesterday, an email where there's Mr Shearer's name, Mr Hovey's name, Governor's name, all involved in trying to
35 understand what this information was and why it hadn't got to the PSB.

The evidence seems to be, from Mr Hovey, that he saw eight intelligence reports from Mr Astill and none of those intelligence reports made it to PSB. That's accepted by him. He's attached each of those reports to his own statement. That
40 has been variously described as catastrophic, that is the failure to give those matters to the PSB.

MR CORCORAN: Yes.

45 **MR SHELLER:** Or a fundamental failure?

MR CORCORAN: Yes.

5 **MR SELLER:** Armed with that fact or with that knowledge, which you have no doubt gleaned from following the Commission, is there any explanation you might be able to offer, albeit you are several rungs above this, as to how that could have happened?

MR CORCORAN: How Mr Hovey -

10 **MR SELLER:** How the intelligence reports concerning the conduct of Mr Astill, all of them accepted to be serious enough to warrant investigation, if not disciplinary action rested in the Investigation Branch and it did not make it to the PSB?

15 **MR CORCORAN:** It - it just stuns me that that had occurred, quite frankly.

MR SELLER: The fact that those matters made it to the Investigation Branch, you would agree, mean that the system was working to an extent?

20 **MR CORCORAN:** Yeah, it was working to an extent.

MR SELLER: And if they'd made it to the PSB, a likelihood of some outcome?

MR CORCORAN: Absolutely.

25 **MR SELLER:** On your - with your engagement in - with changing the system, that is PSB matters becoming more known, for example, to the Directors -

MR CORCORAN: Yes.

30 **MR SELLER:** - one would expect that these investigation reports - I withdraw that - these intelligence reports would have been known to the Director?

35 **MR CORCORAN:** Yes. If we had a system where everything was channelled through into the one location, you know, with multidisciplinary teams looking at them and then informing the operational people what was going on in their particular areas with particular individuals, it obviously would be a much more robust system.

40 **MR SELLER:** In terms of two of the intelligence reports, the evidence seems to be that Mr Hovey effectively closed the matter at the investigation level?

MR CORCORAN: Yes.

45 **MR SELLER:** What do you say about that event having happened? Was that meant to have happened?

MR CORCORAN: No.

MR SELLER: Intelligence -

MR CORCORAN: This definitely should not have occurred.

5

MR SELLER: We've heard evidence that under the merged system of PSI that there is no possibility of a person fulfilling the role of intelligence officer closing matters off.

10 **MR CORCORAN:** There would be no possibility.

MR SELLER: And no possibility, therefore, for investigation reports being not accessible and not reviewed by PSB officers including the legal officers and the head of the PSB?

15

MR CORCORAN: That's right.

MR SELLER: Pardon me a moment. Sorry, just going back briefly to the suspension decision, Ms Zekanovic accepted a proposition put to me yesterday that in relation to, in particular, Mr Paddison and Holman and the way that they were dealt with, that looking across the history of consideration of their suspension through to the ultimate decision phase, that the PSI and the PSC had an involvement up until a certain period of time and then it was somewhat taken out of their hands by the most senior management?

25

MR CORCORAN: Yes.

MR SELLER: Did you agree with that characterisation?

30 **MR CORCORAN:** Yes.

MR SELLER: And that while I think you were on leave, the matter was being handled at the Commissioner level by Acting Commissioners, Dr Martin.

35 **MR CORCORAN:** Yes.

MR SELLER: Then Mr Taylor.

40 **MR CORCORAN:** Yes.

MR SELLER: Then when you returned from leave, the matter still hadn't been finalised from the perspective of upper management?

MR CORCORAN: Yes, that's right.

45

MR SELLER: And was still under consideration?

MR CORCORAN: Yes.

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

5 **COMMISSIONER:** Mr Corcoran, I assume you are aware of the police record of Mr Astill?

MR CORCORAN: Yes, I have seen an email to that effect, yes.

10 **COMMISSIONER:** It's not an attractive record to say the least, is it?

MR CORCORAN: It's not.

COMMISSIONER: And it's perhaps surprising that he wasn't prosecuted -
15

MR CORCORAN: Very surprising.

COMMISSIONER: - if those allegations can be supported by admissible
evidence. But how did it happen that Corrective Services managed to employ
20 Mr Astill given that was his record from his previous employer?

MR CORCORAN: It was a huge failure, I think.

COMMISSIONER: What's the process that should have happened?
25

MR CORCORAN: Well, I know now there's, you know, very robust processes in
place for checking of people and their referees. In fact, it's so robust it's very
difficult to actually find anybody that can meet the bar now to be employed. So,
you know, I'm confident now that something of that nature wouldn't happen.
30 Because I spent, you know, a whole, or half a day with the recruitment people
trying to go through what they look at in terms of, you know, knocking people out
of our employment.

COMMISSIONER: Have you gone back and had a look to see what did happen
35 at the time he was employed, whether enquiries made? Have you had a look to see
what enquiries were made when he was employed?

MR CORCORAN: When he was - no, I haven't.

40 **COMMISSIONER:** When he was first employed?

MR CORCORAN: Obviously, he was employed quite system ago.

COMMISSIONER: I presume there's a file, isn't there?
45

MR CORCORAN: Yes, I'm sure there are files but I haven't had a look at that. I had a look at the email that Mick Hovey produced to Peter Severin but that's - I took that as the information relating to that.

5 **COMMISSIONER:** It seems inconceivable that if Corrective Services had found out about that record, that Mr Astill wouldn't have been employed.

MR CORCORAN: Would never have been employed, no. That would be certainly my view of the situation. Again, I - I'm not familiar with what the
10 recruitment processes were like back when he was employed.

COMMISSIONER: Well, maybe we should just have a look at his file and see whether that tells us anything.

15 **MR CORCORAN:** I shall.

MS GHABRIAL: Commissioner, before Mr Corcoran's counsel asks a question may I seek leave to ask something that arises from questions that Mr Sheller has asked and I won't be long, please, if I may?
20

COMMISSIONER: Well, tread carefully.

MS GHABRIAL: I will. I understand - before I ask this question - that on 15 September of this year a letter was sent to the legal representatives for Corrective Services of New South Wales in respect of who was on the sufficient interest list and who was about to be interviewed. I haven't been able to get a copy of that but I call upon that because it stands in contradiction with evidence given by this witness in answer to some questions given asked by Mr Sheller.
25

30 **COMMISSIONER:** Sorry, I'm not understanding at the moment.

MS GHABRIAL: So there was a letter that was issued to legal representatives on 15 September by those assisting the Commission - the solicitors assisting the Commission announcing that - or advising the legal representatives - the various
35 legal representatives as to who had a substantial and direct interest in these proceedings.

COMMISSIONER: At that point in time?

40 **MS GHABRIAL:** At that point in time. And there was a schedule attached to that - an annexure - of the persons who were to be interviewed in respect of this Inquiry and also a schedule of the staff interviews that were to take place from 13 September through to 20 September. I understand that that was a letter that was issued on 15 September, and I've been trying to get a copy of it because it does
45 stand in contradiction with evidence that this witness has just given to Mr Sheller in respect of what was in his mind when he was at Dillwynia.

COMMISSIONER: Sorry, I don't understand. If you haven't seen it, how can it be in -

5 **MS GHABRIAL:** Well, it was addressed - as understand it, it was addressed to Corrective Services New South Wales - their representatives - and I wanted to ask if he had been made known of that letter, but I can't get access to it.

COMMISSIONER: You want to ask Mr Corcoran whether he's seen the letter?

10 **MS GHABRIAL:** Yes.

COMMISSIONER: What's the purpose in that?

15 **MS GHABRIAL:** Well, this witness has given evidence that he did not have in his mind when he attended Dillwynia on 19 September that any of those officers during that meeting would be giving evidence, but the letter that was issued on 15 September specifically says that those people were going to be interviewed and gives a schedule in respect of various witnesses that were going to be interviewed by the Commission. So it stands in contradiction with that evidence.

20 **COMMISSIONER:** Mr Lloyd.

MR LLOYD: I'm not seeing the inconsistency, speaking only for myself, Commissioner, between a letter saying that we were going to interview some
25 people and Mr Corcoran saying he did not have it in mind on the 19th. But having said that - again, I raise for you, Commissioner, really for Ms Ghabrial's consideration, perhaps the proposition might start with, "Have you seen the letter?"

30 **MS GHABRIAL:** Well, that's what I want to ask, but I've asked for the letter and I don't have it to be able to show it to him.

MR LLOYD: It might not be surprising that I don't have the letter with me.

35 **COMMISSIONER:** You can ask him whether he's seen a letter indicating he was going to be interviewed, can't you?

MS GHABRIAL: If I may, then. Mr Corcoran, on or about 15
40 September - I haven't seen the letter, but I understand that on that date a letter was issued by those assisting the Commission to the legal representatives for Corrective Services New South Wales. Was that letter brought to your attention? It was in respect of who was on the substantial and direct interest list. There was a list of those officers attached to that letter, and there was also a schedule in respect of the upcoming interviews of various witnesses in respect of this Inquiry.
45 Did you see that letter?

MR CORCORAN: I have no recollection of seeing that letter.

MS GHABRIAL: That's as far as I can take it without the letter, Commissioner. Thank you.

5 **COMMISSIONER:** You can't take it any further even with the letter. He says he's got no recollection of receiving it. Yes.

<EXAMINATION BY MR HORTON:

10 **MR HORTON:** Very brief questions, Mr Corcoran. First, in your evidence yesterday, there was some uncertainty, I think, in your mind or being debated about what the position level was for Mr Greaves. Do you recall that?

MR CORCORAN: Yes.

15

MR HORTON: Were you able to check what the highest position was that he'd reached in the Professional Standards Branch?

20 **MR CORCORAN:** Yes. The position was Workplace Behaviour Coordinator, which is a nine - clerk 9/10.

MR HORTON: Okay. Are you able to give some context to what a clerk 9/10 is in the hierarchy?

25 **MR CORCORAN:** I guess it's a - a mid-manager - mid-level manager. It wouldn't normally be a position that would attract the title of manager. As - you know, I have spoken to Cathy Hellams about that, and - who was the HR business partner at the time he would have been employed, and she's - she was the person who gave me that information.

30

MR HORTON: You've been asked about the effect, at least in your mind of the Act - the Government Sector Employment Act -

MR CORCORAN: Yes.

35

MR HORTON: - and some awards in respect of what options you thought were available to you in respect of Ms Shari Martin and her employment. You recall that evidence?

40 **MR CORCORAN:** Yes.

MR HORTON: Internally within Corrective Services, is there a unit or people who give you advice about what your options are in connection with employment under that Act -

45

MR CORCORAN: Yes.

MR HORTON: - and/or the awards?

MR CORCORAN: Yes.

5 **MR HORTON:** And just in general terms, what is that unit or person?

MR CORCORAN: Well, at that point in time, it would have been the Strategic HR Business Partner, who also, I think, at that point in time, had the industrial relations people reporting to her. They later were subsumed in the Department of
10 Communities and Justice.

MR HORTON: And has it been your habit or routine to take advice from those people about the effect of the Act and/or regulations in terms of what options were available to you in respect of senior employees?
15

MR CORCORAN: Always - always speak to -

COMMISSIONER: Mr Horton, I think I've asked for any legal advice to be produced. No doubt Mr Corcoran can help in that respect, but Mr Sheller no doubt has that capacity as well.
20

MR SHELLER: Yes, I've just indicated to Mr Lloyd we've located three advices concerning section 69. We haven't found one yet concerning section 68, but we're -
25

COMMISSIONER: That might deal with your concerns.

MR HORTON: Thank you. My questions were more directed just to the source of his understanding, correctly or incorrectly.
30

COMMISSIONER: I understand.

MR HORTON: Commissioner, they're my questions.

35 **COMMISSIONER:** Thank you. Mr Lloyd.

MR LLOYD: There's only two matters, Commissioner.

<EXAMINATION BY MR LLOYD:

40 **MR LLOYD:** The first, I asked you some questions earlier, Mr Corcoran, about the prospect of a state-wide review.

MR CORCORAN: Yes.

45 **MR LLOYD:** Do you remember - and while that suggestion may have been made, it culminated in a more targeted review, I think in the end, of 12 centres?

MR CORCORAN: Yes.

5 **MR LLOYD:** I think I may have not included a particular question I wanted to ask you about that. I asked you whether the problem of officers having sexual contact with inmates was a recurring and widespread problem throughout the state.

10 **MR CORCORAN:** I think it's a recurring problem. I wouldn't call it widespread.

MR LLOYD: But it occurs in multiple correctional centres?

MR CORCORAN: Yes.

15 **MR LLOYD:** And it's one of the things that comes up regularly in terms of complaints?

MR CORCORAN: It - it certainly does. Yeah, it comes up.

20 **MR LLOYD:** And differently for - I withdraw that. A different problem of a sexual nature is sexual harassment and other sexual contact between officers themselves, as opposed to officers and inmates?

MR CORCORAN: Yes.

25 **MR LLOYD:** And is that latter issue the subject of the more targeted review?

MR CORCORAN: That's the subject of the targeted review, yes.

30 **MR LLOYD:** And -

MR CORCORAN: But it may - may be expanded.

35 **MR LLOYD:** And is that latter issue - is that also something that recurs routinely in terms of complaints?

MR CORCORAN: Yes.

40 **MR LLOYD:** And I think you said that the idea of a state-wide review for that latter issue had been - or met some problems within the Department with respect to funding; is that right?

MR CORCORAN: Funding, yes. Yeah.

45 **MR LLOYD:** It's very expensive?

MR CORCORAN: It is expensive. Very expensive. We're just going through that process at the moment to determine how we could fund it and, you know, who would be doing that.

5 **MR LLOYD:** In terms of the extent of the problem of both of these areas - sexual harassment and other sexual conduct between officers and also sexual contact between officers and inmates - putting expense to one side for a minute, I want to you respond: is the extent of that problem such that there should be a review of what's happening in both areas throughout all of the correctional centres in New South Wales?

MR CORCORAN: Yes.

15 **MR LLOYD:** Now, the details are no doubt problematic about what that looks like?

MR CORCORAN: That's right. And that's - we were just going through that process to determine, you know, how we could fund that and who would be doing that review. But it was only, at this stage, looking at officer on officer.

20 **MR LLOYD:** In relation to both areas, in your view, whatever that looks like, it needs to be looked at across all of the correctional centres?

MR CORCORAN: Yes. And this is what Taskforce Themis had already looked at as well.

MR LLOYD: The second topic is Exhibit 53, I think it is, the bundle of material including the letters to Officers Holman and Paddison.

30 **MR CORCORAN:** Yes.

MR LLOYD: Hopefully that's still before you.

MR CORCORAN: Yes.

35 **MR LLOYD:** I think it's loose -

MR CORCORAN: Loose -

40 **MR LLOYD:** - those pages. It starts with the email from Mr Skopelja. I don't think it's in that folder, Mr Corcoran. I think it's loose on your right. It may even be - slow down. It's the one underneath. Could I just - I want to make sure I've understood what you've told the Commissioner about the letter. Take the letter to Mr Holman on the third page of that bundle.

45 **MR CORCORAN:** Yes.

MR LLOYD: You've been asked questions by a number of people about this topic, the suspensions. I just want to understand what you said in your evidence. The second paragraph here talks about, "In view of the serious nature of these allegations." Do you see that?

5

MR CORCORAN: Yes.

MR LLOYD: The serious allegations that are referred to in that paragraph is the ones which are recorded in the first paragraph?

10

MR CORCORAN: Yes.

MR LLOYD: And in the second paragraph:

15 "In view of those serious allegations, I have decided to suspend you from duty with pay effective from the date of the letter."

Do you see that?

20 **MR CORCORAN:** Yes.

MR LLOYD: You told the Commissioner that this letter was prepared, on your understanding, by someone within Professional Standards and Investigations?

25 **MR CORCORAN:** Yes.

MR LLOYD: Have I understood your evidence correctly if I put to you that that second paragraph did not accurately record the true reasons in your mind for the suspension of Officer Holman?

30

MR CORCORAN: The second or the first paragraph?

MR LLOYD: The second - well, they're related, but do you see the second paragraph says:

35

"In view of the nature..."

MR CORCORAN: Oh, yes.

40 **MR LLOYD:**

"...the serious nature of the allegations, I have decided to suspend..."

MR CORCORAN: Yeah.

45

MR LLOYD: Does that paragraph not accurately record the true reasons for the suspension of Officer Holman?

MR CORCORAN: Yes.

5 **MR LLOYD:** And the letter to Officer Paddison is substantively identical -

MR CORCORAN: Yes.

10 **MR LLOYD:** - that is, it (indistinct) the same things? And the same would apply to that letter; yes?

MR CORCORAN: Yes.

MR LLOYD: Do you think that that's a problem in terms of process, that -

15 **MR CORCORAN:** Looking at it now, yes, I do.

MR LLOYD: And you must have known - I know someone in your position must sign many, many documents in the course of your duties that are prepared by other people?

20 **MR CORCORAN:** Probably 40 a day.

MR LLOYD: 40 a day, did you say? Was that it, 40 a day?

25 **MR CORCORAN:** Four zero.

MR LLOYD: Yes.

30 **MR CORCORAN:** 30 to 40, somewhere around there.

MR LLOYD: But it's pretty important, to the best of your ability, to make sure when you're signing a letter like this -

35 **MR CORCORAN:** Yeah.

MR LLOYD: - that it accurately states the position?

MR CORCORAN: It is.

40 **MR LLOYD:** Those are my -

COMMISSIONER: Mr Corcoran, there's just two matters. I think you might have touched upon. I'd just like to be clear of your view. One is we heard earlier evidence - and maybe you heard it - about the concept of tenure, officers staying too long in the one prison.

MR CORCORAN: Yes.

COMMISSIONER: Now, do you share the view that prudent management would ensure that that didn't happen, that officers were moved -

5 **MR CORCORAN:** Yes.

COMMISSIONER: - on a regular basis?

MR CORCORAN: I think so, yes.

10

COMMISSIONER: I take it -

MR CORCORAN: The only problem is the - the regional areas, again.

15 **COMMISSIONER:** Well, I understand there may be some problems, but have you taken any steps to implement that procedure?

MR CORCORAN: As I said earlier, I've initiated a process where people getting promoted have to move to another centre, but we haven't pushed it down to lower levels, no.

20

COMMISSIONER: Well, we've had evidence that you should.

MR CORCORAN: Yes.

25

COMMISSIONER: Are you going to?

MR CORCORAN: Yes. We'll definitely be talking to the union about how we can implement any sort of proposal in relation to that.

30

COMMISSIONER: The other difficulty that we've had identified is of married couples, or couples in a intimate relationship -

MR CORCORAN: Yes.

35

COMMISSIONER: - working in the same institution - the same gaol.

MR CORCORAN: Yes.

40 **COMMISSIONER:** Now, is that a problem?

MR CORCORAN: That is also an issue and - and easily resolved, I think, in the metropolitan area, but much more problematic in the regions.

45 **COMMISSIONER:** Still, if it's a problem that can be addressed, then it should be addressed, shouldn't it?

MR CORCORAN: Yes.

COMMISSIONER: What are you doing about it?

5 **MR CORCORAN:** Endeavour to come up with some solution for that.

COMMISSIONER: Have you started down that path?

10 **MR CORCORAN:** Have we started that right now? No.

COMMISSIONER: Well, the problem has been apparent for years, hasn't it?

15 **MR CORCORAN:** Yes. Certainly in metropolitan area, we - we - we certainly don't encourage, you know, intimate partners working in an area where they could have, you know, some control over the other partner. That's as far as it goes at the moment. We're not sort of saying, "You can't work in the same institution."

20 **COMMISSIONER:** Well, it's potentially a very serious problem that many organisations don't allow to happen.

MR CORCORAN: Yeah.

25 **COMMISSIONER:** And including the police, as I understand it, have a particular approach to that issue. But it hasn't been addressed within prisons?

MR CORCORAN: No, not yet.

COMMISSIONER: Do you think it should?

30 **MR CORCORAN:** I think it should, yeah.

MR LLOYD: I have no further questions. Could Mr Corcoran be excused?

35 **COMMISSIONER:** Yes, Mr Corcoran. Thank you for your evidence. You are now excused.

<THE WITNESS WAS RELEASED

40 **MR LLOYD:** Commissioner before you rise, I just wish to say something ahead of tomorrow about some administrative arrangements, particularly about submissions. Those assisting Ms Davidson and me had circulated some proposed dates a little while ago, but the evidence, as you know, Commissioner, has run longer than we anticipated. And I raise for the consideration of parties that tomorrow, unless I'm told otherwise, we intend to seek orders that we circulate
45 written submissions - that's Counsel Assisting - by 1 December and that the parties, subject to something I'll come to in one minute, provide any written submissions responsive to Counsel Assisting's submissions by 11 December.

5 The caveat for that is I intend, tomorrow, to say to you in open court which
officers who have given evidence who no adverse submission will be made by
Counsel Assisting about. So that the intention being that the representatives for
those officers on that list can be satisfied that it won't be necessary for them to
respond to the submissions that we make.

10 **COMMISSIONER:** Well, you had better talk to me about what you have got in
mind just to make sure.

15 **MR LLOYD:** I was proposing to do that. That's why I'm saying tomorrow not
today. That is the intention tomorrow to make that announcement so that we can
relieve officers and their lawyers of the burden of making submissions if, in fact,
no adverse comment will be made.

20 But it then raises the issue of whether any party wishes to seek an opportunity to
make oral submissions. We have not proposed that we would seek that opportunity
to make oral submissions to you. We would be content for the report to be
prepared on the basis of that which is done in writing, and I'm not asking the
parties to say their position now but I'm raising it for consideration.

COMMISSIONER: Well, I will need to know tomorrow. At the moment, I have
a looming problem with the date on which I have to report.

25 **MR LLOYD:** Yes.

COMMISSIONER: Even that timetable is likely to make it difficult to meet the
date that I've presently been given.

30 **MR LLOYD:** And, with the greatest respect, that may even - it may be regarded
as an understatement if we get the submissions in response by the 11th (indistinct).

35 **COMMISSIONER:** That's right. So I will have to attend to that, but that doesn't
mean the pressure comes off. It's important, as you can tell from the subject matter
of this Inquiry, it's very important that the report be produced as quickly as we
can, consistent with what will be, of course, logistical problems in finding people
and producing things in January; it's always hard. But we will have to pursue that
as well as we can.

40 **MR LLOYD:** Thank you, Commissioner.

COMMISSIONER: Anything else today?

45 **MR LLOYD:** No.

COMMISSIONER: I will adjourn. 10 o'clock in the morning?

MR LLOYD: Sorry, I've been speaking to Mr Sheller about Assistant Commissioner Snell's availability, and I'm told there won't be any time constraints for her to give her evidence from New Zealand by audiovisual link, and we can resume at 10.

5

COMMISSIONER: At 10. All right. I'll adjourn.

**<THE HEARING ADJOURNED AT 4.17 PM TO FRIDAY, 24 NOVEMBER
2023 AT 10.00 AM**